

**Testimony of Acting Inspector
General John V. Kelly**

**Before the Committee on
Homeland Security**

U.S. House of Representatives

**“Preparedness, Response, and
Rebuilding: Lessons from the 2017
Disasters”**





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Chairman McCaul, Ranking Member Thompson, and Members of the Committee, thank you for inviting me here to discuss lessons learned from the 2017 disasters. I am pleased to have the opportunity to share our office's oversight efforts in response to Hurricanes Harvey, Irma, and Maria.

We applaud the dedicated women and men of the Federal Emergency Management Agency (FEMA) who quickly answered the call, rolled up their sleeves, and began the difficult and critical work to help the people of Texas, Louisiana, Florida, Georgia, Puerto Rico, the U.S. Virgin Islands, and elsewhere.

For our office, the first order of business in response to the unprecedented disasters was to deploy auditors and investigators to FEMA's Joint Field Offices (JFOs) in Texas, Florida, and Puerto Rico. We quickly deployed staff from our local field offices as well as other auditors, analysts, and criminal investigators from around the country. Having OIG staff on the ground serves multiple purposes: we serve as an independent unit for oversight of disaster response and recovery activities, to detect and alert FEMA of systemic problems, and to help ensure accountability over Federal funds. Our deployment activities are focused on identifying potential risks and vulnerabilities and providing our stakeholders with timely, useful information to address emerging challenges and ongoing operations.¹

Additionally, the presence of our criminal investigators at the JFOs serves to assure stakeholders that the OIG is an integral part of the Department of Justice's (DOJ) position that it intends a "zero tolerance" policy with respect to disaster-related fraud and other crimes. They work in partnership with the DOJ-led National Center for Disaster Fraud to receive complaints regarding fraud and other illegal activity and identify trends and systemic issues. Our investigators are also actively participating on the local Disaster Fraud Task Forces established by the U.S. Attorney's Offices in the affected areas. Finally, we brief FEMA management and multijurisdictional taskforces on fraud, waste, abuse, and mismanagement issues unique to the disaster recovery process.

We plan to continue these efforts—and others that I describe below—throughout the year as FEMA addresses the situational challenges brought on by the 2017 hurricane season, as well as systemic challenges that have persisted over time.

¹ As the Committee is aware, our office recently recalled and removed from our website 12 reports that resulted from prior early deployment activities. This action was taken in an abundance of caution after an internal review revealed that the reports may not have adequately answered objectives and, in some cases, may have lacked sufficient and appropriate evidence to support their conclusions. We understand that you may have concerns about this action, and I look forward to answering any questions you may have.



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The 2017 Hurricane Season: Unique and Unprecedented

Three major hurricanes—Harvey, Irma, and Maria—made landfall in a four-week time period during August and September 2017. These storms now rank as three of the five most expensive in U.S. history, according to the National Oceanic and Atmospheric Administration (NOAA).² This makes the 2017 hurricane season the costliest in U.S. history, topping even the 2005 season, which included Katrina, Rita, and Wilma. According to NOAA statistics, each of the 2017 storms was record-breaking in its own right:

- Hurricane Harvey produced 60.58 inches of rainfall in Texas, the most ever recorded in the continental U.S. from a tropical cyclone;
- Hurricane Irma was the strongest storm on record to exist in the Atlantic Ocean outside the Gulf of Mexico and the Caribbean; and
- Hurricane Maria was the strongest hurricane to make landfall in Puerto Rico since 1928.³

This confluence of events brought with it unique situational challenges.

One of the chief challenges in a post-disaster environment is the vulnerability for fraud and abuse. Unfortunately, there are those that wish to profit from disasters, turning survivors into victims. Our office works closely with the National Center for Disaster Fraud Hotline as we receive and process complaints. In Fiscal Year 2017, we received more than 4,800 FEMA-related complaints to the OIG Hotline. In the first five months of Fiscal Year 2018 alone, we received more than triple the amount of FEMA-related complaints – over 14,600. During this time period, Hurricanes Harvey, Irma, and Maria combined produced almost 13,400 complaints that resulted in 220 initiated investigations. These numbers continue to increase each day.

In addition to our permanent office in Puerto Rico, we have temporarily assigned additional special agents to both Puerto Rico and the U.S. Virgin Islands, and we have been in frequent contact with prosecutors and the U.S. Virgin Islands Inspector General in these areas to coordinate investigative activities related to:

- contract, procurement, and grant fraud;
- disaster applicant benefit fraud;
- identity theft;
- impersonation of FEMA or Federal law enforcement officials; and

² Damages from Harvey are estimated at \$125 billion; Maria's damages are estimated at \$90 billion; and Irma's at \$50 billion.

³ <https://coast.noaa.gov/states/fast-facts/weather-disasters.html>



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- employee misconduct.

We have activated or leveraged various resources aimed at combatting criminality in these areas. For example, our Major Frauds and Corruption Unit has developed a robust capability to investigate complex financial crimes. This multidisciplinary team of experts—special agents, forensic auditors, and financial analysts—work together to proactively identify DHS-related fraud. In the aftermath of the 2017 disasters, this team interfaced with FEMA officials from Office of the Chief Security Officer, Office of the Chief Procurement Officer, Grant Programs Directorate, Office of Response and Recovery, and Office of Chief Counsel to pursue criminal investigations of FEMA benefit and related fraud, identify fraud victims, and assess the effectiveness of FEMA efforts in the Hurricane-impacted areas. In furtherance of our mission to support the Department and FEMA by identifying waste, fraud, and abuse, we aggressively investigate potential criminal allegations. Whenever possible, we immediately alert FEMA officials when we identify programmatic issues or vulnerabilities that may adversely affect the effective execution of their mission.

As an additional example, we have developed in-house expertise in digital forensics and analysis. These specially trained special agents, digital forensic analysts, and intelligence analysts work to identify, acquire, and analyze digital evidence in furtherance of our investigations. This group leverages large datasets from government, commercial, and open source repositories to uncover fraud, waste, and abuse in disaster assistance programs.

Persistent Challenges in Disaster Response and Recovery

In addition to the situational challenges facing FEMA during the 2017 hurricane season, other challenges to FEMA's programs and operations tend to be more persistent and systemic vulnerabilities:

- improper procurement practices;
- duplication of benefits;
- mismanagement of disaster costs;
- privacy vulnerabilities;
- limitations in the ability to quickly protect survivors' homes and property from further damage;
- obstacles with accurate and timely home inspections;
- incomplete controls when providing Federal funds to high-risk entities; and
- inconsistent contract oversight.

Unmitigated, these challenges could delay survivors' recovery and put billions of dollars of Federal funds at risk. Thus, we have identified numerous



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observations and concerns and issued several lessons learned reports concerning FEMA's disaster preparedness, response, and recovery efforts. This work highlights ongoing concerns FEMA must address to ensure it effectively meets its mission and improves the efficiency and effectiveness of its programs and operations.⁴

FEMA Faces Significant Challenges Overseeing the Procurement and Contracting of Federal Grantees

As we noted in our recent report *Lessons Learned from Prior Reports on Disaster-related Procurement and Contracting*⁵, FEMA faces significant challenges in ensuring its grant recipients properly manage FEMA disaster funds. FEMA is continually challenged in its oversight of procurement and contracting practices — namely, ensuring disaster grant recipients and subrecipients understand and comply with Federal regulations and FEMA guidelines.

Throughout the course of our work during fiscal year 2015 through June 2017, we identified (and questioned) more than \$256 million in ineligible contract costs because subrecipients did not follow Federal procurement regulations.

These procurement-related deficiencies include:

- Failure to provide full and open competition, resulting in FEMA having limited assurance that incurred costs were reasonable, as well as an increased risk for fraud, waste, and abuse.
- Failure to take all affirmative steps to assure the use of disadvantaged businesses when possible, resulting in small and minority firms, women's business enterprises, and labor surplus area firms not always having sufficient opportunities to bid on Federally funded work.
- Failure to include all required contract provisions, resulting in an increased risk of misinterpretations, errors in pricing, scopes of work, and contract disputes.
- Failure to verify whether contractors were suspended, debarred, or otherwise excluded or ineligible, resulting in lack of protection of U.S. taxpayers from potential financial risks posed by such contractors.

⁴ We plan to translate relevant reports to Spanish for state and local stakeholders in Puerto Rico.

⁵ [*Lessons Learned from Prior Reports on Disaster-related Procurement and Contracting \(OIG-18-29\)*](#).



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Procurement practices that do not comply with Federal requirements can lead to high-risk contracts that can result in U.S. taxpayers bearing excessive and ineligible costs. Lack of compliance also increases the risk of favoritism, collusion, fraud, waste, and abuse. Furthermore, we identified more than \$191 million in ineligible costs that subrecipients may have incurred had we not identified the procurement problems before FEMA obligated disaster assistance grant funds.⁶

FEMA Challenges in Ensuring Grantees Manage Public Assistance and Hazard Mitigation Project Costs Properly

About 153,000 recipients and subrecipients of FEMA disaster assistance grants are currently working on more than 650,000 open projects worth over \$68 billion—not including the majority of those related to the 2017 hurricanes. As our office has reported over the years, FEMA faces persistent challenges in ensuring that grant recipients properly manage disaster funds. We described many of these challenges in a letter to the Senate Committee on Homeland Security last year, and offered possible legislative changes at the Committee’s invitation.⁷ We have attached this letter to our testimony today.

We most recently raised these issues to FEMA in a Management Alert issued in December 2017.⁸ The majority of our disaster grant audits focus on grants funded by the Disaster Relief Fund under FEMA’s Public Assistance grant program and Hazard Mitigation Grant Program. Each year, our reports identify issues with the management of millions of dollars in Federal funds allocated for disaster assistance and recovery efforts. From fiscal year 2009 to 2017, our reports provided more than 1,400 recommendations to disallow unsupported and ineligible costs, put funds to better use, and improve grant management oversight of disaster funds. We concluded these issues continue, in part, because FEMA does not adequately manage disaster funds or hold grant recipients accountable for properly managing disaster funds.

Additionally, over the last six years, DHS’ Independent Auditors identified multiple internal control weaknesses related to FEMA’s grant management, such as:

- not maintaining central oversight over its regional offices; ineffectively communicating policies and procedures with its regional offices; and lacking effective policies and procedures related to grant management;

⁶ [Lessons Learned from Prior Reports on Disaster-related Procurement and Contracting \(OIG-18-29\)](#).

⁷ Letter from Inspector General John Roth to Chairman Johnson, Senate Homeland Security and Governmental Affairs, dated June 2, 2017 (attached).

⁸ [Management Alert – FEMA Faces Significant Challenges Ensuring Recipients Properly Manage Disaster Funds \(OIG-18-33\)](#).



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- not ensuring recipients comply with *Single Audit Act* requirements;
- not effectively reconciling grantee (recipient) quarterly performance reports to FEMA's systems; and
- not consistently implementing effective controls to ensure the timely closeout of FEMA's grants.

DHS' Independent Auditors also reported that FEMA did not implement effective monitoring procedures over its grant activities from fiscal years 2011 to 2016.⁹ These findings reveal that FEMA was aware of its grant management issues yet did not take effective actions to strengthen its internal controls.

In order to assist disaster assistance recipients and subrecipients to properly manage their grant funds, in late September 2017, we issued an updated version of our *Audit Tips for Managing Disaster-Related Project Costs*.¹⁰ This report provides an overview of OIG responsibilities; roles of FEMA, recipients, and subrecipients; applicable disaster assistance Federal statutes, regulations, and guidelines; the audit process and frequent audit findings; and tips for managing project costs.

This report should assist disaster assistance recipients and subrecipients to:

- document and account for disaster-related costs;
- minimize the loss of FEMA disaster assistance funds;
- maximize financial recovery; and
- prevent fraud, waste, and abuse of disaster funds.

Aside from its availability online, we frequently distribute this report to FEMA, State, and grant recipient and subrecipient stakeholders, and will continue to do so during our ongoing fieldwork in the disaster-damaged areas in which we are active.

⁹ [Independent Auditors' Report on DHS' FY 2011 Financial Statements and Internal Control over Financial Reporting \(OIG-12-07\)](#); [Independent Auditors' Report on DHS' FY 2012 Financial Statements and Internal Control over Financial Reporting \(OIG-13-20\)](#); [Independent Auditors' Report on DHS' FY 2013 Financial Statements and Internal Control over Financial Reporting \(OIG-14-18\)](#); [Independent Auditors' Report on DHS' FY 2014 Financial Statements and Internal Control over Financial Reporting \(OIG-15-10\)](#); [Independent Auditors' Report on DHS' FY 2015 Financial Statements and Internal Control over Financial Reporting \(OIG-16-06\)](#); and [Independent Auditors' Report on DHS' FY 2016 Financial Statements and Internal Control over Financial Reporting \(OIG-17-12\)](#).

¹⁰ [Audit Tips for Managing Disaster-Related Project Costs \(OIG-17-120-D\)](#).



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Housing Challenges

In September 2017, we issued a Management Alert urging FEMA to develop adequate controls to ensure Direct Housing Assistance (DHA) funds are spent according to Federal regulations.

When FEMA began using this program during Hurricane Sandy, we raised concerns about the need to: (1) maintain strong internal controls given the number of individuals affected by the hurricane; and (2) address vulnerabilities associated with implementing pilot programs. In a more recent report, we found that FEMA had still not instituted adequate policies, procedures and, internal controls to prevent waste, fraud and program mismanagement. Furthermore, because FEMA has not yet developed policies and procedures to provide regions with a framework to follow, FEMA and regional staff at JFOs had to develop and implement housing assistance on a disaster-by-disaster basis.¹¹

After Hurricane Harvey, we learned that FEMA planned to enter into an Intergovernmental Service Agreement with the State of Texas General Land Office (Texas) to provide assistance to FEMA in the delivery of DHA funds to Hurricane Harvey survivors. We observed that FEMA's agreement with Texas did not clearly define FEMA's and Texas' responsibilities for monitoring and overseeing the DHA program. Thus, we felt compelled to remind FEMA about our previous concerns and re-emphasize the importance in ensuring DHA funds are spent according to Federal regulations.

Specifically, we raised concerns that the agreement lacked adequate controls that could lead to non-compliance with Federal procurement standards resulting in a high-risk contract that can lead to excessive and ineligible costs ultimately born by the U.S. taxpayer. Due to risk involved, this program requires increased vigilance to monitor the procurement of direct housing assistance services.

This program is high risk and requires increased vigilance in order to monitor the procurement of direct housing assistance services. We also noted that if FEMA planned to use a similar plan in the future, it should put in place policies and procedures to ensure that the State has the capabilities and expertise to manage and oversee the program. Finally, we also noted that if FEMA and Texas do not provide timely and adequate oversight, significant amounts of Federal funding could be at risk of fraud, waste and abuse.

¹¹ [Management Alert – Observations and Concerns with FEMA's Housing Assistance Program Efforts for Hurricane Harvey in Texas \(OIG-17-121-MA\)](#).



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As a result of our concerns, we are currently reviewing FEMA and Texas' Intergovernmental Service Agreement for direct housing. We are also reviewing temporary housing delays in Texas under the Partial Repair and Essential Power for Sheltering (PREPS) program.

Staffing Challenges

In 2016, our office reported on FEMA's disaster incident workforce, finding that despite hiring initiatives, the workforce was significantly understaffed.¹² We reported that since the staffing problems FEMA encountered after Hurricane Katrina, FEMA continues to experience challenges hiring enough disaster workforce employees and deploying Reservists in their FEMA Qualification System (FQS) position with sufficient knowledge and skills to assist disaster survivors effectively. Strong Reservist performance is critical to the nation's ability to respond to major disasters because Reservists make up about half of FEMA's disaster incident workforce, a workforce that remains far below the number necessary to respond effectively to the next catastrophic disaster.

In 2012, FEMA transitioned its on-call workforce from Disaster Assistance Employees to Reservists. Since then, FEMA officials have expressed their frustration regarding the performance of Reservists deployed to disasters under their new FEMA Qualification System positions. Despite recent hiring initiatives, FEMA's disaster incident workforce remains significantly understaffed, and some Reservists continue to deploy to disasters without the knowledge, skills, and training they need to assist survivors effectively.

We made four recommendations to FEMA intended to improve the knowledge, skills, performance, and morale of FEMA's Reservist workforce. One of those recommendations has been closed and three remain open. We plan additional work in this area going forward.

Challenges Related to Insurance under the Public Assistance Program

In November 2017, we issued a special report on lessons learned from our previous work related to insurance under the Public Assistance grant program.¹³ The goal of this report was to address challenges FEMA, Texas, Florida, Georgia, Puerto Rico, U.S. Virgin Islands, and California may face managing insurance under the FEMA Public Assistance program in the wake of Hurricanes Harvey, Irma, and Maria, and the October 2017 California wildfires. Our report noted that if FEMA does not address the recurring issues we

¹² [FEMA Can Enhance Readiness with Management of Its Disaster Incident Workforce \(OIG-16-127-D\)](#).

¹³ [Special Report: Lessons Learned from Previous Audit Reports on Insurance under the Public Assistance Program \(OIG-18-12\)](#).



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identified in 37 previous reports issued between fiscal years 2013 and 2017, it will be at risk of violating the Robert T. Stafford Disaster Relief and Emergency Assistance Act and exposing billions of taxpayer dollars to fraud, waste, or mismanagement. The major recurring challenges we identified include:

- duplicate benefits in which subrecipients claimed FEMA reimbursement for costs that were covered by insurance;
- insufficient insurance in which subrecipients did not obtain and maintain sufficient insurance coverage required as a condition for receiving Federal disaster assistance; and
- misapplied or misallocated insurance proceeds in which subrecipients received insurance proceeds, and misapplied or did not allocate those proceeds to FEMA projects.

The reports included 40 recommendations for FEMA to address deficiencies or errors, totaling more than \$322 million in questioned costs. It is incumbent upon FEMA to take appropriate action on Public Assistance program issues related to insurance because FEMA will likely face similar challenges pertaining to insurance related to Hurricanes Harvey, Irma, and Maria.

Concerns with Potential Duplicate or Ineligible FEMA Public Assistance Funding for Facilities Damaged by Back-to-Back Disasters

During the 2017 disasters' timeframe, we reported to FEMA the critical importance of implementing effective controls to minimize the risk of funding duplicate or ineligible repair costs of facilities damaged by back-to-back incidents.¹⁴

Hurricanes Harvey, Irma, and Maria — some of the most catastrophic disasters in recent United States history — resulted in multiple disaster declarations and billions of dollars in damages to areas within several Gulf Coast and Southeast States, Puerto Rico, and the U.S. Virgin Islands. We noted many of the same designated disaster areas for Hurricanes Harvey and Irma overlapped disaster areas from 13 disaster incidents in 2016 and 2017. As a result, many of the same facilities damaged by an earlier incident may have also received damage under Hurricanes Harvey or Irma before repairs to the facility were completed.

As of March 8, 2018, FEMA obligated an estimated \$413 million of Public Assistance funding to cover permanent repair or replacement costs to facilities damaged under the 13 previous disaster declarations. To avoid obligating

¹⁴ [Management Alert – Concerns with Potential Duplicate or Ineligible FEMA Public Assistance Funding for Facilities Damaged by Back-to-Back Disasters \(OIG-18-14\)](#).



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duplicate or ineligible repair costs to an affected facility, FEMA will need to discern which incident caused damages to the facility and whether repairs necessitated by the previous incident were complete.

FEMA must implement effective controls to minimize this risk of funding duplicate or ineligible repair costs of facilities damaged by back-to-back incidents.

Looking Forward: Our Work Ahead

The challenges identified during the recent disasters highlight the importance of proactive and thorough oversight, as well as continual improvement of the ways by which FEMA executes its mission. As agents of positive change, we strive to identify recommendations to improve the efficiency and effectiveness of FEMA's work; effect improvements for disaster survivors; and safeguard public funds from fraud, waste, and abuse.

Our investigations have already yielded results, uncovering serious schemes aimed at defrauding FEMA and turning disaster survivors into victims—something we are working diligently to prevent. For example:

- We are investigating a widespread identity-theft ring in which numerous individuals used the stolen identities of hurricane victims to fraudulently apply for benefits, thereby defrauding FEMA and victimizing hurricane survivors.
- We have arrested an individual – in coordination with U.S. Immigration and Customs Enforcement operatives – for False Impersonation of a Federal Officer or Employee. This individual attempted to procure work at an Emergency Management Center as a voluntary staff member for Hurricane Maria relief efforts. At the time of the arrest, the individual was wearing a Homeland Security Investigations Special Agent t-shirt, a DHS cap, and had a fake DHS badge in his possession. Our agents obtained consent to search the person's residence where they found additional t-shirts with Homeland Security Investigations logos.

We will continue to review and triage the many complaints and allegations that we receive each day and judiciously expend our limited investigative resources on those matters that pose the greatest threats or risks to FEMA programs and operations. And we will do so in close and timely coordination with our investigative partners, FEMA, and our oversight community. Our intent is clear: to protect disaster survivors and the billions of taxpayer dollars entrusted to the critical efforts of disaster response and recovery.



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On the audit side of our house, we are planning, or have begun, a variety of reviews both at the federal and local disaster level, intended to improve FEMA's programs and operations.

First, we plan to start several capacity audits in Texas, Florida, and Puerto Rico during this fiscal year. Capacity audits and early warning audits identify areas where FEMA public assistance grant recipients and subrecipients may need additional technical assistance or monitoring to ensure compliance with Federal requirements. In addition, by undergoing an audit early in the grant cycle, grant recipients and subrecipients have the opportunity to correct noncompliance before they spend the majority of their grant funding. It also allows them the opportunity to supplement deficient documentation or locate missing records before too much time elapses.

Additionally, at the Federal level, our work includes audits in the areas of:

- FEMA's fraud prevention efforts under the Individuals and Households Program;
- FEMA's Transitional Shelter Assistance (TSA) Program;
- FEMA's management and oversight of housing inspections; and
- FEMA pre-positioned contracts.

In Texas, we have work underway and planned including:

- a review of FEMA and Texas' Intergovernmental Service Agreement for housing;
- a review of the Sheltering and Temporary Essential Power (STEP) Pilot Program, called Partial Repair and Essential Power for Sheltering (PREPS) in Texas;
- procurement capacity reviews of selected subgrantees;
- lessons learned report on repair or replacement (50 percent rule); and
- lessons learned report on Direct Administrative Costs.

In Florida, our planned and ongoing work includes:

- the implementation of the STEP program;
- the use of the new Public Assistance service delivery model;
- FEMA's guidance to affected municipalities on private property debris removal;
- the use of direct leasing to shelter survivors;
- duplication of Federal benefits (in coordination with HUD OIG);
- FEMA's automotive assistance, and
- mission assignments for vessel removal and private property debris removal.



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In Puerto Rico, we have work underway and planned, including:

- challenges with providing Puerto Rico disaster survivors roof coverings to reduce further damage to their homes and property;
- review of disaster-related contracting including the contracts with Whitefish Energy, Cobra Acquisitions, Bronze Star LLC (blue tarps) and Tribute Contracting LLC (meals), among others;
- additional controls for Puerto Rico's high-risk grant applicants;
- FEMA's Sheltering and Temporary Essential Power (STEP) Program;
- FEMA's preparedness, management, and distribution of supplies;
- lessons learned from repair versus replacement funding decisions; and
- FEMA's plan to use alternative procedures for the Public Assistance Program;
- debris removal operations;
- police overtime pay;
- Federal considerations relating to the privatization of PREPA;
- duplication of Federal benefits (in coordination with HUD OIG); and
- key infrastructure repair costs (such as for the Guajataca Dam).

In the U.S. Virgin Islands, we plan to review several areas including:

- FEMA's Sheltering and Temporary Essential Power (STEP) Program;
- mission assignment for sunken vessel removal;
- mission assignment for medical waste disposal;
- off-island debris disposal activities;
- billing and payment processes for FEMA-contracted local lodging; and
- capacity audits of FEMA grant recipients and subrecipients.

In addition to these ongoing and planned reviews, we will continue to work with FEMA, its partners, and our oversight community to help ensure challenges are timely identified and addressed.

Conclusion

It is incumbent upon the OIG and FEMA to work collaboratively to highlight risks, identify control weaknesses, and devise ways to improve the efficiency and effectiveness of FEMA's programs and operations, while simultaneously mitigating fraud, waste, and abuse. The recovery of countless survivors, as well as the accountability of billions of dollars in public funds depends upon our collaboration. We will continue to approach our work with a sense of dedication and urgency, and will keep Congress fully informed of our findings and recommendations, consistent with our obligations under the *Inspector General Act of 1978*.



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Mr. Chairman, this concludes my testimony.

I am pleased to answer your questions, as well as those of the other Members.

Thank you.



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

June 2, 2017

The Honorable Ron Johnson, Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Johnson:

I write this letter in response to your invitation at the February 15, 2017 Committee hearing, "High Risk: Government Operations Susceptible to Waste, Fraud, and Mismanagement," to give the views of my office regarding potential legislative changes to Federal Emergency Management Administration's (FEMA) administration of grants, particularly Public Assistance grants from the Disaster Relief Fund. We believe that a significant problem exists in the manner in which FEMA administers these grants, and the root cause is both cultural and structural. Solving this problem will occur only with significant leadership commitment to addressing the problem, coupled with structural changes to FEMA and the *Stafford Act*.

The Nature of the Problem

FEMA administers about \$10 billion per year in Public Assistance Grants from the Disaster Relief Fund. Our office audits about 10 percent of that amount. Each year we question about 15 percent of the costs that we audit. Our report on FEMA's FY 2015 activities is representative.¹ Of the \$1.55 billion in FEMA's disaster relief funds OIG audited that year, we questioned \$457 million of those costs, such as duplicate payments, unsupported costs, improper contract costs, and unauthorized expenditures. This represents a 29 percent questioned cost rate, which indicates FEMA's continued failure to manage disaster relief funds adequately.

We also found recurring problems with grants management and sub-grantee oversight by state emergency management agencies that are charged with — and compensated for — overseeing FEMA disaster relief funds.

¹ *Summary and Key Findings of Fiscal Year 2015 FEMA Disaster Grant and Program Audits*, OIG-17-13-D (November 2016).



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For example, we examined a \$32.4 million sub-grant made by Texas officials to Houston's Riverside General Hospital to repair damage from Hurricane Ike in 2008.² Despite the fact that Riverside officials were indicted for Medicare fraud in 2012, FEMA and Texas officials did not ramp up their grant oversight. Our audit found that Riverside officials spent \$17.6 million — more than half of their grant — on ineligible or improper expenses, \$7.9 million of which was for non-disaster related items such as insurance, legal fees and gift cards.

This recurring problem has not improved over time. In prior years, the questioned cost rate has also been unacceptably high: from FY 2011 to FY 2013, it ranged from 21 percent to 25 percent for the costs we audited. Our upcoming report on FEMA's FY 2016 activities will show a similarly high questioned cost rate.

FEMA has the authority and ability to hold grantees and subgrantees accountable by not reimbursing ineligible and unsupported costs. However, FEMA waives that right in a vast number of instances and reimburses grantees and subgrantees notwithstanding an audit finding of unsupported or improper expenditures. In fact, over a 6-year period ending September 30, 2014, our audits questioned \$352.3 million in Public Assistance grant costs for noncompliance with procurement regulations. FEMA officials subsequently ruled that \$321.7 million, or 91.3 percent, of those costs could nonetheless be reimbursed.³

We believe that FEMA's wholesale, near blanket use of its waiver authority is one reason the questioned cost rate remains unacceptably high year after year. These waivers increase the likelihood of future wasted expenditures and weaken FEMA's ability to enforce good procurement practices. Grantees and subgrantees would be more motivated to comply if FEMA would enforce procurement requirements and consistently disallow costs that do not comply with Federal procurement regulations.

Because we audit only a small fraction of FEMA's multibillion dollar Public Assistance grant program annually, FEMA's allowance of the majority of ineligible contract costs we questioned indicates the potential for a much larger problem.

² *FEMA Should Recover \$32.4 Million in Grant Funds Awarded to Riverside General Hospital, Houston, Texas*, OIG-15-149-D (September 2015).

³ *FEMA Can Do More to Improve Public Assistance Grantees' and Subgrantees' Compliance with Federal Procurement Rules*, OIG-16-126 (September 2016).



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The nature of the problem is cultural and systemic, and can be fixed only with a statutory restructuring, committed FEMA leadership and vigorous oversight. The following goals outline a path forward for FEMA to improve the monitoring of Public Assistance grants.

Goal 1: Increase Grantee Responsibility for Monitoring its Subgrantees.

FEMA awards Public Assistance grants to the States, territories, and certain other entities, designated as grantees, which are then responsible for monitoring and administering the grants to the estimated 100,000 subgrantees. According to FEMA officials, during the 5-year period ending September 30, 2015, FEMA paid its grantees (states and some Indian tribal governments) \$522 million to manage and administer disasters (direct and indirect costs), although we have not been able to validate this number, and we remain skeptical that FEMA itself knows how much it has paid to manage and administer the grants.

Simply put, FEMA needs to hold the states more accountable for managing their subgrantees. Our audit reports are replete with instances in which the states have abandoned their responsibility to administer grants. FEMA has the authority and ability to hold the grantees, which are mostly states, more accountable, but does not do so. We have issued report after report documenting the failures of the grantees to do the basic grant management duties for which FEMA pays them, and a failure of FEMA to manage the grantees.⁴ Given that we continue to identify

⁴ See, e.g., *FEMA Should Suspend All Grant Payments on the \$29.9 Million Coastal Retrofit Program Until Mississippi Can Properly Account for Federal Funds*, OIG-16-115-D (August 2016); *FEMA Should Disallow \$1.2 Million of \$6.0 Million in Public Assistance Program Grant Funds Awarded to the City of San Diego, California*, OIG-16-23-D, (January 2016); *FEMA Should Recover \$1.2 Million of \$10.1 Million in Grant Funds Awarded to Tuscaloosa, Alabama, for a 2011 Disaster*, OIG-16-24-D (January 2016); *FEMA Should Recover \$505,549 of \$3.3 Million in Public Assistance Grant Funds Awarded to DeKalb County, Georgia, for Damages from a September 2009 Flood*, OIG-16-09-D (November 2015); *FEMA Should Recover \$4.2 Million of \$142.1 Million in Grant Funds Awarded to the City of Gulfport, Mississippi, for Hurricane Katrina Damages*, OIG-15-148-D (September 2015); *FEMA Should Recover \$32.4 Million in Grant Funds Awarded to Riverside General Hospital, Houston, Texas*, OIG-15-149-D (September 2015); *FEMA Should Recover \$1.78 Million of Public Assistance Grant Funds Awarded to the City of Duluth, Minnesota*, OIG-15-132-D (August 2015); *FEMA Should Disallow \$82.4 Million of Improper Contracting Costs Awarded to Holy Cross School, New Orleans, Louisiana*, OIG-15-65-D (April 2015).



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persistent problems throughout FEMA's grant process, we are concerned that on an annual basis billions of tax payer dollars remain at risk.

Simply put, FEMA needs to hold the states more accountable for administering the grants to subgrantees. To improve grantee monitoring of subgrantees, we recommend that Congress:

- Require FEMA to create and certify State-level Disaster Relief Fund (DRF) Compliance Units (DRFCUs) as a condition of receiving DRF funds. The role of the DRFCU is to ensure that DRF funds are properly administered. A DRFCU must be certified by FEMA to specific minimum qualifications, including sufficient personnel trained in Federal grant management. A DRFCU must be a stand-alone organizational unit with no other collateral duties and report directly to the state chief financial officer. DRFCUs will (1) educate subgrantees on proper Federal procurement standards; (2) within a reasonable period after the award of a grant, certify to FEMA that each subgrantee receiving DRF funds has the capacity, including appropriate internal controls and sufficiently trained staff, to administer those funds; (3) monitor the expenditure of grants and subgrants and evaluate the subgrantees' internal controls throughout the grant life cycle; and (4) report to FEMA for publication the expenditures of funds, including the identity of contractors and subcontractors.
- Require FEMA to develop oversight and internal control systems that have different staffing and reporting chains from the program offices making eligibility determinations. Currently, the same staff and program offices conduct both eligibility determinations and oversight over the programs, to the extent that it occurs at all. Consistent with Standards for Internal Controls in the Federal Government⁵ we believe there should be a segregation of duties between staff making eligibility determinations and conducting oversight. The more narrow focus on compliance and oversight by specialized staff will ensure greater accountability.
- Require FEMA to create a monetary penalty structure for grantees and subgrantees that fail to comply with Federal procurement

⁵ *Standards for Internal Control in the Federal Government*, GAO-14-704G (September 2014).



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standards. FEMA regularly waives the repayment requirement for a vast percentage of improperly spent funds, reasoning that full disallowance of costs is a too draconian remedy, particularly if FEMA finds, after the fact, that the costs were reasonable. To give FEMA greater flexibility in ensuring compliance with basic Federal procurement rules, it should be required to implement a series of structured monetary penalties against both the grantee and subgrantee on a finding of improper costs.

- Require FEMA to report waivers of repayment requirements, and the reasons behind them, to both Congress and the Inspector General.
- Require FEMA to restructure the award of management and administrative costs. Currently, grantees are able to receive management and administrative costs for every open grant, regardless of whether any further funds need to be expended. This revenue stream, which is unrelated to the resources needed for actual oversight of the grant, creates a disincentive to close projects and deobligate funds that could be used for other projects.

Goal 2: Increase transparency in the administration of disaster relief funds.

Currently, FEMA reports DRF funds obligated on a daily and monthly basis, by disaster and applicant.⁶ However, FEMA does not have the ability to monitor information that tracks the progress of specific projects, nor is there an understanding of how the subgrantees are actually spending the money. We therefore suggest the following statutory requirements:

- FEMA should be required to develop a system, similar to that developed as a result of the American Recovery and Reinvestment Act (ARRA), to report project-specific expenditures.
 - Such a system or website, modeled after the former Recovery.gov website, would allow Congress and the public to understand and analyze specific grant projects, including

⁶ See, e.g., <https://www.fema.gov/media-library/assets/documents/128277> and <https://www.fema.gov/media-library-data/1494029069424-6a4fd8aa98c818c70e99ec1a92fc4f51/April2017DisasterReliefFundReport.pdf>



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the amount of money involved and the progress toward the completion of specific projects. This should include the identity of the entities the subgrantee has contracted with to do the work. The Federal government attempts this currently with www.usaspending.gov, but it does not have the level of granularity necessary to conduct meaningful analysis and oversight. A more robust site is www.itdashboard.gov, which allows for an analysis of specific IT investments, and includes an analysis of the relative health of the project.

- Clear and meaningful reporting is simply not possible under the current system, as FEMA has an incomplete understanding of subgrantee spending. A uniform state-level reporting system, suggested under Goal 1, would allow FEMA to receive, aggregate, and publish meaningful data that would ensure greater transparency and accountability.
- FEMA's financial management system is highly troubled as well, as its financial management and management information systems are not compatible and are unable to share information. FEMA should be required to report on its efforts to improve its financial management efforts of grant management and provide measurable outcomes.

Goal 3: Increase governance of FEMA grant programs.

FEMA spends in excess of \$10 billion per year in grants to individuals, Public Assistance Grants, Homeland Security Preparedness Grants, Urban Area Security Initiative Grants, Disaster Preparedness Grants, and two different firefighter grant programs. However, the administration and decision making regarding grant eligibility and execution within FEMA is highly decentralized and subject to disparities depending on the FEMA region. A FEMA regional administrator has the delegated authority to commit literally billions of dollars of taxpayer funds to specific projects with virtually no internal controls or oversight.

- DHS should be required to develop a governance structure for FEMA grant making that is similar to the policy and structure established for acquisition management reflected in DHS *Acquisition Management Directive*, MD 102-01. This policy provides specific decision-making structure throughout the life cycle of an acquisition, and provides a mechanism by which the Department



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can give governance and oversight to component acquisition efforts.

There is no corresponding policy for grant approval and administration, notwithstanding the similar risks that grants face. The decision-making regarding grant eligibility is an inherently high risk process that is by no means merely administrative in nature. A grant-specific policy could mitigate these risks while still providing for the expeditious decision-making that disasters require. Additionally, the monitoring of the grant program to ensure the money is spent consistent with our fiduciary obligations is complex and deserves high level attention. An overarching policy and governance structure, with appropriate control mechanisms in place, would give Departmental leadership insight into and accountability for management of the FEMA grant program and ensure that grants are being awarded fairly and consistently, and in accordance with the law.

Goal 4: Demonstrate a leadership commitment to effective grant management.

The root of the problem has been a failure of leadership. The tone at the top, both at FEMA and the Department, has led to a culture that has allowed the grant program to be riddled with waste and abuse. Consider:

- As of September 27, 2016, FEMA had not taken sufficient action on 24 recommendations containing 90 percent (\$413 million) of the \$457 million we recommended FEMA disallow as improperly spent or not sufficiently supported.⁷
- Further, in FYs 2009 through 2014, FEMA allowed grant recipients to keep 91 percent of the contract costs we recommended for disallowance for noncompliance with Federal procurement regulations. Because FEMA regularly waives these questioned costs, the subgrantees have no motivation to comply with basic contracting and acquisition principles, and the problem will continue to fester.⁸

⁷ Testimony of Inspector General John Roth before the Senate Homeland Security and Governmental Affairs Committee at a February 15, 2017 hearing entitled, "High Risk: Government Operations Susceptible to Waste, Fraud, and Mismanagement."

⁸ FEMA Can Do More to Improve Public Assistance Grantees' and Subgrantees' Compliance with Federal Procurement Rules, OIG-16-126 (September 2016).



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- In an overarching audit of OIG recommendations related to preparedness grants, we reported that FEMA had not adequately analyzed recurring recommendations to implement changes to improve its oversight of these grants. As a result, of the 490 audit recommendations we issued, 91 percent identified similar challenges year after year.⁹
- FEMA’s own strategic plan shows a lack of attention to the matter. FEMA has five strategic priorities and 16 objectives. None of these address effective grants management. There has been little public acknowledgement of the need for improvement, and as far as we can tell, little high-level attention to the problem.

These are leadership issues, and can only be fixed if leadership embraces the problem and takes steps to make systemic changes. We suggest:

- FEMA’s new Administrator, when confirmed, should publicly embrace and commit to changing FEMA’s grant management practices, and develop an action plan to drive a culture that becomes a more effective guardian of taxpayer dollars.
- Continued oversight, sustained over time, by Department leadership, OMB, OIG, and the Congress, will be key to ensuring long-term change.

I appreciate the opportunity to give my views, and I look forward to working with you and your staffs to address this critical issue.

Sincerely,

John Roth
Inspector General

cc: The Honorable Claire McCaskill, Ranking Member
Acting Administrator Robert Fenton

⁹ *Analysis of Recurring Audit Recommendations Could Improve FEMA’s Oversight of HSGP*, OIG-16-49 (March 2016).