

**Victor Valley Wastewater
Reclamation Authority in
Victorville, California, Did
Not Properly Manage \$32
Million in FEMA Grant
Funds**





DHS OIG HIGHLIGHTS

Victor Valley Wastewater Reclamation Authority in Victorville, California, Did Not Properly Manage \$32 Million in FEMA Grant Funds

January 24, 2017

Why We Did This Audit

The Victor Valley Wastewater Reclamation Authority in Victorville, California (Authority), received a \$41.3 million FEMA grant for damages resulting from a flooding disaster declared in January 2011. We audited three contracts totaling \$31.7 million for Project 828, a major pipeline construction project, or 77 percent of the \$41.3 million total award.

What We Recommend

FEMA and California should disallow \$31.7 million in ineligible costs and determine whether additional regulatory and ethical violations or gross mismanagement occurred.

For Further Information:

Contact our Office of Public Affairs at (202) 254-4100, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

The Authority did not comply with Federal regulations in its award and administration of three contracts totaling \$31.7 million. As a result, FEMA has no assurance that these costs were reasonable or that the Authority selected the most qualified contractors. Specifically, the Authority did not —

- perform cost/price analyses of bid proposals to ensure fair and reasonable costs;
- follow its own procurement policy and Federal regulations when evaluating and selecting its contractors;
- include all mandatory Federal provisions in contracts to document rights and responsibilities of the parties;
- maintain records sufficient to detail the significant history of its procurements;
- maintain an adequate contract administration system that included careful review of invoices; or
- include a ceiling price in time-and-material contracts that contractors exceed at their own risk.

The Authority also did not properly account for contract costs. Federal regulations and FEMA guidelines require subgrantees to account for costs by project. However, the Authority did not issue separate purchase orders to segregate costs for different FEMA projects, nor require its contractors to code the costs on a project-by-project basis. Commingling costs for different FEMA projects increased the Authority's risk of claiming unsupported costs.

FEMA Response

FEMA agreed with our findings and recommendations and provided us their written response on October 24, 2016 (see appendix C).



OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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

January 24, 2017

MEMORANDUM FOR: Robert Fenton
Regional Administrator, Region IX
Federal Emergency Management Agency
Thomas M. Salmon

FROM: Thomas M. Salmon
Assistant Inspector General
Office of Emergency Management Oversight

SUBJECT: *The Victor Valley Wastewater Reclamation Authority in
Victorville, California, Did Not Properly Manage
\$32 Million in FEMA Grant Funds
Audit Report Number OIG-17-25-D*

We audited Federal Emergency Management Agency (FEMA) Public Assistance Program grant funds awarded to the Victor Valley Wastewater Reclamation Authority in Victorville, California (Authority). The California Governor's Office of Emergency Services (California), a FEMA grantee, administered the \$41.3 million grant FEMA awarded for damages from severe winter storms and flooding that occurred from December 17, 2010, through January 4, 2011. The award provided 75 percent FEMA funding for four large projects and two small projects. We audited three contracts totaling \$31.7 million for Project 828 (see table 1), a major pipeline construction project, or 77 percent of the \$41.3 million total award. This report focuses on the Authority's contracting and accounting practices for Project 828. A subsequent report will focus on misleading information the Authority provided to FEMA to develop the scope of work for Project 828.

Background

The Victor Valley Wastewater Reclamation Authority, formed in 1976, provides wastewater treatment for the High Desert area of San Bernardino County. It treats about 11 million gallons of wastewater per day. On December 29, 2010, severe winter storms, flooding, debris flows, and mud flows caused a break in the Authority's wastewater pipeline. The Authority, in close coordination with its engineering contractor, selected an alternative method of repair instead of returning the sewer line to its pre-disaster condition, where a portion of the pipeline was located in the Mojave riverbed. This alternative method placed most of the pipeline outside of the riverbed and along the streets of the City of Victorville, California. FEMA awarded the Authority \$33.1 million under Project



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828 to construct the new pipeline using this alternative method.¹ The Authority had generally completed the construction work as of August 2016.

Results of Audit

The Authority did not properly account for and expend \$31.7 million of FEMA grant funds awarded for Project 828 — a major pipeline construction project. As a result, FEMA has no assurance that these costs were reasonable or that the Authority selected the most qualified contractors. Specifically, the Authority did not —

- perform cost/price analyses of bid proposals to ensure fair and reasonable costs;
- follow its own procurement policy and Federal regulations when evaluating and selecting its contractors;
- include all mandatory Federal provisions in contracts to document rights and responsibilities of the parties;
- maintain records sufficient to detail the significant history of its procurements;
- maintain an adequate contract administration system that included careful review of invoices; or
- include a ceiling price in time-and-material contracts that contractors exceed at their own risk.

The Authority also did not appropriately account for contract costs. Federal regulations and FEMA guidelines require subgrantees to account for costs by project. However, the Authority did not issue separate purchase orders to segregate costs for different FEMA projects, nor require its contractors to code the costs on a project-by-project basis. As a result of this commingling, the Authority charged duplicate costs to multiple FEMA projects, thereby increasing the risk of the Authority overstating its claims for FEMA funding.

California had informed the Authority of some of these issues in early 2013, *before* the Authority awarded its construction and construction management contracts totaling \$30,582,785. However, the Authority did not take proper steps to correct these deficiencies. Thus, we question as ineligible \$31,713,569 of the funds FEMA awarded to the Authority for Project 828.

We also determined that the Authority and its main engineering contractor (Contractor C) presented misleading data to FEMA that resulted in FEMA

¹ Further, the Authority has recently requested more than \$6 million in additional FEMA funding.



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providing millions in funding to the Authority.² We will present these findings and recommendations in a subsequent report.

Finding A: Improper Procurement

The Authority did not follow applicable Federal regulations in procuring contracts totaling \$31,713,569 for Project 828. As a result, FEMA has no assurance that these costs were reasonable or that the Authority selected the most qualified contractors. Table 1 lists the three contracts we reviewed for Project 828.

Table 1: Contracts Reviewed for Project 828

Contract Type	Contract Amount	Amount Questioned
Construction	\$28,782,129	\$28,782,129
Construction Management	1,800,656	1,800,656
Engineering	1,130,784	1,130,784
Totals	\$31,713,569	\$31,713,569

Source: Authority documentation and Office of Inspector General (OIG) analyses

According to 44 Code of Federal Regulations (CFR) 13.36(b)(1), “Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.” However, for the three contracts we reviewed, the Authority did not comply with its own and Federal procurement requirements.

The Authority did not perform cost/price analyses, as required, in awarding and modifying its engineering contract (44 CFR 13.36(f)(1) and (3)). It did not develop independent estimates before receiving proposals or perform cost analyses for every procurement action, including contract modifications. For example, when the Authority approved Contractor C’s

The Authority accepted the contractor’s costs without verification. It modified all three contracts multiple times, including 15 modifications to the contract with Contractor C alone, escalating its value to more than three times the original price.

change order requests, it accepted the contractor's own assessment of costs incurred and funds needed, without verification. In fact, the

² The Authority evaluated three engineering contractors that we refer to as Contractors A, B, and C, and it selected Contractor C. We discuss this selection process in finding A.



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Authority was not able to verify Contractor C's costs billed because Contractor C did not itemize the costs by the agreed-upon tasks in its invoices. Without knowing actual costs incurred, the Authority was not able to determine the amount of additional funds needed for each task. A member of the Authority's Board publicly expressed his frustration with the lack of oversight of contract modifications (change orders): "The philosophy in that agency is, if you run over a budget, just do a change order ... there are so many of them, you can't even keep track of them." This statement described precisely what happened. The Authority modified all three contracts (engineering, construction, and construction management) multiple times, including 15 modifications to the contract with Contractor C alone, escalating its value to more than three times the original bid price of \$410,520 to \$1,282,809.³ Because of these numerous modifications, Authority officials were not able to track the contract ceilings and paid Contractor C, on multiple occasions, more than the amount the contract authorized.⁴

The Authority did not follow its own procurement policy and Federal regulations when evaluating contractor proposals and selecting its engineering contractor (44 CFR 13.36(d)(3)(v)). The Authority's policy requires it to select its professional services (e.g., engineering) contractors based on qualifications. Federal regulations require the Authority to identify

The Authority bypassed both sets of requirements: it did not comply with Federal requirements and its own policies, and did not evaluate the proposals properly or fairly.

all requirements and factors to be used in evaluating proposals in the solicitations (44 CFR 13.36(c)(3)) and have a method for evaluating the technical proposals

(44 CFR 13.36(d)(3)(iii)). However, the Authority bypassed both sets of requirements: it did not comply with Federal requirements or its own policies, and did not evaluate the proposals properly or fairly. Specifically, the Authority —

- did not involve its Engineering Committee properly. To select the most qualified contractors, the Authority's standard process includes these three steps: its Engineering Committee approves the request for proposals, reviews the proposals, and recommends a contractor to the Authority's Board for approval. However, in selecting its engineering contractor, the Authority did not seek the Committee's approval of the

³This amount included \$152,025 for Project 1136.

⁴For example, as of May 2014, the Authority's Board authorized only \$798,672 for Project 828, but the Authority paid Contractor C \$855,914.



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request for proposals nor allow the Committee enough time to conduct proper assessments of the proposals.⁵

- allowed one committee member's significantly disproportionate rating to be one of the decisive factors in the Authority's contractor selection process. Two of the five committee members scored the three proposals very closely; another two did not provide scores; and another gave Contractor C a perfect 100 points and the other proposals the unusually low scores of 78 and 76, respectively (see table 2). This disparity is especially concerning because the rater did not justify the scores, and the Authority did not provide us the rating sheet or explanations for not providing it. Further, Authority officials did not question the validity of these extreme scores or have a process to ensure uniformity and fairness in applying the criteria. They simply tallied the three scores, allowing the third disproportionate score to propel Contractor C's rating from the lowest overall score to the highest.

Table 2: Scores of the Proposals

Rater	Contractor A	Contractor B	Contractor C
#1	87	84	85
#2	87	88	84
Subtotal	174	172	169
#3 ⁶	78	76	100
Total Score	252	248	269

Source: Authority documentation and OIG analyses

- did not disclose all factors used in evaluating proposals in the solicitation as Federal regulations require (44 CFR 13.36(c)(3)). The Authority's request for proposals did not identify pricing as an evaluation criterion. After the evaluators had already scored the proposals, the Authority unilaterally added pricing as the decisive contractor selection factor. Therefore, the Authority unfairly and improperly deviated from its evaluation criterion.

⁵The Authority gave the Committee about 3 business days to evaluate the proposals posted to the Authority's web site. Authority officials, via separate instructions, directed the Committee to complete an evaluation form that scores the proposals on a 100-point scale. The Authority received only three sets of scores from the Committee's five members. The two remaining members ranked the proposals instead of completing the form; and one of the two had difficulty accessing the proposals.

⁶Because the Authority did not provide us this rating sheet, we calculated the scores based on the other two rating sheets and the total scores recorded in the Authority's Board meeting minutes.



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The Authority did not include all mandatory Federal provisions in the three contracts we reviewed (44 CFR 13.36(i)). Federal regulations require contracts and subcontracts to include specific provisions, such as giving the grantee and FEMA the right to examine the contractor's records and providing administrative, contractual, or legal remedies in instances where the contractor violates or breaches the contract terms. These contract provisions document the rights and responsibilities of the parties and minimize the risk of contract misinterpretations and disputes. California became aware of this issue in early 2013 and promptly advised the Authority of the noncompliance. However, the Authority only amended the contracts that California had reviewed, and did not take steps to amend any other contracts or its procurement policies. Consequently, the Authority did not include all required provisions in *any* of the contracts we reviewed.

The Authority did not maintain records sufficient to detail the significant history of selecting its engineering contractor, as Federal regulations require (44 CFR 13.36(b)(9)). The Authority did not maintain one of the three rating sheets that were critical in the Authority's selection of Contractor C. The missing rating sheet gave Contractor C the highest score, while the combined scores of the other two rated Contractor C the lowest (see table 2).

The Authority did not maintain an adequate contract administration system (44 CFR 13.36(b)(2)) because it did not adequately review invoices for the engineering and construction management contracts for accuracy, support, and eligibility. For example, the Authority —

- overlooked a variety of errors, such as typographical mistakes, overstated mileage, and incorrect hourly labor rates within Contractor C's invoices.⁷
- permitted Contractor C's charges for computer usage based on total staff hours instead of computer usage logs. Because this contractor also charged FEMA for vehicle mileages for the same periods, it appeared that the staff were driving and operating computers at the same time.
- allowed both contractors to incur costs *before* the Authority's approval. During the period of April 2014 through December 2015, the Authority received 12 invoices from Contractor C. The cumulative total cost on 11 separate invoices exceeded the contract ceiling at the time of the invoice.

⁷ For example, Contractor C billed the services of its Engineer II at a rate of \$127/hour from May to September 2011. Although it began using the correct rate of \$107/hour starting in October 2011, it did not correct the overbilling.



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- permitted Contractor C to not itemize costs based on the agreed-upon tasks. Without knowing the costs incurred for each task, the Authority could not monitor the contractor's costs or perform analyses properly of contract modifications.
- did not match the invoices with purchase orders to ensure that payments were within the amount the contract or purchase orders authorized. As a result, the Authority's payments to Contractor C exceeded the purchase order limits. The Authority's practice violated its procurement policy requiring the matching of invoices with purchase orders.

The Authority did not comply with Federal regulations that require including a ceiling price in time-and-material contracts (44 CFR 13.36(b)(10)). The Authority increased the value of these time-and-material contracts multiple times, including 15 increases to the engineering contract. Not only did the Authority neglect to perform the required cost analyses for these modifications, it included costs in the modifications to cover costs already incurred, shifting the burden of funding cost overruns from the contractors to the Authority, California, and FEMA. Instead of ensuring its contractors performed in accordance with the contract terms, the Authority provided compensation based on the contractors' terms. Although both contracts had not-to-exceed ceilings, the Authority invalidated those ceilings by disregarding them.

On March 11, 2016, we provided Authority officials a discussion document that outlined our concerns with its contracting practices — specifically the lack of cost/price analysis, procurement history documentation, and proper methods for evaluating proposals. We also met with the officials to discuss these findings and requested the Authority provide us with documentation to support

When the Authority amended these time-and-material contracts, some of the modifications were to cover costs already incurred. Further, although both contracts had not-to-exceeded ceilings, the Authority invalidated those ceilings by disregarding them.

any challenges to our results. The Authority declined to discuss the findings with us, saying that its attorneys would provide us written comments, which we received on March 24, 2016. Authority officials

disagreed with virtually all the issues we presented in our discussion document but did not provide any evidence to support their assertions.

On September 26, 2016, we provided our draft report to Authority officials and requested an audit exit meeting. Again they informed us that their attorneys would respond to the report. We received their response on October 20, 2016. Authority officials generally disagreed with our findings and recommendations,



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and explained that their actions were appropriate, justified as a result of the emergency, or did not result in a material impact. The Authority's response also included over 1,300 pages of documentation. We determined that the documentation the Authority provided generally included the same records we collected and reviewed during our audit fieldwork and did not change the finding or conclusions in this report. We are providing the documents to FEMA for its consideration in audit follow-up.

California officials did not comment on this finding. FEMA officials concurred with our findings and recommendations.

Finding B: Improper Accounting

The Authority did not account for its large project expenditures on a project-by-project basis, as Federal regulations require (44 CFR 206.205(b)). The Authority did not issue separate purchase orders to segregate costs for different FEMA projects or require its contractors to code the costs on a project-by-project basis, resulting in comingled costs for different FEMA projects. Contractor C requested, and the Authority approved, at least \$152,025 for tasks performed for Project 1136.⁸ However, because Contractor C's invoices did not properly identify costs for these tasks, the Authority charged all Contractor C's costs to Project 828.⁹

By comingling costs, the Authority charged unsupported costs to the FEMA project. Further, California notified the Authority that its accounting system could not accurately track project costs, yet the Authority did not take proper steps to correct the deficiencies.

As a result, the Authority overstated the costs for Project 828, which California and FEMA should deduct from the Authority's claims. California and FEMA should also review costs associated with the Authority's other large projects, especially Project 1136, and disallow any costs

that are unsupported.

Authority officials told us that many of the deficiencies we identified were immaterial and that they took immediate action to correct them.

California officials agreed with our finding. They provided us documentation demonstrating that they notified the Authority in 2013 and 2015 that its

⁸ Because Contractor C did not identify the specific amount requested for Project 1136 on some of its change order request, we were not able to determine the additional amount.

⁹ In addition, the Authority charged an invoice for \$96,003 to both Project 828 and Project 1136.



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accounting system could not accurately track project costs. However, the Authority did not take proper steps to correct the deficiencies.

FEMA officials agreed with our findings and recommendations.

Conclusion

The Authority did not comply with Federal requirements, or with its own policies, in procuring contracts and accounting for costs for its FEMA grant. Our next report on Project 828 will discuss how the Authority and Contractor C misled FEMA to fund a significantly more expensive repair methodology for work beyond what was needed to bring its pipeline back to pre-disaster condition.

Recommendations

We recommend that the Regional Administrator, FEMA Region IX:

Recommendation 1: Disallow \$31,713,569 (\$23,785,177 Federal share) in ineligible contract costs, unless FEMA grants an exception to administrative requirements, which include Federal procurement standards, as 44 CFR 13.6(c) allows and determines the costs are eligible and reasonable.

Recommendation 2: Review costs associated with the Authority's other large projects, especially Project 1136, and disallow any costs that are ineligible.

Recommendation 3: Review the process the Authority used to procure its engineering contract to determine whether regulatory and ethical infractions or gross mismanagement occurred. If such infractions or gross mismanagement occurred, FEMA should work with the Department of Homeland Security Office of Inspector General and Suspension and Debarment Official to debar the responsible organizations and individuals so that they are excluded from receiving benefits from Federal programs, as well as prohibited from future contracting with any agency in the Executive Branch of the U.S. Government for a specified period under 2 CFR 180.125(b).

Recommendation 4: Direct California to provide increased guidance to the Authority and more closely monitor its performance to ensure the Authority complies with mandatory Federal regulations and FEMA guidelines.



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Discussion with Management and Audit Follow-up

We discussed the results of this audit with Authority officials during our audit and briefed FEMA, California, and the Authority on our audit findings. We also provided a draft report in advance to FEMA, California, and Authority officials, and discussed it at exit conferences with FEMA on September 26, 2016, and with the Authority and California on October 5, 2016.

FEMA Region IX officials provided a written response on October 24, 2016, agreeing with our findings and recommendations (see appendix C). The response indicated that FEMA expects to implement its proposed corrective actions to address recommendations 1, 2, and 3 by July 31, 2017, and recommendation 4 by January 31, 2017. Therefore, we consider all four recommendations resolved but open. We will close the recommendations when we receive and review documentation that FEMA has completed its proposed corrective actions. Please email closeout documentation and request to Humberto.Melara@oig.dhs.gov.

The Office of Emergency Management Oversight major contributors to this report are Humberto Melara, Director; Devin Polster, Audit Manager; Arona Maiava, Senior Auditor; Connie Tan, Senior Auditor; and Curtis Johnson, Senior Auditor.

Please call me with any questions at (202) 254-4100, or your staff may contact Humberto Melara, Director, Western Regional Office, at (510) 637-1463.



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Appendix A Objective, Scope, and Methodology

We audited FEMA Public Assistance grant funds awarded to the Victor Valley Wastewater Reclamation Authority, California, Public Assistance Identification Number 071-UI89M-00, for Project 828. Our audit objective was to determine whether the Authority accounted for and expended FEMA Public Assistance Program grant funds according to Federal regulations and FEMA guidelines for FEMA Disaster Number FEMA-1952-DR-CA. California, a FEMA grantee, administered the \$41.3 million grant FEMA awarded for damages resulting from severe winter storms, flooding, debris and mud flows from December 17, 2010, through January 4, 2011. The award provided 75 percent FEMA funding for four large projects and two small projects (see table 3).¹⁰ We audited three contracts totaling \$31.7 million for Project 828 (see table 3), a major pipeline construction project, or 77 percent of the \$41.3 million total award.

Table 3: Schedule of Projects and Questioned Costs

Project Number	Category of Work ¹¹	Award Amount	Costs Audited and Questioned
Project Audited			
828	F	\$ 33,124,002	\$ 31,713,569
Subtotal		\$33,124,002	\$31,713,569
Projects Not Audited			
890	A	\$1,010	\$0
891	F	65,029	0
892	F	163,387	0
906	F	23,930	0
1136	B	7,954,740	0
Subtotal		\$ 8,208,096	\$ 0
Totals		\$41,332,098	\$31,713,569

Source: OIG analyses of FEMA and Authority documentation

¹⁰ Federal regulations in effect at the time of the disaster set the large project threshold at \$63,900 [Notice of Adjustment of Disaster Grant Amounts, Vol. 75, No. 194 (Oct. 6, 2010)].

¹¹ FEMA identifies type of work by category: A for debris removal, B for emergency protective measures, and F for public utilities.



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Appendix A (continued)

This report focused on the Authority's procurement and accounting practices. We reviewed the award and administration of three contracts (engineering,¹² construction, and construction management) valued at \$31,713,569, or 96 percent of the \$33,124,002 FEMA awarded to the Authority for Project 828. The audit covered the period from December 17, 2010, to December 27, 2015. A subsequent report will focus on information the Authority provided to FEMA to develop the scope of work for Project 828.

To accomplish our objectives, we interviewed FEMA, California, and Authority officials; gained an understanding of the Authority's procurement policies and procedures and its method of accounting for disaster-related costs; judgmentally selected and reviewed (generally based on dollar amounts) project costs and procurement transactions for Project 828; reviewed applicable Federal regulations and FEMA guidelines; and performed other procedures considered necessary to accomplish our audit objective. As part of our standard audit procedures, we also notified our Office of Information Technology Audits of all contracts the subgrantee awarded under the grant that we reviewed to determine whether the contractors were debarred or whether there were any indications of other issues related to those contractors that would indicate fraud, waste, or abuse. As of the date of this report, the Office of Information Technology Audits' analysis of contracts was ongoing. When it is complete, we will review the results and determine whether additional action is necessary. We did not perform a detailed assessment of the Authority's internal controls applicable to its grant activities because it was not necessary to accomplish our audit objective.

We conducted this performance audit between June 2015 and September 2016, 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objective. We conducted this audit by applying the statutes, regulations, and FEMA policies and guidelines in effect at the time of the disaster.

¹² We included \$1,130,784 of the engineering contract for Project 828 in our audit scope. This contract also included \$152,025 for Project 1136 (for construction of a temporary bypass pipeline), which was not part of our audit.



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Appendix B
Potential Monetary Benefits

Table 4: Summary of Potential Monetary Benefits

Type of Potential Monetary Benefit	Total	Federal Share
Questioned Costs – Ineligible	\$31,713,569	\$23,782,177
Questioned Costs – Unsupported		
Funds Put to Better Use		
Totals	\$31,713,569	\$23,782,177

Source: OIG analyses of findings in this report



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Appendix C
FEMA's Comments to the Draft Report

U.S. Department of Homeland Security
Region IX
1111 Broadway, Suite 1200
Oakland, CA 94607-4052

OCT 24 2016

 **FEMA**

MEMORANDUM FOR: Humberto U. Melara
Director, Western Regional Office
Office of Inspector General

FROM: Robert J. Fenton 
Regional Administrator
FEMA Region IX

SUBJECT: FEMA-1952-DR-CA
Subrecipient: Victor Valley Wastewater Reclamation Authority;
PA ID: 071-UI89M-00
Response to Draft Audit Report, OIG-17-##-D,
*The Victor Valley Wastewater Reclamation Authority in Victor
Valley, California, Did Not Properly Account for and Expend
\$31.7 Million in FEMA Grant Funds*
FEMA Log: 309312.2

On September 19, 2016, the Office of Inspector General (OIG) Western Regional Office transmitted the draft audit report *The Victor Valley Wastewater Reclamation Authority in Victor Valley, California, Did Not Properly Account for and Expend \$31.7 Million in FEMA Grant Funds*. The OIG audited the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) Public Assistance grant funds awarded to the Victor Valley Wastewater Reclamation Authority (Subrecipient) under FEMA-1952-CA. The audit report listed the following four (4) recommendations based on findings related to the Subrecipient's procurement and accounting practices:

Recommendation 1: Disallow \$31,713,569 (\$23,785,177 Federal share) in ineligible contract costs, unless FEMA grants an exception to administrative requirements, which include Federal procurement standards, as 44 CFR 13.6(c) allows and determines the costs are eligible and reasonable.

FEMA's Response to Recommendation 1: Concur. FEMA does not grant exceptions for deliberate or avoidable violations of federal procurement and accounting requirements. FEMA and the California Governor's Office of Emergency Services (Cal OES) work closely with the Subrecipient to ensure that they are aware of all statutes, regulations, and policies regarding federal grants awarded for disaster recovery and that they have easy access to both printed and electronic copies of all applicable regulations. Furthermore, during the Applicants' Briefing and

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Appendix C (continued)

*Mr. Humberto U. Melara
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Kick-off Meeting, FEMA and Cal OES explain the requirements of procuring contracts, retaining documentation, and the legal requirements that govern the subsequent expenditures by the Subrecipient of the awarded funds. FEMA and Cal OES emphasize that proper and transparent contract procurement and accounting standards codified in Title 2 Code of Federal Regulations (CFR) § 200 (formerly found in 44 CFR § 13) must be strictly followed when spending Federal Public Assistance funds as failure to adhere to these standards jeopardizes federal funding.

The Subrecipient has not yet submitted a Project Completion and Certification report (P.4). Following the submittal of the P.4., FEMA will carefully review the Subrecipient's final claim. Based on the OIG's findings as well as the review of the Subrecipient's final documentation submittal and Cal OES' recommendations, FEMA will determine if the Subrecipient's claimed project costs are reasonable, statutorily justified; and, therefore, eligible for reimbursement.

FEMA considers this recommendation resolved and open. Estimated Completion Date is July, 31, 2017.

Recommendation 2: Review costs associated with the Authority's other large projects, especially Project 1136, and disallow any costs that are ineligible.

FEMA's Response to Recommendation 2: Concur. Following the submittal of the P.4., FEMA will carefully review the Subrecipient's final claim for the other large projects, including Project Worksheet (PW) 1136. FEMA will determine final cost eligibility based on regulation and reasonableness.

FEMA considers this recommendation resolved and open. Estimated Completion Date is July 31, 2017.

Recommendation 3: Review the process the Authority used to procure its engineering contract to determine whether regulatory and ethical infractions (e.g., bid manipulation, collusion) or gross mismanagement occurred. If such infractions or gross mismanagement occurred, FEMA should take actions promptly with the Department of Homeland Security Suspension and Debarment Official to debar the responsible organizations and individuals so that they are excluded from receiving benefits from Federal programs, as well as prohibited from future contracting with any agency in the Executive Branch of the U.S. Government for a specified period under 2 CFR § 180.125(b).

FEMA's Response to Recommendation 3: Concur. FEMA will review all documentation provided by the Subrecipient at project closeout. Any suspected malfeasance or fraudulent activities regarding the procurement or accounting procedures associated with FEMA grants will be directed to the proper authorities for further inquiry.



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Appendix C (continued)¹³

*Mr. Humberto U. Melara
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FEMA considers this recommendation resolved and open. Estimated Completion Date is July 31, 2017.

Recommendation 4: Direct California to provide increased guidance to the Authority and more closely monitor its performance to ensure the Authority complies with mandatory Federal regulations and FEMA guidelines.

FEMA's Response to Recommendation 4: Concur. FEMA works closely with Cal OES and all California Subrecipients to ensure that federal regulations regarding the FEMA Public Assistance program are fully understood and properly applied. In light of this OIG recommendation, FEMA will share the concerns of the OIG regarding the Subrecipient with Cal OES.

FEMA considers this recommendation resolved and open. Estimated Completion Date is December 31, 2016.

In summary, FEMA concurs with Recommendations 1, 2, 3, and 4. FEMA has taken the actions noted above.

If you have any questions or require additional information, please contact William Roche, Recovery Division Director, at (510) 627-7250.

¹³ FEMA has recently revised its Estimated Completion Date for Recommendation 4 to January 31, 2017.



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Appendix D **Report Distribution**

Department of Homeland Security

Secretary
Chief of Staff
Acting Chief Financial Officer
Under Secretary for Management
Chief Privacy Officer
Audit Liaison, DHS

Federal Emergency Management Agency

Administrator
Chief of Staff
Chief Financial Officer
Chief Counsel
Chief Procurement Officer
Director, Risk Management and Compliance
Associate Administrator for Policy, Program Analysis, and International Affairs
Audit Liaison, FEMA Region IX
Audit Liaison, FEMA (Job Code G-15-026)

Office of Management and Budget

Chief, Homeland Security Branch
DHS OIG Budget Examiner

Congress

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