



NEW YORK STATE

DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES

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Andrew M. Cuomo, Governor

Jerome M. Hauer, Commissioner

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May 29, 2013

Honorable Craig Fugate  
Administrator  
Federal Emergency Management Agency  
U.S. Department of Homeland Security  
500 C Street SW  
Washington, DC 20472

Dear Administrator Fugate:

I am writing in support of Erie County's recent letter to you regarding the Department of Homeland Security Office of Inspector General's (IG) report (OIG 13-23) related to procurement activities for DR-1665 NY.

I and my staff from the Division of Homeland Security and Emergency Service's Public Assistance (PA) section have met several times to review our internal operations during the October 2006 severe snow storm affecting Erie County and its municipalities. We also worked closely with the County to review documentation for this event in light of the IG's findings.

During this disaster, staff from the State Office of Emergency Management deployed to support local operations and quickly realized that a well-coordinated debris clearance effort was required to protect public health and safety. During the incident, emergency response vehicles were often unable to provide basic services. In fact, residences burned because of debris-clogged roadways. Because of this threat and the huge amount of debris involved (approximately two million cubic yards) the State requested support from both FEMA and the U.S. Army Corp of Engineers (USACE), to assist with the procurement of contractors required to clear debris. FEMA and USACE worked closely with the State and County to ensure that the work that was performed complied with procurement requirements and would be determined eligible for reimbursement under the FEMA PA program. This effort was effective enabling prompt emergency contracting which saved lives and property.

Recently, I and my staff worked closely with Erie County and validated the County's analysis of their procurement activities for DR-1665 NY in relation to federal requirements outlined in Title 44 of the Code of Federal Regulations (44 CFR). Among other things, their analysis clearly demonstrates that the County's procurement activities were legal, appropriate given the threat to public health and safety, and consistent with 44 CFR, especially with respect to those provisions that permit flexibility due to exigent circumstances. In addition, FEMA's own very rigorous review of the project worksheets supporting reimbursement for eligible activities also validated the appropriateness of the County's efforts.

I would not expect inspectors, reviewing this event six years after the event, to be able to appreciate the grave circumstances faced by the County in responding to this disaster. We should, however, expect the DHS IG staff to conduct their work professionally and consistently. County officials have outlined disturbing conduct by the DHS IG. I hope that these matters will be addressed. For your information, Erie County officials were consistently transparent and professional providing unfettered access to documents for the DHS IG.

In conclusion, I hope that you will express your disagreement with the findings of the DHS IG and disregard the recommendation, especially as it relates to the potential deobligation of funds.

Please contact me if you have any questions or need more information.

Sincerely,



Jerome M. Hauer  
Commissioner

Cc: Maryann Tierney, Regional Administrator, FEMA

Craig,  
They are talking issues with the  
very practices that FEMA  
encouraged then and during Sandy  
Jerry