

**FEMA's Public Assistance
Grant to PREPA and PREPA's
Contracts with Whitefish and
Cobra Did Not Fully Comply
with Federal Laws and
Program Guidelines**





OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

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

July 27, 2020

MEMORANDUM FOR: The Honorable Peter T. Gaynor
Administrator
Federal Emergency Management Agency

FROM: *Joseph V. Cuffari*
Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *FEMA's Public Assistance Grant to PREPA and PREPA's
Contracts with Whitefish and Cobra Did Not Fully
Comply with Federal Laws and Program Guidelines*

Attached for your action is our final report, *FEMA's Public Assistance Grant to PREPA and PREPA's Contracts with Whitefish and Cobra Did Not Fully Comply with Federal Laws and Program Guidelines*. We incorporated the formal comments provided by the Office of Policy and Program Analysis.

The report contains four recommendations for FEMA to address noncompliance with Federal regulations and Public Assistance program guidelines. Your office concurred with recommendations 1, 2, and 3, and did not concur with recommendation 4. Based on information provided in your response to the draft report, we consider recommendation 3 resolved and closed. We consider recommendations 1 and 2 resolved and open. 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.

We consider recommendation 4 unresolved and open. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for the recommendation. Also, please include contact information for responsible parties and any other supporting documentation necessary to inform us about the status of the recommendation. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.



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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 Sondra McCauley, Assistant Inspector General for Audits, at (202) 981-6000.

Attachment

cc: Office of Policy and Program Analysis
Regional Administrator, Region II



DHS OIG HIGHLIGHTS

FEMA's Public Assistance Grant to PREPA and PREPA's Contracts with Whitefish and Cobra Did Not Fully Comply with Federal Laws and Program Guidelines

July 27, 2020

Why We Did This Audit

Congressional committees requested DHS Office of Inspector General to review the contract between PREPA and Whitefish after Hurricane Maria. We conducted this audit to determine whether FEMA's PA grants to PREPA and PREPA's contracts with Whitefish and Cobra complied with Federal laws and regulations and PA program guidelines.

What We Recommend

We made four recommendations to address noncompliance with Federal regulations and PA guidelines.

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

The Puerto Rico Electric Power Authority (PREPA) complied with Federal procurement requirements for its non-competitive procurement of the Whitefish Energy Holdings, LLC (Whitefish) contract. However, the contract costs may not have complied with Federal cost principles that costs must be reasonable to be eligible for Federal awards. The Whitefish contract costs may not be reasonable because PREPA incurred costs at much higher contract rates than the rates Whitefish originally proposed. This occurred because PREPA did not evaluate the reasonableness of the new and higher rates. As a result, some of the Whitefish contract costs may not be eligible for Public Assistance (PA) funds, and PREPA may be at risk of not receiving full reimbursement for Whitefish contract costs.

Additionally, PREPA's oversight of the Cobra Acquisitions, LLC (Cobra) contract did not comply with PA program guidelines. The PA program requires PREPA to provide a high degree of oversight of time and materials contracts. However, PREPA did not provide sufficient oversight of the Cobra contract. This occurred because Puerto Rico did not monitor PREPA's activities to ensure compliance with PA program guidelines. As a result, some of the Cobra contract costs may not be reasonable and eligible for the PA Grant Program.

Finally, the Federal Emergency Management Agency's (FEMA) PA grant to PREPA for the Cobra contract did not comply with PA program guidelines. FEMA reimbursed PREPA more than \$852 million for Cobra contract costs without first confirming PREPA provided a high degree of oversight of the contract. Additionally, FEMA did not determine whether the Cobra contract costs incurred were reasonable and eligible for PA funds. FEMA lacked guidance about how to verify a subrecipient's oversight of time and material contracts and how to assess reasonableness of time and material contract costs. As a result, FEMA may have reimbursed PREPA for Cobra contract costs that are ineligible for PA funds.

FEMA Response

FEMA concurred with three of our four recommendations.



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Abbreviations

COR3	Puerto Rico Central Office for Recovery, Reconstruction, and Resiliency
CR	Contract Release
FEMA	Federal Emergency Management Agency
OIG	Office of Inspector General
PA	Public Assistance
PREPA	Puerto Rico Electric Power Authority
T&M	Time and Materials



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Background

State and local governments are typically responsible for disaster response and recovery efforts. However, if the magnitude of a disaster exceeds the state or local government's ability to respond or recover, the *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, Pub. L. 93-288, as amended, authorizes the Federal Government to provide relief and assistance in response to and during a natural disaster.

Public Assistance Grant Program

The Federal Emergency Management Agency's (FEMA) *Public Assistance (PA) Grant Program* provides assistance to state and local government entities and certain types of private non-profit organizations so communities can quickly respond to, and recover from, major disasters or emergencies. FEMA and state governments execute FEMA-State agreements that outline binding obligations for all entities including FEMA, states, and local governments. As part of the agreements, states and local governments must comply with Federal procurement requirements and cost principles outlined in Title 2 of the Code of Federal Regulations and FEMA's *Public Assistance Program and Policy Guide*.

FEMA works in partnership with grant recipients to assess damage, educate potential subrecipients about the grant process, and formulate projects for emergency or permanent work. FEMA determines project eligibility based on factors such as the applicant's legal responsibility, affected facility, type of work, and cost reasonableness. FEMA is also responsible for monitoring state governments to ensure they administer grants in accordance with Federal regulations and PA program guidelines. States, in turn, must manage local governments and non-government entities to ensure grant fund expenditures comply with Federal regulations and PA program guidelines.

Hurricane Maria

On September 20, 2017, Hurricane Maria made landfall in Puerto Rico as a strong category four storm. The storm caused catastrophic damage to Puerto Rico's electrical grid and total power failure across the island. Puerto Rico Electric Power Authority (PREPA) was the sole provider of electricity in Puerto Rico. According to PREPA officials, the hurricane damaged or destroyed more than 80 percent of transmission and distribution lines. Figure 1 shows a destroyed transmission line after Hurricane Maria.



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Figure 1: Damaged PREPA power line

Source: PREPA

The President issued a major disaster declaration on September 20, 2017, authorizing FEMA to provide Federal assistance to Puerto Rico under the PA Grant Program. FEMA and Puerto Rico signed a FEMA-Commonwealth agreement governing all Federal assistance provided to Puerto Rico pursuant to the disaster declaration. As the grant recipient, Puerto Rico agreed to lead and manage the overall recovery process and ensure all subrecipients complied with Federal laws, regulations, and PA program guidelines. As of November 2019, FEMA had obligated almost \$2 billion in PA funds to PREPA, the subrecipient.

In the past, PREPA generally relied on its employees to restore system outages after storms. However, due to the catastrophic and widespread damages caused by Hurricane Maria, PREPA awarded two time and materials (T&M) contracts to help restore its electrical grid—one to Whitefish Energy Holdings, LLC (Whitefish) and the other to Cobra Acquisitions, LLC (Cobra).¹

Whitefish Contract

On September 26, 2017, PREPA signed a T&M contract with Whitefish to perform transmission and distribution line reconstruction of Puerto Rico's power grid. PREPA and Whitefish amended the contract on October 17, 2017, to correct deficiencies in the original contract document and bring it into compliance with Federal regulations. The amendment added a \$300 million cost ceiling, new contract provisions, and higher labor and equipment rates. On November 30, 2017, PREPA terminated the Whitefish contract. PREPA incurred more than \$160 million in labor, equipment, and mobilization costs

¹ The United States Army Corps of Engineers and its contractors were also heavily involved in the overall grid restoration efforts in Puerto Rico after Hurricane Maria.



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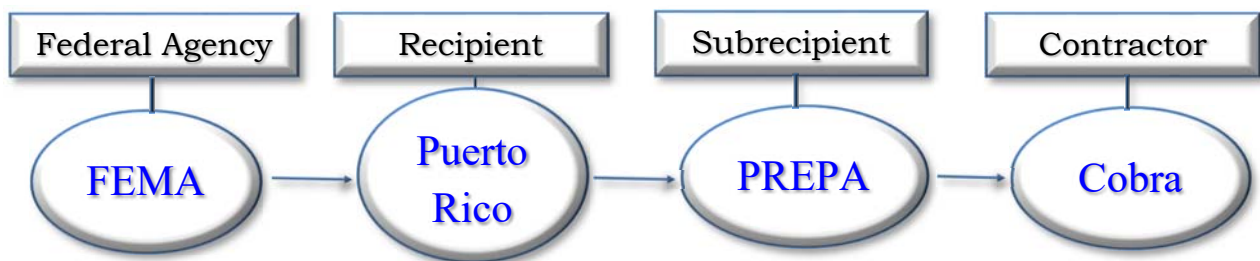
for the Whitefish contract. According to PREPA officials, the Governor of Puerto Rico requested that PREPA cancel the contract due to congressional concerns and negative media coverage surrounding the contract. As of January 2020, PREPA had paid Whitefish more than \$36 million of the \$160 million in contract costs incurred. Although PREPA has attempted to seek reimbursement, FEMA has not approved the reimbursement and continues to review PREPA’s supporting documentation of work performed. Without reimbursement from FEMA, PREPA officials have said they have limited resources to pay Whitefish for the restoration work performed.

Cobra Contract

On October 19, 2017, PREPA signed a \$200 million T&M contract with Cobra to perform power restoration services at various locations within PREPA’s service areas. Cobra agreed to perform work at a daily blended rate of \$4,000 per skilled lineman.² FEMA approved a PA grant in December 2017 that obligated \$200 million to reimburse Cobra contract costs.

On January 28, 2018, PREPA amended the Cobra contract to raise the contract ceiling from \$200 million to \$445 million. According to PREPA, this increase was for an additional 77 days of contractor performance and allowed restoration work to continue as PREPA sought to procure a competitive power restoration contract. In February 2018, at the time Cobra reached its new cost ceiling, 20 percent of PREPA’s customers were still without power. PREPA amended the contract again on February 27, 2018, to raise the contract ceiling to \$945 million. Correspondingly, FEMA then increased PA funds for the Cobra contract from \$200 million to \$945 million. As of July 2019, PREPA had received more than \$852 million for Cobra contract costs. Figure 2 illustrates how FEMA provided PA funds to reimburse Cobra contract costs.

Figure 2: FEMA’s PA Grant for Cobra Contract Costs



Source: DHS OIG analysis of PA grant documents

² The blended rate consists of a single rate per lineman that includes labor hours and equipment costs.



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FEMA implemented a manual reimbursement process in Puerto Rico requiring FEMA's review and approval of reimbursement requests before Puerto Rico could withdraw the obligated PA funds for reimbursement to PREPA and other subrecipients. The manual process required Puerto Rico to submit documentation to support that costs incurred were reasonable, eligible, and aligned with the approved scope of work. In addition, under this process, a FEMA Program Officer was responsible for ensuring the requested grant funds were eligible, allowable, reasonable, and aligned with the approved budget.

The Whitefish and Cobra contracts attracted extensive congressional and media scrutiny. Congressional committees raised concerns regarding PREPA's \$300 million contract award to a contractor with limited experience in Federal contracting. In addition, the committees raised concerns about Whitefish's high labor and equipment rates and eligibility of the contract costs under the PA program. We conducted this audit to determine whether FEMA's PA Grants to PREPA and PREPA's contract awards to Whitefish and Cobra complied with Federal laws and regulations and PA program guidelines.

Results of Audit

PREPA complied with Federal procurement requirements for its noncompetitive procurement of the Whitefish contract. However, the contract costs may not have complied with Federal cost principles. According to the cost principles, costs must be reasonable to be eligible for Federal awards. The Whitefish contract costs may not be reasonable because PREPA incurred costs at much higher contract rates than the rates Whitefish originally proposed. This occurred because PREPA did not evaluate the reasonableness of the new and higher rates despite multiple substantial rate increases. As a result, some of the Whitefish contract costs may not be eligible for PA funds, and PREPA may be at risk of not receiving full reimbursement for Whitefish contract costs.

Additionally, PREPA's oversight of the Cobra contract did not comply with PA program guidelines. The PA program requires PREPA to provide a high degree of oversight of T&M contracts. However, PREPA did not provide sufficient oversight of the Cobra contract. This occurred because Puerto Rico did not monitor PREPA's activities to ensure compliance with PA program guidelines. As a result, some of the Cobra contract costs may not be reasonable and eligible for the PA Grant Program.

Finally, FEMA's PA grant to PREPA for the Cobra contract did not comply with PA program guidelines. FEMA reimbursed more than \$852 million for Cobra contract costs without first confirming PREPA provided a high degree of oversight of the contract. Additionally, FEMA did not determine whether Cobra contract costs were reasonable and eligible for PA funds. These issues



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occurred because FEMA lacked guidance for verifying a subrecipient's oversight of a T&M contract and for assessing reasonableness of T&M contract costs. As a result, FEMA may have reimbursed PREPA for Cobra contract costs that are ineligible for PA funds.

PREPA's Contract with Whitefish Complied with Federal Procurement Requirements but May Not Have Complied with Federal Cost Principles

Although PREPA complied with Federal procurement requirements for its noncompetitive procurement of the Whitefish contract, the contract costs may not have complied with Federal cost principles. According to the cost principles, costs must be reasonable to be eligible for Federal awards. The Whitefish contract costs may not be reasonable because PREPA incurred them at much higher rates than the rates Whitefish originally proposed. This occurred because PREPA did not evaluate the reasonableness of the new and higher rates despite multiple substantial rate increases. As a result, some of the Whitefish contract costs may not be eligible for PA funds, and PREPA may be at risk of not receiving full reimbursement for the Whitefish contract costs.

PREPA's Procurement of Whitefish Contract Complied with Federal Requirements

PREPA complied with the Federal requirements for its procurement of the Whitefish contract even though it did not use full and open competition—a common Federal procurement requirement. Federal regulations require PREPA to use Puerto Rico's procurement policies and procedures when procuring services under a Federal grant award. However, Puerto Rico law does not require competitive bidding when an emergency demands immediate delivery of services.³ In addition, Executive Orders OE-2017-47 and OE-2017-53, issued by the Governor of Puerto Rico after Hurricane Maria, exempted PREPA from complying with Puerto Rico's normal procurement requirements for government contracting.

PREPA's original contract did not include all federally mandated contract provisions such as debarment and suspension, procurement of recovered materials, and contractor compliance with Federal laws, regulations, and executive orders. However, with FEMA's guidance, PREPA amended the Whitefish contract on October 17, 2017, to include a cost ceiling, add required contract provisions, and remove a 30 percent cost-plus-percentage provision.

³ Laws of Puerto Rico Annotated (L.P.R.A), Title 22, Chapter 11, Part 205 section (2)(b).



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Following this amendment, PREPA's contract with Whitefish complied with Federal procurement requirements.

Whitefish Contract Costs May Not Have Complied with Federal Cost Principles

According to Federal cost principles, costs must be necessary and reasonable to be allowable under Federal awards. A cost is reasonable if, in nature and amount, it does not exceed what would be incurred by a prudent person under circumstances prevailing at the time the decision was made to incur the cost. The Whitefish contract costs may not be reasonable because PREPA incurred the costs at much higher contract rates than the rates Whitefish originally proposed.

Whitefish raised its labor and equipment rates twice within a 28-day period. The rates in the September 26, 2017 Whitefish contract were significantly higher than the rates Whitefish had proposed 6 days earlier. Whitefish raised the rates again when PREPA and Whitefish amended the contract on October 17, 2017, to revise the contract terms for compliance with Federal regulations. Specifically:

- The labor rates for the first 8 hours in the original contract were approximately 57 percent higher than the rates Whitefish had proposed 6 days earlier. The amended contract increased the labor rates again by another 19 to 44 percent. For example, the labor rate for the first 8 hours for an apprentice lineman increased from \$83 an hour in the proposal to \$188 an hour in the amended contract. See table 3 in appendix C for a summary of the Whitefish labor rate increases.
- The equipment rates in the original contract were 7 percent higher than the rates Whitefish had previously proposed, and the equipment rates in the amended contract increased from the original contract by as much as 555 percent. For example, the rate for a Wire Reel Trailer increased from \$24 an hour in the initial proposal to \$168 an hour in the amended contract. See table 4 in appendix C for a summary of the Whitefish equipment rate increases.

In addition, Whitefish added a new category of rates for subcontractor labor and equipment with the contract amendment. As described in the following list, these rates were exorbitantly higher than the rates Whitefish proposed for its own labor and equipment:

- The labor rates for the first 8 hours for the subcontractor linemen positions were as much as 217 percent higher than the labor rates Whitefish



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proposed for its own linemen positions. See table 5 in appendix C for a comparison of the subcontractor labor rates with the rates Whitefish initially proposed for its own linemen.

- The hourly rates for subcontractor equipment were as much as 881 percent higher than the equipment rates Whitefish proposed for its own equipment. See table 6 in appendix C for a comparison of the new subcontractor equipment rates with the rates Whitefish initially proposed for its own equipment.
- The amended contract also included new supervisory and management categories for both Whitefish and subcontractor employees, ranging from \$140 an hour for a Field Office Administrator to \$616 an hour for Senior Project Accountant. See table 7 in appendix C for a summary of the rates for the new categories.

Despite these multiple substantial rate increases, PREPA did not assess the reasonableness of the rate increases before signing the contract amendment. Although a PREPA official stated PREPA had discussed the new rates with Whitefish before the amendment, PREPA could not provide evidence of such discussion. Instead, PREPA's correspondence indicates PREPA officials expected the rates for the amended contract to be the same as those in the original contract. Additionally, PREPA documents indicate that the first time Whitefish presented PREPA with the new and higher rates for the contract amendment was on the afternoon of October 17, 2017 — the day PREPA and Whitefish signed the amendment.

Although FEMA has not approved a PA grant for the Whitefish contract costs, it has been reviewing PREPA's reimbursement request for the Whitefish contract costs since November 2018. FEMA is responsible for determining whether the Whitefish contract costs are reasonable and eligible for the PA program. Whitefish billed PREPA for most of the contract work at the higher rates in the amended contract. As a result, some of the Whitefish contract costs may not be reasonable and eligible for PA funds, and PREPA may be at risk of not receiving full reimbursement of the Whitefish contract costs.

PREPA's Oversight of the Cobra Contract Did Not Comply with PA Program Guidelines

PREPA did not provide sufficient oversight of the Cobra contract to ensure Cobra performed in accordance with the conditions and specifications of the contract releases it issued under the Cobra contract. PA program guidelines require that PREPA provide a high degree of oversight of T&M contracts. However, PREPA's monitoring of the Cobra contract did not amount to a high



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degree of oversight to ensure labor efficiency and cost controls. This occurred because Puerto Rico did not monitor PREPA's activities, or provide technical assistance to ensure the PA grant for the Cobra contract complied with applicable guidelines. As a result, some of the Cobra contract costs may not be reasonable and eligible for PA funds.

PREPA Did Not Provide Sufficient Oversight of the Cobra Contract as Required by PA Program Guidelines

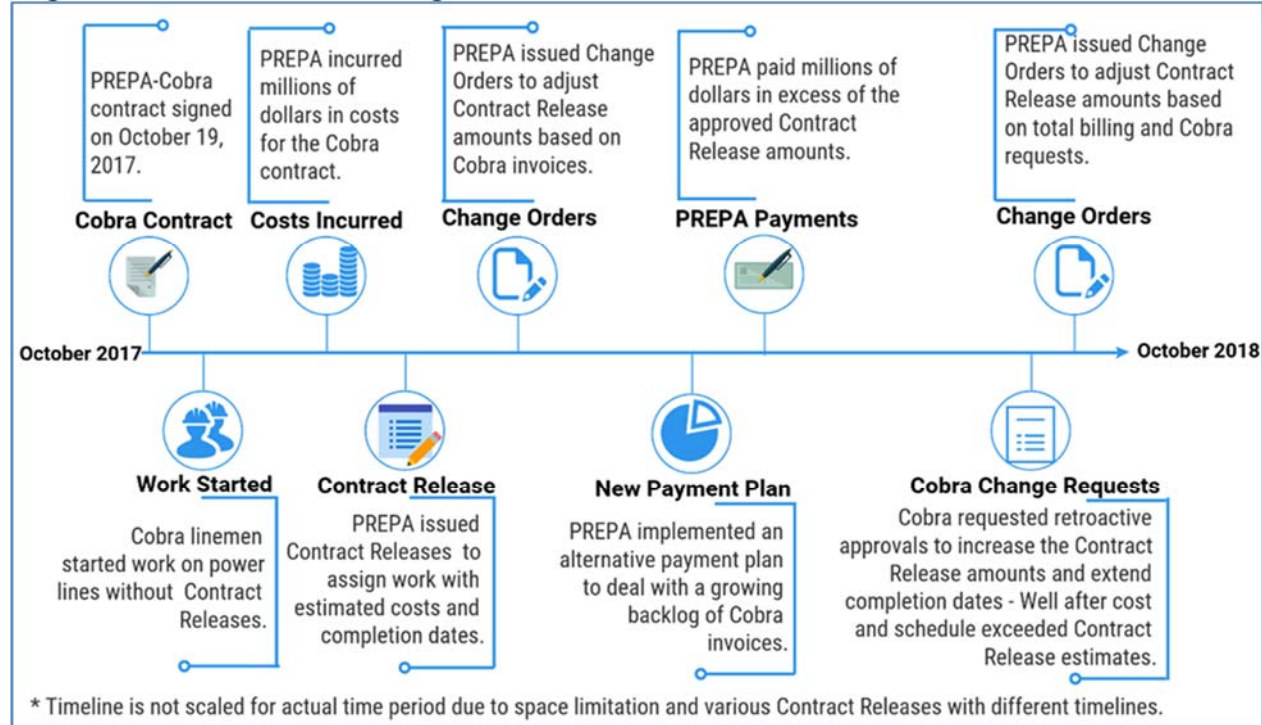
According to PA program guidelines, a subrecipient is required to maintain oversight of a contract to ensure the contractor performs according to the conditions and specifications of the contract and any purchase orders. Additionally, the subrecipient must provide a high degree of oversight for a T&M contract to ensure the contractor uses efficient methods and effective cost controls.

PREPA's contract with Cobra included two tools that PREPA used to manage and oversee the work performed under the T&M contract: (1) a Contract Release and (2) a Change Order. The Contract Release sets the terms and conditions for individual projects under the contract, and the Change Order approves and documents any changes to the contract terms and conditions. PREPA did not properly use Contract Releases or Change Orders to manage and oversee the work Cobra performed. Specifically, PREPA did not set the terms and conditions for individual projects before Cobra started work, did not approve or document changes to the cost and schedule estimates before the cost increases and schedule delays took place, and paid more than the approved amounts for individual projects. Figure 3 shows how PREPA generally managed and oversaw restoration work for most of the projects we reviewed.



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Figure 3: PREPA’s Oversight of 15 Contract Releases We Reviewed



Source: DHS OIG analysis of 15 Contract Releases PREPA issued for work under the Cobra contract

PREPA Did Not Set the Terms and Conditions before Cobra Started Work

According to the Cobra contract, PREPA was required to sign a Contract Release to set the terms and conditions for each project under the contract. The Contract Release served as a purchase order detailing the project’s price, time, and scope of work, thereby establishing a timeline and cost ceiling for work completion. However, PREPA did not issue Contract Releases including scope of work, cost of the work, and schedule estimates before Cobra began work for the restoration of several power lines.

We reviewed 15 projects under the Cobra contract and determined that Cobra started work and incurred costs before PREPA issued Contract Releases for the respective power lines under all 15 projects. For example, Cobra linemen began work on a power line on November 16, 2017, before PREPA and Cobra signed a Contract Release detailing the scope of work that should be performed to restore the line. In fact, PREPA did not issue a Contract Release for this line until December 21, 2017 — 35 days after Cobra started work. At that point, Cobra had already billed more than \$9.5 million in contract costs for the work performed. See appendix D for a detailed timeline of this project.



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For the 15 projects we reviewed, Cobra billed more than \$117 million in contract costs for work performed before PREPA issued a Contract Release. Table 1 summarizes the timelines and costs incurred for the 15 projects.

Table 1: Timeline of 15 Projects and Related Costs

Contract Release (CR) Number	Work Start Date	CR Issue Date	Cost Incurred Before CR Issuance (\$)	% of Final CR Amount
01	10/25/17	11/10/17	29,542,868	90%
32	12/12/17	01/29/18	14,077,618	21%
56	01/12/18	04/14/18	13,597,518	23%
11	11/11/17	12/26/17	12,651,129	72%
19	11/13/17	12/23/17	12,615,582	31%
25	11/16/17	12/21/17	9,577,197	55%
40	11/30/17	01/29/18	7,367,297	34%
21	11/27/17	12/23/17	4,367,780	14%
37	12/27/17	02/01/18	4,281,443	22%
64	12/24/17	04/25/18	3,280,158	12%
48	01/08/18	03/02/18	2,469,568	14%
58	01/11/18	04/24/18	1,668,245	9%
04	11/10/17	11/21/17	1,158,954	1%
22	12/12/17	12/23/17	879,050	2%
42	01/30/18	02/01/18	178,984	1%
Total			117,713,391	

Source: DHS OIG analysis of 15 Contract Releases that PREPA issued for work under the Cobra contract

Additionally, Cobra did not sign the Contract Releases for 6 of the 15 projects until May 16, 2018 — as long as 4 months after PREPA issued the Contract Releases. Finally, 6 of the 15 Contract Releases did not include completion dates for the restoration work, essentially not binding Cobra to set schedules for restoring the respective lines.

PREPA Did Not Approve or Document Changes to the Cost and Schedule Estimates before the Cost Increases and Schedule Delays Took Place

According to the Cobra contract, a Change Order is a written agreement between PREPA and Cobra approving a change to a Contract Release’s price, time, or scope of work. For the 15 projects we reviewed, PREPA issued 41 Change Orders increasing the cost ceilings or extending the schedules. Instead of approving the Change Orders before the changes were to take place, PREPA



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approved most of the Change Orders months after Cobra exceeded the approved cost and schedule estimates and PREPA paid Cobra millions of dollars in excess of the approved amounts.

Through the issuance of 41 Change Orders, PREPA approved an increase in the aggregate cost of the 15 projects by approximately \$391 million — from the original \$164 million to more than \$555 million. The cost increases ranged from 49 percent to 4,700 percent more than the originally approved, not-to-exceed amounts. Table 2 summarizes the cost increases.

Table 2: Cost Increases for the 15 Contract Releases (CR)

CR #	Change Orders	Original CR Amount (\$)	Final CR Amount (\$)	Cost Increase (\$)	Cost Increase %
25	4	358,296	17,344,800	16,986,504	4741%
21	5	1,507,678	31,042,382	29,534,704	1959%
32	5	4,000,000	66,623,826	62,623,826	1566%
19	3	2,653,714	40,720,331	38,066,617	1434%
11	3	1,200,000	17,585,077	16,385,077	1365%
58	1	2,336,000	17,883,201	15,547,201	666%
22	1	6,362,381	43,999,921	37,637,540	592%
42	1	5,045,760	28,937,377	23,891,617	473%
37	2	4,292,400	19,304,000	15,011,600	350%
40	5	5,000,000	21,513,702	16,513,702	330%
64	1	8,059,200	28,369,529	20,310,329	252%
48	3	5,700,000	17,763,782	12,063,782	212%
01	4	14,067,000	32,992,548	18,925,548	135%
56	1	27,506,408	58,228,746	30,722,337	112%
04	2	76,149,360	113,419,334	37,269,974	49%
Total	41	\$164,238,197	\$555,728,556	\$391,490,358	238%

Source: DHS OIG analysis of 15 Contract Releases and related Change Orders PREPA issued for work under the Cobra contract

Furthermore, 32 of 41 Change Orders were not in accordance with contractual requirements because Cobra did not sign them. For the nine signed Change Orders, Cobra dated them all May 16, 2018, which was, in some cases, more than 3 months after PREPA signed the Change Orders.



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PREPA Paid Millions of Dollars More than the Approved Amounts

According to the contract terms, all payments for work performed must be made after the approval of a Contract Release. However, for 13 of the 15 Contract Releases, PREPA paid millions of dollars more than the approved, not-to-exceed amounts before issuing Change Orders to approve changes to the terms of the Contract Releases. PREPA eventually issued the Change Orders to account for the invoices that exceeded the approved cost amounts.

According to PREPA, its contract management system has a not-to-exceed function that restricts it from making payments exceeding the approved Contract Release amounts. However, PREPA bypassed this feature starting February 2018 when it implemented an alternative payment plan to deal with a growing backlog of Cobra invoices. As a result, PREPA was able to pay for invoices exceeding the approved Contract Release amounts without issuing Change Orders.

Puerto Rico Did Not Monitor to Ensure PREPA Complied with PA Program Guidelines

Federal regulations require Puerto Rico to monitor the activities of PREPA, and provide technical assistance if needed, to ensure the PA grant award complies with applicable regulations, terms, and conditions. In October 2017, Puerto Rico created the Central Office for Recovery, Reconstruction, and Resiliency (COR3) to oversee recovery efforts including the PA grant awards. However, COR3 was unable to monitor PREPA, or assess PREPA's oversight of its T&M contracts, to ensure compliance with Federal regulations and PA program guidelines.

According to COR3 officials, COR3 did not conduct a completeness assessment of PREPA's reimbursement requests for the first \$520 million in Cobra contract costs to ensure the adequacy of supporting documentation. Additionally, as of February 2019, COR3 had not conducted a compliance assessment of any of PREPA's reimbursement requests to determine whether the Cobra contract costs were incurred in accordance with PA program guidelines and whether Federal funds were used for their intended purposes. According to Puerto Rico officials, COR3 was not established until June 2018. As a result, COR3 could not carry out its grant management and oversight responsibilities.



FEMA Did Not Comply with PA Program Guidelines for Its PA Grant for the Cobra Contract

FEMA reimbursed more than \$852 million for Cobra contract costs without confirming that PREPA or Puerto Rico had demonstrated a high degree of oversight of the Cobra contract. Additionally, FEMA did not determine whether the Cobra contract costs are reasonable and eligible for PA funds. This occurred because FEMA has no clear guidelines to verify a subrecipient's oversight of a T&M contract before providing PA funds to reimburse T&M costs. It also has no clear guidelines for assessing the reasonableness of T&M contract costs. As a result, FEMA may have reimbursed PREPA for Cobra contracts costs not eligible for PA funds.

FEMA Reimbursed PREPA without Confirming PREPA's Oversight of the Cobra Contract

According to PA program guidelines, FEMA may reimburse costs incurred under a T&M contract only if the subrecipient provides a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

The Cobra contract was a T&M contract with a daily blended rate for labor and equipment. There are risks inherent with using a T&M contract for power restoration work. The more labor hours the contractor bills, the more profit the contractor makes. Therefore, PA program guidelines require a subrecipient to provide a high level of oversight for this type of contract to ensure the costs claimed for labor and equipment are necessary and reasonable to accomplish the work properly and efficiently. However, FEMA reimbursed PREPA more than \$852 million for Cobra contract costs without verifying that PREPA provided a high degree of contract oversight.

FEMA does not have clear guidelines for verifying a subrecipient's oversight of a T&M contract before providing PA funds to reimburse T&M costs. Consequently, FEMA may have reimbursed PREPA for Cobra contract costs that were not necessary and reasonable for the restoration work completed.

FEMA Did Not Determine Whether Cobra Contract Costs Were Necessary and Reasonable

FEMA is responsible for determining the eligibility of all costs claimed for PA funding. According to Federal cost principles, in order to be eligible for reimbursement, costs must be necessary and reasonable to accomplish the work properly and efficiently. However, FEMA did not assess whether the \$852 million in Cobra contract costs were reasonable for the work completed.



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In a December 2017 memo, FEMA documented its determination that Cobra contract costs were reasonable and eligible for the PA program. As noted in our report, *FEMA's Cost Eligibility Determination of Puerto Rico Electric Power Authority's Contract with Cobra Acquisitions LLC* (OIG-19-52, July 3, 2019), FEMA based its eligibility determination on an unsound analysis of Cobra contract rates. According to FEMA, the intent of the determination memo was to document its review of the contract rates. However, because FEMA used the terms “contract rates” and “contract costs” interchangeably, some stakeholders interpreted the language in the memo to mean the full scope of work and total costs were reasonable.⁴

According to FEMA officials, FEMA did not receive all the documents necessary to conduct an analysis of the project costs and planned to review the actual contract costs for reasonableness when it closes out the PA grant for the Cobra contract. Federal regulations allow FEMA to determine the final eligible amount of reimbursement for large projects after the subrecipient certifies that all work under a project has been completed. However, T&M contracts pose unique circumstances for PA grant awards because they do not have detailed scopes of work or itemized cost estimates. For example, the scope of the Cobra contract was PREPA’s electrical grid repairs up to a cost ceiling of \$945 million rather than specific projects with defined prices and scopes of work. If FEMA waits until a T&M contract reaches its cost ceiling before determining the reasonableness of contract costs, FEMA risks reimbursing for unreasonable and ineligible costs in the interim.

In addition, the regulations do not preclude FEMA from assessing Cobra contract costs before all restoration work is completed or before Cobra reaches the ceiling of the contract. FEMA could have assessed Cobra contract costs during key events such as:

- when FEMA reviewed Cobra contract invoices as part of its manual process for reimbursing Cobra contract costs;

⁴ In its management response to the recommendation in a draft of our interim report *FEMA's Cost Eligibility Determination of Puerto Rico Electric Power Authority's Contract with Cobra Acquisitions LLC* (OIG-19-52, July 3, 2019), FEMA notified OIG that it would complete its analyses and make a final determination of the eligibility of the actual Cobra contract costs by May 29, 2020. In its 90-day update for the final report, FEMA noted that it opted to use the U.S. Army Corps of Engineers to perform an independent analysis of the contract costs and expected to make a final determination of the eligibility by May 31, 2020. In its latest update, FEMA notified OIG that FEMA and U.S. Army Corps of Engineers will not complete the analysis of Cobra contract costs for reasonableness until the end of August 2020. Further, FEMA estimates resolution and closure of the recommendation will not occur until May 2021.



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- when Cobra completed work under individual Contract Releases (for example, Cobra completed the work under Contract Release 3 on December 9, 2017);
- when FEMA increased PREPA's PA funds for the Cobra contract from \$200 million to \$945 million to account for contract ceiling increases; or
- when FEMA reviewed a second Cobra T&M contract for compliance with procurement requirements.

FEMA has no clear guidance about when or how FEMA should assess T&M costs for reasonableness and eligibility.⁵ As a result, there is risk that some of the \$852 million FEMA has already reimbursed for the Cobra contract costs are unreasonable and ineligible for PA funds. Furthermore, in the event FEMA disallows ineligible costs, FEMA may have difficulty recovering the unallowable costs given Puerto Rico and PREPA's financial conditions.⁶

Recommendations

Recommendation 1: We recommend FEMA's Region II Administrator direct Puerto Rico COR3 to provide technical assistance to PREPA to ensure compliance with Federal cost principles, including assessing Whitefish's contract rate increases for reasonableness.

Recommendation 2: We recommend FEMA's Region II Administrator direct Puerto Rico COR3 to assess PREPA's oversight of T&M contracts and provide PREPA with technical assistance to ensure it develops policies and procedures to provide a high degree of oversight of current and future T&M contracts, including managing and overseeing Contract Releases, Change Orders, and payments.

Recommendation 3: We recommend FEMA develop clear guidance to ensure it reimburses costs for a T&M contract only if the recipient or subrecipient

⁵ In its management response to a draft of our interim report *FEMA's Cost Eligibility Determination of Puerto Rico Electric Power Authority's Contract with Cobra Acquisitions LLC* (OIG-19-52, July 3, 2019), FEMA discussed its plans to update the 2018 *Reasonable Cost Evaluation Job Aid* by including additional guidance specific to evaluating T&M contracts and incorporate it into the next version of the *Public Assistance Program and Policy Guide*. However, FEMA has not implemented this corrective action plan yet.

⁶ In June 2016, Congress enacted, and the President signed, the *Puerto Rico Oversight, Management, and Economic Stability Act* (PROMESA) in response to Puerto Rico's fiscal crisis. PROMESA established a Financial Oversight and Management Board for Puerto Rico (FOMB), and granted it broad powers of fiscal and budgetary control over Puerto Rico. In July 2017, the FOMB put PREPA into a bankruptcy-like process.



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demonstrates a high degree of oversight of the contract for labor efficiency and effective cost controls.

Recommendation 4: We recommend FEMA develop guidance, including the appropriate milestones in the grant lifecycle, for assessing costs under a T&M contract for reasonableness and eligibility.

Management Comments and OIG Analysis

FEMA concurred with recommendations 1 through 3, but did not concur with recommendation 4. FEMA believed it is premature to conclude whether PREPA conformed with PA policy and guidelines or Federal cost principles while its review of the information is still underway. We included a copy of FEMA's management comments in their entirety in appendix B. We also received technical comments on the draft report and revised the report as appropriate. We consider recommendations 1 and 2 resolved and open, and recommendation 3 resolved and closed. We consider recommendation 4 unresolved; it will remain open until FEMA provides additional information and supporting documentation on how its actions will fully meet the intent of the recommendation. A summary of FEMA's management responses and our analysis follows.

FEMA Comments to Recommendation 1: FEMA concurred with our recommendation. FEMA has been working closely with COR3 to ensure adequate oversight and technical assistance to PREPA regarding Federal cost principles and cost requirements. FEMA will direct Puerto Rico to continue to provide technical assistance and oversight to PREPA. Estimated Completion Date (ECD): February 26, 2021.

OIG Analysis of FEMA's Response: FEMA's actions and commitment to direct Puerto Rico to continue to provide technical assistance and oversight to PREPA are responsive to our recommendation. We consider this recommendation resolved and open. We will close the recommendation when FEMA provides documentation supporting Puerto Rico's efforts to ensure PREPA complies with Federal cost principles, including assessing for reasonableness Whitefish's contract rate increases.

FEMA Comments to Recommendation 2: FEMA concurred with our recommendation. FEMA will request documentation from COR3 that assesses PREPA's policies and procedures regarding its time and materials contracts. Estimated Completion Data (ECD): February 26, 2021.



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OIG Analysis of FEMA's Response: FEMA's proposed corrective action is responsive to our recommendation. We consider this recommendation resolved and open. We will close this recommendation when FEMA provides documentation supporting PREPA's policies and procedures for T&M contracts that ensure compliance with Federal regulations and PA program guidelines.

FEMA Comments to Recommendation 3: FEMA concurred with our recommendation. FEMA's PA Program has updated its PA Program and Policy Guide to specifically address conducting reasonable cost analyses. Additionally, the revised Guide expands the Procurement and Contracting section to include specific guidance on T&M contracts.

OIG Analysis of FEMA's Response: FEMA's corrective action is responsive to our recommendation. FEMA updated its PA Program and Policy Guide with specific guidance for T&M contracts, including requiring documentation that substantiates a high degree of contractor oversight when requested. We consider this recommendation resolved and closed.

FEMA Comments to Recommendation 4: FEMA did not concur with this recommendation. FEMA stated that the reasonability of T&M contract costs depends on the facts and circumstances of each T&M contract, and there is no particular milestone in the grant lifecycle where it is always appropriate to assess a T&M contract for reasonableness and eligibility. FEMA also stated that policy and monitoring tools, such as the T&M contract procurement information in Chapter 3 of the Procurement Disaster Assistance Team's (PDAT) Field Manual, are in place to address oversight requirements.

OIG Analysis of FEMA's Response: We agree that the reasonability of T&M contract costs depends on the facts and circumstances of each T&M contract, and there is no particular milestone in the grant lifecycle that is always appropriate to assess T&M costs. However, our recommendation does not prescribe a specific timeline that is always appropriate for such assessment. The intent of our recommendation is for FEMA to design and implement controls to assess the costs for reasonableness before reimbursing hundreds of millions in T&M contract costs. FEMA has yet to determine the cost eligibility of the Cobra contract costs even though it has been almost 2 years since it reimbursed PREPA the first \$700 million for the contract costs. According to FEMA, it cannot complete its analysis of the Cobra contract costs until August 2020 and disallow any unreasonable costs until February 2021.

Chapter 3 of PDAT's Field Manual discusses the risks and procurement of T&M contracts in the immediate aftermath of an incident, but does not include any policy or tools for assessing T&M costs for reasonableness before reimbursement.



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In addition, FEMA's non-concurrence with this recommendation contradicts its corrective action plans in response to our interim report *FEMA's Eligibility Determination of Puerto Rico Electric Power Authority's Contract with Cobra Acquisitions LLC* (OIG-19-52). In its management comments to the Interim Report, FEMA agreed to update its 2018 *Reasonable Cost Evaluation Job Aid* to include additional guidance specific to evaluating T&M contracts and incorporate it in the next version of the *Public Assistance Program and Policy Guide*. However, FEMA has not implemented this corrective action plan yet.

As we discussed in this report, there are inherent risks associated with T&M contracts for incurring unreasonable costs. The current version of the *Public Assistance Program and Policy Guide* and PDAT Field Manual also highlight the risk of unreasonable costs associated with the use of T&M contracts. It is imperative that FEMA develop specific guidelines for its personnel to evaluate T&M costs for reasonableness to reduce the risk of reimbursing unreasonable and ineligible contract costs. This recommendation will remain unresolved and open until FEMA provides evidence of new or updated guidance on determining eligibility of T&M contract costs.



Appendix A

Objective, Scope, and Methodology

Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. L. 107-296) by amendment to the *Inspector General Act of 1978*.

We conducted this audit to determine whether FEMA's PA Grants to PREPA and PREPA's contracts with Whitefish and Cobra complied with Federal laws and regulations and PA program guidelines. To achieve our objective, we interviewed FEMA officials in the Office of Chief Counsel, Office of Public Assistance Policy, and the Joint Field Office in Puerto Rico. We also interviewed a number of PREPA officials including the Chief Financial Officer, Chief Procurement Officer, Chief Construction Manager, and former Chief Executive Officer. Additionally, we interviewed officials with the Puerto Rico Fiscal Agency and Financial Advisory Authority, COR3, and the Puerto Rico Comptroller Office. To determine compliance with regulations and PA program guidelines, we reviewed Federal regulations, FEMA policies and procedures, Puerto Rico laws and regulations, PREPA policies and procedures, and contract and financial documents.

To determine whether PREPA's contracts with Whitefish and Cobra complied with Federal regulations, we reviewed Federal procurement requirements, PA program guidelines, Whitefish and Cobra contracts, contract proposals and amendments, and FEMA's review of PREPA's contracts. To determine whether PREPA assessed the reasonableness of Whitefish rate increases before the contract amendment, we interviewed the former Chief of PREPA's Supply Chain Division and Procurement; requested evidence of PREPA's review of the rates; reviewed PREPA emails and Whitefish invoices; and compared the labor and equipment rates in the proposal, the original contract, and the contract amendment.

To assess PREPA's oversight of the Cobra contract, we interviewed PREPA officials including the former Chief of Supply Chain Division and Procurement, the Director and head engineers of Transmission and Distribution, a senior executive with the Program Management Office, and the Chief of Electrical Distribution Subdivision. We also reviewed PREPA's oversight of the cost, schedule, and performance of the Contract Releases it issued to assign and manage restoration work under the Cobra contract. For a more detailed review of PREPA's oversight, we judgmentally selected 15 Contract Releases, each with a cost increase of \$10 million or more, from the 95 Contract Releases PREPA issued under the Cobra contract. We reviewed these 15 Contract Releases and their supporting information including contract cost data, Cobra invoices, PREPA damage reports, Asset Suite approvals, payment data, change orders,



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and contractor change requests. We also reviewed PREPA's 80/20 payment plan that accelerated the payment process for the backlog of Cobra invoices.

To determine whether FEMA complied with Federal regulations and PA program guidelines, we reviewed the applicable sections of Title 2, Grants and Agreements, and Title 44, Emergency Management and Assistance, of the Code of Federal Regulations as well as the FEMA *Public Assistance Program and Policy Guide* and related FEMA policies and procedures. We also interviewed FEMA officials responsible for implementing PA policy in Puerto Rico.

Specifically, to determine whether FEMA assessed PREPA's oversight of the Cobra contract for labor efficiency and cost effectiveness, we interviewed FEMA officials including Public Assistance staff, the Fiscal Transparency Group, and Quality Assurance/Quality Control. We also requested documentation supporting FEMA's assessment of PREPA's oversight of the Cobra contract.

To determine whether FEMA determined cost eligibility, including cost reasonableness, of Cobra contract costs, we reviewed Federal regulations and applicable FEMA policies and procedures governing payment of claims, as well as project funding, project closeout, cost principles, and cost reasonableness. We also reviewed the FEMA manual drawdown process instituted for Puerto Rico and PREPA's drawdown of PA program funds. We interviewed FEMA PA officials regarding cost eligibility and reasonableness determination, including when and how FEMA determines cost reasonableness. We also interviewed FEMA PA officials responsible for reviewing, approving, and reimbursing PA funds for Cobra contract costs, including the Fiscal Transparency Group.

We assessed the controls related to FEMA's PA grants to PREPA and PREPA's contracts with Whitefish and Cobra. We conducted a limited assessment of FEMA's controls for the review and approval of Project Worksheets and PREPA drawdowns including the manual drawdown process. We also reviewed PREPA's controls for contract management and payments including approval process for Contract Releases and Change Orders as well as payments for the Contract Releases. Our limited assessment would not necessarily disclose all material weaknesses within these areas. However, the audit evidence we obtained indicates control weaknesses that led FEMA to reimburse hundreds of millions in PA funds before assessing PREPA's oversight of the T&M contracts and the reasonableness of the incurred costs. The audit evidence also indicates control weaknesses that led PREPA to pay for contract costs in excess of approved Contract Release amounts.

We obtained and analyzed FEMA's data for Cobra contract costs and its review of Cobra invoices. We also reviewed PREPA's vendor transaction history and payment data as part of our review of its oversight of the Cobra contract. We compared FEMA and PREPA data for inconsistency, errors, and completeness



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and identified inaccurate or incomplete information with both PREPA and FEMA data. When we found discrepancies, we obtained supporting invoices or payment data and corrected the discrepancies before conducting our analyses. From these efforts, we determined the contract costs and payment data to be sufficiently reliable to support the findings, recommendations, and conclusions in this report.

We conducted this performance audit between January 2018 and February 2020 under the authority of the *Inspector General Act of 1978*, as amended, and according to Generally Accepted Government Auditing Standards. Those standards require 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 objective.



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Appendix B
FEMA Comments to the Draft Report

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



June 5, 2020

MEMORANDUM FOR: Joseph V. Cuffari
Inspector General

FROM: Joel Doolin
Associate Administrator
Office of Policy and Program Analysis

SUBJECT: Management Response to Draft Report: "FEMA's Public Assistance Grant to PREPA and PREPA's Contracts with Whitefish and Cobra Did Not Fully Comply with Federal Laws and Program Guidelines"
(Project No. 18-044-AUD-FEMA)

JOEL A
DOOLIN

Digitally signed by JOEL A
DOOLIN
Date: 2020.06.05 08:01:55
-04'00'

Thank you for the opportunity to review and comment on this draft report. The 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 agrees with the OIG's recognition that the Puerto Rico Electric Power Authority (PREPA) complied with Federal procurement requirements for its non-competitive procurement of the Whitefish Energy Holdings, LLC (Whitefish) contract. FEMA notes OIG's characterizations concerning PREPA's compliance with Federal cost principles and PREPA's oversight of the Cobra Acquisitions, LLC (Cobra) contract and that OIG believes PREPA's oversight did not comply with Public Assistance (PA) program guidelines.

FEMA takes its responsibility for grant oversight and stewardship of Federal funds seriously. FEMA continues to work in close partnership with both the Government of Puerto Rico and PREPA to ensure all costs reimbursed under the Public Assistance program are managed according to Federal laws and regulations, are eligible and are reasonable. FEMA will only make grant awards when those conditions are met. FEMA is actively reviewing the information provided for use in developing Project Worksheets and determining cost reasonableness per the Federal cost principles. FEMA believes it is premature to conclude whether PREPA conformed with PA policy and guidelines or Federal Cost principles while our review of the information is still underway.



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FEMA recognizes that the actions taken by Puerto Rico and PREPA were taken in the immediate aftermath of a significant major hurricane and under the context of financial difficulty. Since then, Puerto Rico established the Central Office for Recovery, Reconstruction, and Resiliency (COR3) as an oversight authority and FEMA had implemented a restrictive manual reimbursement process until COR3 established sufficient fiscal controls and oversight at the recipient and sub-recipient levels.

The draft report contained four recommendations, three with which FEMA concurs, and one with which FEMA non-concurs. Attached find our detailed response to each recommendation. FEMA previously submitted technical comments under a separate cover for OIG's consideration.

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 18-044**

OIG recommended that FEMA's Region II Administrator:

Recommendation 1: Direct Puerto Rico COR3 to provide technical assistance to PREPA to ensure compliance with Federal cost principles, including assessing Whitefish's contract rate increases for reasonableness.

Response: Concur. FEMA has been working closely with COR3 to ensure adequate oversight and technical assistance to PREPA regarding federal cost principles and cost requirements. FEMA will direct Puerto Rico to continue to provide technical assistance and oversight to PREPA. Estimated Completion Date (ECD): February 26, 2021.

Recommendation 2: Direct Puerto Rico COR3 to assess PREPA's oversight of T&M [time and materials] contracts and provide PREPA with technical assistance to ensure it develops policies and procedures to provide a high degree of oversight of current and future T&M contracts, including managing and overseeing Contract Releases, Change Orders, and payments.

Response: Concur. FEMA will request documentation from COR3 that assesses PREPA's policies and procedures regarding its T&M contracts. Estimated Completion Date (ECD): February 26, 2021.

Recommendation 3: Develop clear guidance to ensure it reimburses costs for a T&M contract only if the recipient or subrecipient demonstrates a high degree of oversight of the contract for labor efficiency and effective cost controls.

Response: Concur. FEMA's PA Program developed an updated PA Program and Policy Guide (PAPPG), which was publicly released on May 28, 2020, effective June 1, 2020. The revisions to the PAPPG include a new section that specifically addresses conducting reasonable cost analyses. Additionally, in collaboration with FEMA's Procurement Disaster Assistance Team (PDAT) within the Grant Programs Directorate, the revised PAPPG expands the Procurement and Contracting section to include specific guidance on T&M contracts.

FEMA requests that the OIG consider the recommendation resolved and closed.

Recommendation 4: Develop guidance, including the appropriate milestones in the grant lifecycle, for assessing costs under a T&M contract for reasonableness and eligibility.



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Response: Non-Concur. T&M contracts are unique in nature, and whether costs are reasonable depends on the specific facts and circumstances necessitating each T&M contract. Furthermore, T&M contracts are used when the scope or time necessary to complete the work is unclear. Consequently, there is no particular milestone of the grant lifecycle where it is always appropriate to assess a T&M contract for reasonableness and eligibility. With this in mind, FEMA believes that grant oversight is the best approach to address reasonableness and eligibility of costs under T&M contracts.

Policy and tools are already in place to address oversight requirements. For example, the PDAT Field Manual, dated October 2019, specifically addresses T&M contracts in Chapter 3. Additionally, FEMA performs financial and programmatic monitoring on grants, tracks the performance of that monitoring, reviews quarterly or semi-annual reports, and periodically conducts enhanced monitoring. Taken together, FEMA's current policy and available tools sufficiently address grant oversight, and FEMA's continual monitoring and assessments address issues as they arise. Furthermore, PDAT provided 36 procurement trainings directly to 1,018 Puerto Rico stakeholders from November 2017 to April 2020.

FEMA requests that the OIG consider the recommendation resolved and closed.



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Appendix C
Whitefish Rate Increase Tables

Table 3: Examples of Whitefish Labor Rate Increases for the First 8 Hours

Whitefish Positions	Proposed Rate \$/Hour	Contract Rate \$/Hour	Contract Rate Difference	Amended Rate \$/Hour	Amended Rate Difference
General Foreman	122.30	192.19	57%	240.24	25%
Line Foreman	117.94	185.33	57%	230.63	24%
Linemen A	113.57	178.46	57%	227.88	28%
Apprentice 7th	109.20	171.60	57%	204.55	19%
Apprentice 6th	104.83	164.74	57%	201.80	22%
Apprentice 5th	100.46	157.87	57%	199.06	26%
Apprentice 4th	96.10	151.01	57%	196.31	30%
Apprentice 3rd	91.73	144.14	57%	193.56	34%
Apprentice 2nd	87.36	137.28	57%	190.82	39%
Apprentice 1st	82.99	130.42	57%	188.07	44%
Operator	109.20	171.60	57%	204.55	19%
Groundmen	82.99	130.42	57%	188.07	44%
Construction Manager	150.00	198.00	32%	275.50	39%

Source: DHS OIG analysis of Whitefish proposal and contract documents

Table 4: Examples of Whitefish Equipment Rate Increases

Equipment	Proposed Rate \$/Hour	Original Contract Rate \$/Hour	Contract Rate Difference	Amended Rate \$/Hour	Amended Rate Difference
Bucket Truck, 61'-69'	81.12	86.80	7%	85.30	-2%
Pickup	19.97	21.37	7%	32.16	50%
Flatdeck Truck	24.96	26.71	7%	46.50	74%
Puller, Up to 6k lb.	42.00	44.94	7%	107.74	140%
Trencher W/Trailer	14.40	15.41	7%	45.75	197%
Tensioner 10k lb.	30.00	32.10	7%	165.00	414%
Wire Reel Trailer	24.00	25.68	7%	168.11	555%

Source: DHS OIG analysis of the Whitefish proposal and contract documents



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Table 5: Examples of Subcontractor Labor Rates Compared with the Proposed Whitefish Labor Rates for the First 8 Hours

Subcontractor Positions	Proposed Rate \$/Hour	Subcontractor Rate \$/Hour	Difference
General Foreman	122.30	336.34	175%
Line Foreman	117.94	322.88	174%
Linemen A	113.57	319.04	181%
Apprentice 7th	109.20	286.37	162%
Apprentice 6th	104.83	282.52	170%
Apprentice 5th	100.46	278.68	177%
Apprentice 4th	96.10	274.83	186%
Apprentice 3rd	91.73	270.99	195%
Apprentice 2nd	87.36	267.15	206%
Apprentice 1st	82.99	263.30	217%
Operator	109.20	286.37	162%
Groundmen	82.99	263.30	217%
Construction Manager	150.00	385.70	157%

Source: DHS OIG analysis of Whitefish proposal and contract documents

Table 6: Examples of Subcontractor Equipment Rates Compared with Proposed Equipment Rates

Equipment	Proposed Rate \$/Hour	Subcontractor Rate \$/Hour	Difference
Bucket Truck, 61'-69'	81.12	119.42	47%
Pickup	19.97	45.02	125%
Flatdeck Truck	24.96	65.10	161%
Puller, Up to 6k lb.	42.00	150.84	259%
Trencher W/Trailer	14.40	64.05	345%
Tensioner 10k lb.	30.00	231.00	670%
Wire Reel Trailer	24.00	235.35	881%

Source: DHS OIG analysis of the Whitefish proposal and contract documents



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Table 7: Hourly Rates for Newly Added Supervisory and Management Overhead Categories

Supervisory and Management Positions	Whitefish Rate \$/Hour	Subcontractor Rate \$/Hour
Site Supervisor	330.00	462.00
Superintendent	300.00	420.00
Quality Control Manager	290.00	406.00
Field Office Engineer	290.00	406.00
Senior Project Manager	263.50	368.90
Project Manager	247.50	346.50
Logistics Manager	232.50	325.50
Project Coordinator	188.07	263.30
Logistics Coordinator	188.07	263.30
Field Office Administrator	140.26	196.36
Sr. Project Accountant	440.00	616.00
Jr. Project Accountant	300.00	420.00

Source: DHS OIG analysis of the Whitefish proposal and contract documents



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Appendix D Contract Release Timeline Example

10/19/17	<ul style="list-style-type: none"> • PREPA and Cobra Signed the Contract • One Contract Release for Each Line or Segment • Payments after Approval of Contract Releases
11/16/17	<ul style="list-style-type: none"> • Cobra Started Work on Line 3700 in Patillas without a Contract Release
11/30/17	<ul style="list-style-type: none"> • PREPA Completed Damage Report of Line 3700 in Patillas - Estimated Repair Cost - \$358,296
12/20/17	<ul style="list-style-type: none"> • Costs Incurred as of Date - \$9.5 million
12/21/17	<ul style="list-style-type: none"> • PREPA Issued Contract Release 25 for Line 3700 in Patillas • Estimated Cost - \$358,296 • Work Start Date on the Release - 12/11/17 • Work Completion Date on the Release - 01/31/18
01/15/18	<ul style="list-style-type: none"> • First Change Order - Increased Contract Release Amount from \$358,296 to \$5.7 million
01/16/18	<ul style="list-style-type: none"> • PREPA Payment for \$6.2 million - \$456,406 in Excess of the Approved Contract Release Amount
03/09/18	<ul style="list-style-type: none"> • Last Day of Work on Line 3700 in Patillas • Costs Incurred as of Date - \$15.9 million
03/22/18	<ul style="list-style-type: none"> • Total Payments Made as of Date - \$15.1 million; \$9.4 million in excess of the approved Contract Release Amount (\$5.7 million)
04/11/18	<ul style="list-style-type: none"> • 2nd Change Order - Increased Contract Release Amount from \$5.7 million to \$6.3 million
04/21/18	<ul style="list-style-type: none"> • 3rd Change Order - Increased Contract Release Amount from \$6.3 million to \$6.9 million
09/28/18	<ul style="list-style-type: none"> • Cobra's Change Request Letter for Estimate Increase from Initial Release • Solicited to Increase Contract Release Amount to \$17.3 million • Solicited to extend Completion Date to 02/18/18
10/23/18	<ul style="list-style-type: none"> • 4th Change Order - Increased Contract Release Amount from \$6.9 million to \$17.3 million
11/21/18	<ul style="list-style-type: none"> • PREPA signed 4th Change Order • **Cobra did not sign the original Contract Release or the 3rd and 4th Change Orders.

Source: DHS OIG analysis of PREPA's Contract Release 25 and related documents issued under the Cobra contract



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Appendix E
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Appendix F
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