

**Capacity Audit of FEMA
Grant Funds Awarded to the
Puerto Rico Department of
Transportation and
Public Works**





DHS OIG HIGHLIGHTS

Capacity Audit of FEMA Grant Funds Awarded to the Puerto Rico Department of Transportation and Public Works

April 9, 2020

Why We Did This Audit

The DHS Office of Inspector General contracted with Williams Adley to conduct an audit to determine whether FEMA ensured Puerto Rico COR3 and its DTOP established and implemented policies, procedures, and practices to ensure PA grant funds awarded to disaster areas are accounted for and expended according to Federal regulations and FEMA guidance.

What We Recommend

We made three recommendations to FEMA Region II to improve COR3's and DTOP's management of FEMA PA funds, ensuring the funds are expended according to Federal regulations and FEMA guidance.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

Williams, Adley & Company–DC, LLP (Williams Adley) concluded the Federal Emergency Management Agency (FEMA) did not always ensure the Puerto Rico Central Office of Recovery, Reconstruction and Resiliency (COR3) and its Department of Transportation and Public Works (DTOP) established and implemented policies, procedures, and practices to account for and expend Public Assistance (PA) grant funds according to Federal regulations and FEMA guidance. Specifically, DTOP did not have: (1) an effective grants management process; (2) sufficient internal controls in the procurement process; and (3) sufficient controls over its processes for claiming Force Account Labor costs.

This occurred because FEMA and COR3 did not adequately oversee DTOP's grant management activities. DTOP relied on its employees' familiarity with their assigned roles and responsibilities to manage the PA grants. However, its employees did not have required procurement training and did not understand FEMA requirements for requesting reimbursement for compensatory time.

As a result, there is increased risk of noncompliance with PA grant requirements. DTOP may incur costs with excluded parties that are ineligible for reimbursement under the grant. Additionally, there is increased risk Federal funds will be used for unsupported or unallowable purposes.

FEMA's Response

FEMA concurred with the three recommendations and plans to take corrective action. Appendix B includes FEMA's response in its entirety.




OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

April 9, 2020

MEMORANDUM FOR: Thomas Von Essen
Regional Administrator, Region II
Federal Emergency Management Agency

FROM: Sondra F. McCauley 
Assistant Inspector General for Audits

SUBJECT: *Capacity Audit of FEMA Grant Funds Awarded
to the Puerto Rico Department of Transportation
and Public Works*

Attached for your action is our final report, *Capacity Audit of FEMA Grant Funds Awarded to the Puerto Rico Department of Transportation and Public Works*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving the Puerto Rico Department of Transportation and Public Works. Your office concurred with the three recommendations. Based on information provided in your response to the draft report, we consider recommendations 1 through 3 open and 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 recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and the disposition of any monetary amounts. Please send your response or closure request to, OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions at (202) 981-6000, or your staff may contact Maureen Duddy, Deputy Assistant Inspector General for Audits, at (617) 565-8723.

Attachment



April 9, 2020

Ms. Sondra F. McCauley
Assistant Inspector General for Audits
Office of Inspector General
U.S. Department of Homeland Security

Dear Ms. McCauley:

Williams, Adley & Company-DC, LLP performed an audit of the Puerto Rico Department of Transportation and Public Works' (DTOP) capacity to manage Federal Emergency Management Agency (FEMA) Public Assistance (PA) grant funds. We performed the audit in accordance with our Task Order No. HSIQAQ-17-A-00008, dated September 27, 2018. Our report presents the results of the audit and includes recommendations to help improve DTOP's management of FEMA PA funds.

We conducted our audit in accordance with applicable *Government Auditing Standards*, 2011 revision. The audit was a performance audit, as defined by Chapter 6 of the *Standards*, and included a review and report on program activities with a compliance element. Although the audit report comments on costs claimed by DTOP, we did not perform a financial audit, the purpose of which would be to render an opinion on DTOP's financial statements, or the funds claimed in the Financial Status Reports submitted to the Department of Homeland Security.

We appreciate the opportunity to have conducted this audit. Should you have any questions or need further assistance, please contact us at (202) 371-1397.

Sincerely,

A handwritten signature in black ink that reads 'Jocelyn Hill'.

Jocelyn A. Hill, CPA, CGFM
Partner



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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Abbreviations

COR3	Central Office of Recovery, Reconstruction, and Resiliency
DTOP	Department of Transportation and Public Works
FEMA	Federal Emergency Management Agency
GAO	U.S. Government Accountability Office
GSA	General Services Administration
OIG	Office of Inspector General
PAPPG	Public Assistance Program and Policy Guide



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Background

On September 6, 2017, Hurricane Irma’s center passed 50 nautical miles north of Puerto Rico as a category 5 hurricane causing severe wind and rain saturation on the island. Two weeks later, on the morning of September 20, 2017, Hurricane Maria made a direct hit on Puerto Rico as a category 4 hurricane. Although the storm moved offshore in the early afternoon of September 20, 2017, tropical storm-force winds continued late into the night causing catastrophic damage to electrical utilities, roads, bridges, and other public infrastructure throughout Puerto Rico. According to the National Hurricane Center, Hurricane Maria was the most intense hurricane to make landfall in Puerto Rico since 1928.¹ The President declared Hurricanes Irma and Maria as major disasters on September 10, 2017 and September 20, 2017, respectively.

The Puerto Rico Department of Transportation and Public Works (DTOP)² is one of the subrecipients in Puerto Rico that received assistance under the Federal Emergency Management Agency’s (FEMA) Public Assistance (PA) grant program.



Figure 1: Collapsed Segment of Road near Maricao, Puerto Rico
Source: GAO Report, GAO-19-662T, *EMERGENCY MANAGEMENT: FEMA’s Disaster Recovery Efforts in Puerto Rico and the U.S. Virgin Islands*

¹ *Puerto Rico Hurricanes – Status of FEMA Funding, Oversight, and Recovery Challenges*, U.S. Government Accountability Office (GAO), report GAO-19-256, March 2019.

² The Department of Public Works was created under Article IV, Section 6, of the Constitution of the Commonwealth of Puerto Rico. On January 2, 1973, the agency was renamed the Department of Transportation and Public Works and given responsibility for the Commonwealth’s Transportation Program, Highway Authority, Port Authority, and Metropolitan Bus Authority. DTOP is responsible for planning, promoting, and coordinating government activity related to transportation, and for formulating public policy related to land, air, and maritime transportation of the Commonwealth.



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Immediately following the disaster declaration, FEMA began working directly with DTOP to provide guidance and monitor its recovery effort related to PA grant funds. In April 2018, the Governor issued Executive Order 2017-065 to establish the Central Office of Recovery, Reconstruction, and Resiliency (COR3) of Puerto Rico to assume responsibility as the Governor's Authorized Representative and to monitor DTOP's management of disaster recovery funds.³ In June 2018 COR3 contracted with ICF Incorporated, LLC to review grant reimbursement claims and assist PA grant applicants with project formulation, and Deloitte & Touche, LLP to provide disaster recovery strategic and compliance services.

As of December 14, 2018 — the cutoff date of our audit — FEMA had obligated \$390,052,524 in PA grant funding to DTOP under 8 Project Worksheets (PW)⁴ for removal of debris and a boulder that threatened to fall on Puerto Rico Highway 155, as well as to clear a path for the inlet of a drainage system.

Grant Management Requirements

According to the Code of Federal Regulations (CFR) (2 CFR 200.331(d)), recipients are responsible for the proper administration of grants. For example, recipients are responsible for managing the day-to-day operations of grant and subgrant supported activities. In addition, recipients must ensure subrecipients are aware of and comply with Federal regulations in order to ensure compliance with applicable Federal requirements and achievement of performance goals.

It is FEMA's responsibility to monitor the state to ensure recipients are performing the required grant administration functions.⁵ Federal regulations require the Governor — acting for the state — and the FEMA Regional Administrator to execute a FEMA-State Agreement.⁶ The FEMA-State Agreement outlines the understandings, commitments, and conditions under which Federal disaster assistance is provided. Federal regulations also require the state to develop a State Administration Plan outlining the actions the state will take to fulfill its duties to FEMA.⁷ Accordingly, FEMA is responsible for holding the

³ <http://www.p3.pr.gov/assets/cor3-memorandum-2018-001.pdf>

⁴ A Project Worksheet is the primary form used to document the location, damage description and dimensions, scope of work, and cost estimate for each project (*Public Assistance Program and Policy Guide*, April 2018, p. 174). It is the basis for a subgrant and the PA grant funding (SOP9570.14, Dec. 2013, p. 4 of 32).

⁵ *PA Program Management and Grant Closeout* (FEMA SOP 9570.14), Section 6.3 FEMA Responsibilities: www.fema.gov/medialibrary/assets/documents/86377

⁶ 44 CFR 206.44(a)

⁷ 44 CFR 206.207



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state accountable to the terms and conditions of both the FEMA-State Agreement and the State Administration Plan.

In its FEMA-State Agreements,⁸ the recipient agreed to comply with, and require subrecipients to comply with, all applicable laws and regulations, including the Stafford Act⁹ and applicable FEMA policies and guidance. Federal regulation further requires recipients to monitor the subrecipients' activities to ensure that the subaward is in "compliance with Federal statutes, regulations, and the terms and conditions of the subaward."¹⁰

Results of Audit

Subrecipient Did Not Comply with Federal Requirements

FEMA did not ensure COR3 and DTOPT established and implemented policies, procedures, and practices to account for and expend PA grant funds. Specifically, DTOPT does not have an effective grants management process. During the period covered by our audit, DTOPT did not have written policies and procedures for overall grants management and did not have a central point of contact for all grant activity who was fully knowledgeable about PA grants. DTOPT also did not have sufficient controls to document procurement activities and disaster costs according to FEMA requirements. DTOPT needs additional technical assistance and monitoring to ensure compliance with Federal grant regulations.

Ineffective Grants Management Process

DTOPT did not have an effective grants management process. During our review of internal controls, we noted the following control deficiencies:

- *No written policies and procedures* - DTOPT did not have written policies and procedures related to the management of PA grants. Departments within DTOPT that supported grant administration, such as accounting and procurement, had written policies and procedures. However, there were no written policies and procedures for overall management of grants within DTOPT.

According to 2 CFR, Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, Section 200.303,

⁸ FSA-4336-FEMA-DR-state (Hurricane Irma) and FSA-4339-FEMA-DR-state (Hurricane Maria)

⁹ Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended

¹⁰ 2 CFR 200.331(d)



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Internal controls, “The non-Federal entity must: (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” (Green Book) issued by the Comptroller General of the United States.”

Standards for Internal Control in the Federal Government, September 2014 GAO-14-704G, details “documentation of responsibilities through policies” including:

12.02 Management documents in policies the internal control responsibilities of the organization.

12.03 Management documents in policies for each unit its responsibility for an operational process’s objectives and related risks, and control activity design, implementation, and operating effectiveness.

DTOP provided a hand-drawn flowchart of its grants process and acknowledged it did not have written policies and procedures to support some of the grant activities indicated on the flowchart. DTOP relied on its employees’ familiarity with assigned roles and responsibilities related to grants management.

In the absence of clear documentation and implemented grants management policies and procedures, there is increased risk the practices and procedures performed by DTOP will not align with FEMA regulations, thereby increasing the risk of noncompliance with PA grant requirements. Additionally, there is increased risk of fraud, waste, and abuse of grant funds, ineffective job performance by employees, and inconsistent training of new staff.

- *No grants manager with knowledge of PA grants* - DTOP did not have a grants manager who functioned as the central point of contact for all grant activity, and who was fully knowledgeable about PA grants and DTOP’s related policies and procedures. Typically, a grant manager directs the day-to-day activity of a grant, including communication with other departments within the organization that support grant administration, trains employees performing grants administration functions, and understands and prioritizes regulatory compliance.



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During the audit, we were referred to the Executive Director as the point of contact for the audit. However, the primary role of the DTOPE Executive Director with respect to the PA grant is technical performance of the work, not overall grant administration. There was no central point of contact within DTOPE with overall grant management responsibility and a complete understanding of DTOPE's administrative management of PA grants. Consequently, it was very challenging to obtain answers to basic grant-related questions. Additionally, DTOPE did not respond to audit requests before, during, and after audit fieldwork in a timely manner. For example, it took DTOPE 6 weeks to provide documentation requested prior to fieldwork. This information was received the day before fieldwork began and was substantially incomplete.

In addition to 2 CFR § 200.303 (as stated above), according to *Standards for Internal Control in the Federal Government*, September 2014 GAO-14-704G:

3.06 To achieve the entity's objectives, management assigns responsibility and delegates authority to key roles throughout the entity. A key role is a position in the organizational structure that is assigned an overall responsibility of the entity. Generally, key roles relate to senior management positions within an entity.

3.07 Management considers the overall responsibilities assigned to each unit, determines what key roles are needed to fulfill the assigned responsibilities, and establishes the key roles. Those in key roles can further assign responsibility for internal control to roles below them in the organizational structure, but retain ownership for fulfilling the overall responsibilities assigned to the unit.

During our fieldwork, DTOPE acknowledged its officials did not communicate efficiently among themselves, resulting in delays in providing the information we requested. Several DTOPE officials indicated uncertainty as to who was responsible for providing information during the audit.

Without a structured grants management process that includes controls related to segregation of duties, there is an increased risk of noncompliance with PA grant requirements.

Insufficient Internal Controls in Procurement Process

During our testing of 11 contracts awarded by DTOPE, valued at approximately \$229 million, we noted DTOPE did not:



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- Check for vendor debarment in the System for Award Management (SAM.gov) Federal registration. DTOPTOP relied on the General Services Administration (GSA) contractor registry for Puerto Rico with the understanding that GSA performs a debarment check as part of its contractor registration process; however, GSA does not perform this step.
- Maintain sufficient documentation to support vendor selection. DTOPTOP included in the procurement files the summary score sheet that presented the price comparison for the top four vendors for each solicitation, but did not include a detailed analysis of each solicitor's price information. Because a detailed analysis was not provided, we could not determine whether DTOPTOP performed a proper analysis of pricing for each potential vendor.
- Adhere to the procurement provisions of CFR 200.326 for three small debris removal contracts totaling \$500,000.

DTOP did not have sufficient procedures (GSA or price analysis) in place to ensure all procurement processes were consistently followed. DTOPTOP personnel did not have the proper procurement training related to the requirements for awarding contracts when using Federal funds.

Although DTOPTOP did not enter into contracts with vendors that were ineligible, suspended, or debarred, failure to perform the required procurement procedures increases the risk DTOPTOP may incur costs with excluded parties that are ineligible for reimbursement under the grant. Without proper documentation of its price analyses, there is increased risk DTOPTOP will award contracts to bidders whose price was not the most favorable the Government. Finally, failure to perform required procurement procedures may limit a contractor's responsibility to DTOPTOP.

According to 2 CFR Part 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*:

Section 200.213, Suspension and debarment: Non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Section 200.318, General procurement standards, (k) the non-Federal entity alone must be responsible, in accordance with good administrative practice and sound



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business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction

Section 200.323, Contract cost and price, (a) the non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

Section 200.326, Contract provisions: The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200 - Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Insufficient Controls over Force Account Labor Costs

DTOP's controls and processes for claiming costs under the PA grant are insufficient. Specifically, DTOP:

- Could not provide copies of timesheets to support disaster Force Account Labor. During our audit, we randomly selected a sample of 10 out of 629 individuals for whom force labor costs were to be claimed for September 2017 through December 2017. After several requests across a 3-month period, we received copies of timesheets, but they were not for any of the employees in our sample. Therefore, we were unable to verify whether the Force Account Labor DTOP was planning to claim was accurate.
- Has not yet claimed any Force Account Labor for Category A and B work although it has been more than 18 months since the disasters were declared for the island of Puerto Rico.

DTOP does not have sufficient controls over its processes for claiming Force Account Labor costs timely and maintaining time and attendance records for the PA grant. The process of managing documents at the regional level and submitting them to DTOP headquarters was ineffective because administrative staff at DTOP headquarters did not maintain documentation.



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DTOP stated it is not certain whether the compensatory time its employees received is eligible for reimbursement under the PA grant. DTOP said it is currently waiting on an opinion from its legal counsel about compensatory time for its employees.

Because DTOP has not yet claimed any Force Account Labor costs for reimbursement, we are not questioning any costs related to the 10 sampled individuals for whom timesheets were not provided.

DTOP's inability to account accurately for Force Account Labor costs may limit some or all reimbursements for these costs under the PA grant program. Furthermore, DTOP's inability to maintain adequate documentation to support costs under the grant may affect permanent work funding under the Public Assistance Alternative Procedures (PAAP) Pilot Program for Permanent Work, which requires subrecipients be able to prepare fixed-cost estimates and track and document actual costs.¹¹

2 CFR Section 200.400, *Policy guide* states: The application of these cost principles is based on the fundamental premises that: (d) the application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the non-Federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the Federal award.

An Applicant must maintain all source documentation supporting project costs according to the Public Assistance Program and Policy Guide (PAPPG) V3.1, Chapter 3 section 2(E) issued by FEMA. The Applicant should file all documentation pertaining to each project with the corresponding PW as the permanent record of the project to facilitate closeout and audits. The Recipient and the Applicant must keep all financial and program documentation for 3 years after the date of the Recipient's final Financial Status Report.

¹¹ The PAAP Pilot Program for Permanent Work was authorized under Section 428 of the Stafford Act as an alternative to FEMA's standard PA procedures set forth by Section 406 of the Act. The goals for the alternative procedures include reducing costs to the Federal Government, increasing flexibility in the administration of public assistance, expediting assistance, and providing financial incentives and disincentives for timely and cost-effective completion of projects. Use of PAAP requires the recipient and subrecipient be able to prepare fixed-cost estimates and track and document actual costs. Refer to *PAAP Guide for Permanent Work*, FEMA-DR-4339-PR.



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The PAPPG requires the Applicant to submit adequate support for costs claimed as follows:

Figure 2: Required Documentation for Force Account Labor

Documentation to Support Costs Claimed	
The Applicant should submit the following to support costs claimed (not an all-inclusive list): Applicant (Force Account) Labor and Prisoner Labor:	
For each individual:	
<input type="checkbox"/>	Name
<input type="checkbox"/>	Job title and function
<input type="checkbox"/>	Type of employee (i.e., full-time exempt, full-time non-exempt, part-time, temporary, prisoner, etc.)
<input type="checkbox"/>	Days and hours worked
<input type="checkbox"/>	Pay rate(s) and fringe benefit rate(s)
<input type="checkbox"/>	Description of work performed with representative sample of daily logs / activity reports, if available
<input type="checkbox"/>	Representative sample of timesheets
<input type="checkbox"/>	Fringe benefit calculations
<input type="checkbox"/>	Pay policy

Source: PAPPG, Version 3.1

Recommendations

Recommendation 1: We recommend the Regional Administrator, FEMA Region II, work with COR3 to provide technical assistance to DTOP to ensure it:

- reviews and updates policies and procedures ensuring compliance with the PA grant; and
- establishes internal controls to ensure clear, centralized leadership of grant administration.

Recommendation 2: We recommend the Regional Administrator, FEMA Region II, work with COR3 to:

- provide technical assistance to DTOP regarding procurement policies; and
- request that DTOP amend its procurement policy to address the provisions required by the CFR for State Agencies.

Recommendation 3: We recommend the Regional Administrator, FEMA Region II, work with COR3 to clarify with DTOP the allowability of claiming compensatory time for Force Account Labor.



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Management Comments and OIG Analysis

FEMA Comments

Recommendation 1: Concur. The FEMA Region II Regional Administrator will request that COR3 monitor DTOP, consistent with the Government of Puerto Rico's April 1, 2019 agreement with FEMA to establish clear centralized leadership for grants administration.

FEMA will also provide technical assistance to COR3 regarding its responsibility to ensure that DTOP establishes policies and procedures that comply with Federal regulations and to enforce DTOP's ability to use Category Z funds to support its recovery operation. ECD: February 28, 2021.

OIG Analysis

FEMA's corrective actions are responsive to this recommendation. However, the recommendation will remain resolved and open until we receive and review evidence that COR3 is monitoring DTOP, and that policies and procedures developed by DTOP comply with Federal regulations outlining its ability to use Z funds for recovery operations.

FEMA Comments

Recommendation 2: Concur. The FEMA Region II Regional Administrator will work with COR3 to provide technical assistance to DTOP regarding procurement and to request DTOP amend its policy to address the provision in 2CFR § 200.213. ECD: February 28, 2021.

OIG Analysis

FEMA's planned corrective action is responsive to the recommendation. However, the recommendation will remain resolved and open until we receive and review evidence that COR3 has provided technical assistance to DTOP regarding procurement policies, and that DTOP has amended its procurement policy to address the provisions required by the CFR.

FEMA Comments

Recommendation 3: Concur. The FEMA Region II Regional Administrator will work with COR3 to review with DTOP the eligibility guidelines for forced account labor as documented in the PAPPG. ECD: February 28, 2021.



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OIG Analysis

FEMA's planned corrective action is responsive to the recommendation. However, the recommendation will remain resolved and open until we receive and review evidence that COR3 has clarified for DTOP the allowability of claiming compensatory time for forced account labor.



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Appendix A

Objective, Scope, and Methodology

We audited the capacity of DTOPTOP to manage FEMA PA grant funds. Our audit objective was to determine whether FEMA ensured COR3 and DTOPTOP established and implemented policies, procedures, and practices to ensure PA grant funds awarded to disaster areas are accounted for and expended according to Federal regulations and FEMA guidance. We conducted this audit early in the grant process to identify areas in which DTOPTOP may need additional technical assistance or monitoring to ensure compliance with Federal procurement regulations.

To answer the objective, we:

- reviewed FEMA, COR3, and DTOPTOP policies, procedures, and practices for ensuring PA grant funds are accounted for and expended according to Federal regulations and FEMA guidance; and
- performed test work in the areas of internal controls, accounting system, insurance, procurement, and disaster costs.

We found DTOPTOP had established policies and procedures in accounting system and insurance. These policies and procedures were working and we found no issues in these areas.

We noted, however, DTOPTOP does not have an effective grants management process due to ineffective internal controls related to planning, organizing, directing, and controlling its program operations. DTOPTOP did not have written policies and procedures for overall grants management and did not have a central point of contact for all grant activity who was fully knowledgeable about PA grants. See Finding 1, *Ineffective Grants Management Process*, on page 4 of this report.

We also noted two findings in procurement and costs related to insufficient controls to document procurement activities and disaster costs according to FEMA requirements. See Finding 2, *Insufficient Internal Controls in Procurement Process*, and Finding 3, *Insufficient Controls over Force Account Labor Costs* on pages 6 and 8 of this report, respectively.



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Our audit covered the period September 5, 2017 through December 14, 2018 and covered the Disaster Numbers below:

- EM-3384: emergency declared on September 5, 2017 due to Hurricane Irma.
- DR-4336: disaster declared on September 10, 2017 due to Hurricane Irma.
- DR-4339: disaster declared on September 20, 2017 due to Hurricane Maria.

Below is a summary of the samples¹² selected:

Table 1: Value of Contracts Tested

	Contracts (Procurement)	Contract Costs
Population	\$ 250,064,043	\$159,953,177
Sample	\$ 228,800,000	\$84,422,608
Percent (%) Tested	91%	53%

Source: DTOP PA Contract Data

We assessed the reliability of contract data by (1) performing testing of required data elements, (2) reviewing existing information about the data, and (3) interviewing agency officials knowledgeable about the data. In addition, we traced a statistically random sample of data to source documents. We determined the data was sufficiently reliable for the purposes of this report.

To accomplish our objective, we interviewed FEMA, COR3, and DTOP personnel, and reviewed and gained an understanding of the policies, procedures, and practices DTOP uses and plans to use to account for and expend Federal grant funds, as well as procure and monitor contracts for disaster work. We performed testing as appropriate in the areas of accounting system, insurance, contracting, and disaster costs.

We conducted our performance audit between October 2018 and May 2019 pursuant to the *Inspector General Act of 1978*, as amended, and according to *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 the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.

¹² DTOP had not claimed any force account costs or direct administrative costs as of December 14, 2018. See the Results section, above.



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Appendix B
FEMA Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20528



FEMA

March 5, 2020

MEMORANDUM FOR: Sondra F. McCauley
Assistant Inspector General for Audits

FROM: Thomas Von Essen *Thomas Von Essen*
Regional Administrator, Region II *for*
Federal Emergency Management Agency

SUBJECT: Management Response to Draft Report: "Capacity Audit of
FEMA Grant Funds Awarded to the Puerto Rico Department of
Transportation and Public Works"
(Project No. 19-016-AUD-FEMA)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

FEMA appreciates OIG's recognition of the catastrophic damage to the Commonwealth of Puerto Rico's utilities, roads, bridges, and other public infrastructure caused by Hurricane Maria (Hurricane) in 2017. This unprecedented event occurred at a time of financial difficulties and limited workforce capacity for Puerto Rico and its agencies.

In partnership with the Government of Puerto Rico and to further FEMA's mission of helping people before, during, and after disasters, DHS and FEMA committed to provide effective and timely recovery assistance to disaster survivors. In 2018, the Governor of Puerto Rico established the Central Office of Recovery, Reconstruction, and Resiliency (COR3) to monitor, manage and administer federal disaster recovery funding.

In November 2017, FEMA implemented a manual reimbursement process for eligible projects under the Public Assistance Grant Program. As the result of COR3 taking numerous steps to develop its grants management process, FEMA lifted the manual drawdown process effective April 1, 2019. The agreement, signed by COR3 and FEMA, established that COR3 took the steps necessary to implement fiscal controls, accounting procedures, and project administration procedures at the recipient and sub-recipient levels, ensuring it is ready, willing and able to assume the responsibility and access to the



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federal grant funds. This includes the execution of all phases of the grants management process for both the recipient and sub-recipient in accordance with all applicable federal laws, regulations, and administrative requirements.

FEMA continues monitoring COR3 as the grant recipient and will provide technical assistance as needed to ensure that COR3 maintains its ability to manage its grants. As noted in the draft report, the Department of Transportation and Public works (DTOP) needs additional support to implement steps to ensure it is able to manage its grants effectively.

The draft report contained three recommendations, with which the Department concurs. Attached find our detailed response to each recommendation. DHS previously submitted technical comments under a separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Attachment



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Attachment: Management Response to Recommendations Contained in OIG 19-016-AUD-FEMA

OIG recommended that the Regional Administrator, FEMA Region II:

Recommendation 1: Work with COR3 to provide technical assistance to the Puerto Rico Department of Transportation and Public Works (DTOP) to ensure it:

- reviews and updates policies and procedures ensuring compliance with the PA grant; and
- establishes internal controls to ensure clear, centralized leadership of grant administration.

Response: Concur. The FEMA Region II Regional Administrator will request that COR3 monitor DTOP, consistent with the Government of Puerto Rico's April 1, 2019 agreement with FEMA to establish clear centralized leadership for grants administration.

FEMA will also provide technical assistance to COR3 regarding its responsibility to ensure that DTOP establishes policies and procedures that comply with Federal regulations and to reinforce DTOP's ability to use Category Z funds to support its recovery operation. Estimated Completion Date (ECD): February 28, 2021.

Recommendation 2: Work with COR3 to:

- provide technical assistance to DTOP regarding procurement policies; and
- request that DTOP amend its procurement policy to address the provisions required by the CFR for State Agencies.

Response: Concur. The FEMA Region II Regional Administrator will work with COR3 to provide technical assistance to DTOP regarding procurement and to request DTOP amend its policy to address the provision in 2 C.F.R. § 200.213. ECD: February 28, 2021.

Recommendation 3: Work with COR3 to clarify with DTOP the allowability of claiming compensatory time for Force Account Labor.

Response: Concur. The FEMA Region II Regional Administrator will work with COR3 to review with DTOP the eligibility guidelines for force account labor as documented in the PAPPG. ECD: February 28, 2021.



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Appendix C

Description of the FEMA Public Assistance Program

The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, as amended, 42 U.S.C. 5121-5207 (Stafford Act) authorizes the Public Assistance (PA) Grant Program. Following a major Presidential disaster declaration, the Stafford Act authorizes FEMA to provide PA funding for disaster relief to state, local, and tribal governments and to certain non-profit organizations. The PA grants can be authorized, among other things, for:

- Assistance for debris removal (Category A) (Section 407 of the Stafford Act);
- Assistance essential to meet immediate threat to life and property resulting from a major disaster (Category B) (Section 403 of the Stafford Act); and
- Assistance for the repair, restoration, and replacement of damaged facilities (Categories C-G) (Section 406 of the Stafford Act), which includes certain hazard mitigation measures.

The PA Program is administered through a coordinated effort between FEMA, the recipient (usually a state), and the subrecipients (applicants). While all three entities must work together to meet the overall objective of quick and effective program delivery, each has a different role.

FEMA and the recipient share responsibility for making PA funds available to subrecipients. FEMA uses a Project Worksheet (project) for each project to record the scope of eligible work, estimated or actual costs necessary to complete the work, and special considerations associated with the work. The project serves as the basis for Federal funding. Once FEMA approves a project, it obligates the Federal share of the approved amount and makes it available to the recipient. The obligated funds are available to the recipient via electronic transfer and reside in a Federal account until the recipient approves funding to eligible subrecipients.

The recipient is responsible for notifying the subrecipients that funds are available, and for disbursing those funds to the subrecipients. The recipient is also responsible for providing technical advice and assistance to eligible subrecipients. This ensures all potential subrecipients are aware of the available assistance programs, providing support for damage assessment operations, monitoring subrecipients' activities to ensure the subaward is used in compliance with Federal statutes and regulations, and submitting the necessary paperwork for grant awards. Subrecipients are responsible for identifying



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damage, providing data for developing scopes of work and estimates of costs on projects, managing projects funded under the PA program (day-to-day operations), and documenting claimed costs. The PA program is a cost reimbursement program.

For disasters declared after November 13, 2007, the recipient receives a fixed management cost rate of 3.34 percent (capped at \$20 million) of the expected disaster costs that can be shared with the subrecipients at the discretion of the recipient. FEMA is required to review this rate periodically to determine whether adjustments are necessary. In addition, subrecipients can claim direct administrative costs for each project (no allocated costs).

On January 29, 2013, the Sandy Recovery Improvement Act (SRIA) was signed into law. Part of the legislative intent of SRIA was to streamline administrative procedures and improve the effectiveness of several disaster assistance programs authorized by the Stafford Act, including Public Assistance. Section 1102 of SRIA revises the Stafford Act by creating a new Section 428 authorizing the FEMA Administrator to establish and adopt alternative procedures for debris removal and permanent work projects effective for major disasters declared on or after May 20, 2013.

Section 20601 of the Bipartisan Budget Act of 2018 authorizes FEMA to provide assistance, pursuant to Section 428 of the Stafford Act, for critical services as defined in Section 406. This new authority allows FEMA to provide assistance to restore disaster-damaged facilities or systems that provide the specifically identified critical services to an industry standard without regard to pre-disaster condition. The authority is exclusive to assistance authorized by the major disaster declarations issued to Puerto Rico and the United States Virgin Islands following Hurricanes Irma and Maria. The Bipartisan Budget Act of 2018 also allows the Oversight Board¹³ to review any federal funds exceeding \$10 million that are designated for recovery from Hurricanes Irma and Maria.

¹³ The Oversight Board was created as a result of the Puerto Rico Oversight, Management, and Economic Stability Act of 2016 (Public Law 114-187).



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Appendix D
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