

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

Massachusetts' Management of  
Homeland Security Grant Program Awards  
for Fiscal Years 2008 Through 2011






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Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

FEB 28 2013

MEMORANDUM FOR: David J. Kaufman  
Acting Assistant Administrator  
Grant Programs Directorate  
Federal Emergency Management Agency

FROM: Anne L. Richards   
Assistant Inspector General for Audits

SUBJECT: *Massachusetts' Management of Homeland Security Grant  
Program Awards for Fiscal Years 2008 Through 2011*

Attached for your action is our final report, *Massachusetts' Management of Homeland Security Grant Program Awards for Fiscal Years 2008 Through 2011*. We incorporated the formal comments from the Office of Policy, Program Analysis and International Affairs and the Commonwealth of Massachusetts in the final report.

The report contains 11 recommendations aimed at improving the overall effectiveness of the Commonwealth of Massachusetts' management of State Homeland Security Program and Urban Areas Security Initiative Grants. Your office concurred with 8 of the 11 recommendations. Based on information provided in your response to the draft report, we consider recommendations 1 through 3, 6 through 9, and 11 resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendation(s). The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts.

Recommendations 4, 5, and 10 remain unresolved. As prescribed by the Department of Homeland Security Directive 077-01, Follow-Up and Resolutions for Office of Inspector General Report Recommendations, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we are providing 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.



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

Attachment



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## Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
EOPSS	Executive Office of Public Safety and Security
FEMA	Federal Emergency Management Agency
FY	fiscal year
HSGP	Homeland Security Grant Program
M&A	management and administration
OIG	Office of Inspector General
SHSP	State Homeland Security Program
SPR	State Preparedness Report
THIRA	Threat and Hazard Identification and Risk Assessment
UASI	Urban Areas Security Initiative



## **Executive Summary**

Public Law 110-53, *Implementing Recommendations of the 9/11 Commission Act of 2007*, as amended, requires the Department of Homeland Security (DHS) Office of Inspector General (OIG) to audit individual States' management of State Homeland Security Program and Urban Areas Security Initiative grants. This report responds to the reporting requirement for the Commonwealth of Massachusetts.

The audit objectives were to determine whether the Commonwealth of Massachusetts distributed and spent State Homeland Security Program and Urban Areas Security Initiative grant funds effectively and efficiently, and in compliance with applicable Federal laws and regulations. We also addressed the extent to which grant funds enhanced the Commonwealth of Massachusetts' ability to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism, and other manmade disasters. The Commonwealth of Massachusetts was awarded approximately \$122 million in State Homeland Security Program and Urban Areas Security Initiative grants during fiscal years 2008 through 2011.

In most instances, the Commonwealth of Massachusetts distributed and spent the awards in compliance with applicable laws and regulations. However, the Commonwealth needs to update and improve its Homeland Security Strategies, develop a performance measurement system to assess preparedness, obligate grant funds within required time limits, and strengthen onsite monitoring of subgrantees to ensure their compliance with Federal procurement and property management requirements. More than \$4 million in questioned costs was identified, primarily resulting from the Commonwealth exceeding the limitations on management and administration expenses in fiscal years 2008 through 2011.

To improve in these areas, the Federal Emergency Management Agency (FEMA) and the Executive Office of Public Safety and Security in Massachusetts should provide more guidance for and oversight of the grant process. Our 11 recommendations call for FEMA to initiate improvements which, if implemented, should help strengthen grant program management, performance, and oversight. FEMA concurred with 8 of the 11 recommendations. Written comments to the draft report are incorporated as appropriate and are included in appendix B.



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### Background

DHS provides Federal funding through the Homeland Security Grant Program (HSGP) to help State and local agencies enhance capabilities to prevent, deter, respond to, and recover from terrorist attacks, major disasters, and other emergencies. Within DHS, FEMA is responsible for administering the HSGP. FEMA supports preparedness by developing policies, ensuring that adequate plans are in place and validated, defining capabilities required to address threats, providing resources and technical assistance to States, and synchronizing preparedness efforts throughout the Nation. Appendix C contains a detailed description of the interrelated grant programs that constitute the HSGP.

HSGP guidance requires the Governor of each State and Territory to designate a State Administrative Agency to apply for and administer grant funding awarded under the HSGP. The State Administrative Agency is the only entity eligible to apply for HSGP funds. The Governor of Massachusetts designated the Executive Office of Public Safety and Security (EOPSS) to serve as the State Administrative Agency for the Commonwealth of Massachusetts.

EOPSS was awarded more than \$122 million in HSGP funds during fiscal years (FYs) 2008 through 2011. This included approximately \$56 million in State Homeland Security Program (SHSP) funds and approximately \$66 million in Urban Areas Security Initiative (UASI) grant funds. During this period, EOPSS awarded the SHSP and UASI grant funds to 4 Homeland Security Planning Regions, the Metropolitan Boston Homeland Security Region (Boston UASI), 10 State agencies, and 6 other organizations.

Public Law 110-53, *Implementing Recommendations of the 9/11 Commission Act of 2007*, as amended, requires DHS OIG to audit individual States' management of SHSP and UASI grants. This report responds to the reporting requirement for the Commonwealth of Massachusetts. Appendix A contains details on the objectives, scope, and methodology of this audit.

### Results of Audit

#### The Commonwealth of Massachusetts' Grant Management Practices

In most instances, the Commonwealth of Massachusetts distributed and spent SHSP and UASI awards in compliance with applicable laws and regulations. However, the Commonwealth's grant management practices can be improved by:



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- Updating and improving the objectives in the State Homeland Security Strategy (State strategy) and the UASI Homeland Security Strategy (UASI strategy);
- Establishing performance measures to assess overall Commonwealth capabilities and preparedness;
- Obligating grant funds to subgrantees within the required time period; and
- Better monitoring of its Homeland Security Planning Regions to ensure compliance with procurement, property, and expenditure documentation requirements.

These deficiencies existed in the Commonwealth because FEMA and EOPSS provided insufficient guidance and oversight for grant management. As a result, the Commonwealth could not effectively measure and assess its capabilities and emergency preparedness. Additionally, more than \$4 million in questioned costs were identified, primarily resulting from the Commonwealth exceeding the limitations on management and administration (M&A) expenses in FYs 2008 through 2011.

### **Homeland Security Strategies**

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The Commonwealth of Massachusetts had an outdated Homeland Security Strategy, which had not been updated since 2007. According to FY 2011 FEMA guidance, States and UASIs should update their Homeland Security Strategies every 2 years. Although EOPSS officials recognized the need to revise its strategy, the office delayed the revision until after FEMA issued the National Preparedness Goals. As a result, the Commonwealth may have spent HSGP funds on outdated risks, needs, goals, or objectives. Without current and defined goals and objectives, the Commonwealth of Massachusetts could not effectively measure progress toward improving its preparedness, prevention, response, and recovery capabilities.

The Commonwealth of Massachusetts' State and UASI strategies did not include objectives with measurable target levels of performance, nor did they include evaluation plans to monitor progress toward achieving objectives. On July 22, 2005, DHS issued *Department of Homeland Security State and Urban Areas Homeland Security Strategy Guidance on Aligning Strategies with the National Preparedness Goal*. According to the guidance, "an objective sets a tangible and measurable target level of performance over time against which actual





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achievement can be compared, including a goal expressed as a quantitative standard, value, or rate.” In addition, to ensure the success of a strategy, the State or urban area must guarantee that it has an evaluation plan to monitor progress, compile key management information, track trends, and keep the strategy on track. The evaluation plan should include a process to review and analyze the steps being taken to achieve the goals and objectives of the strategy, as well as to determine whether the right elements are being used to measure progress. The review and analysis process enhances the plan’s flexibility by providing the opportunity to validate internal and external facts and assumptions and to allow for adaption and revision as conditions alter.

According to the guidance, objectives should be:

- Specific, detailed, particular, and focused—help to identify what is to be achieved and accomplished;
- Measurable—be quantifiable, provide a standard for comparison, and identify a specific achievable result;
- Achievable—not beyond the ability of a State, region, jurisdiction, or locality;
- Results-oriented—identify a specific outcome; and
- Time-limited—have a target achievement date.

The 2007 State strategy, which the Commonwealth used to guide its program during FYs 2008 through 2011, included 3 broad-based goals and 18 objectives, but none included target completion dates and therefore were not time-limited. Furthermore, although the goals and objectives addressed the four mission areas and eight National Priorities, the steps to implement them were not always specific. Nor were the objectives measurable; that is, they did not provide a standard for comparison or identify an achievable result. Table 1 shows examples of deficiencies in the 2007 State strategy’s objectives.



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**Table 1. Deficiencies in the 2007 State Homeland Security Strategy**

Goal	Objective	Deficiencies
1. Create a Common Operating Picture among Homeland Security and Public Safety Stakeholders	Pursue effective prevention efforts through analysis of risks.	The objective is not: <ul style="list-style-type: none"><li>• Specific</li><li>• Measurable</li><li>• Time-limited</li></ul>
2. Strengthen and Expand Partnerships for Prevention and Preparedness	Integrate public health preparedness into homeland security efforts.	The objective is not: <ul style="list-style-type: none"><li>• Specific</li><li>• Measurable</li><li>• Time-limited</li></ul>
3. Focus of Private Sector and Public Participation in Prevention and Preparedness	Enhance recovery capability.	The objective is not: <ul style="list-style-type: none"><li>• Specific</li><li>• Measurable</li><li>• Time-limited</li></ul>

Source: EOPSS, State Strategy Plan.

The Urban Area Working Group, consisting of one member from the City of Boston and members from eight surrounding municipalities, was responsible for developing the UASI strategy. Similar to the State strategy, the 2010 UASI strategy contained objectives that were not specific, measurable, or time-limited. The UASI strategy had seven goals and 30 objectives, none of which included target completion dates. Table 2 shows some examples of deficiencies in the UASI strategy's objectives.



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**Table 2. Deficiencies in the 2009 UASI Homeland Security Strategy**

<b>Goal</b>	<b>Objective</b>	<b>Deficiencies</b>
2. Strengthen Infrastructure Protection	Enhance programs designed to protect critical infrastructure and key resources against multiple hazards and threats, and reduce the level of risk to the Region.	The objective is not: <ul style="list-style-type: none"><li>• Specific</li><li>• Measurable</li><li>• Time-limited</li></ul>
3. Strengthen Information Sharing and Collaboration Capabilities	Enhance the Region's ability to facilitate the distribution of relevant, actionable, timely information and/or intelligence that is updated frequently to the consumers who need it.	The objective is not: <ul style="list-style-type: none"><li>• Specific</li><li>• Measurable</li><li>• Time-limited</li></ul>
6. Strengthen Medical Surge and Mass Prophylaxis Capabilities	Establish a transparent system to protect the health of the population through the use of isolation and/or quarantine measures in order to contain the spread of disease.	The objective is not: <ul style="list-style-type: none"><li>• Specific</li><li>• Measurable</li><li>• Time-limited</li></ul>

Source: Boston UASI, Homeland Security Strategy.

According to FEMA officials, although the agency had approved the Commonwealth of Massachusetts' strategies, its approval meant only that it had received the strategies. FEMA did not review the strategies to ensure that the objectives were measurable or that there were timeframes for completing them. EOPSS officials agreed that the objectives did not have completion dates. However, they believed that each objective contained implementation steps, and completion of these steps would allow them to measure their progress in completing the goals and objectives in the strategy.

Without goals and objectives that meet FEMA criteria, the Commonwealth of Massachusetts could not effectively evaluate and monitor progress made on its strategies in regard to its preparedness, prevention, response, and recovery capabilities.

**Recommendation**

We recommend that the Federal Emergency Management Agency Assistant Administrator, Grant Programs Directorate:



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#### **Recommendation #1:**

Assist the Director of EOPSS and the Urban Area Working Group in updating their Homeland Security Strategies, ensuring that the strategies include measurable target levels of performance, as well as objectives that are specific, measurable, achievable, results-oriented, and time-limited; and an appropriate evaluation plan to measure progress.

#### **Management Comments and OIG Analysis**

FEMA concurred with recommendation 1, and will require EOPSS and the Boston UASI to update their respective Homeland Security Strategies, ensuring that the strategies include measurable target levels of performance, as well as objectives that are specific, measurable, achievable, results-oriented, and time-limited; and an appropriate evaluation plan. EOPSS and the Boston UASI will submit the revised Homeland Security Strategies to FEMA for review no later than 6 months after issuance of the OIG final report.

EOPSS informed us that it had to wait until FEMA completed the requirements for the Threat and Hazard Identification and Risk Assessment (THIRA) process. EOPSS commenced a comprehensive statewide risk, vulnerability, and capabilities assessment process that will inform both its THIRA and state strategy. EOPSS expects to present its updated state strategy to FEMA in the spring of 2013.

The actions proposed by FEMA and EOPSS meet the intent of the recommendation. Recommendation 1 is considered resolved and open, pending the completion, submission, and review of the strategy revisions.

#### **Performance Measures**

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EOPSS and the Boston UASI did not have sufficient performance measures to use in determining their ability to deter, prevent, respond to, and recover from acts of terrorism and natural and manmade disasters. Furthermore, FEMA has not provided clear guidance to the Commonwealth on developing performance measures.

According to Title 44 of the Code of Federal Regulations (CFR) 13.40(a), *Monitoring and Reporting Program Performance*, grantees must monitor grant- and subgrant-supported activities to ensure compliance with applicable Federal requirements and to ensure that performance goals are being achieved.



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Although it did not establish performance measures, EOPSS made efforts to monitor progress on funded projects and prepared a report on the use of HSGP funds. For example, EOPSS required subgrantees to submit quarterly programmatic and financial progress reports, which staff reviewed to monitor subgrantee progress. EOPSS also prepared a *Trend and Process Report* dated October 2008, which included an overview of HSGP funding that the Commonwealth received since 2003. The report described how the Homeland Security Planning Regions used the funds to improve the Commonwealth's communications infrastructure, allocated emergency response resources, purchased search and rescue equipment, and shared resources.

Commonwealth and Boston UASI officials also conducted exercises and prepared after-action reports, which, according to these officials, were used to identify areas in need of future HSGP funds. For example, the Boston UASI conducted an exercise called Urban Shield, which tested integrated systems to prevent, protect, respond to, and recover in the greater Boston high-threat, high-density urban area. The multilayered training exercise was designed to enhance the skills and abilities of first responders, as well as those responsible for coordinating and managing large-scale events. The UASI used the after-action report from this exercise to prioritize future expenditures so that the urban area could be better prepared for critical events.

FEMA has not provided clear guidance to States on developing performance measures. FEMA has provided States with emergency preparedness priorities and target capability needs, which the States use as a basis for their State Self-Assessments.<sup>1</sup> Effective performance measures would assist in the Commonwealth's State Self-Assessments by focusing on and measuring those preparedness priorities important to the Commonwealth.

The need of procedures for assessing performance prevented the Commonwealth from evaluating its accomplishments to ensure that it achieved its goals and objectives, and that it aligned its funding requests with real threats and vulnerabilities. Furthermore, without good performance measurements from the Commonwealth, DHS may not have been able to determine the effectiveness of the HSGP.

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<sup>1</sup> Congress requires that States receiving FEMA-administered Federal Preparedness assistance annually submit a State Preparedness Report that includes an assessment of State compliance with national preparedness systems, current capability levels, and resources needed to meet National Preparedness Priorities.



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### **Recommendation**

We recommend that the Federal Emergency Management Agency Assistant Administrator, Grant Programs Directorate:

### **Recommendation #2:**

Require EOPSS to develop interim performance measures until the Federal Emergency Management Agency issues guidance for all Homeland Security Grant Program grant recipients.

### **Management Comments and OIG Analysis**

FEMA concurred with recommendation 2 and is currently developing processes to measure core capabilities in accordance with the National Preparedness Goal pursuant to Presidential Policy Directive 8. The Commonwealth was to complete the THIRA and submit it to FEMA by January 31, 2013. The THIRA will be used to create a baseline and targets for FY 2013 and beyond. FEMA has also redesigned the State Preparedness Report (SPR) to help states demonstrate and track preparedness improvement over time. The SPR is a standardized capability assessment that compares the THIRA targets to current capability, and documents any gaps that exist. Within 90 days, FEMA will verify submission of both the SPR and THIRA.

EOPSS agreed that the goals and objectives in the 2007 State Homeland Security Strategy should be time limited; however, the strategy does detail 33 specific implementation steps related to each of the 18 objectives under 3 broader goals. According to EOPSS, in May 2010 it completed an internal progress report that included the degree of progress toward accomplishing each implementation step.

The actions proposed by FEMA meet the intent of the recommendation. Recommendation 2 is considered resolved and open, pending the completion, and submission of the THIRA and SPR.

### **Obligation of Grant Funds**

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For SHSP funds awarded to the Commonwealth during FYs 2008 through 2011, EOPSS did not obligate funds within 45 days, as required by FEMA program guidance, in 24 of 24 instances. EOPSS did not make funds available to subgrantees to expend until as many as 472 days after the date that EOPSS was required to obligate the funds.



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According to *FEMA Homeland Security Grant Program Guidance*, State Administrative Agencies must obligate and make available to local government units at least 80 percent of SHSP and UASI grant funds within 45 days of FEMA's award date. The obligation must include the following requirements:

- There must be some action to establish a firm commitment on the part of the awarding entity.
- The action must be unconditional on the part of the awarding entity (i.e., no contingencies for availability of funds, and all special conditions prohibiting obligation, expenditure, and drawdown must be removed).
- There must be documentary evidence of the commitment.
- The award terms must be communicated to the official grantee.

During FYs 2008 through 2011, EOPSS sent letters to subgrantees notifying them of the amount of HSGP funds they were eligible to receive. Commonwealth officials considered the date of the notification letter to be the funding obligation date. However, the notification letters did not constitute obligation of funds because they contained conditions that had to be met before the funds would be made available to the subgrantee. For example, the letters required subgrantees to submit budgets and expenditure plans for EOPSS approval. Upon approval of the budgets and plans, EOPSS would enter into a contract with a fiduciary agent representing the subgrantee.<sup>2</sup> According to the letter, subgrantees could not undertake grant-funded activity prior to final execution of the contract with the fiduciary agent, and costs incurred outside the official contract period would not be reimbursed. Consequently, funds were not obligated until EOPSS executed a contract with the fiduciary agent.

We compared the date that FEMA awarded the funds to EOPSS with the date of the final contract execution, when funds were available to subgrantees for expenditure. From FYs 2008 through 2011, EOPSS granted 24 awards to the four Homeland Security Planning Regions and the Boston UASI and their fiduciary agent; none of the awards were obligated and available to the subgrantees within the required 45 days. The awards ranged from 44 to 472 days late.

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<sup>2</sup> The Metropolitan Area Planning Council was selected as the fiduciary agent for four of five Homeland Security Planning Regions (did not include the Boston UASI Region). The fiduciary agent acts as the fiscal "pass-through" to the regions for SHSP grant funds and ensures compliance with the financial and administrative requirements of the grants.



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Table 3 shows the longest delays for each fiscal year. Appendix E contains details of all 24 awards granted during FYs 2008 through 2011.

**Table 3. Timeliness of Subgrantee Awards, FYs 2008–2011**

Fiscal Year	Date of FEMA Award	Date Funds Should Be Awarded (45 Days After FEMA Award)	Name of Subgrantees With Longest Delay	Number of Days Late
2008	08/29/08	10/13/08	NE, SE, C, and W Regions	422
2009	08/21/09	10/05/09	NE Region	442
2010	09/13/10	10/28/10	UASI Region	472
2011	09/01/11	10/16/11	NE, SE, C, and W Regions	151

Source: DHS OIG analysis of EOPSS data.

EOPSS delays in obligating HSGP funds to subgrantees may be attributable to the subgrantees having to submit plans and budgets before an award was obligated. SHSP and UASI grants have a 36-month (3-year) period of performance. As a result of delays in obligating funds and to prevent possible deobligation of funds at the end of the original grant period, EOPSS requested two extensions to the FY 2008 period and one extension to the FY 2009 period. The delay in making HSGP funds available for expenditure may have reduced the Commonwealth's ability to prevent, protect against, respond to, and recover from acts of terrorism, major disasters, and other emergencies.

**Recommendation**

We recommend that the Federal Emergency Management Agency Assistant Administrator, Grant Programs Directorate:

**Recommendation #3:**

Require EOPSS to assess and streamline the current processes and procedures for obligating funds to subgrantees so that funds are obligated within a reasonable period.

**Management Comments and OIG Analysis**

FEMA concurred with recommendation 3 and will require EOPSS to assess and streamline processes and procedures for obligating funds to subgrantees. EOPSS





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shall report to FEMA the results of this assessment and potential steps to be taken to expedite the obligation of funds to the subgrantees no later than 90 days after the issuance of the OIG final report.

EOPSS informed us that they made improvements in this area since they contracted with a fiduciary agent to receive the local share/regional funds on behalf of the regional homeland security advisory councils. Improvements were noted in FY 2011 and FY 2012 where contracts were signed within 151 days and 74 business days, respectively, after EOPSS received its award from the Federal Government.

The actions proposed by FEMA meet the intent of the recommendation. Recommendation 3 is considered resolved and open pending completion of the corrective action.

#### **Management and Administration Expenses**

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For its SHSP and UASI awards, the Commonwealth exceeded the limitations on M&A expenses in FYs 2008 through 2011. According to the *FEMA Homeland Security Grant Program Guidance and Application Kit for FYs 2008 and 2009*, States could retain a maximum of 3 percent of funds to be used solely for M&A expenses. FY 2010 HSGP guidance limited M&A expenses to 5 percent of the funds awarded. States could pass a portion of the State's M&A allocation on to local subgrantees to support local M&A, but the total allocation amount could not exceed 3 percent for FYs 2008 and 2009 and 5 percent for FY 2010. Federal statutes also limit the amount of grant funding that may be used for M&A.<sup>3</sup>

FEMA changed its grant guidance in FY 2011, allowing up to 9 percent of HSGP funds to be retained for M&A expenditures associated with HSGP awards. According to FEMA program officials, FEMA's guidance meant that (1) the Commonwealth could expend up to 5 percent of the total award on M&A expenditures, and (2) since 80 percent of HSGP funds must be passed through to subgrantees, the subgrantees could expend up to 4 percent of the total award on M&A expenditures (5 percent of the 80 percent passed through). However, we believe that FEMA program officials incorrectly interpreted the limit on M&A spending, and, as a result, FEMA's FY 2011 guidance may violate Public Law 111-

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<sup>3</sup> Public Law 110-53, *Implementing Recommendations of the 9/11 Commission Act of 2007*, August 3, 2007, stipulates that M&A expenses may not exceed 3 percent of the grant for FYs 2008 and 2009. According to Public Law 111-83, *Department of Homeland Security Appropriations Act, 2010*, October 28, 2009, a grantee may use not more than 5 percent of the amount of a grant for expenses directly related to administration of the grant.



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83, which stipulates that a grantee may not use more than 5 percent of an award to administer the grant.

Using this same method that was ultimately included in the FY 2011 guidance, and with FEMA approval, the Commonwealth and its subgrantees retained M&A funds totaling 5.4 percent of awards in FYs 2008 and 2009, exceeding the 3 percent limit, and 9 percent of awards in FYs 2010 and FY 2011, exceeding the 5 percent limit. For example, in FY 2008, the total SHSP and UASI awards amounted to approximately \$31 million. The Commonwealth retained \$929,805 (3 percent) of the total award for M&A. In addition, subgrantees in the five Homeland Security Planning Regions received \$24.8 million (80 percent) of the total award and retained \$743,844 (3 percent of the subawards) for M&A. Therefore, a total of 5.4 percent of the total FY 2008 award was retained for M&A—an amount that exceeded the statutory limit for M&A expenses by \$743,844. We estimate that the Commonwealth and subgrantees will exceed the statutory limit for M&A for FYs 2008–2011 by \$3.9 million, as shown in Table 4.

**Table 4. Unallowable M&A, FYs 2008–2011**

Fiscal Year	Total SHSP and UASI Award Amounts	Total M&A Retained for Commonwealth and Its Subgrantees	Total M&A Allowed per Statute	Unallowable M&A
2008*	\$30,993,500	\$1,673,649	\$929,805	\$743,844
2009*	\$29,986,100	\$1,619,249	\$899,583	\$719,666
2010**	\$34,509,695	\$3,105,873	\$1,725,485	\$1,380,388
2011**	\$26,721,838	\$2,404,965	\$1,336,091	\$1,068,874
Total	\$122,211,133	\$8,803,736	\$4,890,964	\$3,912,772

\*M&A limit for FYs 2008 and 2009 was 3 percent.

\*\* M&A limit for FYs 2010 and 2011 was 5 percent.

Source: DHS OIG analysis of EOPSS data.

**Recommendations**

We recommend that the Federal Emergency Management Agency Assistant Administrator, Grant Programs Directorate:



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### **Recommendation #4:**

Require EOPSS to return funds that exceeded the statutory limits for management and administrative expenses.

### **Recommendation #5:**

Correct the *Homeland Security Grant Program Guidance* to comply with statutory limitations on management and administration expenditures.

### **Management Comments and OIG Analysis**

FEMA disagrees with recommendations 4 and 5. FEMA contends that the Public Law authorizes recipients of SHSP and UASI programs to spend a percentage of their grant on administrative expenses. The term “recipient of a grant” appears in the law and sets forth the permitted uses for UASI and SHSP funds. The 13 enumerated uses for which “recipients” may expend funds include an array of activities to be performed at both the grantee and subgrantee levels. Accordingly, FEMA has interpreted the law to include the State, urban areas, and other local recipients of SHSP and UASI funding to be “recipients of a grant” and each recipient allowed a percentage of funds for administrative expenses.

According to FEMA, the amounts spent on administration by the Commonwealth and local grant recipients on administration between FYs 2008 and 2011 were specifically authorized by statute and are allowable expenses under the SHSP and UASI programs. Because the amount spent on administration did not exceed the amounts authorized by statute, there is no need to request that EOPSS return any funds.

Regarding recommendation 5, FEMA program officials contend that the guidance is not in conflict with statutory provisions concerning the amounts that grant recipients may spend on administration, and is not necessary to correct or otherwise amend the guidance.

We disagree with the response to both recommendations 4 and 5. We believe that FEMA program officials incorrectly interpreted the limit on M&A spending, and that FEMA’s FY 2011 guidance may violate Public Law 111-83, which stipulates that a grantee (Commonwealth of Massachusetts) may not use more than 5 percent of an award to administer the grant. Recommendations 4 and 5 are considered unresolved and open pending resolution of the different interpretations involving administrative expenses.



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### **Procurement Practices, Property Records, and Expenditure Review**

We identified instances in which subgrantees did not fully comply with procurement, property record, and expenditure documentation requirements. The Commonwealth might have identified and resolved these issues through better monitoring of subgrantees.

#### **Procurement Practices**

In most instances, subgrantees complied with State procurement requirements for goods and services purchased with HSGP funds. However, in our review of 118 procurements, we identified 8 instances in which subgrantees and the Commonwealth either did not comply with State requirements or did not follow State recommendations. In addition, subgrantees did not comply with Federal procurement requirements in awarding four training contracts.

In one instance, a subgrantee did not comply with State procurement requirements by renewing a contract that should have been rebid. A \$98,655 contract was awarded to a technical expert to compile studies, make an assessment, and develop recommendations for interoperable communications. Subsequently, the contract was increased to \$166,000 for design and development work at specific locations. According to the State Procurement Manual (*The Chapter 30B Manual – Legal Requirements, Recommended Practices, and Sources of Advice for Procuring Supplies, Services, and Real Property*, dated May 2011), a contract cannot be amended if the price is more than 25 percent of the original contract. In response to the fiduciary agent request, the Massachusetts OIG deemed the procurement a renewal that did not violate the 25 percent requirement. However, according to the manual, contracts cannot be renewed for supplies or services not included in the original contract. The original contract did not specify design and development work, and the amended contract notes that the contract was amended with a change in scope of work.

In another instance, a State agency purchased 16 all-terrain vehicles for \$100,316, and awarded a contract to a company with a prior contract, rather than conducting a competitive procurement. The agency contended that only this vendor could provide what was needed; it also claimed it had researched the unit price and deemed it competitive. According to the State Procurement Manual, however, sole source contracts are not allowable for this type of item.



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We identified six contracts under which items were purchased from a Statewide contract that had more than one vendor. The State Procurement Manual recommends soliciting quotes from each vendor on the Statewide contract and awarding the contract to the vendor offering the needed quality of supplies or services at the lowest price. We requested evidence that quotes were solicited from other vendors, but this information was not provided.

Subgrantees did not comply with Federal procurement requirements in procuring professional services to conduct four training courses, ranging in cost from \$30,000 to \$147,000. Although the State Procurement Manual exempts these types of services from its requirements, subgrantees must comply with Federal requirements in the CFR. According to 44 CFR § 13.36(b)(1), *Procurement*, subgrantees must use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and regulations. Federal procurement regulations direct subgrantees to use full and open competition to acquire equipment and services except in certain circumstances, such as when an item is available only from one source. When noncompetitive procurements are used, the subgrantee must conduct cost analyses to ensure that prices obtained are fair and reasonable. The subgrantees did not provide documentation to justify noncompetitive procurements or cost analyses to support the reasonability of the costs.

We attribute the cases of noncompliance to the fiduciary agent's unfamiliarity with the State Procurement Manual concerning contract renewals, as well as the differences between State and Federal procurement requirements regarding competition for training contracts. Also, EOPSS' protocol for conducting site visits of subgrantees was limited to ensuring compliance with the State Procurement Manual, with no mention of Federal procurement requirements. Without full and open competition or a cost analysis in cases of a noncompetitive procurement, the grantee cannot ensure that the cost of the equipment or services is reasonable. Subgrantees must comply with both State and Federal procurement requirements to ensure that the grant funds are used to provide equipment or services at reasonable prices.

### **Property Record Requirements**

The grantee and subgrantee systems for managing property did not ensure full compliance with Federal and State requirements. Improvements are needed in applying decals to the equipment, maintaining property records, and developing an adequate control system to ensure that safeguards are in place to prevent



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loss, damage, or theft of the property. In two of three regions visited, property records did not have adequate descriptions and unique identifying numbers. Additionally, there was little or no evidence of the State performing equipment checks to verify that the items were adequately recorded in the inventory records.

44 CFR 13.32(d), *Management Requirements*, establishes procedures and minimum requirements for managing equipment (including replacement equipment). Property records must be maintained and must include the property's description, identification number, source of the property, the title holder, acquisition date, cost and percentage of Federal funds used in the cost, location, use and condition, and ultimate disposition.

Additionally, EOPSS *Inventory Guidance* dated May 2010 requires all subgrantees to maintain a computer-based inventory of all equipment purchased with HSGP funds. Equipment is defined as tangible items with a unit cost of \$500 or greater and a shelf life of at least 1 year. All such equipment must, when practicable, be tagged with the following text: "Purchased with funds provided by the U.S. Department of Homeland Security."

According to the fiduciary agent's program manager, property records are populated at the time a purchase order is executed. The fiduciary agent later conducts an annual inventory, which includes tagging the items with Homeland Security decals and adjusting the locations in the records if the items have moved.

We identified the following deficiencies in equipment management:

- The fiduciary agent waited to put the decals on items until the time of the annual inventory. Because it waited, the fiduciary agent may have been unable to access the equipment. For example, cameras already mounted on buildings were not tagged.
- Although numerous items were included on one invoice, the "Item descriptions" listed in the property records were generically titled, such as "technical rescue equipment" or "hardware and software." The individual items included on the purchase order were hydraulic jacks, hoists, and communication equipment, which are susceptible to theft and therefore should be properly recorded and tracked.
- The fiduciary agent did not include serial numbers from equipment in its records. In addition, 31 percent of the items listed in the Northeast Region's inventory records, and 78 percent of the items listed in the Southeast Region's



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inventory records did not have an inventory item number. Without an identifying number, equipment could not be safeguarded from loss, damage, or theft.

- The Commonwealth performed limited verification of inventory records. According to the *Grants Management Manual*, Commonwealth personnel are required to perform equipment spot checks during site visits. However, the Commonwealth documented only four checks in FY 2012. All four were performed on the day that the program coordinator accompanied the auditors in their review of equipment items.

The examples cited above occurred because of an oversight on the part of the fiduciary agent and lack of verification by the grantee. As a result, the Commonwealth could not ensure that assets procured with grant funds were safeguarded to prevent loss, damage, or theft and used as intended; or that it would know the location to have ready access to vital emergency preparedness equipment.

### **Construction Item**

The Boston UASI used \$157,000 in FY 2009 UASI funds to construct a Trench Rescue Simulator, which is a permanent trench used to conduct search and rescue training. FEMA approved the expenditure and advised EOPSS that a construction waiver was unnecessary because the expenditure was for the installation of a training prop. FEMA believed that the Trench Rescue Simulator was allowable because it was a cost related to administering the training, planning, scheduling, facilities, materials and supplies, reproduction of materials, and equipment. However, FEMA 2009 HSGP guidance prohibits using HSGP funds for construction and renovation, except for necessary components of a security system at critical infrastructure facilities.

### **Supporting Documentation**

In three instances, the UASI and EOPSS needed additional review to ensure that costs were allowable, allocable, and reasonable:

- Monthly supporting documentation for a training contractor included 47 Weekly Time and Attendance Records for 10 employees; one employee initialed 32 of 47 employees' timesheets as employee, supervisor, or both.



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- The UASI awarded a contract for intelligence analyst support that contained neither a scope of work nor the costs for these services. Accordingly, EOPSS and the UASI were unable to verify that the hourly rates for the job positions contained in the invoices were consistent with the terms of the contract. The scope of work and personnel costs were added to the contract about a year after the contract was signed.
- EOPSS and the UASI paid considerable overtime for employees to attend training and exercises. Current procedures for reimbursing overtime/backfill require a training course certificate, copy of a sign-in roster, or a letter from the training agency. Without verifying the employees' timesheets, EOPSS and the UASI were unable to verify that the employees worked sufficient hours to qualify for overtime. When requesting reimbursement for overtime, EOPSS and the UASI did not conduct periodic sampling of employee timesheets to verify that employees were eligible for overtime.

### **Recommendations**

We recommend that the Federal Emergency Management Agency Assistant Administrator, Grant Programs Directorate:

#### **Recommendation #6:**

Require EOPSS to notify all entities awarded Homeland Security Grant Program funds of the requirement to use and follow Federal, State, and local procurement policies and standards as required for purchasing or acquiring equipment and services.

#### **Recommendation #7:**

Encourage EOPSS to complete a review of all grant-funded purchases using FYs 2008, 2009, 2010, and 2011 State Homeland Security Program and Urban Areas Security Initiative grant funds that were exempt from the requirements of the State Procurement Manual. These reviews should ensure that the procurements complied with the Federal requirements in 44 CFR § 13.36.

#### **Recommendation #8:**

Require EOPSS to revise and update the site visit protocol to ensure that it includes a review of subgrantee compliance with Federal procurement requirements.





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### **Recommendation #9:**

Require EOPSS to perform more equipment spot checks to ensure that subgrantees develop and sustain a property management system that meets Federal requirements.

### **Recommendation #10:**

Recover the unallowable costs of \$157,000 for construction of the Trench Rescue Simulator.

### **Recommendation #11:**

Require EOPSS to obtain adequate supporting documentation before reimbursing subrecipients.

### **Management Comments and OIG Analysis**

FEMA concurred with recommendations 6 through 9 and 11, and disagreed with recommendation 10. EOPSS disagreed with the specifics included in several of the examples provided, but generally agreed with recommendations 6 through 9 and 11. EOPSS disagreed with recommendation 10 and provided written approval from FEMA's Grant Programs Directorate.

Regarding recommendation 6, FEMA shall require EOPSS to inform all HSGP awardees to use and follow appropriate procurement policies as required by 44 CFR, Section 13.36. EOPSS shall report its plan to notify HSGP awardees of the procurement requirements to FEMA no later than 90 days after the issuance of the OIG final report.

Regarding recommendation 7, FEMA shall require EOPSS to conduct a review of all grant-funded purchases using FYs 2008, 2009, 2010, and 2011 SHSP and UASI grant funds that were exempt from the requirements of the State Procurement Manual. These reviews should ensure that the procurements complied with the Federal requirements in 44 CFR, Section 13.36. EOPSS shall report the results of this review to FEMA no later than 90 days after the issuance of the final OIG report.

Regarding recommendation 8, FEMA shall require EOPSS to revise and update the site visit protocol to include a review of subgrantee compliance with the



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procurement requirements of 44 CFR, Section 13.36. EOPSS shall report to FEMA once it has revised and updated the site visit protocol no later than 90 days after the issuance of the OIG final report.

Regarding recommendation 9, FEMA shall require EOPSS to perform more equipment spot checks during monitoring site visits. EOPSS shall report to FEMA how it will verify its personnel conduct consistent spot checks no later than 90 days after the final issuance of the OIG final report.

Regarding recommendation 11, FEMA shall require EOPSS to obtain adequate documentation before reimbursing subgrantees. EOPSS shall ensure that all subgrantees comply with 44 CFR, Section 13.20 entitled *Standards for Financial Management Systems*, subsection (b) (6) entitled *Source Documentation*. EOPSS shall report to FEMA how it will obtain adequate documentation before reimbursement no later than 90 days after the issuance of the OIG final report.

The actions proposed by FEMA for recommendations 6 through 9 and 11 meet the intent of the recommendation. Accordingly, these recommendations are considered resolved and open pending completion of the corrective actions.

Regarding recommendation 10, FEMA did not concur and said that it granted permission to EOPSS to install a trench rescue simulator because it considered the project to be the installation of a training prop and not construction. We disagree with this response. FEMA's 2009 HSGP guidance prohibits using HSGP funds for construction and renovation, except for necessary components of a security system at critical infrastructure facilities. In addition, Public Law 110-53 provides for exceptions for certain construction projects; however, the exceptions must be specifically approved by the FEMA Administrator. Recommendation 10 is considered unresolved and open pending resolution of the different interpretations regarding construction projects.



## Appendix A

### Objectives, Scope, and Methodology

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

This report provides the results of our work to determine whether the Commonwealth of Massachusetts spent SHSP and UASI grant funds (1) effectively and efficiently, and (2) in compliance with applicable Federal laws and regulations. We also addressed the extent to which funds enhanced the State’s ability to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism, and other manmade disasters.

The HSGP and its five interrelated grant programs fund a range of preparedness activities, including planning, organization, equipment purchase, training, exercises, and management and administration costs. However, only SHSP and UASI funding, equipment, and supported programs were reviewed for compliance. The scope of the audit included the SHSP and UASI grant awards for FYs 2008, 2009, 2010, and 2011 (see table 5). We reviewed the plans developed by the Commonwealth to improve preparedness and all-hazards response, the goals set within those plans, the measurement of progress toward the goals, and the assessments of performance improvement that result from this activity.

<b>Funded Activity</b>	<b>State Homeland Security Program</b>	<b>Urban Areas Security Initiative</b>	<b>Total</b>
FY 2008	\$17,210,000	\$13,783,500	\$30,993,500
FY 2009	\$15,421,500	\$14,564,600	\$29,986,100
FY 2010	\$15,575,715	\$18,933,980	\$34,509,695
FY 2011	\$7,787,858	\$18,933,980	\$26,721,838
<b>Grand Total</b>	<b>\$55,995,073</b>	<b>\$66,216,060</b>	<b>\$122,211,133</b>

Source: DHS OIG analysis of EOPSS data.

We relied on FEMA’s computer-processed data that contained information on the grant funds awarded during FYs 2008 through 2011. We conducted limited tests on these data against source documentation to ensure that the data were sufficiently reliable to be used in meeting our audit objective.



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We visited the designated State Administrative Agency, EOPSS, and the following 10 subgrantees that had been awarded funding in FYs 2008, 2009, 2010, and 2011:

### State Agencies

- Department of Fire Services
- Executive Office of Environmental Affairs
- Massachusetts Emergency Management Services
- Massachusetts State Police

### Regions

- Metro Boston UASI
- Northeast
- Southeast

### Other Recipients

- American Red Cross
- Massachusetts Convention Center
- Metropolitan Area Planning Council

At each location, we interviewed responsible officials, reviewed documentation supporting State and subgrantee management of grant funds, and inspected selected equipment procured with grant funds. We also interviewed officials awarded UASI grant funds to determine whether funds were expended according to grant requirements and priorities established by the Commonwealth.

We conducted this performance audit between May and October 2012, pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B  
Management Comments to the Draft Report


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



FEMA

JAN 29 2013

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

FROM: David J. Kaufman   
Associate Administrator for  
Policy, Program Analysis and International Affairs

SUBJECT: Response to OIG DRAFT REPORT: "Massachusetts' Management of  
Homeland Security Program Grants Awarded During Fiscal Years  
2008 Through 2011"  
OIG Project No. 12-121-AUD-FEMA

The Federal Emergency Management Agency (FEMA) appreciates the opportunity to review and respond to OIG Draft Report: "Massachusetts' Management of Homeland Security Program Grants Awarded During Fiscal Years 2008 Through 2011" - For Official Use Only - OIG Project No. 12-121-AUD-FEMA.

The findings and recommendations in this report identify measures that the Federal Emergency Management Agency Grant Programs Directorate (GPD) will be used to enhance the effectiveness and efficiency of how we execute and measure our programs. We recognize the need to continue to improve the process, including addressing the recommendations raised in this report. The draft report contained 11 recommendations with which FEMA concurs with 8. The following are our responses to the recommendations for corrective action:

**Recommendation 1:** Assist the Director of Executive Office of Public Safety and Security (EOPSS) and the Urban Area Working Group in updating their Homeland Security Strategies, ensuring that the strategies include measurable target levels of performance, as well as objectives that are specific, measurable, achievable, results-oriented, and time-limited, and appropriate evaluation

**FEMA Response: Concur**

The Assistant Administrator of the Grant Programs Directorate shall require EOPSS and the Boston Urban Area to update their respective Homeland Security Strategies, ensuring that the strategies include measurable target levels of performance, as well as objectives that are specific, measurable, achievable, results-oriented, and time-limited, and an appropriate evaluation. EOPSS and the Boston Urban Area shall submit the revised Homeland Security Strategies to GPD for review no later than six months after issuance of the OIG final report. FEMA requests this recommendation be resolved and open pending the completion, submission and review of the strategy revisions.

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**OIG Recommendation 2:** Require EOPSS to develop interim performance measures until the Federal Emergency Management Agency issues guidance for all Homeland Security Grant Program (HSGP) grant recipients.

**FEMA Response: Concur**

The FEMA National Preparedness Directorate (NPD) is currently developing processes to measure core capabilities in accordance with the National Preparedness Goal pursuant to PPD-8. The State will complete the Threat and Hazard Identification and Risk Assessment (THIRA) and submit it to FEMA by January 31, 2013. The THIRA will be used to create a baseline and targets for Fiscal Year 2013 and beyond. FEMA has also redesigned the State Preparedness Report (SPR) to help states demonstrate and track preparedness improvement over time. The SPR is a standardized capability assessment that compares the THIRA targets to current capability, and documents any gaps that exist. Within 90 days FEMA will verify submission of both the SPR and THIRA. FEMA requests this recommendation be resolved and open pending the completion and submission of the THIRA and SPR.

**OIG Recommendation 3:** Require EOPSS to assess and streamline the current processes and procedures for obligating funds to subgrantees so that funds are obligated within a reasonable period.

**FEMA Response: Concur**

The Assistant Administrator of the Grant Programs Directorate shall require EOPSS to assess and streamline (where possible) processes and procedures for obligating funds to subgrantees. EOPSS shall report to GPD the results of this assessment and potential steps to be taken to expedite the obligation of funds to the subgrantees no later than 90 days after the issuance of the OIG final report. FEMA requests this recommendation be resolved and open pending the completion of the corrective action.

**OIG Recommendation 4:** Require EOPSS to return funds that exceeded the statutory limits for management and administrative expenses.

**FEMA Response: Non Concur**

FEMA disagree with this recommendation. Section 2008 of the of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (P.L. 110-53) as amended by the *Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act of 2008* (the PRICE of Homeland Security Act) (P.L. 110-412) authorizes "recipient[s] of a grant" under the UASI and SHSP programs to spend up to three percent of their grant on administrative expenses directly related to the grant. (6 U.S.C. § 609(a)(11)). The term "recipient of a grant" appears in the introductory language at 6 U.S.C. § 609(a), the section which sets forth the permitted uses for UASI and SHSP funds. The thirteen enumerated uses for which "recipients" may expend funds include an array of activities to be performed at both the grantee and subgrantee levels. It would be illogical to assume that "recipient" should be construed more narrowly in 6 U.S.C. § 609(a)(11) than in 6 U.S.C. § 609(a)(1) through 609(a)(10) and in 609(a)(12) and (609)(a)(13). Therefore, as used in 6 U.S.C. § 609(a)(11), the State, high-risk urban areas, and other local recipients of UASI and SHSP funding, are all considered to be an individual "recipient of a grant."



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For FY 2010, FY 2011, and FY 2012, Congress increased the amount available for administrative expenses under the UASI and SHSP programs from three percent to five percent.<sup>(1)</sup> As a result, for FY 2008 and FY 2009, each “recipient of a grant” was entitled to spend up to three percent of the grant funds they received on administrative expenses. For FY 2010 – FY 2012, each “recipient of a grant” was entitled to spend up to five percent of the grant funds they received on administrative expenses.

For FY 2008 and FY 2009, the Commonwealth of Massachusetts retained three percent of the UASI and SHSP funding FEMA distributed for administrative costs related to those programs. Each of the local high-risk urban areas and other local grant recipients also retained three percent of their grants for administration. Likewise, for FY 2010 and FY 2011, the Commonwealth of Massachusetts retained five percent of the UASI and SHSP funds FEMA distributed for administrative costs directly related to those programs. In FY 2010 and FY 2011, each of the local high-risk urban areas and other local grant recipients also retained five percent of their grants for administrative expenses.

Because the Commonwealth of Massachusetts, as well as all of the local high-risk urban areas and other local grant recipients, are all “recipients of a grant” as defined by 6 U.S.C. §609(a)(11), each of them was authorized to spend up to three percent of their grant for FY 2008 and FY 2009 and five percent of their grant for FY 2010 and FY 2011 on administration. Consequently, the amounts spent on administration by the Commonwealth of Massachusetts and local grant recipients on administration between FY 2008 and FY 2011 were specifically authorized by statute and are allowable expenses under the UASI and SHSP programs. Because the amount spent on administration did not exceed the amounts authorized by statute, there is no need to request that EOPSS return any funds. FEMA requests this recommendation be resolved and closed.

**OIG Recommendation 5:** Correct the Homeland Security Grant Program Guidance to comply with statutory limitations on management and administration expenditures.

**FEMA Response: Non Concur**

FEMA disagree with this recommendation. As explained in FEMA’s response to Recommendation #4, Congress has not placed an absolute cap on the amount of appropriated funds available to pay for administrative expenses under the UASI and SHSP grant programs. Instead, Congress has authorized each “recipient of a grant” to spend up to a certain percentage of their award on administrative expenses directly related to the grant. 6 U.S.C. § 609(a)(11). For FY 2011, the amount of the grant that each “recipient of a grant” was authorized by statute to spend on administrative expenses was five percent. *Department of Defense and Full Year Continuing Appropriations Act, 2011* (P.L. 112-10). To enforce the Congressional directive to FEMA to allow each “recipient of a grant” to expend up to five percent of their award on administrative expenses, FEMA’s FY 2011 HSGP Guidance permitted each “recipient of a grant” to retain five percent of their award for administrative expenses. The FY 2011 guidance allowed state grant recipients, such as Massachusetts, to retain five percent of the UASI and SHSP amounts distributed to it by FEMA. Additionally, the FY 2011 guidance permitted each local grant recipient (such as high-risk urban areas) to retain five percent of their grant awards for administration. This guidance is

<sup>(1)</sup> *Department of Homeland Security Appropriations Act, 2010* (P.L. 111-83); *Department of Defense and Full Year Continuing Appropriations Act, 2011* (P.L. 112-10); *Consolidated Appropriations Act, 2012* (P.L. 112-74).



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consistent with the Congressional directives expressed in 6 U.S.C. § 609 and P.L. 112-10. Because FEMA's HSGP guidance is not in conflict with statutory provisions concerning the amounts grant recipients may spend on administration, it is not necessary to correct or otherwise amend the guidance. FEMA requests this recommendation be resolved and closed.

**OIG Recommendation 6:** Require EOPSS to notify all entities awarded Homeland Security Grant Program funds of the requirement to use and follow Federal, State, and local procurement policies and standards as required for purchasing or acquiring equipment and services.

**FEMA Response: Concur**

The Assistant Administrator of the Grant Programs Directorate shall require EOPSS to inform all HSGP awardees to use and follow appropriate procurement policies as required by 44 CFR § 13.36. EOPSS shall report its plan to notify HSGP awardees of the procurement requirements to GPD no later than 90 days after the issuance of the OIG final report. FEMA requests this recommendation be resolved and open pending the completion of the corrective action.

**OIG Recommendation 7:** Encourage EOPSS to complete a review of all grant-funded purchases using FYs 2008, 2009, 2010, and 2011 State Homeland Security Program and Urban Area Security Initiative grant funds that were exempt from the requirements of the State Procurement Manual. These reviews should ensure that the procurements complied with the Federal requirements in 44 CFR § 13.36.

**FEMA Response: Concur**

The Assistant Administrator of the Grant Programs Directorate shall require EOPSS to conduct a review of all grant-funded purchases using FYs 2008, 2009, 2010, and 2011 State Homeland Security Program and Urban Area Security Initiative grant funds which were exempt from the requirements of the State Procurement Manual. These reviews should ensure the procurements complied with the Federal requirements in 44 CFR § 13.36. EOPSS shall report the results of this review to GPD no later than 90 days after the issuance of the final OIG report. FEMA requests this recommendation be resolved and open pending the completion of the corrective action.

**OIG Recommendation 8:** Require EOPSS to revise and update the site visit protocol to ensure that it includes a review of subgrantee compliance with Federal procurement requirements.

**FEMA Response: Concur**

The Assistant Administrator of the Grant Programs Directorate shall require EOPSS to revise and update the site visit protocol to include a review of subgrantee compliance with the procurement requirements of 44 C.F.R. § 13.36. EOPSS shall report to GPD once it has revised and updated the site visit protocol no later than 90 days after the issuance of the OIG final report. FEMA requests this recommendation be resolved and open pending the completion of the corrective action.





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**OIG Recommendation 9:** Require EOPSS to perform more equipment spot checks to ensure that subgrantees develop and sustain a property management system that meets Federal requirements.

**FEMA Response: Concur**

The Assistant Administrator of the Grant Programs Directorate shall require EOPSS to perform more equipment spot checks during monitoring site visits. EOPSS shall report to GPD how it will verify its personnel conduct consistent spot checks no later than 90 days after the final issuance of the OIG final report. FEMA requests this recommendation be resolved and open pending the completion of the corrective action.

**OIG Recommendation 10:** Recover the unallowable costs of \$157,000 for construction of the Trench Rescue Simulator.

**FEMA Response: Non Concur**

GPD granted permission to the SAA to install a trench rescue simulator because it is a training prop that required installation which is not considered construction. FEMA recommends the recommendation be resolved and closed.

**OIG Recommendation 11:** Require EOPSS to obtain adequate supporting documentation before reimbursing sub-recipients.

**FEMA Response: Concur**

The Assistant Administrator of the Grant Programs Directorate shall require EOPSS to obtain adequate documentation before reimbursing subgrantees. EOPSS shall ensure all subgrantees comply with 44 CFR §13.20 Standards for financial management systems. (b) (6) Source Documentation. EOPSS shall report to GPD how it will obtain adequate documentation before reimbursement no later than 90 days after the issuance of the OIG final report. FEMA requests this recommendation be resolved and open pending the completion of the corrective action.

Thank you for the work that you and your team did to better inform us throughout this audit. We look forward to the final report. Please direct any questions regarding this response to Gary McKeon, FEMA's Branch Chief Audit Liaison Office, at 202-646-1308.



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Department of Homeland Security



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**Deval L. Patrick**  
Governor

**Timothy P. Murray**  
Lieutenant Governor

**Mary Elizabeth  
Heffernan**  
Secretary

**Ellen J. Frank**  
Executive Director

January 16, 2013

Anne L. Richards, Assistant Inspector General for Audits  
DHS Office of Inspector General  
245 Murray Drive, SW, Building 410  
Washington DC 20528

Dear Assistant Inspector General Richards:

The Executive Office of Public Safety and Security (EOPSS) for the Commonwealth of Massachusetts appreciates the opportunity to respond to the Department of Homeland Security Office of the Inspector General's Draft Audit, a copy of which was provided to us December 7, 2012.

EOPSS found the process to be engaging and informative and the DHS OIG audit team to be professional and courteous. There is always room for improvement when overseeing the expenditure of public monies and we appreciate the objective review of the team to indicate where we can make improvements. We take the team's recommendations seriously and have already begun to implement changes as a result for example in our sub-recipient outreach and monitoring processes.

While we agree in general with many of the overall recommendations, we do disagree with several of the specific examples cited, especially where EOPSS obtained written permission from DHS/FEMA to take certain actions such as allowing our sub-recipients to utilize funds for necessary Management and Administration costs in addition to those retained and used by the Commonwealth at the state level. Similarly, EOPSS obtained written permission from DHS/FEMA, without a construction waiver, to allow the Boston UASI to install a trench rescue simulator but the DHS OIG felt that the installation was unallowable without a waiver. Other examples where we disagree with the audit's conclusions are reflections of some of the inherent challenges of implementing this complex grant program.

It is our hope that by conducting this and other state audits, the DHS OIG gains an in-depth understanding of the realities of implementing this highly regulated and complex grant program, which differs from many other federal grant programs in that it entails initiating entirely new operating methodologies and programs; buying, installing and effectively utilizing sophisticated



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equipment and infrastructure; and continuously coordinating with a wide range of stakeholders to achieve myriad programmatic outcomes.

EOPSS has worked to implement effective homeland security projects and programs for nearly a decade now. It is clear however that some of the prerequisites of this grant program such as limiting Management and Administration funds to no more than 5% of the total award and requiring that funds be available for sub-recipient use within 45 days of the award actually hinder the effectiveness of the program by not allowing for sufficient planning time or dedicated program management.

During the audit, EOPSS sought to communicate to the audit team the importance of planning in the effective implementation of homeland security programs. We believe that by requiring prospective sub-recipients to provide detailed plans and budgets before contracts are issued, we are both building a better program from the outset and ensuring that sufficient programmatic and fiscal controls are in place to ensure accountability.

Underscoring the importance of planning in effective program implementation, EOPSS has found that the most effective homeland security-funded projects are those that cut across jurisdictional and disciplinary boundaries and pull together stakeholders to leverage each other's knowledge and resources. This kind of complex coordination, which is central to FEMA's own goals, takes a great deal of time and human engagement. This planning work is what gets lost with such strict limits on the use of M&A and the 45 day obligation requirement. It is our hope that when the DHS OIG presents its overall findings and recommendations about the Homeland Security Grant Program, this perspective will be represented.

Again, we appreciate the opportunity to respond to the draft audit and have provided responses to specific recommendations in the attached audit response document.

Sincerely,

A handwritten signature in cursive script that reads "Ellen J. Frank".

Ellen Frank,  
Executive Director

Cc: Michael Sivy, Director of Grants Management, Office of Inspector General, DHS  
Dennis Deely, Audit Manager, Office of Inspector General, DHS



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#### **Homeland Security Strategies: [Draft Audit p.3]**

##### **Response to Recommendation # 1. P. 7 Draft Audit:**

EOPSS informed the audit team during our first meeting that we are aware that our State Homeland Security Strategy (SHSS) is out of date and that we are working on an updated State Strategy in concert with the FEMA-required Threat Hazard Identification Risk Assessment (THIRA) process. In 2011 when PPD-8 and the National Preparedness Goal were announced, it was clear to us that we would want to have our updated State Strategy align with FEMA's nation-wide guidelines. We had to wait until the whole program was laid out between March 2011 and April 2012, before we could begin to update our state strategy to conform to the new FEMA program. As soon as the new core capabilities and THIRA process were rolled out, we commenced a comprehensive statewide risk, vulnerability and capabilities assessment process that will inform both our THIRA and State Strategy. We expect to be able to present our updated State Strategy to FEMA in the spring of 2013.

#### **Performance Measures [Draft Audit p. 7]**

##### **Response to Recommendation # 2 P. 8 Draft Audit**

The draft audit also asserts that EOPSS' existing homeland security strategy does not have measurable objectives and that EOPSS has not evaluated progress towards achieving the goals and objectives of its 2007 State Homeland Security Strategy.

While we agree that goals and objectives should be time limited and that a more detailed performance evaluation plan would be preferable, the 2007 State Homeland Security Strategy does detail 33 specific implementation steps related to each of the 18 objectives under the three broader goals. At the end of May, 2010 EOPSS completed an internal progress report on its homeland security program that included a chart indicating the degree of progress towards accomplishing each implementation step within the state's goals and objectives. A review of this progress was also provided in January 2010 at a statewide stakeholders' meeting to plan for the following grant year.

The 124-page, May, 2010 report's Executive Summary describes several frameworks within which to view the homeland security grant program, its activities and accomplishments. The body of the report, not only documents what had been done between 2003 and 2010 with homeland security grant funds, but what had been accomplished. This document, as well as a September 2011 Executive Summary update, was provided to the DHS/OIG auditors. However, the draft audit only refers only to a 2008 document entitled "Trends and Process," which was an earlier internal review of the program.

While we agree that SMART Goals and objectives should be included in our new State Homeland Security Strategy and that at both the state and federal level, there is a lack of specific, quantitative outcome measurements, we do not agree with the impression given that EOPSS has not engaged in any evaluative activities of its homeland security program. Moreover, the table provided in the audit report provides an incomplete representation of the state strategy because it shows only a partial description

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of just one of the several objectives per goal and does not include any of the specific implementation actions that are in fact associated with each of the 18 objectives in the Strategy.

**Obligation of Grant Funds: [Draft Audit p. 9]**

**Response to Recommendation # 3 P. 11 Draft Audit**

Prior to the DHS/OIG audit, EOPSS believed that it was in compliance with the 45-day obligation requirement. Each year, EOPSS calculates the amount of the 80% local share funds and UASI funds that will go to the state's homeland security planning regions and sends them a Letter of Obligation for that amount of funding within the 45 day time period. DHS conducts regular on-site monitoring of EOPSS in both the fiscal and programmatic areas and has never informed EOPSS that this practice is non-compliant with the 45 day obligation requirement.

It is true that EOPSS does not issue contracts until a detailed spending plan and budget is submitted by the intended sub-recipient. Because for the local share funds, these spending plans are embedded in annual "regional" plans, EOPSS provides a month or more for the homeland security regions to put together these documents. EOPSS then reviews the documents to ensure that proposed projects are consistent with the state's homeland security strategy, the Investment Justifications approved by DHS for that funding year and that the projects are both allowable and address a homeland security gap. This review process includes meeting with representatives of the homeland security regions to discuss questions or concerns and the re-submission of revised plans and budgets as necessary. Once the review process is completed, the contracting process begins. This process can be as quick as three weeks but sometimes gets held up at the sub-recipient end because the sub-recipient does not return the signed contract document to EOPSS in a timely manner.

In 2008 and 2009 EOPSS conducted an open and public award process for a fiduciary agent to receive the local share/regional funds on behalf of the regional homeland security advisory councils. Previously each region had its own fiduciary agent. EOPSS saw the consolidation of this function as a means to obtain greater efficiency and coordination of effort. Without a lead agency or fiduciary to receive the funds, EOPSS could not contract the funds to the regional advisory councils. The open and public award process for the fiduciary took more time than expected due to an insufficient response to the first posting. The prolonged open and public award process continued into 2009, after which EOPSS was able to begin to streamline the process to the point where in 2011 the contracts were signed within 151 days and in 2012 contracts were signed on December 14, 2012, 74 business days after EOPSS received its award from the federal government. The trend of shortening the time period between the award to the state and the state contracting funds to the homeland security planning regions would also be apparent for FFY 2010 funds if it weren't for the fact that one of the regions delayed submitting a detailed scope of work (plan) and budget for 10 months thereby affecting the average length of time to make contracted funds available.

EOPSS disagrees with the OIG's assertion that the amount of time that it took for EOPSS to sign contracts with its homeland security region sub-recipients *"may have reduced the Commonwealth's ability to prevent, protect against, respond to, and recover from acts of terrorism, major disasters, and*

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*other emergencies.*" This assertion is unsubstantiated and a deeper review of the lead time that each homeland security funded project requires would quickly make it clear that foundational planning and coordination activities take place for many months before projects are ready to be implemented and that the regional councils themselves were not ready to implement the projects outlined in their plans. The additional time that it took to sign these contracts did not impact the Regions' progress.

EOPSS is committed to continuing the trend of making funds available for sub-recipients to spend as soon as possible, however, EOPSS will not agree to sign a contract or interdepartmental service agreement (ISA) without a detailed budget and scope of services and without a sufficient internal review and approval process. In conversations, both DHS and the OIG audit staff acknowledged that the 45-day unconditional obligation requirement is not realistic for most states and does not take state-level contracting, grant management and fiscal processing considerations into account. It is our hope that the OIG might also include a general recommendation to extend the date of required obligation while also extending the period of performance of the HSGP grants to better match necessary planning requirements for most effectively implementing the unique programs that these grant programs support.

**Management and Administration Expenses**

**Obligation of Grant Funds: [Draft Audit p. 11]**

**Response to Recommendation #'s 3, 4 P. 12 Draft Audit**

Massachusetts disagrees with the OIG's assertion that the Commonwealth exceeded limits placed on the utilization of management & administration (M&A) funds and contests the recommendation to return a portion of the M&A that it and its sub-recipients have used to implement the HSGP program. The e-mail thread reproduced below represents the Commonwealth's good faith efforts and due diligence in securing DHS approval to retain the annual allowed percentage of M&A that the state is eligible to retain and allow sub-recipients to also retain a portion of their own awards for the management and administration of their grant funds.

The following e-mail request and response from DHS represents written permission from our federal funding agency to retain the allowed annual percentage of M&A and to allow our sub-recipients to also retain the allowed annual percentage of M&A from their awards.

***From:** Donehoo, Dennis [Dennis.Donehoo@dhs.gov]  
**Sent:** Wednesday, October 22, 2008 3:26 PM  
**To:** Grafflin, Victoria (OGR)  
**Cc:** Kevan, Robert; Hampton, Judy; Timperi, Jeff (OGR)  
**Subject:** RE: M & A Clarification  
Victoria,*

*After reviewing the Grant Guidance and discussion in GPD, we have determined that the State is eligible to retain 3% of the Grant for M&A. Local sub-recipients are eligible to retain 3% of what they are awarded. If the State wishes to pass down a portion of their M&A to the locals, then the locals M&A cannot exceed 3%. For example, for \$100.00 the State could retain \$3.00 M&A. The local sub-recipients may retain 3%*

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of \$ 97.00 which was passed down from the State (which is \$ 2.91). Neither the State nor the local sub-recipient can exceed 3% each for their M&A. If you have any further questions please do not hesitate to call.

Dennis K Donehoo  
Program Analyst  
Grant Programs Directorate  
Federal Emergency Management Agency  
500 C Street SW  
Techworld Building Room 5008  
Washington, DC 20472  
202-786-9837 (Office)  
202-536-7374 (B-Berry)  
202-786-9921 (Fax)

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**From:** Grafflin, Victoria (OGR) [mailto:Victoria.Grafflin@state.ma.us]  
**Sent:** Wednesday, October 22, 2008 12:56 PM  
**To:** Donehoo, Dennis  
**Subject:** RE: M & A Clarification

Hi Dennis: I know that Jeff spoke to you about this last week but we are still a little bit confounded and I think that putting our question in writing to you, is probably appropriate at this point.

In preparing to obligate FFY 2008 funds, we noticed that there appears to be a significant change governing the distribution of M&A funds. We would like to clarify the FFY 2008 HSGP Management & Administrative (M&A) allowability as it pertains to us (the award recipient and SAA) and local sub-recipients. (our Regional Homeland Security Advisory Councils and the Boston-area UASI).

Comparing the FFY 2007 HSGP guidance to the FFY 2008 guidance appears to reveal a significant departure from FFY 07 about which we are seeking clarification. However, an FAQ regarding FFY 2008 M&A appears to confirm our original understanding about the division of M&A from total award and sub-recipient awards.

The FFY 2007 HSGP guidance specific to M&A reads as follows:

"All programs within the FY 2007 HSGP have allowable M&A costs for both the State as well as the local unit of government, Urban Area, or designated subgrantee. No more than 5 percent of the total amount allocated to the State for programs within FY 2007 HSGP may be retained at the State level and used for M&A purposes...In addition, local jurisdiction subgrantees may retain and use up to 3 percent of their subaward from the State for local M&A purposes."

The FFY 2008 HSGP guidance is different in respect to this issue, and reads as follows:

"A maximum of up to three percent (3%) of funds awarded may be retained by the State (as opposed to 5 percent [5%] of funds as noted in the FY 2007 HSGP), and any funds retained are to be used solely for management and administrative purposes associated with the HSGP award. States may pass through a portion of the State's M&A allocation to local subgrantees to support local management and administration activities; the overall subgrantee M&A amount may not equal more than three percent (3%)."

Additionally, the FFY 2008 FEMA-GPD FAQ document (dated 2/28/08) on the FEMA website has a question and response specific to M&A, which reads as follows:

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*"Question: How much funding towards management and administration (M&A) are subgrantees allowed to spend?"*

*"Response: Subgrantees are allowed to spend no more than 3% of their overall HSGP award for M&A purposes. SAA's may also opt to pass down a portion of their M&A funds to subgrantees, however the total M&A amount spent by subgrantees cannot exceed 3% overall."*

*Our interpretation of the above is that we (the SAA and recipient of this funding) may retain up to 3% of the total HSGP award amount for M&A purposes. In addition, sub-recipients (e.g., the Councils and the UASI) may retain up to 3 percent of their local HSGP awards for M&A purposes. This interpretation matches our current operating model.*

*As you know from your site visit, our current operational model in Massachusetts (of the SAA and the Councils/UASI) – which is necessary for many reasons, the foremost being the lack of a statewide and operational county government structure – is dependent on having adequate M&A funds at the State and local subgrant level.*

*Again, the purpose of putting this question in writing is so that we are clear. We will abide by whatever determination is made by U.S. DHS.*

*Thank you again for your help.*

*Victoria Grafflin*

*Victoria Grafflin, Director  
Homeland Security Division  
Office of Grants and Research  
Executive Office of Public Safety & Security  
Ten Park Plaza, Suite 3720  
Boston, MA 02116  
(617) 725-3378  
(617) 725-0260 (f)  
[victoria.grafflin@state.ma.us](mailto:victoria.grafflin@state.ma.us)*

The Commonwealth of Massachusetts is a home rule state, without a county level of government. In order to be able to accomplish anything that coordinated our 351 cities and towns, we had to establish homeland security planning regions. In 2004, Massachusetts divided the state into five homeland security regions and appointed multi-disciplinary, multi-jurisdictional planning councils for each region. This system has enabled the state to accomplish much larger projects than would have been possible if the 80% local share of HSGP funds were distributed either municipally or by competitive application process. We are very proud of the accomplishments of this system, not the least of which is the cross-disciplinary problem solving and relationship building that has resulted from the establishment of these regions and councils. By giving EOPSS written permission to retain our M&A to administer the grant program and to allow our regional fiduciary to retain M&A out of the regional awards, FEMA enabled this more effective, regional homeland security system to function. Again, we would urge the DHS/OIG to consider the programmatic benefits of recommending that the use of M&A be expanded as opposed to merely looking at whether or not FEMA should have allowed EOPSS to allow its sub-recipients who were implementing the regional council projects to use M&A.

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#### **Procurement Practices, Property Records, and Expenditure Review**

Although EOPSS disagrees about the facts in several of the examples provided by the OIG regarding procurement practices, property records and expenditure review, we nonetheless agree that there is always room for improvement in communicating with and monitoring sub-recipient performance with regard to the above issues. We have therefore already begun conducting additional outreach to our sub-recipients to remind them of these obligations, which are spelled out in the special conditions documents that they sign at the time they receive their contracts and ISA's.

#### **Procurement Practices:**

##### **Obligation of Grant Funds: [Draft Audit p. 13]**

##### **Response to Recommendation # 5 P. 13 Draft Audit**

The draft audit report provides three examples that the OIG feels are instances in which local, state, or federal procurement rules were not sufficiently followed. We disagree about the facts in two of the three situations. However, we do agree that procurement is an area with great potential for error and impropriety and that therefore ongoing training, outreach and monitoring around sub-recipient procurement practices is a valid recommendation. In mid-December 2012, EOPSS held a conference call to underscore with its homeland security regional council members and fiduciary representatives the importance of complying with federal rules as well as state and local laws and regulations. This particular issue was highlighted in the call because of concerns that the OIG raised regarding the procurement of training services.

The first example provided by the DHS/OIG is one in which there appears to be a difference in interpretation of Massachusetts General Laws Chapter 30B, local procurement rules. The DHS/OIG asserts that the fiduciary agent should have gone out to bid for ongoing services related to technical assistance and design services for interoperable communications systems. Before exercising the optional renewal provision in this existing contract, the fiduciary agent contacted the Massachusetts OIG to ensure that it was not exceeding the allowable amount of additional fees under MGL Chapter 30B. The response received from the state OIG was that because the original contract was written to include up to three years of design services, the normal restriction on adding more than 25% of the value of the contract does not apply because it is a contract renewal and not an extension. The original contract was competitively bid according to MGL Chapter 30B.

The fiduciary sought guidance from the state OIG, whose office is the primary enforcement agency for Chapter 30B procurement, and proceeded based on that guidance. While it is possible that the fiduciary erred in its understanding of its own question to the state OIG and the OIG's response, we feel that the fact that the fiduciary made an effort to check with the state OIG on this nuanced procurement issue is an indication of their level of awareness and commitment to the state's very stringent and complex local procurement rules. All fiduciary staff involved in procurement activities have received

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state procurement training from the office of the state OIG and have certification to at least the level of goods and services procurement.

In the second example of training courses not competitively procured, we agree that EOPSS needs to remind sub-recipients that even if a particular type of procurement is exempt from competitive bidding requirements at the state or local level, this does not exempt procurement from federal competitive procurement requirements. In December, 2012 EOPSS held a special conference call with sub-recipients to reiterate this point. However, EOPSS does not agree that the particular training courses were procured out of compliance with federal rules. Although state procurement laws do not recognize sole source procurements, except in extremely limited circumstances, sole source procurement is allowed under federal procurement according to 44 CFR 13.36 4.1.A.

In two of the four examples cited by the audit team, the MACTAC and Structural Collapse Trainings, the training providers selected were the only ones that were either certified to provide a desired certification level of training, or in the case of MACTAC, the only one that provides the specific training course. The process for determining that these circumstances justified using the particular training providers was outlined in a training petition to EOPSS by the homeland security council. EOPSS approved the training petition. A quote process was used for the \$147,000 SWAT course and the quote sheet was provided to the DHS/OIG auditors. Finally, the \$30,000 training cited by the OIG was actually part of the MACTAC training not a separate example.

While we do not feel that the procurement of these training courses was non-compliant, we do agree there needs to be more rigorous application and documentation of competitive procurement generally in the area of trainings. We will continue to work on this with our sub-recipients.

In the third example, the Massachusetts Environmental Police (MEP) purchased 16 all-terrain vehicles (ATV's) for \$100,316 to assist in fulfilling their search and rescue mission. MEP provided EOPSS with documentation that they solicited at least four quotes for the vehicles before making the purchase, meeting the federal requirement for competitive procurement. Nonetheless, after the auditor's reviewed this procurement, EOPSS did find that the MEP should have followed state procurement requirements, which dictate either using a statewide contract or conducting a Request for Quotations process if the desired goods or services are not available through an existing statewide contract. Statewide contracts are competitively bid by the state's Operational Services Division, which is the procurement department for the Commonwealth. It appears that the available statewide contract for ATVs, did not meet MEP's needs, however, they should have more closely followed procedures for conducting a procurement when no existing statewide contract matches the specified goods or services. EOPSS has met with MEP about this issue. EOPSS has discussed this situation with MEP and they understand the need to follow and document procurement policies more carefully. MEP also has an additional procurement professional assigned to them to assist with procurements such as this one. EOPSS has also already provided a mandatory grant management outreach to all state-share 2012 sub-recipients that included a review of procurement requirements. We will also be sure to review procurement when we do site visits and other monitoring.

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#### Property Record Requirements: [Draft Audit p. 15]

We disagree with the DHS/OIG auditor's assertion that EOPSS' and our sub-recipients' systems for managing property do not ensure full compliance with federal and state requirements.

The DHS/OIG asserts that decals are not placed on equipment in a timely manner and used the example of security cameras that had been installed without decals having been placed on them. The decals in question serve two purposes, one is to state that the item has been purchased with homeland security grant funds and the other purpose is to provide a unique identification number for inventory tracking.

Typically, decals are placed on items as close to the time that they are delivered as possible. The fiduciary mails the inventory stickers to the end user when they receive sign off that the equipment has been delivered. The fiduciary simultaneously enters the data into its inventory tracking spreadsheet and the end user affixes the tags as soon as possible after the equipment is received.

The DHS/OIG team asserts that the fiduciary stated that decals are placed on items only at the time of the annual inventory check. The fiduciary stated however that applying decals at the annual inventory is a "backup" to the standard procedure and does not represent the normal practice. The DHS/OIG also stated that because decals had not been placed on some security cameras prior to them being mounted, that the fiduciary may have been unable to access the equipment via the equipment inventory. This is not the case because the electronic inventory is initially populated at the time the equipment is delivered. Information such as inventory tag numbers are often added to the record that is created as soon as the recipient sends the signed receiving copy to the fiduciary.

The DHS/OIG appears to have misunderstood how the fiduciary's purchase order system, including item details, feeds into the electronic inventory tracking system. The draft audit states that, *"Although numerous items were included on one invoice, 'item descriptions' listed in the property records were generically titled such as 'technical rescue equipment' or 'hardware and software.' The individual items included on the purchase order were hydraulic jacks, hoists, and communications equipment, which are susceptible to theft and therefore should be properly recorded and tracked."*

There are dollar thresholds involved in the requirement to track inventory. These are \$5,000 at the federal level and \$500 per EOPSS' homeland security sub-grant conditions. The individual items that are contained in the technical rescue trailers do not generally meet either of these thresholds, though the trailer itself does. The technical rescue trailers are included in the inventory list. Each trailer has a list of items that are contained within the trailer. The homeland security councils have established or are in the process of establishing procedures and protocols to ensure that these assets are returned from deployment with the same equipment that they left with. At the time of the auditor's visit, the Southeast Region trailers were in the process of being delivered by the vendor and the contents finalized.

The third example that the auditor provides states that *"the fiduciary agent did not include serial numbers from equipment in its records. In addition 31% of items listed in the Northeast's inventory records and 78% of the items listed in the Southeast Region's inventory records did not have an inventory*

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*item number.*” The federal requirement is for either a serial number or a unique identification number to be included in the inventory for equipment. For items that meet the \$500 threshold and therefore require tagging, typically, the number printed on the bar-coded tag is used as the unique identifying number, rather than the serial number. This is allowable under the federal equipment inventory guidelines and makes more sense given the need to tag equipment.

The percentages listed above were not mentioned in the earlier audit outline and so we were not able to discuss with the audit team what they specifically are referring to. However, after reviewing the inventory records, it is clear that there are items listed in the inventory lists that do not meet the dollar value threshold and that therefore may not have been tagged and recorded with a unique identification number. However, we do agree that if an item is included in the inventory list, even if it is not required to be included, it should have as much information as possible associated with it and EOPSS will follow up with the fiduciary to ensure that this occurs.

The fourth example cited by the DHS/OIG auditor asserts that EOPSS does not do sufficient equipment spot checks and that the only equipment spot checks done by EOPSS in 2012 were done during the audit itself.

In fact, over the past five years, EOPSS’ Homeland Security Division has conducted 206 monitoring visits and desk reviews across all of our homeland security grants. In calendar years 2011 and 2012 EOPSS conducted 14 site visits in each of those calendar years related to the grant programs being audited. Additional site visits were conducted by the homeland security division staff on other homeland security grant programs not included in the audit. While it is true that four of the site visits conducted in 2012 occurred simultaneously with the auditor’s site visits, EOPSS felt that these visits represented a good opportunity for us to do equipment spot checks.

EOPSS provided the auditors with our monitoring log where these site visits are recorded, along with examples of site visit reports that document equipment spot checks. It is possible however that because some entries list the type of monitoring as a site visit, not an equipment check, that the auditors may have thought that equipment is not checked during a normal site visit. Site visits almost always include equipment checks, except in the case where the fiduciary agent for the local share funds is being visited by EOPSS.

EOPSS has contracted with the fiduciary to conduct equipment checks in each of the homeland security planning regions, which the fiduciary does, not only annually but also in the normal course of daily business. Additionally, EOPSS staff attends every regional homeland security advisory council meeting, of which there are four or five each month. At these meetings and at other EOPSS and Council-sponsored events, EOPSS staff views equipment that has been purchased. Also, as a result of attending monthly Council meetings, EOPSS staff is generally aware of the status of specific equipment and any issues that may be associated with these procurements.

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**Construction Item**

EOPSS believes that the Trench Rescue Simulator is an allowable expenditure as a result of our April, 2011 e-mail correspondence with DHS regarding this project. Note: The e-mail messages below both relate specifically to the Trench Rescue Simulator project for the Boston UASI.

**From:** Donehoo, Dennis [<mailto:Dennis.Donehoo@dhs.gov>]  
**Sent:** Tuesday, April 12, 2011 9:40 AM  
**To:** Chipman, Brook (OGR)  
**Subject:** RE: EHPSM submission

Brook,

Also, a construction waiver is not necessary, as this is the installation of a training prop.



**FEMA**

Dennis Donehoo  
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Eastern Branch of Preparedness Grants Division  
Grant Programs Directorate  
Federal Emergency Management Agency  
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**From:** Chipman, Brook (OGR) [<mailto:Brook.Chipman@state.ma.us>]  
**Sent:** Tuesday, April 12, 2011 9:37 AM  
**To:** Donehoo, Dennis  
**Subject:** RE: EHPSM submission

Great, thanks.

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**From:** Donehoo, Dennis [<mailto:Dennis.Donehoo@dhs.gov>]  
**Sent:** Tuesday, April 12, 2011 9:09 AM  
**To:** Chipman, Brook (OGR)  
**Subject:** RE: EHPSM submission

Brook,

I checked the EHP tracker and this has been approved. Just waiting for the letter.



Dennis Donehoo  
Program Analyst  
Eastern Branch of Preparedness Grants Division  
Grant Programs Directorate  
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Department of Homeland Security  
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**From:** Chipman, Brook (OGR) [<mailto:Brook.Chipman@state.ma.us>]  
**Sent:** Monday, April 11, 2011 3:58 PM  
**To:** Donehoo, Dennis  
**Subject:** FW: EHPSM submission

Dennis,

Checking in on this EHPSM.

We originally submitted it on 2/3 and then provided a SHPO on 3/10.

Any update would be appreciated.

And just to confirm our earlier exchanges on a matter involving this project: our understanding based on earlier phone and e-mail exchanges is that we don't need to request a construction waiver regarding the installation of this trench rescue 'prop'.

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Thanks,

Brook

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**From:** Chipman, Brook (OGR)  
**Sent:** Tuesday, April 05, 2011 2:34 PM  
**To:** 'Donehoo, Dennis'  
**Subject:** FW: EHPSM submission

Dennis,

Hope all is well.

Can you please help me get a status on these two EHPSM submissions or is it OK for me to send an e-mail to check to [askcsid@dhs.gov](mailto:askcsid@dhs.gov)?

Thanks,

Brook

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**From:** Chipman, Brook (OGR)  
**Sent:** Monday, March 28, 2011 9:53 AM  
**To:** 'Donehoo, Dennis'  
**Subject:** FW: EHPSM submission

Good morning,

Just checking in on these EHPSM's for the Boston UASI's:

- 'Trench Prop', U9-5.4, submitted 2/3, SHPO on 3/10.
- 'Urban Shield' Exercise, submitted 2/28.

Thanks,

Brook

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**From:** Chipman, Brook (OGR)  
**Sent:** Monday, February 28, 2011 2:20 PM  
**To:** 'ASKCsid'  
**Cc:** 'Donehoo, Dennis'; 'Barron, Jenny (OGR)'  
**Subject:** EHPSM submission

Hello,

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Please let me know if you have any questions regarding this submission.

Thanks,

Brook

Mr. Brook W. Chipman  
Senior Program Manager  
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[www.mass.gov/eopss](http://www.mass.gov/eopss)

*Brook,*

*You do not need construction waivers for this type of installation. We require construction waivers for large projects that involves breaking ground, or remodeling a building to the point its footprint is changed.*



**FEMA**

*Dennis Donehoo  
Program Analyst  
Eastern Branch of Preparedness Grants Division  
Grant Programs Directorate  
Federal Emergency Management Agency  
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Department of Homeland Security

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**Massachusetts Response to DHS/OIG Draft Audit**

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**From:** Chipman, Brook (OGR) [<mailto:Brook.Chipman@state.ma.us>]  
**Sent:** Friday, April 15, 2011 1:52 PM  
**To:** [dennis.donehoo@dhs.gov](mailto:dennis.donehoo@dhs.gov)  
**Subject:** Construction Waiver Q

Dennis,

*I want to check with you regarding the need for construction waivers for three UASI 09-funded projects at four sites.*

*In the attachment "UASI 09 Project Construction Waivers Question" I have listed the proposed equipment purchases involved by site (the two Somerville ones are in one chart).*

*I have also attached the four related EHPSM, that we will soon submit, as these contain more project information including photos of the installation locations.*

***My question is whether these items, that are referenced directly or indirectly in the 09 HSGP guidance's construction and renovation section, would actually require waivers?***

*Given these items will only involved minor installation work, I thought perhaps waivers would not be necessary.*

*Thanks in advance for your guidance in this matter. Please let me know if you need additional information to make this decision.*

*Thanks,*

*Brook*

**Supporting Documentation: [Draft Audit p. 17]**

**Responses to Recommendation #'s 6-11 Pp. 17-18 Draft Audit**

The auditors reviewed many documents covering millions of dollars of spending and found a handful of instances where supporting documentation for reimbursement was deemed to be insufficient. EOPSS agrees that in these instances documentation supporting reimbursement for these costs was not as strong as it should have been. We also agree with Recommendation # 6 that EOPSS "notify all entities awarded Homeland Security Grant Program Funds of the requirement to use and follow Federal, State, and local procurement policies and standards as required for purchasing or acquiring equipment and services." Although EOPSS does do this within its contracting documents, ongoing outreach and education around these requirements is nonetheless warranted. EOPSS has already begun to provide this additional outreach by holding conference calls and meetings with sub-recipients to discuss these very issues. On January 9<sup>th</sup>, EOPSS held a mandatory meeting with all FFY 2012 state share SHSP and UASI sub-recipients to review laws and regulations governing the grant as well as general grant management practices, common problems and audit findings.

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## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

### Massachusetts Response to DHS/OIG Draft Audit

Similarly, EOPSS generally agrees with Recommendations, 7 and 8 that speak to the need to ensure that sub-recipients understand that they must comply with federal competitive procurement practices even where state procurement laws may provide exemptions, to include such education and oversight in sub-recipient monitoring and to continue to conduct more and well documented equipment spot checks.

Again, EOPSS has already spoken to the Regional Homeland Security Councils, their fiduciary agent and the City of Boston Office of Emergency Management regarding the difference in state and federal rules around competitive procurement for training.

EOPSS also agrees generally with recommendation # 9 that calls for more equipment spot checks and to ensure that sub-recipients develop and sustain a property management system that meets federal requirements. While we feel that our homeland security regions' property management system meets federal standards, we nonetheless agree that property management and equipment checks can always be improved upon and require ongoing attention. We will work with our staff to conduct more spot checks when out at Regional meetings and ensure that the fiduciary for the Homeland Security Regions documents their equipment checks, even when they are not pre-planned but occur during the course of a business meeting.

EOPSS does not agree with Recommendation 10 regarding recovering what it deems as unallowable costs related to the trench rescue simulator for which EOPSS and the City of Boston received written approval from DHS as documented in the e-mail exchange on pages 10 & 11.

EOPSS agrees with recommendation 11 that adequate supporting documentation needs to be obtained before reimbursing sub-recipients. EOPSS demonstrated our rigorous, three-level reimbursement review process to the auditors. Nonetheless, we do agree that the audit team did find examples where supporting documentation could and should have been stronger. EOPSS will continue to work with our staff and sub-recipients to ensure that supporting documentation is always sufficient. We will pay particular additional attention to the issue of who is signing off on the time sheets of contractors who are performing services under the grant, as well as reinforcing our existing requirement that backfill and overtime reimbursements be supported by actual payroll records. The fiduciary agent already collects these but EOPSS recognizes that compliance with this requirement was less than 100% and we have already begun to discuss the issue with those sub-recipients that may not have fully understood the requirement.

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## **Appendix C**

### **Description of the Homeland Security Grant Program**

The HSGP provides Federal funding to help State and local agencies enhance capabilities to prevent, deter, respond to, and recover from terrorist attacks, major disasters, and other emergencies. The HSGP encompasses several interrelated Federal grant programs that together fund a range of preparedness activities, including planning, organization, equipment purchase, training, and exercises, as well as management and administration costs. Programs include the following:

- **The State Homeland Security Program** provides financial assistance directly to each of the States and Territories to prevent, respond to, and recover from acts of terrorism and other catastrophic events. The program supports the implementation of the State Homeland Security Strategy to address identified planning, equipment, training, and exercise needs.
- **The Urban Areas Security Initiative** provides financial assistance to address the unique planning, equipment, training, and exercise needs of high-risk urban areas, and to assist in building an enhanced and sustainable capacity to prevent, respond to, and recover from threats or acts of terrorism and other disasters. Allowable costs for the urban areas are consistent with the SHSP. Funding is expended based on the Urban Area Homeland Security Strategies.

The HSGP also includes other interrelated grant programs with similar purposes. Depending on the fiscal year, these programs include the following:

- Metropolitan Medical Response System
- Citizen Corps Program
- Operation Stonegarden (beginning FY 2010)



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Department of Homeland Security

**Appendix D**  
**Number of Days Elapsed Between Required Obligation and Availability**

<b>Subgrantee</b>	<b>Date FEMA Awarded Funds to State</b>	<b>Funds Required To Be Obligated Within 45 days</b>	<b>Actual Date Funds Were Obligated</b>	<b>Number of Days Late</b>
<b>Northeast Region</b>	08/29/2008	10/13/2008	12/09/2009	422
	08/21/2009	10/05/2009	12/21/2010	442
	09/13/2010	10/28/2010	05/27/2011	211
	09/01/2011	10/16/2011	03/15/2012	151
<b>Southeast Region</b>	08/29/2008	10/13/2008	12/09/2009	422
	08/21/2009	10/05/2009	12/06/2010	427
	09/13/2010	10/28/2010	05/27/2011	211
	09/01/2011	10/16/2011	03/15/2012	151
<b>Western Region</b>	08/29/2008	10/13/2008	12/09/2009	422
	08/21/2009	10/05/2009	12/06/2010	427
	09/13/2010	10/28/2010	05/27/2011	211
	09/01/2011	10/16/2011	03/15/2012	151
<b>Central Region</b>	08/29/2008	10/13/2008	12/09/2009	422
	08/21/2009	10/05/2009	12/06/2010	427
	09/13/2010	10/28/2010	05/27/2011	211
	09/01/2011	10/16/2011	03/15/2012	151
<b>Boston UASI Region</b>	08/29/2008	10/13/2008	03/27/2009	165
	08/21/2009	10/05/2009	12/10/2010	431
	09/13/2010	10/28/2010	02/12/2012	472
	09/01/2011	10/16/2011	02/27/2012	134
<b>Metropolitan Area Planning Council</b>	08/29/2008	10/13/2008	04/06/2009	175
	08/21/2009	10/05/2009	10/25/2010	385
	09/13/2010	10/28/2010	03/04/2011	127
	09/01/2011	10/16/2011	11/29/2011	44

Source: DHS OIG.



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Department of Homeland Security

**Appendix E**  
**Potential Monetary Benefits**

<b>Classification of Monetary Benefits</b>					
<b>Finding</b>	<b>Rec. No.</b>	<b>Funds To Be Put to Better Use</b>	<b>Questioned Costs – Unsupported Costs</b>	<b>Questioned Costs – Other</b>	<b>Total</b>
Total funds that exceeded the statutory limits for management and administrative expenses	4			\$3,912,772	\$3,912,772
Unallowable costs of construction of the Trench Rescue Simulator	10			\$157,000	\$157,000
<b>Total</b>				<b>\$4,069,772</b>	<b>\$4,069,772</b>

Source: DHS OIG.



## **Appendix F**

### **Major Contributors to This Report**

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Frank Lucas, Auditor  
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## **Appendix G**

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