OFFICE OF INSPECTOR GENERAL

Capacity Audit of FEMA Grant Funds Awarded to the USVI Water and Power Authority

Homeland Security

June 16, 2020

OIG-20-39

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security
Washington, DC 20528 / www.oig.dhs.gov

June 16, 2020

MEMORANDUM FOR: The Honorable Pete Gaynor
Administrator
Federal Emergency Management Agency

FROM: Sondra F. McCauley
Assistant Inspector General for Audits*

SUBJECT: *Capacity Audit of FEMA Grant Funds Awarded to the USVI Water and Power Authority*

Attached for your information is our final report, *Capacity Audit of FEMA Grant Funds Awarded to the USVI Water and Power Authority*. We incorporated the formal comments from the Regional Administrator, Region II, in the final report.

The report contains three recommendations aimed at improving the USVI Water and Power Authority. The Regional Administrator, Region II, concurred with the three recommendations. Based on information provided in response to the draft report, we consider recommendation 3 resolved and closed. We consider recommendations 1 and 2 resolved and open. Once Region II has fully implemented the recommendations, a formal closeout letter should be submitted to us within 90 days so that we may close the open recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and the disposition of any monetary amounts.

The Regional Administrator, Region II, response or closure request should be sent 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, or your staff may contact Maureen Duddy, Deputy Assistant Inspector General for Audits, at (617) 565-8723.

Attachment

cc: Thomas Von Essen, Region II Regional Administrator, FEMA

*The IG is recused from KPMG reports.

DHS OIG HIGHLIGHTS

Capacity Audit of FEMA Grant Funds Awarded to the U.S. Virgin Islands Water and Power Authority

June 16, 2020

Why We Did This Audit

DHS OIG contracted with KPMG, LLP to conduct an audit to determine whether the Federal Emergency Management Agency (FEMA) ensured the Virgin Islands Emergency Management Agency (VITEMA), and Virgin Islands Water and Power Authority (VIWAPA) established and implemented policies, procedures, and practices to account for and expend Public Assistance (PA) disaster grant funds in accordance with Federal regulations and FEMA guidance.

What We Recommend

We made three recommendations that, when implemented, should improve FEMA's, VITEMA's and VIWAPA's management of FEMA PA funds, ensuring PA disaster grant funds are expended in accordance with 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

KPMG found that FEMA did not always ensure VITEMA and VIWAPA established and implemented policies, procedures, and practices to account for and expend PA disaster grant funds in accordance with Federal regulations and FEMA guidance. Specifically:

- VITEMA did not establish policies and procedures to ensure VIWAPA submitted management costs in accordance with requirements.
- VIWAPA did not fully ensure contract costs were reasonable and allowable.
- Neither VITEMA nor VIWAPA fully implemented FEMA's Grants Manager and Grants Portal Tool, a web-based, project tracking system.

This occurred because FEMA did not consistently provide adequate oversight and did not ensure VITEMA and VIWAPA established and implemented policies, procedures, and practices to account for and expend PA disaster grant funds in accordance with Federal regulations and FEMA guidance. Because of these deficiencies, there is increased risk the PA program may be mismanaged and funds may be used for unallowable activities.

DHS Response

FEMA concurred with all three recommendations and took or plans to take corrective action. Appendix C includes FEMA's response in its entirety.

Table of Contents

Appendixes

Abbreviations

CFR	Code of Federal Regulations
FEMA	Federal Emergency Management Agency
PA	Public Assistance
PW	project worksheet
SOP	Standard Operating Procedures
SOW	Scope of Work
USVI	U.S. Virgin Islands
VITEMA	Virgin Islands Territorial Emergency Management Agency
VIWAPA	Virgin Islands Water and Power Authority

KPMG LLP
Suite 12000
1801 K Street, NW
Washington, DC 20006

June 15, 2020

Ms. Sondra F. McCauley

Assistant Inspector General for Audits
Department of Homeland Security Office
of Inspector General
395 E Street, SW Washington, D.C. 20024

Dear Ms. McCauley,

This report presents the results of our work conducted to address the performance audit objectives relative to the *Capacity Audit of the FEMA Grant Funds Awarded to the U.S. Virgin Islands Water and Power Authority*. We performed the work during the period of September 26, 2018, to April 30, 2019 and our results are as of April 30, 2019.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). 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 on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to GAGAS, we conducted this performance audit in accordance with Consulting Services Standards established by the American Institute of Certified Public Accountants (AICPA). This performance audit did not constitute an audit of financial statements or an attestation level report as defined under GAGAS and the AICPA standards for attestation engagements.

The objective of our performance audit was to determine whether the Federal Emergency Management Agency (FEMA) ensured that the Virgin Islands Territorial Emergency Management Agency (VITEMA) and U.S. Virgin Islands Water and Power Authority (VIWAPA) established and implemented policies, procedures, and business practices to account for and expend Public Assistance (PA) grant funds in accordance with Federal regulations and FEMA guidance. Our audit scope focused on VIWAPA's practices for appropriately procuring services, managing funding, and accounting and reporting for FEMA PA grant funds and related expenses. To make this determination, we reviewed the policies, procedures and business practices at

VIWAPA and compared them to the relevant Federal regulations. We listed our full audit objectives and criteria in Appendix A of this report.

KPMG cautions that projecting the results of our evaluation to future periods is subject to the risks that controls may become inadequate due to changes in or deterioration of conditions or existing controls.

This report is intended solely for the use of the Department of Homeland Security Office of Inspector General and FEMA management, and is not intended to be and should not be relied upon by anyone other than these specified parties.

KPMG LLP

Background

The U.S. Virgin Islands Water and Power Authority (VIWAPA) is an autonomous public power utility of the U.S. Virgin Islands (USVI). VIWAPA is responsible for producing electricity and distributing electricity and potable water to its customers. VIWAPA services approximately 55,000 electric customers and 13,000 potable water customers across the USVI, including the islands of St. Thomas, St. John, and St. Croix.

VIWAPA is a not-for-profit entity funded through utility payments from its customers. In lieu of paying taxes to the USVI Treasury, VIWAPA contributes directly to the USVI government budget.

In September 2017, wind and rain resulting from Hurricanes Irma and Maria damaged or destroyed facilities owned by VIWAPA on the islands of St. Thomas, St. John, and St. Croix. Subsequently, the President declared two separate major disasters.[1] On September 7, 2017, FEMA assigned disaster 4335 to Hurricane Irma. On September 20, 2017, FEMA assigned disaster 4340 to Hurricane Maria. These disaster declarations authorized FEMA to support USVI's response and begin recovery efforts. The President subsequently amended the disaster declarations to extend the emergency period for an additional 180 days.[2] FEMA awarded VIWAPA $1 billion for costs resulting from damages from severe wind and rain.

To support recovery efforts, FEMA provides guidance to all recipients and subrecipients of Public Assistance (PA) grant funding to help ensure their policies, procedures, and practices comply with Federal laws and regulations. In the USVI, FEMA provides funding directly to the recipient, the Territorial Government of the USVI. The Virgin Islands Territorial Emergency Management Agency (VITEMA) is the central government agency that oversees the funding process and fulfills the responsibilities of the recipient. As the recipient, VITEMA provides funding and additional oversight to all subrecipients of FEMA funding, including VIWAPA. Thus, in accordance with Federal regulations,[3] VITEMA is the recipient and VIWAPA is the subrecipient of grant funds.

[1] On September 26, 2017, the President approved the disaster declaration for the USVI for 180 days from the start of the incident period for Hurricane Irma beginning September 5, 2017. On October 3, 2017, the President approved the disaster declaration for the USVI for 180 days from the start of the incident period for Hurricane Maria beginning September 16, 2017.
[2] On March 15, 2018, the President extended the emergency period for an additional 60 days. On May 18, 2018, the President extended the emergency period for an additional 120 days.
[3] 2 Code of Federal Regulations (CFR) § 200.86 and 2 CFR § 200.93.

Although VIWAPA is the subrecipient of FEMA PA grant funds, both VITEMA and VIWAPA are entities that meet the definition of a "state."[4] As such, Federal regulations require that, when procuring property and services under a Federal award, VIWAPA must follow the same policies and procedures it uses when procuring with non-Federal funds.[5]

USVI government agencies have a complex, interrelated structure. The request for grant funds begins with VIWAPA's creation of a project worksheet (PW), FEMA's funding document. VIWAPA personnel draft the initial PW and submit it to VITEMA. VITEMA reviews the worksheet and upon acceptance, submits it to FEMA for approval. Each PW must include a detailed Scope of Work (SOW), the estimated project cost, and the funding categorization. Figure 1 shows the funding categories.

Figure 1: PA Grant Categories

Category	Description
A	Debris Removal
B	Emergency Protective Measures
C	Roads and Bridges
D	Water Control Facilities
E	Buildings and Equipment
F	Utilities
G	Parks, Recreational, Other

Source: FEMA *Public Assistance Program and Policy Guide*

Categories A and B are considered emergency work projects, while categories C-G are considered permanent work projects.

VIWAPA personnel are responsible for:

- initiating and completing Requests for Proposals to solicit bids from vendors;
- awarding contracts to vendors;
- managing FEMA PWs; and
- managing the related contracts, including approval of invoices; tracking costs incurred against the project budget, such as analyzing progress of the work and related costs; and managing contractor performance.

Once FEMA approves and funds a PW, VITEMA draws down funds to reimburse VIWAPA, which pays vendors and reports expenditures back to VITEMA. Project worksheet (PW) development is managed in the FEMA Grants

[4] 2 CFR § 200.90.
[5] 2 CFR § 200.317.

Manager and Grants Portal Tool.[6] In 2019, the Grants Manager and Grants Portal Tool replaced FEMA's previous grants management system, the Emergency Management Mission Integrated Environment (EMMIE); however, EMMIE remains the system of record and the system used to obligate PW funds.

To assess the extent to which FEMA provided VITEMA and VIWAPA with guidance for using PA grant funds, we reviewed the VIWAPA's policies, procedures, and business practices. Due to the organizational structure of the USVI, the recipient (VITEMA) performs some of the grants management functions (e.g., reviewing eligible costs and monitoring grant funds) that would ordinarily be the responsibility of the subrecipient (VIWAPA). In these instances, we reviewed VITEMA's policies, procedures, and business practices. For detailed audit scope and methodology, see **Appendix A**.

Results of Audit

The summarized results of our audit are as follows:

- **Accounting for Costs** – VIWAPA had policies, procedures, and business practices to account for FEMA PA grant funds on a project-by-project basis and to ensure non-management costs are allowable, reasonable, and allocable. We did not identify any instances of noncompliance with applicable Federal regulations. However, VITEMA did not have policies and procedures in place to ensure that VITEMA and VIWAPA submit management costs for Federal reimbursement in accordance with FEMA policies.
- **Procurement Practices** – We did not identify any instances of noncompliance with applicable Federal procurement requirements. However, for certain requirements, VIWAPA procurement policies, procedures, and business practices did not ensure contract costs were reasonable and allowable. Specifically, in areas related to conflict of interest provisions, waivers of competitive bidding, use of suspended or debarred contractors, and cost-plus-percent-of-cost contracts, VIWAPA procurement policies, procedures, and business practices could result in costs that are not reasonable.
- **Grants Management** – VIWAPA had policies, procedures, and business practices to appropriately manage FEMA grant funds.

[6] The Grants Manager and Grants Portal Tool is a web-based, project tracking system with two separate workflows. FEMA PA specialists use the Grants Manager workflow internally, while recipients and subrecipients use the Grants Portal workflow. Although the separate workflows compose one system, users refer to the individual workflows by the names "Grants Manager" and "Grants Portal."

However, neither VITEMA nor VIWAPA fully implemented FEMA's Grants Manager and Grants Portal Tool.

- **Insurance Policies and Procedures** – VIWAPA had policies, procedures and business practices to appropriately use insurance proceeds. We did not identify any instances of noncompliance with these policies and procedures.

Details regarding the procedures we performed, the criteria we used, and the results of our audit follow.

Accounting for Costs

To assess VIWAPA's capability to account for FEMA PA grant funds, we reviewed VIWAPA's policies and procedures to account for project costs on a project-by-project basis, and to ensure non-management costs are allowable, reasonable, and allocable, as required by Federal regulations and FEMA guidelines. We also discussed these policies and procedures with VIWAPA management officials.

VIWAPA used a manual grants management system to track FEMA grant funds on a project-by-project basis. VIWAPA used work order numbers to track individual expenditures within its procurement system and manually associate each expenditure with a specific PW.

We determined that VIWAPA had policies, procedures, and business practices to account for FEMA PA grant funds manually, on a project-by-project basis, and to ensure non-management costs are allowable, reasonable, and allocable. In our review of these policies, procedures, and business practices, we did not identify any instances of non-compliance with Federal regulations or FEMA guidelines, as of the date of our audit.

To test costs incurred, we judgmentally selected PWs totaling $477 million of $556 million total PA funds obligated and awarded to VIWAPA as of December 2018. We reviewed $2.9 million in invoices for goods and services related to five vendors. We found that VIWAPA appropriately segregated non-management costs by project and that costs were allowable, reasonable, and allocable to the approved PWs.

In addition to our assessment of VIWAPA's accounting of non-management costs incurred, we performed procedures related to the accounting of management costs at VITEMA and VIWAPA. In June 2018, FEMA issued a new recovery policy, the *Public Assistance Alternative Procedures for Direct Administrative Costs*, which created a new method for FEMA to award PA management costs via a fixed estimate process (hereafter referred to as "the pilot program"). The USVI opted into the pilot program as the grant recipient on behalf of the grant subrecipients, including VIWAPA. The USVI delegated responsibility for recording and monitoring management costs, as well as developing related policies and procedures, to VITEMA. The USVI also required VITEMA to develop policies and procedures for VIWAPA and other subrecipients that would ensure management costs for emergency work were reported appropriately and not included on permanent work PWs.

In October 2018, Congress passed the *Disaster Recovery Reform Act of 2018*, which changed FEMA's reimbursement process for management costs. FEMA issued the *Public Assistant Management Costs Interim Policy* (hereafter referred to as "the interim policy") to implement the requirements of the *Disaster Recovery Reform Act of 2018* in November 2018. The USVI opted into the interim policy upon issuance.

(See **Appendix B** for further background on FEMA's management cost pilot program, the interim policy, and the responsibilities of VITEMA and VIWAPA to record and monitor management costs.)

We assessed VITEMA's ability to comply with the requirements of the pilot program and the interim policy and found VITEMA had not developed policies and procedures for the proper recording of management costs. Although the USVI opted into the pilot program and the interim policy on behalf of VIWAPA, VIWAPA was unaware of either the pilot program or the interim policy.

Inadequate Policies and Procedures Related to the Accounting for Management Costs

VITEMA officials informed us they had not established policies and procedures to ensure VITEMA and VIWAPA submit management costs in accordance with FEMA's February 2019 FEMA's *Public Assistance Management Costs Interim Policy – Standard Operating Procedures (SOP)*.

VITEMA had not established policies and procedures related to this requirement because FEMA had yet to develop adequate guidance, including policies and procedures, communicating the requirements of the interim policy. FEMA issued the SOP in February 2019, 3 months after the new recovery policy (i.e., interim policy).

The SOP sufficiently defines the procedures to document and process management cost claims, ensure consistent implementation of the requirements, and effectively track and verify management cost claims by recipients and subrecipients. However, prior to implementation of the SOP, FEMA did not effectively work with VITEMA to reinforce the existing policies and procedures related to management costs, including implementing controls, to ensure that costs already submitted for reimbursement as project costs are not also later submitted for reimbursement as management costs.

Insufficient and untimely guidance from FEMA increases the risk VITEMA will not have appropriate policies and procedures to ensure it and VIWAPA submit eligible management costs for reimbursement on permanent work PWs, in compliance with Federal regulations. As of February 2019, VITEMA and VIWAPA had not submitted any claims for management costs to FEMA because the process was not yet fully developed.

Recommendation 1: We recommend the FEMA Regional Administrator, Region II, provide VITEMA and VIWAPA with additional guidance to update their policies and procedures to ensure they comply with the *Disaster Recovery Reform Act of 2018* and FEMA's February 2019 *Public Assistance Management Costs Interim Policy – Standard Operating Procedures*.

FEMA's Comment

Concur. FEMA Region II will meet with VITEMA and VIWAPA to review the *Public Assistance Management Cost Interim Policy – Standard Operating Procedures*, and provide guidance to ensure VITEMA and VIWAPA have compliant policies and procedures. Due to Region II activities related to the agency's COVID-19 pandemic response, the Region does not anticipate the meeting can occur in the short term, but will prioritize it as soon as feasible. **Estimated Completion Date (ECD): April 30, 2021.**

OIG Analysis

FEMA's corrective action is responsive to the recommendation. However, the recommendation will remain resolved and open until we have received and reviewed: (1) VITEMA's and VIWAPA's updated policies and procedures that comply with the *Disaster Recovery Reform Act of 2018;* and (2) evidence that FEMA has provided additional guidance to VITEMA and VIWAPA to ensure they comply with the updated policies and procedures.

Procurement Practices

We reviewed VIWAPA's procurement policies and procedures used to purchase goods and services with FEMA grant funds. We conducted walkthroughs with procurement personnel from VIWAPA to assess their business practices. We reviewed detailed procurement records for VIWAPA's permanent work projects, including contracts totaling $162 million of $556 million obligated as of February 2019. Our review included examining supporting documentation such as PWs, contracts, bid evaluation documentation, cost-price analyses, and purchase orders.

During our walkthroughs, we determined VIWAPA did not have adequate contracting policies, procedures, and business practices to comply with Federal regulations that require costs claimed under a grant award be necessary, reasonable, and allowable. Specifically, VIWAPA's procurement policies did not have conflict of interest provisions governing the selection and award of contracts, did not prevent inappropriate use of waivers in place of full and open competition, did not prevent award of contracts to suspended or debarred contractors, and allowed the use of cost-plus-percent contracts without establishing a maximum ceiling dollar amount.

Conflict of Interest Provisions

VIWAPA's full and open competition process included an assessment of solicitation responses by a bid evaluation committee to award a contract. VIWAPA's Executive Director individually selected the members of the bid evaluation committee. Such committee members may not have any real or apparent conflicts of interest that would impair their ability to participate objectively in the solicitation process. However, although VIWAPA's *Personnel Policies and Procedures Manual* contained an overarching conflict of interest policy, VIWAPA's procurement policies lacked conflict of interest provisions governing the selection and award of contracts. Specifically, VIWAPA's *Contract Administration Guidelines* did not include conflict of interest considerations to assist the Executive Director with selecting the evaluation committee.

As VIWAPA is considered a "state," Federal regulations require that VIWAPA follow the same policies and procedures as procurements using non-Federal funds.[7] Although conflict of interest policies were not required for procurements made by VIWAPA, costs incurred must be necessary and reasonable for the performance of the Federal award.[8] In determining the reasonableness of a given cost, FEMA considers, among other factors, restraints or requirements such as arm's length bargaining. Without adequate conflict of interest policies, costs may not be negotiated at arm's length,[9] resulting in costs that are not considered reasonable and are unallowable. Therefore, we determined VIWAPA's conflict of interest policies and procedures did not provide assurance that costs incurred under awarded contracts are reasonable.

Waivers of Competitive Bidding

[7] 2 CFR § 200.317.
[8] 2 CFR § 200.403(a).
[9] 2 CFR § 200.404(b).

Federal regulations and VIWAPA's procurement policies require advertisement of all bids, unless specific circumstances allow for a noncompetitive proposal involving solicitation of a proposal from only one source.

VIWAPA's *Contract Administration Guidelines* allowed VIWAPA to bypass the competitive bidding process via a waiver of full and open competition if expert services are required and the Authority deems it in the best interest of appropriate administration to award contracts without advertisement. Further, VIWAPA's existing business practices allowed VIWAPA to leverage an existing waiver for emergency services to bypass the competitive bidding process for subsequently awarded permanent work services.

We reviewed bid evaluation documentation for three contracts totaling $162 million of $556 million obligated to date. VIWAPA awarded two of the three contracts without solicitation using noncompetitive waivers. We identified one contract for expert services awarded without solicitation. VIWAPA's guidelines for these waivers did not require VIWAPA to adequately document why awarding a contract without full and open competition was in VIWAPA's best interest and appropriate. We identified a second contract awarded during the emergency period and subsequently modified on March 6, 2018, to add permanent work services up to $97 million; the permanent work services were not subject to full and open competition. FEMA anticipates the contract value to increase to about $300 million.

Costs incurred under contracts awarded via waiver are at higher risk for fraud, waste, and abuse. Thus, the related costs may be unreasonable and unallowable.

Use of Suspended or Debarred Contractors

Non-Federal entities, including VIWAPA, may not award contracts to suspended or debarred contractors.[10] VIWAPA had access to the System for Award Management (SAM) to verify whether a vendor was suspended or debarred. However, VIWAPA's policies and procedures did not require a review of the SAM during the bid evaluation process prior to awarding a contract and did not include considerations to review the SAM for subcontractor firms listed in a solicitation response. Specifically, we noted VIWAPA awarded three procurements valued at $162 million prior to review of the SAM. Further, VIWAPA's existing policies and procedures allowed VIWAPA to waive a contractor's suspension or debarment and award a contract, despite a contractor's suspension or debarment status. Use of suspended or debarred contractors may have resulted in incurred costs that are at greater risk for fraud, waste, and abuse, and potentially result in unallowable costs.

[10] 2 CFR § 200.213.

Cost-Plus-Percent-of-Cost Contracts

VIWAPA awarded one cost-plus-percent-of-cost contract. The use of this contract type increased the risk that costs incurred on the contract may not be allowable. To be allowable, costs incurred must be both necessary and reasonable for the performance of the Federal award.[11] Costs must follow sound business practices[12] to be considered reasonable. Cost-plus-percent-of-cost contracts give contractors an incentive to incur excessive costs, due to the direct relation of costs incurred to the contractors' profit. Costs incurred under cost-plus-percent-of-cost contracts may be determined to be the result of unsound business practices and may result in costs that are not considered reasonable and are unallowable.

Further, the contract we reviewed did not include a ceiling amount for initial costs incurred through March 2018. Without a contract ceiling, the contractor did not have incentive to control costs because there was no total dollar value restriction to limit total costs incurred. This is especially problematic for cost-plus-percent-of-cost contracts because contractors may continue to incur costs without restriction to maximize their fee and related profit.

Recommendation 2:

We recommend the FEMA Regional Administrator, Region II, work with VITEMA to request VIWAPA to:

a. incorporate conflict of interest provisions related to the selection and award of contracts, including the selection of the bid evaluation committee;
b. incorporate additional guidance for full and open competition waivers so they clearly define the rationale for the waivers;
c. require review of the SAM prior to awarding a contract to verify that proposed contractors and subcontractors are not suspended or debarred, and remove the waiver provision allowing VIWAPA to award contracts to suspended or debarred contractors or subcontractors; and
d. incorporate additional guidance for expenditures incurred under cost-plus-percent-of-cost contracts to ensure related costs are allowable.

FEMA's Comment

Concur: FEMA Region II will meet with VITEMA and VIWAPA to reiterate that without sufficient controls over conflict of interest provisions, compliance with debarment regulations, and the use of cost-plus-percentage-of-cost contracts,

[11] 2 CFR § 200.403(a).
[12] 2 CFR § 200.404(b).

FEMA may find costs claimed for reimbursement are unreasonable and unallowable. Due to Region II activities related to the agency's COVID-19 pandemic response, the Region does not anticipate the meeting can occur in the short term, but will prioritize it as soon as feasible. **ECD: April 30, 2021**.

OIG Analysis

FEMA's corrective action is responsive to the recommendation. However, the recommendation will remain resolved and open until we have received and reviewed evidence that FEMA worked with VITEMA to make sure that VIWAPA: (1) incorporates conflict of interest provisions in the selection and award of contracts; (2) incorporates additional guidance for full and open competition; (3) requires SAM checks before the award of contracts; and (4) incorporates additional guidance to determine whether expenditures incurred under cost-plus-percentage-of-cost contracts are allowable.

Grants Management

We reviewed VIWAPA's policies and procedures related to grants management for FEMA PA grants. We also conducted walkthroughs with grants management personnel from VIWAPA to assess their business practices. Although VIWAPA personnel play a key role in grants management, many of the duties were the responsibility of VITEMA. As such, we also conducted walkthroughs with grants management personnel from VITEMA to understand their business practices.

Additionally, contractors from multiple firms support both VIWAPA and VITEMA in the grants management process. These contractors aided in identifying allowable projects, preparing PWs and the related SOWs, including cost estimates, and reviewing costs submitted for reimbursement. We did not identify any instances of noncompliance with Federal regulations related to VIWAPA's management of grants. However, both VITEMA and VIWAPA lacked sufficient access and training to FEMA's Grants Manager and Grants Portal Tool (Grants Portal).

Inadequate Grants Portal Access and Training

We found neither VITEMA nor VIWAPA had fully implemented FEMA's Grants Portal. In February 2019, FEMA provided access to the Grants Portal to two individuals at VITEMA, but no personnel at VIWAPA. VITEMA personnel received minimal training, consisting mainly of a high-level system overview and basic functionality of the Grants Portal. Although FEMA scheduled several training sessions for using the Grants Portal, an insufficient number of personnel from VITEMA and VIWAPA attended due to late notice and scheduling difficulties. Further, although additional VITEMA personnel must receive Grants Portal access from FEMA, it was VITEMA's responsibility to provide access to VIWAPA personnel.

Inadequate access to the system and attendance at training could have negatively affected VITEMA's and VIWAPA's ability to manage the PA program. Specifically, they could have prevented VITEMA and VIWAPA from ensuring they had a complete list of projects related to PA grants, funds awarded by FEMA, and a complete and accurate status of drawdowns.

Recommendation 3: We recommend the FEMA Regional Administrator, Region II, coordinate with VITEMA and VIWAPA to identify and grant access to individuals whose job responsibilities require access to FEMA's Grants Manager and Grants Portal Tool and ensure all appropriate personnel receive Grants Manager and Grants Portal Tool training.

FEMA's Comment

Concur. FEMA Region II has granted Grants Portal access and trained all VITEMA and VIWAPA personnel identified by the agencies to require access. Specifically, FEMA Region II provided training to VITEMA and Territorial applicants on Grants Manager Basics on August 13, 2018; Grants Manager Portal on January 23, 2019; Grants Portal Overview (specifically for VITEMA) on February 7, 2019; Grants Portal on February 27, 2019; and Grants Portal Applicant Training on June 21, 2019). FEMA will also provide additional Grants Portal training upon request. FEMA requests OIG consider this recommendation resolved and closed.

OIG Analysis

FEMA's corrective action taken is responsive to the recommendation. FEMA noted that it provided Grants Portal access and trained all VITEMA and VIWAPA personnel identified by the agencies to require access. Additionally, in the future, FEMA will provide Grants Portal training upon request. We believe the actions taken by FEMA met the intent of the recommendation. Therefore, we consider the recommendation resolved and closed.

Insurance Policies and Procedures

Federal regulations require that subrecipients use insurance proceeds to offset the costs of FEMA-funded projects.[13] Federal regulations further require that subrecipients obtain and maintain insurance on facilities rebuilt using FEMA grant funds.[14]

[13] 44 CFR § 250(c).
[14] 2 CFR § 200.310.

We reviewed VIWAPA's grant administration policies and procedures and discussed them with their officials. We obtained and reviewed VIWAPA's insurance policy and verified the policy included a deductible of $5 million per disaster. We found VIWAPA did not receive insurance proceeds because damages to cover facilities did not exceed the deductible amount. As a result, VIWAPA did not apply insurance proceeds to projects funded with FEMA grant funds.

VIWAPA had policies and procedures in place to assess damages to insured facilities and to use insurance proceeds to offset the costs of FEMA projects, if applicable. We reviewed these policies and procedures and found VIWAPA complied with applicable Federal regulations and FEMA guidelines. In addition, we confirmed VIWAPA officials were aware that obtaining and maintaining insurance on insurable facilities was a condition of current and future FEMA funding. We were not aware of any uninsured VIWAPA facilities that sustained damages from Hurricanes Irma and Maria and were repaired using FEMA grant funds.

Appendix A

Objectives, Scope and Methodology

The overall objectives of our audit were to determine whether FEMA ensured VITEMA and VIWAPA established and implemented policies, procedures, and practices to make sure PA grant funds awarded to disaster areas are accounted for and expended in accordance with Federal regulations and FEMA guidance. We determined whether Federal regulations and FEMA guidance ensured VIWAPA:

- Has accounting policies and procedures in place that comply with applicable laws and regulations, as required by Sec. 795 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988*.

- Has policies and procedures in place to appropriately procure goods and services with grant funds in compliance with applicable laws and regulations, as required by Sec. 795 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988*.

- Has policies and procedures in place to appropriately manage the accounting of grant funds on a project-by-project basis so that costs are allowable, reasonable, and allocable, as required by Sec. 795 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988*.

- Costs incurred related to category C–G projects are in compliance with contracting criteria for non-Federal entities, as described in 2 CFR 200.318–.326 *General Procurement Standards*.

We reported identified instances of non-compliance with Federal laws and regulations, as required by Government Auditing Standards, and which warranted the attention of the DHS OIG and DHS management.

We designed our performance audit approach and procedures in accordance with the criteria noted in our audit objectives. During the fieldwork phase of the audit, FEMA and VIWAPA indicated that, although VIWAPA is a subrecipient of FEMA PA grant funds, VIWAPA is part of the state government, due to the small size of the USVI and the centralized nature of government operations.

The General Procurement Standards per 2 CFR 200.318-.326 (i.e., objective d.) are not applicable to agencies that are part of the state government. Instead, the applicable procurement standards for states are 2 CFR 200.403 *Factors Affecting Allowability of Costs*, and 2 CFR 200.404 *Reasonable Costs*. Although we planned and performed our audit procedures using the criteria for non-Federal entities indicated in objective d., we revised the applicable criteria to assess our initial findings under 2 CFR 200.403 *Factors Affecting Allowability of Costs* and 2 CFR 200.404 *Reasonable Cost,* on the basis that VIWAPA is part of the state.

We audited the capability of VITEMA and VIWAPA to manage FEMA PA grant funds in accordance with applicable laws and regulations, including policies, procedures, and practices related to contracting with external vendors. The DHS OIG engaged us to conduct this audit early in the PA process to identify areas in which VIWAPA may need additional technical assistance or monitoring to ensure compliance with Federal regulations and FEMA guidelines.

The period of the audit was September 5, 2017, the first day of the incident period for Hurricane Irma, through April 30, 2019. As of December 10, 2018, FEMA had awarded and obligated $498 million for 13 debris removal and emergency services projects, and $556 million for 11 permanent work projects at VIWAPA.

We interviewed FEMA, VITEMA, and VIWAPA officials and assessed the adequacy of the policies, procedures, and business practices VITEMA and VIWAPA used to account for and expend FEMA PA grant funds. We also assessed the policies, procedures, and business practices VITEMA and VIWAPA used to procure and monitor contracts for disaster work. We reviewed applicable Federal regulations and FEMA guidelines in order to accomplish our audit objectives.

We conducted fieldwork activities at VITEMA and VIWAPA offices in the USVI. We did not perform a detailed assessment of VITEMA's and VIWAPA's internal controls over their grant activities because it was not necessary to accomplish our audit objectives. However, we assessed the adequacy of the policies, procedures, and business practices VITEMA and VIWAPA used to account for and expend FEMA PA grant funds and to procure for and monitor disaster work.

During the performance of our audit, we selected a judgmental sample of expenses incurred by VIWAPA using risk-based criteria. In total, we selected two permanent work projects with expenses incurred to date and evaluated costs totaling approximately $2.9 million out of $122 million drawn down as of February 2019. We evaluated these costs for compliance with applicable Federal regulations and FEMA guidelines.

We discussed the results of our audit with personnel from FEMA, VITEMA, and VIWAPA. We considered their comments when developing our report and incorporated their feedback, as appropriate.

To assess the reliability of the PW obligation and expenditure data provided to us by FEMA, we obtained supporting documentation and interviewed VITEMA and VIWAPA personnel. We determined this data was sufficiently reliable for purposes of this report.

Appendix B

Background on June 2018 FEMA Public Assistance Alternative Procedures for Direct Administrative Costs (pilot program)

Section 324 of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988* (Stafford Act) authorizes FEMA to provide funds to the recipient and the subrecipient for management costs incurred in the administration of PA programs. In June 2018, FEMA issued a new recovery policy, the *Public Assistance Alternative Procedures for Direct Administrative Costs*, which created a new method for FEMA to award PA management costs via a fixed estimate process (hereafter referred to as "the pilot program").

Under the pilot program, FEMA reimburses management costs using a single "management cost" PW. The "management cost" PW is funded based on a percent of the total amount of all non-management cost PWs submitted. Recipients and subrecipients must establish their own "management cost" PWs. The intent of the pilot program is to reduce the administrative burden of requiring recipients and subrecipients to submit individual management costs for reimbursement through non-management cost PWs. Instead, recipients and subrecipients receive the funds provided through the "management cost" PW without having to submit management costs for reimbursement. However, recipients and subrecipients must also have policies and procedures in place to ensure they do not submit management costs for reimbursement to non-management cost PWs (i.e., duplication of benefits).

Section 1215 of the *Disaster Recovery Reform Act of 2018*, signed into law in October 2018, expands the definition of management costs to include both direct and indirect administrative costs incurred by the state, local, tribal, or territorial government. Previously under the *Stafford Act*, FEMA reimbursed direct administrative costs directly to subrecipients, but reimbursed indirect administrative costs to the state, and the state would determine what portion of these costs to pass through to subrecipients. Under the *Disaster Recovery Reform Act of 2018*, FEMA reimburses direct and indirect administrative costs as "management costs" in an amount up to 12 percent of the total award, of which up to 7 percent may be used by the recipient and up to 5 percent may be used by the subrecipient. FEMA issued the *Public Assistance Management Costs Interim Policy ("*interim policy*")* in November 2018 to implement Section 1215 of the *Disaster Reform Act of 2018.*

Appendix C

FEMA Region II Comments

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

FEMA

May 5, 2020

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

FROM: Thomas Von Essen
Regional Administrator, Region II

Thomas Von Essen

SUBJECT: Management Response to Draft Report: "Capacity Audit of FEMA Grant Funds Awarded to the U.S. Virgin Islands Water and Power Authority"
(Project No. 19-019-AUD-FEMA)

Thank you for the opportunity to review and comment on this draft report. The U.S. Department of Homeland Security's 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 intricacy of the U.S. Virgin Island's (USVI) government agencies and the challenges it faced in the aftermath of hurricanes Irma and Maria.

In partnership with the USVI Territorial Emergency Management Agency (VITEMA) and in line with FEMA's mission of helping citizens and first responders before, during and after disasters, DHS and FEMA provided effective and timely recovery assistance to disaster survivors after an historic 2017 hurricane season.

In 2019, the USVI established the Office of Disaster Recovery (ODR) as the primary territorial government agency responsible for monitoring, managing and administering federal funding provided for Irma and Maria recovery. This includes the execution of all phases of the grant management process for the recipient and sub-recipient in accordance with all applicable federal laws, regulations and administrative requirements. As mentioned in the draft report, the USVI Water and Power Authority (VIWAPA) needs additional support to implement steps to ensure it can manage its grants effectively. FEMA Region II will monitor ODR as the Recipient and will provide technical assistance as needed to ensure that ODR has the ability to support and assist VIWAPA.

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

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Attachment: Management Response to Recommendations Contained in 19-019-AUD-FEMA

Recommendation 1: Provide VITEMA and VIWAPA with additional guidance to update their policies and procedures to ensure they comply with *Disaster Recovery Reform Act of 2018* and FEMA's February 2019 *Public Assistance Management Costs Interim Policy – Standard Operating Procedures*.

Response: Concur. FEMA Region II will meet with VITEMA and VIWAPA to review the *Public Assistance Management Costs Interim Policy – Standard Operating Procedures,* and provide guidance to ensure VITEMA and VIWAPA have compliant policies and procedures. Due to Region II activities related to the Agency's COVID-19 pandemic response, the Region does not anticipate the meeting can occur in the short term, but will prioritize it as soon as feasible. Estimated Completion Date (ECD): April 30, 2021.

Recommendation 2: Work with VITEMA and work with VIWAPA to:

a. incorporate conflict of interest provisions related to the selection and award of contracts, including the selection of the bid evaluation committee;

b. incorporate additional guidance for full and open competition waivers so they clearly define the rationale for the waivers;

c. require review of the SAM prior to awarding a contract to verify that proposed contractors and subcontractors are not suspended or debarred, and remove the waiver provision allowing VIWAPA to award contracts to suspended or debarred contractors or subcontractors; and

d. incorporate additional guidance for expenditures incurred under cost plus percent-of-cost contracts to ensure related costs are allowable.

Response: Concur. FEMA Region II will meet with VITEMA and VIWAPA to reiterate that without sufficient controls over conflict of interest provisions, compliance with debarment regulations and use of cost-plus percent of cost contract, costs claimed for FEMA reimbursement might not be found reasonable and allowable. Due to Region II activities related to the Agency's COVID-19 pandemic response, the Region does not anticipate the meeting can occur in the short term, and as such, will prioritize it as soon as feasible. ECD: April 30, 2021.

Recommendation 3: Coordinate with VITEMA and VIWAPA to identify and grant access to individuals whose job responsibilities require access to FEMA's Grants Manager and Grants Portal Tool, and ensure all appropriate personnel receive Grants Manager and Grants Portal Tool training.

Response: Concur. FEMA Region II has granted Grants Portal access and trained all VITEMA and VIWAPA personnel identified by each agency that require access. Specifically, FEMA Region II provided training to VITEMA and Territorial applicants on Grants Manager Basics on Aug. 13, 2018; Grants Manager Portal on Jan. 23, 2019; Grants Portal Overview (specifically for VITEMA) on Feb. 7, 2019; Grants Portal on Feb. 27, 2019; and Grants Portal Applicant Training on June 21, 2019. The sign-in sheets confirm attendance by VITEMA as well as VIWAPA consultants and will be sent under separate cover. FEMA provides additional Grants Portal training upon request. FEMA requests this recommendation be considered resolved and closed.

Appendix D
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