



Department of Homeland Security Office of Inspector General

Challenges Facing FEMA's Disaster Contract Management





Homeland
Security

May 27, 2009

Preface

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 published as part of our oversight responsibilities to promote economy, effectiveness, and efficiency within the department.

This report addresses the strengths and weaknesses of the Federal Emergency Management Agency's disaster contract management. We contracted with the independent public accounting firm of Foxx & Company to perform the audit. The contract required that Foxx & Company perform its audit according to generally accepted government auditing standards. Foxx & Company identified three areas where FEMA's disaster contract management should be improved. The report contains four recommendations addressed to the Director, Acquisition Management Division.

Foxx & Company is responsible for the attached auditor's report dated May 8, 2009, and the conclusions expressed in the report.

The recommendations herein have been developed with the best knowledge available to our contractor. We trust that this report will result in more effective, efficient, and economical operations. We express our appreciation to all who contributed to the preparation of this report.

A handwritten signature in cursive script that reads "Richard L. Skinner".

Richard L. Skinner
Inspector General



May 8, 2009

Mr. Matt Jadacki
Deputy Inspector General for Office of Emergency Management Oversight
Office of Inspector General
Department of Homeland Security
245 Murray Drive, SW, Building 410
Washington, DC 20528

Dear Mr. Jadacki:

Foxx & Company performed an audit of Selected FY 2007 Federal Emergency Management Agency (FEMA) Disaster Contracts. The audit was performed according to Task Order No. TPDFIGBPA070007, dated September 14, 2007.

This report presents the results of the audit and includes recommendations to help improve the FEMA's Acquisition Management Division's management and oversight of disaster contracting.

Our audit was conducted according to applicable *Government Auditing Standards*, July 2007 revision. The audit was a performance audit as defined by Chapter 1 of the *Standards*, and included a review and report of program activities with a compliance element. We did not perform a financial audit, the purpose of which would be to render an opinion on the agency's financial statements.

We appreciate the opportunity to have conducted this audit. Should you have any questions, or if we can be of any further assistance, please call me at (513) 639-8843.

Sincerely,

FOXX & COMPANY

Martin W. O'Neill
Partner

Table of Contents/Abbreviations

Executive Summary	1
Background	2
Results of Audit	5
Contract Management System	5
Recommendation	9
Management Comments and Contractor Analysis	9
Administration of Individual Contracts	9
Recommendation	17
Management Comments and Contractor Analysis	18
Communications and Knowledge Transfer	19
Recommendation	21
Management Comments and Contractor Analysis	21

Appendices

Appendix A: Purpose, Scope, and Methodology.....	22
Appendix B: Management Comments on the Draft Report	24
Appendix C: Contract Cost Increases.....	27
Appendix D: List of Related Reports	28
Appendix E: FEMA Organization Chart.....	30
Appendix F: FEMA Acquisition Management Division Organization Chart	31
Appendix G: Report Distribution	32

Abbreviations

AMD	FEMA Acquisition Management Division
COTR	Contracting Officer's Technical Representative
DHS	Department of Homeland Security
FAR	Federal Acquisition Regulation
FEMA	Federal Emergency Management Agency
FY	fiscal year
GAO	Government Accountability Office
JFO	Joint Field Office
OIG	Office of Inspector General
SOP	Standard Operating Procedures
VAO	Virtual Acquisition Office™

OIG

*Department of Homeland Security
Office of Inspector General*

Executive Summary

Foxx & Company audited a selected sample of the Federal Emergency Management Agency's (FEMA's) Acquisition Management Division fiscal year 2007 disaster contracts. The audit objectives were to assess FEMA's management of the contracts; assess communications and coordination within FEMA regarding disaster contracts; evaluate safeguards against fraud, waste, and abuse; and assess the impact of deficiencies on the delivery of goods and services.

FEMA's tracking, managing, and monitoring of contracts needs improvement. Several contracts requested could not be found in a timely manner; some could not be found at all. Most of the contract files reviewed needed to have more documentation to demonstrate effective communications and knowledge transfer between contracting officials.

FEMA was not in compliance with the Federal Acquisition Regulation or Acquisition Management Division's contracting policies and procedures for emergency acquisitions for most of the contracts reviewed. More documentation was needed to explain the reasons the goods or services were acquired, provide evidence of competition, and document contractor performance. FEMA did not follow acquisition process safeguards such as including documentation justifying sole source awards, verifying proof of inspection of goods, or completing the checklists of required contract documentation.

As a result, it was difficult to determine that contractors were performing as required or that FEMA was paying fair prices for goods and services. More oversight of the contracts is needed to provide better management control and preclude creating an environment that provides opportunities for fraud, waste, and abuse. FEMA recognizes these problems and has begun taking steps to correct these situations.

We are making four recommendations that, if implemented, will result in improved contract management and decreased risk of fraud, waste, and abuse.

FEMA's response is summarized and evaluated in the body of this report and included in its entirety as Appendix B.

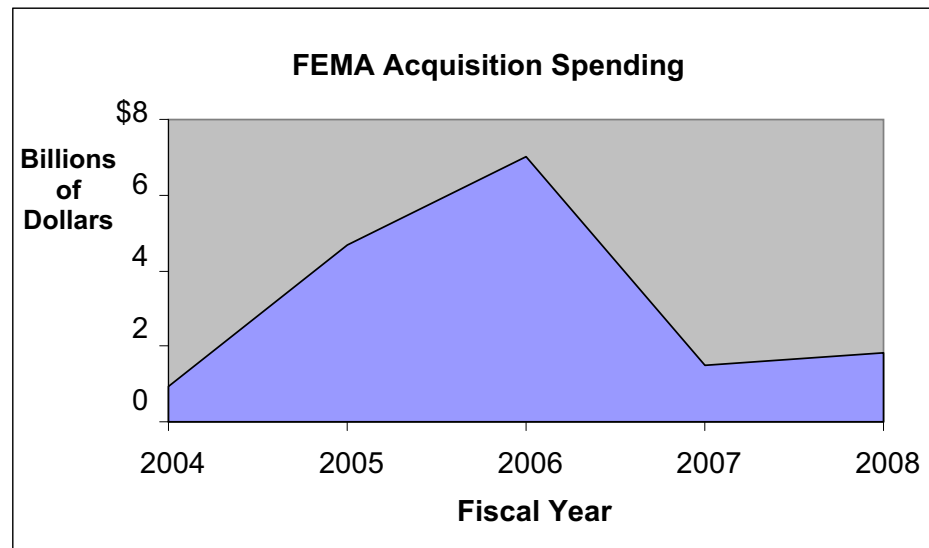
Background

State and local government agencies and organizations act as first responders to emergencies (natural and manmade). When state and local governments become overwhelmed by the size or scope of a disaster, state officials may request assistance from the federal government. President Carter issued Executive Order 12127 in July 1979 that merged many separate disaster-related federal functions into the Federal Emergency Management Agency (FEMA). Following the terrorist attacks of September 11, 2001, the *Homeland Security Act of 2002* (Public Law 107-296) transferred FEMA to the newly formed Department of Homeland Security (DHS).

To meet urgent needs in past disasters, FEMA's tendency had been to acquire goods and services quickly, but with insufficient attention to costs, definition of requirements, and competition. Reports issued by Congress, the White House, federal Office of Inspectors General (OIG), and the Government Accountability Office (GAO), among others, identified issues including contracting deficiencies (see Appendix D).

In fiscal year (FY) 2004, FEMA spent almost \$1 billion for goods and services. Spending rose to almost \$5 billion in FY 2005 and to more than \$7 billion in FY 2006. Most of the increase in these 2 years was attributable to the response to the 2005 Gulf Coast hurricanes. By FY 2007, FEMA's overall spending had fallen to about \$1.5 billion; for FY 2008, it was \$1.8 billion (see Figure 1).

Figure 1: FEMA’s FY 2004–2008 Acquisition Spending



Source: *Federal Procurement Data System—Next Generation Data*

With so much spending at stake, it is imperative that acquisition officials take the steps necessary to ensure successful disaster contracting outcomes. Documentation and information on each contracting action required by the FAR must be in place to provide a complete history of the contract process, and serve as a basis and support for acquisition decisions. This is the focus of our report. Recent audits and congressional testimony have identified deficiencies, as well as opportunities for improvement, in other aspects of FEMA's disaster acquisition process.¹

To illustrate, an August 2008 OIG report stated FEMA could improve the operation and control of its Individual Assistance-Technical Assistance Contracts (IA-TACs; tasks include construction of temporary sites for trailers and mobile homes to house disaster victims) by employing an adequate number of staff to:

- conduct adequate acquisition planning,
- obtain timely cost/price analyses prior to contract award,
- perform contract monitoring,
- inspect and accept goods and services, and
- hold contractors compliant to terms of contracts.²

¹ See Appendix D.

² DHS OIG, *Hurricane Katrina Temporary Housing Technical Assistance Contracts*, OIG-08-88, August 2008.

With respect to Hurricane Katrina relief funds obligated to IA-TACs in 2006, this report cited “uncontrolled growth in the amount of the funds obligated and expended under the contracts,” questioned “how FEMA determined that the amounts invoiced were allowable and reasonable,” and stated that the acquisition “environment provided opportunities for fraud, waste, and abuse to occur.” In addition, the report stated that the reviewed contracts had insufficient or missing documentation and that it was unclear how FEMA determined whether contractor invoices were allowable and reasonable.³

According to congressional testimony in September 2008, GAO identified DHS acquisition oversight as needing improvement and noted “cases in which DHS components lacked the capacity to oversee contractor performance due to limited expertise and workload demands.” GAO also stated that none of the oversight plans and contract documents they reviewed contained specific measures for assessing contractor performance. Additionally, GAO noted that improving acquisition outcomes has been an ongoing challenge since DHS was established in 2003.⁴

An OIG report issued in February 2009 on internal controls in FEMA’s disaster acquisition process called for implementation of additional safeguards to protect assets and prevent and detect errors.⁵ Another OIG report recommended implementation of an oversight process to improve the efficiency and effectiveness of FEMA’s acquisition program and creation of systems to document and share useful “lessons learned” throughout the acquisition function.⁶

For this audit, DHS OIG contracted with Foxx & Company to evaluate the effectiveness of FEMA’s disaster contract management. The audit objectives were to:

- Assess FEMA’s ability to track, manage, and monitor non-Gulf Coast disaster contracts;
- Determine what safeguards were included to reduce, deter, and detect fraud, waste, and abuse;

³ DHS OIG: *Hurricane Katrina Temporary Housing Technical Assistance Contracts*, OIG-08-88, August 2008.

⁴ GAO: *Department of Homeland Security: Progress and Continuing Concerns with Acquisition Management*, GAO-08-1164T, September 17, 2008.

⁵ DHS OIG: *Internal Controls in FEMA’s Disaster Acquisition Process*, OIG-09-32, February 2009.

⁶ DHS OIG: *FEMA’s Implementation of Best Practices in the Acquisition Process*, OIG-09-31, February 2009.

- Assess the level of communication and coordination within FEMA regarding disaster contracts; and
- Assess to what extent processes and controls have not been followed and determine their impact on the delivery of goods and services.

We reviewed 32 FY 2007 disaster contracts for compliance with the FAR and with supporting and pertinent Acquisition Management Division (AMD) policies and procedures. [In January 2009, the Office of Acquisition Management was renamed the Acquisition Management Division as part of a FEMA Management Directorate realignment. See Appendix F for updated organization chart.]

Results of Audit

FEMA was not following pertinent FAR requirements or AMD's contracting policies and procedures for emergency acquisitions for most of the contracts reviewed. Several contracts requested were not located in a timely manner and some could not be found. For the contracts we reviewed, more documentation was needed to demonstrate that FEMA was effectively tracking, managing, and monitoring contracts. Furthermore, additional documentation was needed to demonstrate effective communications and knowledge transfer between contracting officials.

Although these deficiencies are substantial, we were unable to determine the impact of these deficiencies on the delivery of goods and services because of the lack of documentation.

FEMA contracting officials agreed that improvements are needed in its management and administration of disaster contracts and they are correcting deficiencies and improving compliance with the FAR and FEMA's policies and procedures.

Contract File Management System

FEMA's AMD needs an effective contract management system to identify, manage, or monitor the contracts. It did not have a consolidated list of disaster contracts awarded in FY 2007 readily available and it took more than a month for AMD to compile one.

FAR requirements:

- Section 4.801(a)-(b): The head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions. The documentation in the files shall be sufficient to constitute a complete history of the transaction.
- Section 4.802(d): If the contract files or file segments are decentralized to various organizational elements or to other outside offices, responsibility for their maintenance must be assigned. A central control and, if needed, a locator system should be established to ensure ability to locate promptly any contract file.

To enable efficient access to FEMA’s contracts, FEMA should develop a contract management system that includes a locator system capable of ensuring that contract files can be located in a timely manner. Currently, individual contracting officials maintain contracts.⁷ After we selected a sample of contracts to review, it took AMD more than 2 months to provide the 32

A senior AMD management official said that “Lots of files are missing—probably 30%.”

contracts. Two of the contracts could not be located and substitute contracts had to be selected; however, the first substitute contract could not be located and another had to be selected. None of the files were in electronic format, which would have made them more accessible.

Contracting officials did not follow AMD standard procedures or guidance for safeguarding contract documentation, including securing files in locked rooms or cabinets. Field offices and headquarters had facilities where files could be secured; however, some contract files were kept in or on unsecured desks. In several instances, contract files were stored in open boxes on the floor of a cubicle.

FEMA officials acknowledged the problem of contracts not being organized, inventoried, or available. They cited the following reasons for contract unavailability:

- Contracting officials kept the contracts at their desks or in their own filing cabinets.

⁷ Contracting officials include contracting officers, contract specialists, and contracting officer’s technical representatives (COTRs). Previously, some COTRs were called project officers.

- Some of the contract files may have been lost or misplaced in AMD’s move to Patriots Plaza.⁸
- Field staff said that when closing Joint Field Offices (JFOs), contract files were often returned to the regional offices in multiple folders that should have been consolidated by the regional office staff to provide the complete contract file.

During the course of our audit, senior management acknowledged their concern about the agency’s delay in providing the list of requested contracts. One of the officials said that AMD wanted to ensure the contracting specialists were providing “the files requested and not to accept any excuses that the files were lost and could not be provided.” Another official said that they were tracking whether contracting officials were being responsive to our requests or “if someone is holding out or using a lost file excuse” to avoid providing the file.

The contracting official who initiated the centralized file room project said she “began this effort due to her frustration of not being able to locate contract files.”

FEMA is in the process of creating a centralized file room and inventory system for contracts maintained at its headquarters. It assembled a team of FEMA and contractor staff in April 2008 for this project. The contracting official leading this project said “There was no formal system in place and no one was responsible for centrally managing or monitoring the contract files.” By October 2008, more than 80% of the contract files were filed in the centralized file room and recorded in an electronic database. The project team is currently completing training for each of 60 AMD contracting specialists on how to manually and electronically retrieve contract files and records. In addition, AMD’s Strategic Scorecard includes an initiative to “design, develop, and implement a contract file management system in electronic and paper format” to achieve the outcome of having an “Effective End-to-End Knowledge & Information Management Enterprise.”

⁸ AMD moved in July 2007 from FEMA headquarters at 500 C Street S.W., Washington, DC, to AMD’s current location at Patriots Plaza, 395 E Street, S.W., Washington, DC. At the time of the move, no centralized location for the contract files existed at either location and all files arrived at Patriots Plaza in the boxes used to move them from their former site.

Figure 2: AMD Contract File Room Before the Centralized File Room Project



Source: FEMA

Figure 3: AMD Contract File Room After Organization Project



Source: FEMA

Conclusion

The inability to locate contract files hampers FEMA's ability to ensure that contractors have fulfilled their obligations and that the government is meeting its contract administration responsibilities. Compliance with the FAR's requirements for Government Contract Files, subpart 4.8, and relevant policies provides agencies with an increased level of assurance that the quality and completeness of their contract monitoring activities will result in satisfactory acquisition outcomes.

Recommendation

We recommend that the Administrator of FEMA:

Recommendation #1: Complete establishment of the electronic file management system that includes a locator system that will enable users to locate contract files in a timely manner. Once the file management system is established, FEMA should begin storing contract files electronically.

Management Comments and Contractor Analysis

FEMA concurred with recommendation 1. FEMA said that senior leadership within the Acquisition Management Division, Management Directorate, is engaged in discussions regarding funding for an electronic contract file management system. If sufficient funds are available, a contract for the system could be awarded before the end of FY 2009.

We consider FEMA's planned action responsive to the recommendation. The recommendation is resolved and open pending FEMA's implementation of an electronic contract file management system.

Administration of Individual Contracts

FEMA needs a contract management system that allows for effective management of individual disaster contracts. FEMA needs to improve and enhance its processes and procedures to enable it to track whether:

- Required source selection procedures were followed,
- Appropriate evaluations and oversight of contractor performance and FEMA contracting officials were performed, or

- Increases in contract price or the quantities of goods or services required from those originally negotiated were justified.

It was difficult to determine whether contracts were effectively managed and monitored or whether appropriate controls to prevent waste, fraud, or abuse were in place.

Section 4.801(b) of the FAR states that the documentation in the contract files shall be sufficient to constitute a complete history of the transaction for the purpose of:

- Providing a complete background as a basis for informed decisions at each step in the acquisition process,
- Supporting actions taken,
- Providing information for reviews and investigations, and
- Furnishing essential facts in the event of litigation or congressional inquiries.

Of the 32 contracts sampled, evidence of sound contract management, oversight, and documentation was lacking. The documentation was incomplete and inconsistent. For example, the file for a software upgrade, licenses, and support contract worth more than \$1 million consisted only of a 10-page task order. According to section 4.802(a) of the FAR, contract files should among other things, document the basis for the acquisition and the award, the assignment of contract administration including payment responsibilities, and any subsequent actions taken by the contracting office. FEMA needs to ensure that the documentation in the files is sufficient to constitute a complete history of the contracting transactions.

Source Selection Process

About 30% of the contract files contained enough information to explain the source selection process and justification for the contractor selected. Two-thirds of the files contained insufficient information to enable us to ascertain if the contracts had been competitively awarded. As a result, the extent to which FEMA complied with FAR requirements concerning competitive procurements could not be determined.

Section 6.303-1(a) of the FAR states “A contracting officer shall not commence negotiations for a sole source contract, commence negotiations for a contract resulting from an unsolicited proposal, or award any other contract without providing for full and open

competition unless the contracting officer (1) Justifies, if required in 6.302, the use of such actions in writing; (2) Certifies the accuracy and completeness of the justification; and (3) Obtains the approval required by 6.304.”

Information on the source selection process, such as a request for proposal, bid analysis, or similar documentation should be included in the contract file in accordance with guidance in the FAR. In many instances, the sole source or limited source justification was missing or not well documented. For example, one contract file contained price proposals from the successful contractor, but no information on the solicitation of other contractors’ proposals or how the price was determined to be reasonable. Competition is critical to ensuring that the government obtains the best value (in product or service and price) under the contract.

In addition, Section 9.103(a)-(b) of the FAR states, “Purchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only” and “No purchase or award shall be made unless the contracting officer makes an affirmative determination of responsibility.”

Although the FAR states that contracts shall be awarded to responsible prospective contractors only, there was little evidence that contracting officials assessed the capabilities of prospective contractors. The government is at risk if the contractor does not have adequate resources, a satisfactory performance record, technical skills, or the ability to comply with the proposed delivery or performance schedule.

Contractor Performance Monitoring and Oversight

Effective monitoring and oversight is necessary to ensure that FEMA receives the goods and services for which it contracted. Monitoring and oversight are critical elements of the federal procurement process and encompass all interactions between the government and its contractors from the time contracts are awarded to closeout.

AMD did not perform systematic or periodic reviews to identify deficient procurement practices and contract management procedures. Therefore, FEMA had little assurance that the terms of the contracts were properly enforced or that adequate oversight existed to ensure contractor compliance with statement of work requirements or specifications. Performing systematic or periodic

reviews is especially important in light of the significant number of contract management staff hired over the past 2 years who have little disaster contracting experience.

Several experienced AMD contracting officials said that improvements were needed in contract management, such as implementing more policies and standard operating procedures, ensuring consistency in headquarters and regional office operations, and having better communications and contract file management training. They also said that there was a need for more supervisory contract reviews as an incentive for staff to be more conscientious and attentive to contract file details and requirements. In addition, while recently there have been substantial hiring increases in AMD, the new acquisition personnel have had little disaster contracting experience and most have not had the opportunity to contract for goods and services in emergency or disaster-related situations.

Although several officials stressed the importance of conducting supervisory contract reviews to provide instruction and ensure compliance, these reviews were not being performed. One senior management official said that a FEMA headquarters analyst used to perform reviews to ensure contract file compliance. One senior-level manager said that these reviews are essential; he conducted a contract review at a regional office in August 2008 and found that “the files were in disarray and current policies and procedures were not being followed.” This official said that AMD did not have travel funds to perform further reviews in FY 2008, but hoped to have travel funds in FY 2009 to complete two reviews per regional office per year.

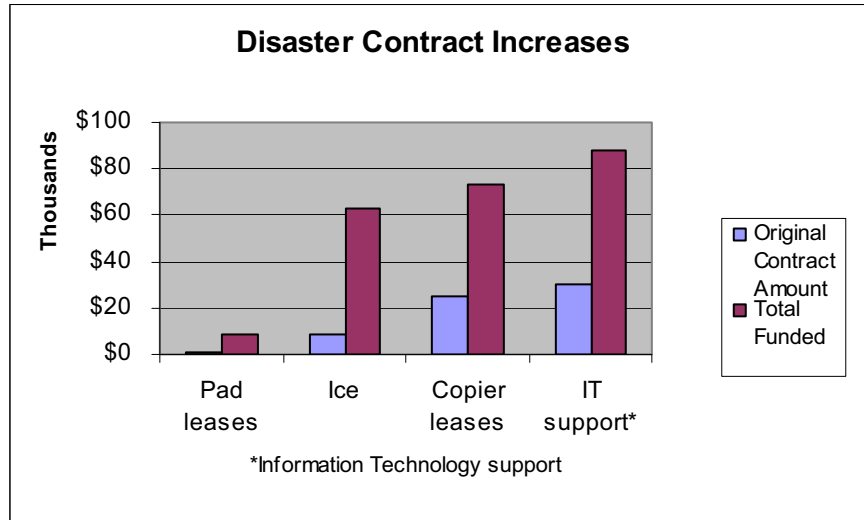
The lack of formal contract documentation reviews prevents the identification of deficiencies in policies, procedures, and practices and does not alert management to potential areas of vulnerability, areas needing improvement, or training needs. Performance evaluations from monitoring and oversight activities are essential to identifying a contractor’s adherence to schedules, ability to forecast and control costs, and commitment to satisfying the government’s specifications. Perhaps more important, evaluations identify and document substandard contract performance, which can protect the government in the event of litigation.

Significant Contract Funding Increases

Significant increases in the amount of federal funds obligated and spent occurred after negotiation of the initial contract costs in many of the contracts reviewed in our audit. However, explanations for the increases were not discernable in the contract documentation. In addition, it could not be determined if such increases violated competition requirements for federal acquisitions.

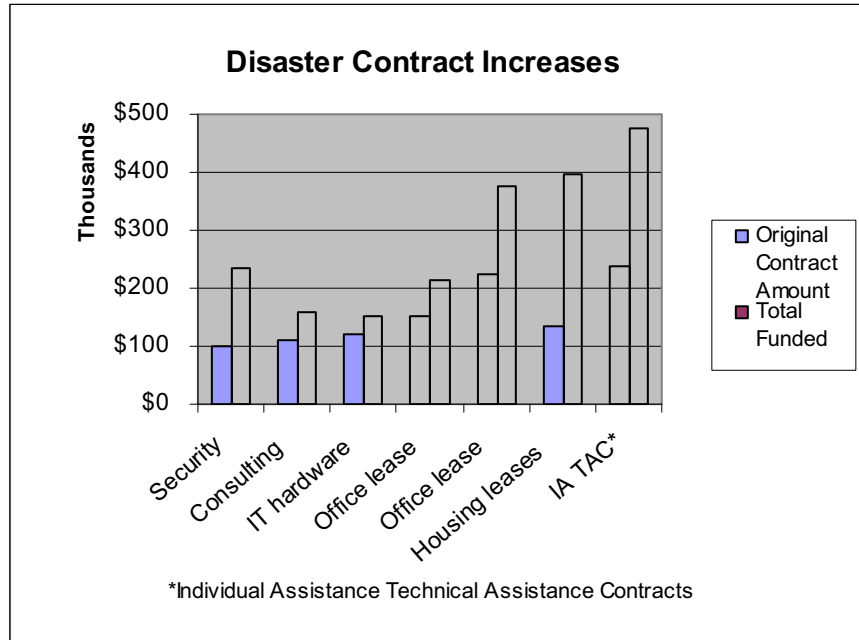
The contracts we reviewed did not provide documentation on why costs were increased. Figures 4-6 illustrate some of these increases by dollar amount. (See Appendix C for a consolidated summary of the contract cost increases.)

Figure 4: Contract Costs Less Than \$100,000



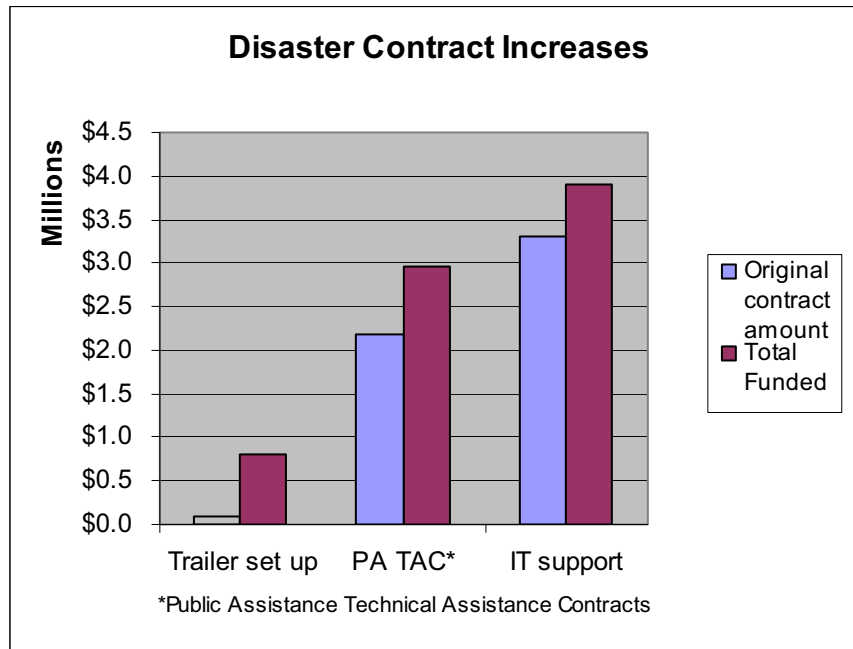
Source: *Foxx & Company using FEMA data*

Figure 5: Contract Costs between \$100,000 and \$500,000



Source: Foxx & Company using FEMA data

Figure 6: Contract Costs More Than \$500,000



Source: Foxx & Company using FEMA data

Increases in contract costs over the contract term are a concern and raise several questions, including:

Challenges Facing FEMA’s Disaster Contract Management

- Were the increases justified?
- Did the government receive a fair return for what it eventually paid?
- Why were FEMA contracting officers unable to better determine the true cost of goods or services being procured prior to the contract award?

A related concern is whether artificially low initial contract estimates limit competition. For example, if FEMA initially solicited proposals for a \$50,000 contract, some companies or suppliers might have chosen not to bid. However, if the same companies or suppliers knew that the contract cost would ultimately be four or five times higher, they might have submitted bids. By limiting competition in this manner, the government may not be getting the best value.

A contracting officer wrote “We have to get the three folders (contract files) ready for review. Let’s get COTR letters in there and etc . . . add any other things that are required.”

There may be valid reasons for increases in contract prices. For example, extensions to leases for trailer pads that house disaster victims may be needed if alternative housing cannot be found. However, such reasons should be documented in the contract file. For most of the files we reviewed, adequate documentation for the increases was not apparent. Contract files did not include evidence that FEMA contracting officials considered re-competing contracts in view of the significant increases experienced, thus missing opportunities for increased competition and lower prices.

Contract Documentation

The contracting officer’s technical representative (COTR) provides both technical and project management oversight during the contract lifecycle. Effective COTR performance is one of many factors that enhance the relationship between the contractor and government agency by adding value, fostering greater partnership, and promoting mutual attainment of business objectives.

According to FEMA contracting guidance, each contract file should contain a letter designating the COTR and defining his or her responsibilities. Over 50% of the contract files did not contain the required COTR letters. In addition, the files did not contain enough information to properly document the COTR’s activities.

Missing documentation from the contract files can lead to the inability to track the history and rationale for contract decisions. About 44% of the contracts reviewed did not contain documentation that properly explained the need for the goods or services purchased. We also found that subsequent to our request for the contracts, documentation was added to some of the contract files to make the files more complete. Three contracts included in our sample that closed in mid-2007 contained documents, dated June 2008, that FEMA personnel inserted into the contract files.

Prompt contract closeout is critical to ensure that all government debts are paid and unneeded funds are de-obligated and made available for other uses. Although most of the contracts in our sample appeared to be completed, only 9 of the 32 contained closeout forms. Closeout forms and other required documents are specified in the FAR and in FEMA’s contracting guidance. Figure 7 provides examples of the missing documentation that should be provided in accordance with FAR Subpart 4.8 and FEMA guidance.

Figure 7: Missing File Documentation for the 32 Contracts Reviewed

Contract File Documentation	Number of files with documentation	Number of files without documentation
Information on the source selection process	9	23
Letter designating the COTR and defining his or her responsibilities	14	18
Documentation properly explaining the need for the goods or services purchased	18	14
Contractor performance evaluations or measures for assessing contractor performance	0	32
Contract closeout forms	9	23

Source: *Foxx & Company*

Conclusion

Overall, management's control environment for ensuring compliance with federal requirements was weak. Management did not routinely review contract files and did not ensure compliance throughout the organization. As a result, contract management and contract file contents varied by office and by contracting official. Also, the history of contract actions and decisions could not be identified.

This confirms some of the findings contained in another recently issued report on FEMA's acquisition internal controls.⁹ That report stated that many files could not be located, AMD did not have a standardized approach to documentation and file maintenance, and supervisors did not hold contracting officers accountable for maintaining contract files. We reiterate the recommendation in that report that the Director, AMD, require supervisors to monitor contract file maintenance and hold contracting officers and specialists accountable by including in the annual performance evaluation process an assessment of their contract file maintenance activities. In addition, we make the following recommendations.

Recommendations

We recommend that the Administrator of FEMA:

Recommendation #2: Issue guidance reinforcing employees' duty to comply with Federal Acquisition Regulation requirements for contract files so that each file provides a history of all contractual activities and an explanation of source selection, degree of competition, contractor performance, reasons for cost increases, scope changes, and determination of price reasonableness. The documentation should include explanatory memos, notes, email messages, and correspondence, as well as references to other files or locations that contain information supporting the acquisition.

Recommendation #3: Ensure compliance with existing contract file maintenance regulations, policies, and procedures and provide a strong control environment in headquarters, regional offices, and field offices by:

- Conducting periodic reviews of contract files,

⁹ DHS OIG: *Internal Controls in the FEMA Disaster Acquisition Process*, OIG-09-32, February 2009

- Requiring that files provide an explanation for contracting decisions and actions, and
- Initiating training programs designed to emphasize the importance of maintaining contract documentation consistent with federal requirements and agency policy.

Management Comments and Contractor Analysis

FEMA concurred with recommendation 2. FEMA issued in August 2008 a Standard Operating Procedure (SOP), *Labeling and Organizing Official Contract Files*, which instructed employees to prepare and maintain relevant acquisition documents supporting all award and modification decisions and actions. The contract file checklist attached to the SOP identifies the acquisition documents to be included in the contract files as well as their location within the six part file.

We consider the SOP FEMA issued in August 2008 responsive to the recommendation. We consider the recommendation resolved and closed.

FEMA concurred with recommendation 3. In November 2008, FEMA finalized a draft SOP for the internal audit of contract files. During the period January through March 2009, FEMA stated that it conducted the first internal audit of approximately 80 FY 2009 contract awards and modifications to FY 2009 contract awards in Headquarters and throughout the regions. The reviews also included interagency agreement files. These internal audits of contract files will be conducted at least every quarter through the end of 2009. Reports from each quarter's internal audit will be used as the basis to inform contract specialists and contracting officers of contract file deficiencies.

We consider FEMA's planned action responsive to the recommendation. However, the internal audits of contract files should be established as an on-going, periodic review with no end date. In addition, the OIG should receive copies of these quarterly reports. Furthermore, as recommended in a recent OIG report, FEMA should require supervisors to monitor contract file maintenance and hold contracting officers and contracting specialists accountable by including, in the annual performance evaluation process, an assessment of their contract file maintenance activities.¹⁰ The recommendation is resolved and

¹⁰ DHS OIG, *Internal Controls in the FEMA Disaster Acquisition Process*, OIG-09-32, February 2009

open until a policy is established to provide an ongoing, periodic review of contract files with no end date.

Communications and Knowledge Transfer

According to FAR Section 4.801(b), the documentation in the contract files shall be sufficient to constitute a complete history of the transaction. Specifically, Section 4.802 (c) states that files must be maintained at organizational levels to ensure (1) effective documentation of contract actions; (2) ready accessibility to principal users; (3) minimal establishment of duplicate and working files; (4) the safeguarding of classified documents; and (5) conformance with agency regulations for file location and maintenance.

Most of the 32 contracts sampled had multiple contracting officials assigned during the contract period. Contracting officials said that the lack of effective communications and insufficient knowledge transfer, coupled with inadequate and inconsistent documentation in the contract files, made it difficult to effectively manage contracts.

Significant transfers of contracts occur because of the nature of FEMA's disaster management mission and the need to rotate staff. In addition, as Joint Field Offices (JFOs) close, responsibility for managing contracts is transferred from location to location and from person to person during the life of the acquisitions.¹¹ High turnover rates within the AMD also result in contract files being reassigned to multiple contracting officials.

To maintain continuity and accomplish knowledge sharing within FEMA, as well as with contractors, it is important that the recipient of a contract transfer be able to quickly understand the contracting decisions and the history of the acquisition. Accordingly, communications that occur during the acquisition process must be properly documented to transfer the knowledge needed to contract file recipients.

¹¹ When a disaster is declared, the Secretary of Homeland Security, in coordination with other federal departments and agencies, initiates actions to respond to and recover from the incident, including the establishment of a JFO. Within the JFO, senior federal representatives form a multiagency coordination entity and direct staff to share information, aid in establishing priorities among incidents and associated resource allocation, and provide strategic coordination of various federal incident management activities. As the need for full-time interagency coordination at the JFO ceases, the JFO releases federal resources and transfers remaining responsibilities and documentation to the appropriate FEMA field offices.

The contract files we reviewed did not contain sufficient documentation to demonstrate effective communication and to facilitate reassignment to new contracting officials. For example, two contracting officers who inherited files from other contracting officers said that it was impossible to understand what was going on with the contract by reviewing existing documentation. Although FEMA developed contract file checklists to help manage the contracts, 22 of the 32 files—about 70%—did not include checklists.

Contract management responsibilities were reassigned to different contracting officials due to turnover within AMD, as well as the rotation policy at JFOs. Responsibility for some of the contracts in our sample had been assigned to contracting officials without their knowledge. When we questioned these contracting officers, they could not answer questions about the contracts.

An official said for one contract that it “...got dumped to my desktop because no one ‘owned’ it.”

Transfers between contracting officials without appropriate documentation make it difficult for the receiving contracting official to effectively manage the contracts. He or she may not be readily able to understand:

- How or why decisions were made,
- How to enforce the terms of the contract without vital contract information,
- The status of delivery of goods or services,
- Funds paid to date,
- Outstanding issues with the contractor, if any, and
- The oversight steps that should be performed.

In September 2008, AMD issued a SOP that established FEMA acquisition policy regarding transferring disaster contract files from a JFO to the appropriate FEMA regional office. The procedure applies to all contract files created by procurement officials within a JFO in support of a disaster. It states that “Contract files will be transferred in a complete condition, will contain all documents in support of the particular acquisition, and will be transferred prior to the lead field contracting official’s departure.” The procedure includes a checklist that must be completed to ensure that the contract files and records are complete and ready for transfer to the appropriate regional office.

We asked if AMD had similar procedures and checklists for transferring contracts within AMD from one contracting official to another and for completing the contract closeout process once all contractor billings had been paid. AMD officials stated that AMD did not have such procedures or checklists, but said that these would be added to the list of procedures to draft and issue.

Conclusion

Contract files were frequently transferred between contracting officials. The transfers were made without effective communications or sufficient knowledge transfer. In addition, the contract files generally did not include adequate or consistent documentation to provide receiving contract officials the knowledge necessary to effectively manage the contract.

Recommendation

We recommend that the Administrator of FEMA:

Recommendation #4: Develop a SOP for transitioning and closing contract files that requires a memorandum to provide the appropriate background and status information and a checklist for ensuring that the contract files are transferred in a complete condition and closed when all transactions are concluded.

Management Comments and Contractor Analysis

FEMA has developed a SOP for contract close-outs that is nearing completion. FEMA has also drafted a SOP for the transfer of contract files from one contracting officer to another that is under review. Both SOPs are scheduled for finalization no later than May 15, 2009.

We consider FEMA's actions responsive to the recommendation. Once the SOPs are finalized and issued, we will consider the recommendation resolved and closed.

Appendix A

Purpose, Scope, and Methodology

The purpose of this audit was to assess FEMA's management of disaster contracts. The FEMA disaster contracting function was challenged in responding to the 2005 Gulf Coast hurricanes, the nation's most costly natural disasters, which killed more than 1,800 persons, destroyed more than 300,000 Gulf Coast homes, and displaced about 1 million people.

FEMA has implemented a number of significant changes in its acquisitions function since Hurricane Katrina. The DHS OIG audit focus has been primarily on contracting in the Gulf Coast states with less attention on contracts in other disasters. However, between October 1, 2006, and September 30, 2007, the President declared 65 major disasters, excluding those in Louisiana, Mississippi, and Alabama. Also, in June 2007, FEMA had 18 Joint Field Offices in operation outside of those states.

The goal of the audit was to determine how effectively FEMA managed disaster contracts outside of the Gulf Coast. The specific objectives of the audit were to:

- Assess FEMA's ability to track, manage, and monitor non-Gulf Coast disaster contracts;
- Determine what safeguards were included to reduce, deter, and detect fraud, waste, and abuse;
- Assess the level of communication and coordination within FEMA regarding disaster contracts; and
- Assess to what extent the FAR and AMD policies and procedures have not been followed and determine the impact on the delivery of goods and services.

The audit focused on a sample of 32 disaster contracts awarded directly by FEMA in FY 2007 for disasters declared in states other than Louisiana, Mississippi, and Alabama. FEMA is required to adhere to contract management policies and procedures that are promulgated in the FAR.¹² FEMA also is required to adhere to the Homeland Security Acquisition Regulation and the *Homeland Security Acquisition Manual*, Office of Federal Procurement Policy guidance, and the *Stafford Act*.¹³

¹² The FAR, codified in *Title 48* of the United States Code of Federal Regulations, was developed pursuant to the *Office of Federal Procurement Policy Act of 1974* (Public Law 93-400), as amended by Public Law 96-83.

¹³ FEMA's statutory authority comes from the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, as amended. The *Stafford Act* was enacted in 1988 (Public Law 100-707), and it amended the *Disaster Relief Act of 1974* (Public Law 93-288).

Appendix A

Purpose, Scope, and Methodology

The sample included contracts awarded at FEMA headquarters in Washington, DC, and at four FEMA regions:

- Region II (New York City, NY)
- Region III (Philadelphia, PA)
- Region VI (Denton, TX)
- Region VII (Kansas City, MO)

We also visited FEMA's Disaster Finance Center in Mt. Weather, VA, to obtain payment information on the contracts in our sample.

Eight contracts were selected from each of the four regions noted above. The 32 contracts selected were based on (1) assessed risk, (2) OIG recommendations, and (3) to the extent practicable, the ability to relate the audit results to FEMA disaster contracting in general. Selection factors included:

- Variety of contract type: time and materials, cost reimbursable, fixed price, and others
- Dollar value: some large, medium, and small
- Geographic dispersion
- Scope and nature of the work
- Sole source or competitive
- Variety of contracting officers and contracting officer technical representatives.

We conducted this performance audit according to generally accepted government auditing standards (*Government Auditing Standards, July 2007 revision*).

Our audit considered FEMA and AMD policies and procedures implemented since the 2005 Gulf Coast hurricanes, as well as other applicable federal acquisition requirements. At all of the locations visited, we interviewed officials and obtained documentation to verify changes or corrective actions taken. Field office work was conducted from May to December 2008.

Appendix B Management Comments on the Draft Report


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



FEMA

MAY 7 2009

MEMORANDUM FOR: Matt Jadacki
Deputy Inspector General
Office of Emergency Management Oversight
Office of Inspector General

FROM: 
Robert A. Farmer
Acting Director
Office of Policy and Program Analysis

SUBJECT: Comments on OIG Draft Report, *Challenges Facing FEMA's Disaster Contract Management*

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG's) subject draft audit report. As the Federal Emergency Management Agency (FEMA) works toward refining its programs, the OIG's independent analysis of program performance greatly benefits our ability to continuously improve our activities.

When Hurricane Katrina occurred in 2005, FEMA's acquisition function was comprised of approximately 40 staff. Obvious procurement limitations resulting from such understaffing were immediately apparent. Steps to remedy this gap were taken in the Katrina Supplemental and other appropriations with the result that staffing increased rather rapidly over the span of a couple of years. In FY 2006, we were authorized 129 FTE; in FY 2007, 147 FTE and in FY 2008, 155 FTE.

The rapid increase of acquisition staff and the significant reorganization was used not only to address the immediate Gulf Coast contracting needs, but also to improve the overall Agency compliance with established Department of Homeland Security and Federal Acquisition Regulation policy. While the main area of remedial emphasis in Acquisition focused on awards and the pre-solicitation stages of the acquisition process, FEMA also made progress in the contract file management area.

FEMA concurs with the draft report's four recommendations and has been working diligently to correct the issues identified in your audit. While we will be providing corrective action plans in our 90-day response, we provide the following information relative to the four recommendations:

www.fema.gov

Appendix B

Management Comments on the Draft Report

Recommendation 1: Complete establishment of the electronic file management system that includes a locator system that will enable users to locate contract files in a timely manner. Once the file management system is established, FEMA should begin storing contract files electronically.

Response: Senior leadership within the Acquisition Management Division (AMD), Management Directorate, is engaged in discussions about the need for and the potential funding required of an electronic contract file management system. If sufficient funds are available, a contract for the system could be awarded before the end of FY 2009.

FEMA considers this recommendation resolved and open. FEMA will consider this recommendation closed when a contract for the installation of an electronic system is completed.

Recommendation 2: Issue guidance reinforcing employees' duty to comply with Federal Acquisition Regulation requirements for contract files so that each file provides a history of all contractual activities and an explanation of source selection, degree of competition, contractor performance, reasons for cost increases, scope changes, and determination of price reasonableness. The documentation should include explanatory memos, notes, email messages, and correspondence, as well as references to other files or locations that contain information supporting the acquisition.

Response: In August 2008, the AMD issued a standard operating procedure (SOP), *Labeling and Organizing Official Contract Files*, which instructed employees to prepare and maintain relevant acquisition documents supporting all award and modification decisions and actions. The contract file checklist attached to the SOP identifies the acquisition documents to be included in the contract file as well as their location within the six part file. The SOP and checklist have been provided under separate cover.

FEMA requests that this recommendation be considered resolved and closed based on the supplied information.

Recommendation 3: Ensure compliance with existing contract file maintenance regulations, policies, and procedures and provide a strong control environment in headquarters, regional offices, and field offices by:

- Conducting periodic reviews of contract files,
- Requiring that files provide an explanation for contracting decisions and actions, and
- Initiating training programs designed to emphasize the importance of maintaining contract documentation consistent with federal requirements and agency policy.

Response: In November 2008, AMD finalized a draft SOP for the internal audit of contract files and during the period January through March 2009 conducted the first internal audit of approximately 80 FY 2009 contract awards and modifications to FY 2009 contract awards in Headquarters and throughout the regions. The reviews also included interagency agreement files. These internal audits of contract files will be conducted at least every quarter through the end of 2009. Reports from each quarters' internal audit will be used as the basis to inform contract specialists and contracting officers of contract file deficiencies.

Appendix B

Management Comments on the Draft Report

FEMA considers this recommendation resolved and open. FEMA will consider this recommendation closed when the report for the fourth quarter internal audit of contract files is completed and distributed.

Recommendation 4: Develop Standard Operating Procedures for transitioning and closing contract files that require a memorandum to provide the appropriate background and status information and a checklist for ensuring that the contract files are transferred in a complete condition and closed when all transactions are concluded.

Response: A SOP for contract close-outs is nearing completion and a SOP for the transfer of contract files from one contracting officer to another is in draft and in review. Both SOPs are scheduled for finalization no later than May 15, 2009.

FEMA considers this recommendation resolved and open. FEMA will consider this recommendation closed when the SOPs are signed and distributed.

Thank you again for the opportunity to comment on this draft report and we look forward to working with you on other issues as we both strive to improve FEMA.

Appendix C
Contract Cost Increases

Contract Cost Increases

Services	Original Contract Amount	Total Funded	Percentage Increase
Trailer Set-up	\$94,250	\$799,045	748%
Pad Leases	\$1,200	\$9,000	650%
Ice	\$9,000	\$63,200	602%
Housing Leases	\$135,000	\$398,189	195%
IT Support	\$29,996	\$87,932	193%
Copier Leases	\$25,000	\$73,000	192%
Security	\$100,000	\$235,657	136%
IA TAC	\$236,337	\$475,506	100%
Office Lease	\$222,561	\$374,561	68%
Consulting – Project Management	\$109,182	\$157,181	44%
Office Lease	\$151,250	\$214,129	42%
PA TAC	\$2,180,000	\$2,957,000	36%
IT Hardware	\$121,342	\$150,770	24%
IT Support	\$3,313,577	\$3,912,115	18%

Source: *Foxx & Company*

Appendix D

List of Related Reports and Testimony

DHS OIG, *FEMA's Implementation of Best Practices in the Acquisition Process*, OIG-09-31, February 2009

DHS OIG, *Internal Controls in the FEMA Disaster Acquisition Process*, OIG-09-32, February 2009

DHS OIG, *Challenges Facing FEMA's Acquisition Workforce*, OIG-09-11, November 2008

DHS OIG, *Hurricane Katrina Temporary Housing Technical Assistance Contracts*, OIG-08-88, August 2008

DHS OIG, *Costs Incurred for Rejected Temporary Housing Sites*, OIG-08-86, August 2008

DHS OIG, *Hurricane Katrina Multitier Contracts*, OIG-08-81, July 2008

DHS OIG, *Acquisition Workforce Training and Qualifications*, OIG-08-56, May 2008

DHS OIG, *FEMA's Preparedness for the Next Catastrophic Disaster*, OIG-08-34, March 2008

DHS OIG, *FEMA's Award of 36 Trailer Maintenance and Deactivation Contracts*, OIG-07-36, March 2007

DHS OIG, *A Performance Review of FEMA's Disaster Management Activities in Response to Hurricane Katrina*, OIG-06-32, March 2006

GAO, *Department of Homeland Security: Progress and Continuing Concerns with Acquisition Management*, GAO-08-1164T, September 2008

GAO, *Emergency Management: Observations on DHS's Preparedness for Catastrophic Disasters*, GAO-08-868T, June 2008

GAO, *Department of Homeland Security: Better Planning and Oversight Needed to Improve Complex Service Acquisition Outcomes*, GAO-08-765T, May 2008

GAO, *Department of Homeland Security: Better Planning and Assessment Needed to Improve Outcomes for Complex Service Acquisitions*, GAO-08-263, April 2008

GAO, *Department of Homeland Security: Status and Accountability Challenges Associated with the Use of Special DHS Acquisition Authority*, GAO-08-471T, February 2008

Appendix D
List of Related Reports and Testimony

GAO, National Disaster Response: FEMA Should Take Action to Improve Capacity and Coordination between Government and Voluntary Sectors, GAO-08-369, February 2008

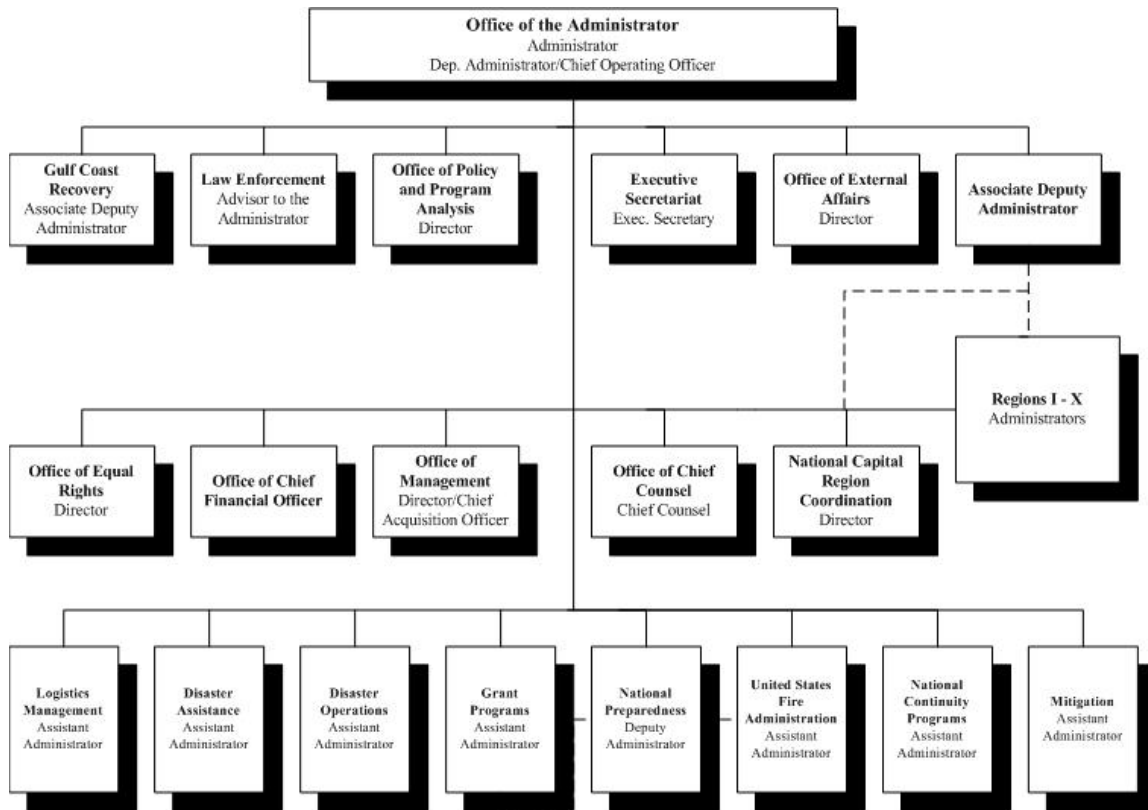
GAO, Department of Homeland Security: Improved Assessment and Oversight Needed to Manage Risk of Contracting for Selected Services, GAO-07-990, September 2007

GAO, Homeland Security: Observations on DHS and FEMA Efforts to Prepare for and Respond to Major and Catastrophic Disasters and Address Related Recommendations and Legislation, GAO-07-1142T, July 2007

GAO, Catastrophic Disasters: Enhanced Leadership, Capabilities, and Accountability Controls Will Improve the Effectiveness of the Nation's Preparedness, Response, and Recovery System, GAO-06-618, September 2006

GAO, Hurricane Katrina: Planning for and Management of Federal Disaster Recovery Contracts, GAO-06-622T, April 2006

Appendix E FEMA Organization Chart



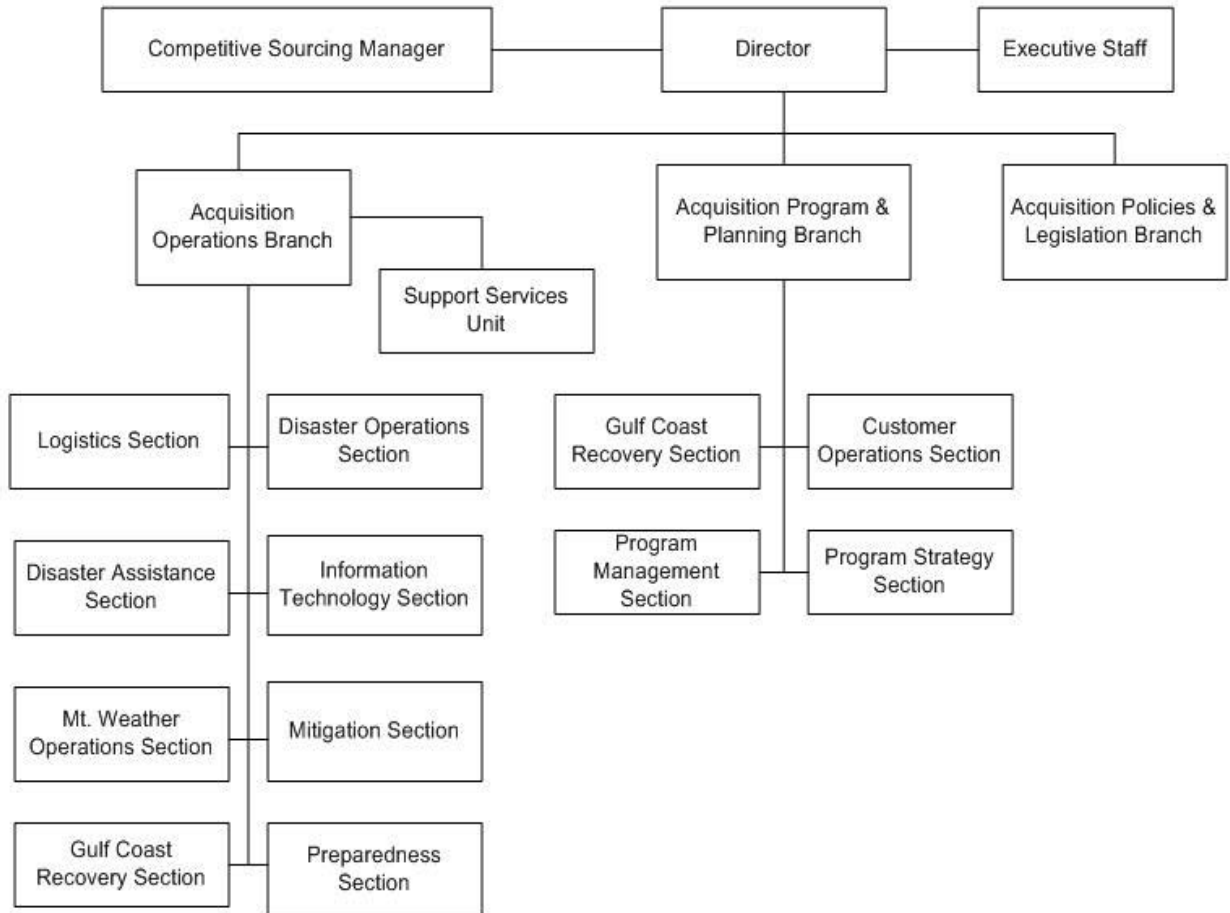
Source: FEMA. Dotted lines are coordination. Solid lines are command and control.

Appendix F
FEMA Acquisition Management Division Organization Chart



FEMA

US Department of Homeland Security/FEMA
 Management Directorate
 Acquisition Management Division



Appendix G Report Distribution

Department of Homeland Security

Secretary
Deputy Secretary
Chief of Staff for Operations
Chief of Staff for Policy
Acting General Counsel
Executive Secretariat
Director, GAO/OIG Liaison Office
Assistant Secretary for Office of Policy
Under Secretary, Management
Assistant Secretary for Office of Public Affairs
Assistant Secretary for Office of Legislative Affairs
FEMA Audit Liaison

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

Congress

Congressional Oversight and Appropriations Committees, as appropriate



ADDITIONAL INFORMATION AND COPIES

To obtain additional copies of this report, please call the Office of Inspector General (OIG) at (202) 254-4199, fax your request to (202) 254-4305, or visit the OIG web site at www.dhs.gov/oig.

OIG HOTLINE

To report alleged fraud, waste, abuse or mismanagement, or any other kind of criminal or noncriminal misconduct relative to department programs or operations:

- Call our Hotline at 1-800-323-8603;
- Fax the complaint directly to us at (202) 254-4292;
- Email us at DHSOIGHOTLINE@dhs.gov; or
- Write to us at:
DHS Office of Inspector General/MAIL STOP 2600,
Attention: Office of Investigations - Hotline,
245 Murray Drive, SW, Building 410,
Washington, DC 20528.

The OIG seeks to protect the identity of each writer and caller.