New York City Comptroller
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Federal Reimbursement for Disaster-related Costs

The U.S. Department of Homeland Security's (DHS's) Federal Emergency Management Agency (FEMA) awards disaster assistance grants from the Disaster Relief Fund to individuals, States, local governments, and certain nonprofits. For the last 3 years, grant expenditures have averaged more than $10 billion. In Fiscal Year 2011, the DHS Office of Inspector General (OIG) issued 54 grant reports disclosing more than $300 million in questioned costs. According to its Annual Performance Plan, OIG will continue to conduct such compliance audits of grantees and subgrantees for the forseeable future. It is therefore imperative that agencies institute internal controls to avoid common mistakes that lead to disallowances or recoupment.

To help grantees maximize their financial recovery from declared disasters, the OIG prepared a guide entitled *Homeland Security: Audit Tips for Managing Disaster-related Project Costs.* In the guide, the OIG identifies a number of practices that grantees and subgrantees should endeavor to avoid in order to minimize disallowances or recoupment:

1 POOR CONTRACTING PRACTICES

Criteria: Federal regulations (44 CFR 13.36) establish the procurement standards that should be followed. These include requirements that records be maintained in sufficient detail to reflect the history of the procurement; that time-and-material-type contracts be used only when no other contract type would be suitable and when they include a ceiling price; that full and open competition be used unless the public emergency does not permit a delay; and that the use of cost-plus-percentage-of-cost contracts be prohibited. (See attached PDF of 44 CFR 13 with section 13.36 highlighted.)

A January 11, 2011 OIG report questioned $4.1 million in reimbursement relating to a New York City agency's disaster preparedness efforts. The City agency awarded contracts without the use of full and open competition and did not comply with federal requirements in procuring equipment. The City agency purchased 145 items costing more than $10,000 each without advertising these opportunities and without receiving sealed bids as required.

2 UNSUPPORTED COSTS

Criteria: Federal cost principles (2 CFR 220, 225, and 230) require that requests for reimbursement be adequately supported by source documentation. (See attached PDFs of OMB Circulars which address: 2 CFR 220 - Cost Principles for Educational Institutions [OMB CIRCULAR A-21]; 2 CFR 225 - Cost Principles for State, Local, and Indian Tribal Governments [OMB CIRCULAR A-87]; and 2 CFR 230 - Cost Principles for Non-Profit Organizations [OMB CIRCULAR A-122].)

An August 27, 2012 OIG report questioned over $1.8 million in reimbursement to a parish sheriff's office in Louisiana due to inadequate support for its labor costs. The sheriff's office's documentation did not clearly show that the labor costs were for disaster-related activities.

3 POOR PROJECT ACCOUNTING

Criteria: Federal regulations (44 CFR 13.20 and 206.205) require grantees and subgrantees to account for FEMA funds on a project-by-project basis. (See attached PDFs of 44 CFR 13 with section 13.20 highlighted and 44 CFR 206 with section 206.205 highlighted.)

An August 27, 2012 OIG report questioned over $137,000 in reimbursement to a city in California because the funds were not used on specific FEMA projects.

4 DUPLICATION OF BENEFITS

Criteria: Section 312 of the federal Stafford Act prohibits duplication of benefits. A subgrantee cannot request reimbursement for efforts that are covered by insurance, other federal programs, or any other source. (Entire Stafford Act is enclosed as a PDF.)

An August 27, 2012 OIG report questioned over $10 million in reimbursement to a Florida water management district for repairs of flood control facilities because these facilities were under the jurisdiction of the U.S. Army Corp of Engineers Rehabilitation Inspection Program.

5 EXCESSIVE EQUIPMENT CHARGES

Criteria: Federal regulations (44 CFR 206.228) require that subgrantees use FEMA's schedule of equipment rates or their local rates, whichever are lower. (See attached PDF of 44 CFR 206 with section 206.228 highlighted.)

An August 27, 2012 OIG report questioned over $61,000 in reimbursement to a Florida water management district due to the district using a higher rate per hour for equipment costs than allowed by FEMA.

6 EXCESSIVE LABOR AND FRINGE BENEFIT CHARGES

Criteria: Federal cost principles (2 CFR 220, 225, and 230) require that costs be consistent with the policies and procedures that apply uniformly to both federally-financed and other activities of the grantee or subgrantee. FEMA states that regular-time salaries and benefits of permanent employees who perform emergency work are not eligible for funding. (See attached as previously noted.)

The OIG guide reports that a subgrantee charged a debris-removal project for both regular-time and overtime labor costs of permanent employees. The OIG questioned the $150,000 charged to the project for the regular-time work of permanent employees.

7 UNRELATED PROJECT CHARGES

Criteria: Federal cost principles (2 CFR 220, 225, and 230) require that costs be necessary and reasonable to meet the program objective. (See attached as previously noted.)

An August 27, 2012 OIG report questioned over $418,000 in reimbursement to a parish sheriff's office in Louisiana for helicopter services. The helicopters were supposed to be used for search and rescue operations and to transport emergency personnel and supplies. However, reimbursement was sought for helicopter services relating to the sheriff's office's routine surveillance and patrol activities.

8 UNAPPLIED CREDITS

Criteria: Federal cost principles (2 CFR 220, 225, and 230) require that reimbursement be reduced based on any credits the grantees or subgrantees obtain that offset or lower expenses. (See attached as previously noted.)

The OIG guide reports that a subgrantee received credit discounts from its contractors for early payments that it did not subtract from the reimbursement it sought from FEMA.

In summary, the OIG emphasizes the importance of establishing a separate account for each distinct FEMA project, of recording each expenditure, and of referencing each expense to supporting documentation (i.e., invoices, canceled checks, time and attendance records, payroll data, contracts, etc.). OIG also cites the need to ensure that disaster-related inventory withdrawals and usage are properly recorded and that certain fringe benefits, such as health insurance and earned leave, are not included in the fringe benefit expense associated with overtime work. Finally, OIG highlights the need to document the rationales for selecting the procurement methods used, for awarding the contracts to particular vendors, and for setting the contract prices.