Department of Homeland Security
Office of Inspector General

American Samoa 2009 Earthquake and Tsunami: After-Action Report

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Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the Homeland Security Act of 2002 (*Public Law 107-296*) by amendment to the Inspector General Act of 1978. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the department.

This report addresses the strengths and weaknesses of the Federal Emergency Management Agency's response to the 2009 earthquake and resultant tsunami in American Samoa. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. We trust this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

Matt Jadacki
Assistant Inspector General
Office of Emergency Management Oversight

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Appendices

Abbreviations

ASPA	American Samoa Power Authority
CFR	Code of Federal Regulations
DBAS	Development Bank of American Samoa
DHS	Department of Homeland Security
DOI	Department of the Interior
EMOT	Emergency Management Oversight Team
ESF	Emergency Support Function
FAR	Federal Acquisition Regulation
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
GAO	Government Accountability Office
HUD	U.S. Department of Housing and Urban Development
IA	Individual Assistance
JFO	Joint Field Office
OIG	Office of Inspector General
OMB	Office of Management and Budget
PaTH	Partnership for Temporary Housing

PA	Public Assistance
TAC	Technical Assistance Contract
TAO	Territorial Audit Office
TOHS	Territorial Office of Homeland Security

OIG

Department of Homeland Security
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Executive Summary

In the wake of a devastating earthquake and tsunami in American Samoa, we deployed an Emergency Management Oversight Team to American Samoa in November 2009. The team's objectives were to: (1) promote accountability by instituting measures and processes to evaluate the actions of federal emergency management professionals; (2) serve as an independent entity for oversight of response and recovery activities; and (3) review the Federal Emergency Management Agency's response to the disaster.

Through its authority under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Public Law 100-707), the Federal Emergency Management Agency provided disaster assistance to American Samoa. This assistance included temporary housing, grants for rebuilding efforts, construction of permanent housing, and repairs to critical infrastructure such as schools and power plants. Three issues came to the forefront during our oversight of the response and recovery activities.

First, the American Samoa government has serious internal control and financial accountability problems. Short of designating the American Samoa government as a high-risk grantee, the Federal Emergency Management Agency has taken a number of other actions to help address these concerns.

Second, of particular concern are the federal funds provided for restoration of the Satala Power Plant, which represents 75% of all Public Assistance funding. High cost projects such as this one should be closely monitored.

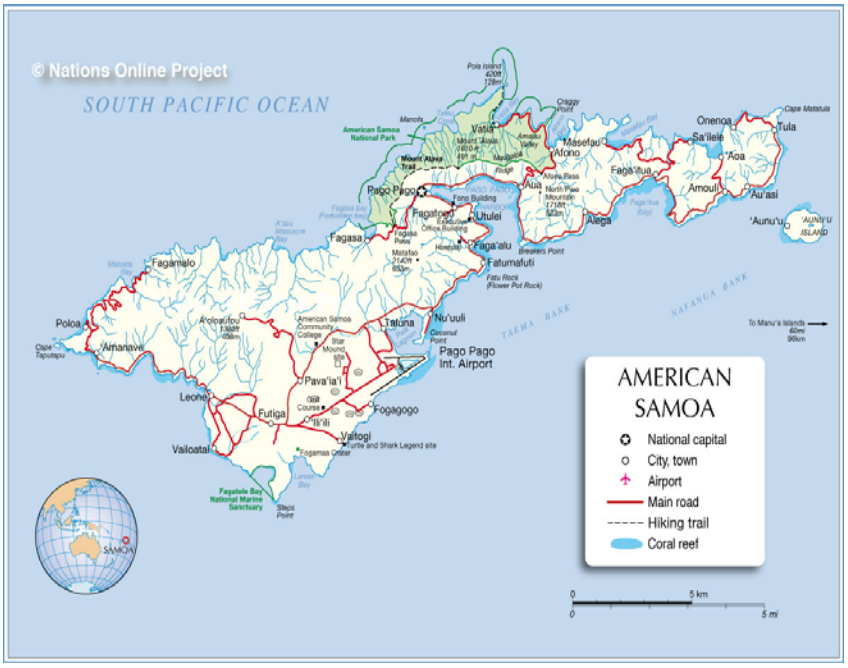
Third, the agency is building permanent homes for individuals to replace homes destroyed by the tsunami. The need for better planning, the high costs of the simple homes being built, and the use of one large contractor to build all the homes raises questions about this permanent housing construction pilot program and the precedent it will set for future disasters.

We are making four recommendations to improve the efficacy of the agency's disaster assistance recovery activities.

Background

On September 29, 2009, American Samoa was struck by an 8.3 magnitude earthquake. The earthquake generated a tsunami with waves reaching 5.1 feet in Pago Pago, the territory's capital, causing flooding in portions of the island. More than 30 people were killed and hundreds were injured. The combination of the earthquake, tsunami, and flooding resulted in a devastating amount of damage on the island of Tutuila. A local power plant was disabled, 241 homes were destroyed, 308 homes had major damage, another 2,750 dwellings reported some damage, one school was destroyed and four others sustained substantial damage. Most of the damage was caused by the tsunami rather than the earthquake.

Figure 1. Map of American Samoa



Source: Nations Online Project

Within 24 hours of the earthquake and tsunami, the President issued a federal disaster declaration. The declaration authorized funds for Individual Assistance (IA), such as temporary housing; Public Assistance (PA), such as debris removal and emergency protective measures; Hazard Mitigation; and other forms of assistance. Two amendments were made to the original disaster declaration. These amendments provided for:

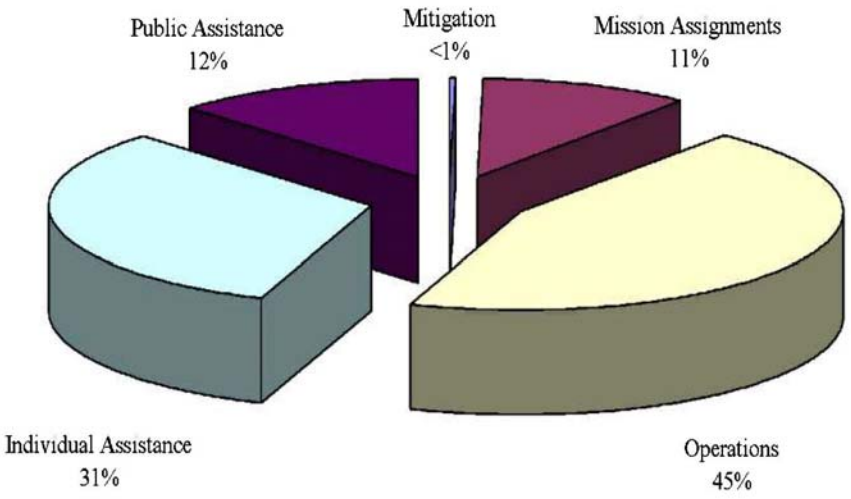
- 90% federal cost share for permanent repairs, and
- 100% federal cost share for debris removal and emergency protective measures for the first 30 days following the disaster.

Figure 2. FEMA Disaster Recovery Center in Utulei, American Samoa

Source: DHS OIG

Under the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Public Law 100-707) (*Stafford Act)*, FEMA can provide multiple forms of assistance to disaster affected areas. The PA grant program provides assistance to state, local, and tribal governments, as well as certain nonprofit organizations, so that communities can quickly respond to and recover from major disasters or emergencies. Grants may be used for debris removal; emergency protective measures; the repair, replacement, or restoration of publicly owned facilities such as utilities, schools, and hospitals damaged in the disaster; and road and bridge repair. The IA grant program provides assistance, including temporary housing or rental assistance, to individuals affected by a disaster or emergency. Mission assignments allow FEMA to engage other federal agencies to carry out specific tasks, such as debris removal and power restoration.

Figure 3. FEMA's Disaster Funding in American Samoa



Source: OIG analysis of FEMA's disaster financial data, as of September 2010

Since the disaster declaration more than 11 months ago, federal assistance to American Samoa, including FEMA's operational expenses, has exceeded $125.5 million, and an additional $4.3 million is planned for future distribution. As of September 21, 2010:

- More than $37.4 million in disaster assistance was granted for housing and disaster-related needs;
- 321 individuals received assistance grants of $30,300 each;
- More than $102.8 million was requested for debris removal, emergency protective measures, and the repair or rebuilding of public buildings and other infrastructure;
- Temporary housing and sheltering was provided to those whose homes were destroyed or left uninhabitable; and
- Funds were allocated for the construction of approximately 45 permanent homes.

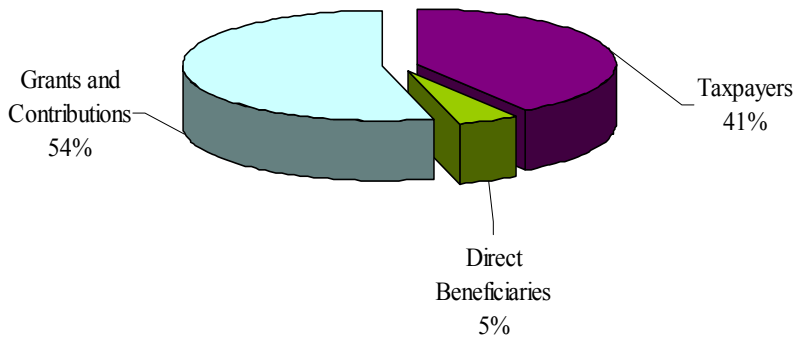
FEMA and its federal partners project that more than $18.6 million will be used to reduce or eliminate long-term hazard risk to the people and their property.

Although the relief aid efforts were well received by the American Samoa people, FEMA faced a number of challenges in providing

assistance. Samoan culture has strong indigenous customs and traditions that revolve around the extended family (the aiga) and the communal land system. In Samoa, a matai (chief), controls the family's communally owned land for the common good of all family members. Family members are expected to help the matai by providing the resources and financial contributions needed for special occasions and events, such as church building dedications, weddings and funerals. Ultimately, the matai decides who can live or build on the communally owned land as well as what type of resources and contributions are needed from family members. FEMA acknowledged this custom, and worked with the people to come to an agreement on the distribution and ownership of the homes to be built.

American Samoa is an unincorporated part of the United States. At the time of the disaster, two tuna canneries accounted for about 80% of employment. The prime source of income for American Samoa is the United States through multiple grants and other forms of funding. Of all the contributing agencies, the Department of Homeland Security is the second highest grantor. As of September 30, 2008, total expenses for governmental activities amounted to $196,261,843, and of that $102,705,363 (52%) were funded through grants and contributions. The chart below shows the distribution of funding sources for American Samoa. Taxpayers accounted for 41% of funding, direct beneficiaries 5%, and grants and other contributions accounted for 54%.

Figure 4. American Samoa Government Funding Sources



Source: OIG analysis of American Samoa's FY 2008 financial statements

Results of Review

In November 2009, we deployed an Emergency Management Oversight Team (EMOT) to assess federal recovery and response activities in American Samoa. We also assisted in coordinating information requests of federal and territory auditors, evaluators, and investigators. In addition, we informed FEMA and the American Samoa government of steps needed to ensure accountability and prevent fraud, and to monitor high-risk areas prone to fraud, waste, and abuse. We met with the Governor, American Samoa cabinet officials, FEMA personnel in American Samoa and Hawaii, and other federal officials in American Samoa.

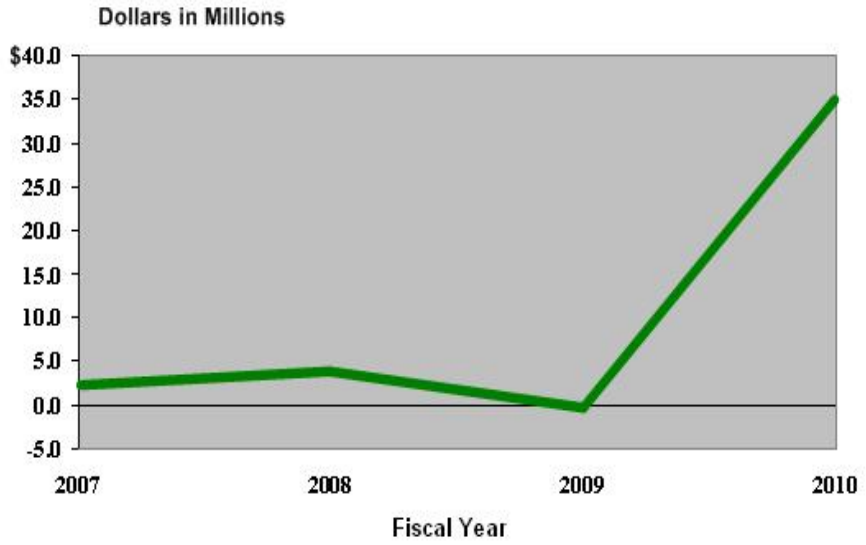
FEMA, despite the distance from the continental United States and limited commercial transportation, had an initial response team of 50 people, food, water, and commodities on the ground within 24 hours of the disaster declaration to provide the support and assistance needed by the survivors. FEMA provided a well-structured and well-disciplined Joint Field Office (JFO) for first responders and a Disaster Recovery Center for the people affected by the disaster. The Disaster Recovery Center alone had more than 21,000 visits. In addition, there was excellent communication among FEMA, the American Samoa government, disaster survivors, and media outlets, which reassured the survivors and kept the government up to date on response and recovery efforts. However, we identified three areas of concern relating to high-risk grantees, restoration of power, and permanent housing construction.

Improving Oversight of High-Risk Grantees

In September 2010, FEMA anticipated providing more than $92 million in federal disaster assistance grants to the American Samoa government for infrastructure repairs and hazard mitigation. In comparison, the U.S. Department of the Interior (DOI) annually provides the American Samoa government with approximately $22.7 million in grant funds for the operation of the local government, including the judiciary.[1] Figure 5 shows the federal grant funds FEMA has provided to the American Samoa government from October 1, 2006, to September 15, 2010.

[1] According to the DOI's Office of Insular Affairs, the American Samoa government does not have sufficient local revenues to fund the entire operating costs of its government.

Figure 5. FEMA Grant Funding in American Samoa



Source: OIG Analysis of USAspending.gov data.

Independent public accountants and federal auditors have repeatedly identified material weaknesses with the American Samoa government's ability to manage and account for federal funds. A material weakness is a significant deficiency, or combination of significant deficiencies, that significantly increase the likelihood that the internal controls will fail.[2] Since 1997, the American Samoa government's financial audits have resulted in either a disclaimer of opinion or a qualified opinion. In September 2005, the DOI OIG reported that the American Samoa government had not controlled expenditures, produced timely and accurate financial reports, or taken effective corrective actions on previously identified deficiencies.[3]

In May 2007 we identified systemic deficiencies in the American Samoa government's grants management practices and controls and questioned over $1.7 million in claimed grant costs. In February 2010, the American Samoa Territorial Auditor told us that he had significant concerns about the American Samoa government's ability to effectively oversee the increased amount of grant funds to be received given American Samoa's

[2] Internal controls comprise the plans, methods, and procedures that an organization uses to meet missions, goals, and objectives, and in doing so (1) support performance-based management and (2) help prevent fraud, waste, and abuse.
[3] *American Samoa: Top Leadership Commitment Needed to Break the Cycle of Fiscal Crisis* (P-IN-AMS-0117-2003, September 2005).

internal control weaknesses, the absence of a fully integrated financial system, and local funds' liquidity issues that put pressure upon American Samoa government officials to divert grant funds to pay bills for non-grant purposes. In March 2010, the U.S. Government Accountability Office (GAO) questioned the American Samoa government's ability to manage federal capital improvement grants, given that the American Samoa government official responsible for administering such funds had been absent from the island for the past 3 years.[4] In July 2010, American Samoa's independent public accountants told us that the government's system controls are frequently circumvented and overridden since there is no incentive to follow the rules.

Federal regulations stipulate that a grantee or subgrantee may be considered high risk if the recipient:

- Has a history of unsatisfactory performance;
- Is not financially stable;
- Has a management system that does not meet regulatory standards;
- Has not conformed to terms and conditions of previous awards; or
- Is otherwise not responsible.

The U.S. Department of Agriculture, U.S. Department of Education, U.S. Department of Health and Human Services, DOI, and U.S. Department of Transportation have designated American Samoa as a high-risk grantee.[5] Because high-risk designations are made by individual agencies and this information is not consolidated at the federal government level, each grantor made the determination independently. Reasons identified for the high-risk designation included delinquent audits, noncompliance with laws and regulations, failure to resolve audit findings or to follow up on review findings, incurring unallowable or questionable costs, and weak systems for monitoring the programs and managing program data.

Grants awarded to high-risk recipients include special conditions or restrictions that correspond to the high-risk condition. Examples of such special conditions or restrictions include additional project monitoring; payment on a reimbursement basis; requiring additional, more detailed financial reports; establishing additional prior approvals; and requiring the grantee or subgrantee to obtain technical or management assistance. Corrective actions that must be taken and the time allowed for completing these actions are provided in writing to the grantee. Once corrective

[4] *U.S. INSULAR AREAS: Opportunities Exist to Improve Interior's Grant Oversight and Reduce the Potential for Mismanagement* (GAO-10-347, March 2010).
[5] *U.S. INSULAR AREAS: Economic, Fiscal, and Financial Accountability Challenges* (GAO-07-119, December 2006).

actions have been completed resolving the high-risk condition, the grantor may remove the special conditions or restrictions.

According to the DOI, the American Samoa government was designated a high-risk grantee in an effort to improve accountability for federal funds. Such a designation requires American Samoa grantees to comply with special conditions for future or existing grants. The DOI also indicated that the high-risk designation would be removed once the American Samoa government meets three conditions:

1. Completes two consecutive Office of Management and Budget (OMB) Circular A-133 single audits by the statutory deadline, resulting in unqualified opinions;

2. Has a balanced budget, as confirmed by independent auditors, for the two consecutive years, without regard for nonrecurring windfalls such as insurance settlements; and

3. Is in substantial compliance with its fiscal reform plan.

In lieu of formally designating the American Samoa government as a high-risk grantee, FEMA has taken many positive steps to identify and address the risks posed by the American Samoa government's poor internal controls. The responsibility for administering grants transitioned from DHS Office of Grants and Training to FEMA in April 2007.[6] At that time, the FEMA Region 9 Administrator initiated a full review of DHS grant programs provided to American Samoa. The outcome of this review included FEMA regional staff providing American Samoa with technical assistance and close monitoring. Additionally, FEMA limited the American Samoa government's access to all but a few grant funds and implemented a restricted cash draw-down process.[7] DHS restrictions placed on grants began in December 2005, while DHS Grants & Training still had oversight responsibilities. As of August 2010, FEMA has kept these measures in place.

While the above FEMA actions are noteworthy, we remain concerned about the lax accountability in American Samoa. For example, the

[6] Under the *Post-Katrina Emergency Management Reform Act*, the DHS Grants & Training was moved into FEMA and renamed the Office of Grant Programs. This move gave FEMA the responsibility for administering most DHS grant programs. The move was effective on April 1, 2007. Previously, DHS Grants & Training had an agreement with the American Samoa Territorial Office of Homeland Security (TOHS) to not designate them as a high-risk grantee given concern at the time (December 2005) that such a designation might stall forward progression that was being made and perhaps be used as a leveraging tool to alter the TOHS organizational structure.

[7] Under this process, American Samoa is to submit requests for expenditures related to specified grants to FEMA for review and approval, prior to FEMA releasing any funds.

American Samoa government[8] uses a stand-alone, customized system to manage FEMA grant funds that is not fully integrated into the American Samoa government financial accounting system and has not been separately audited. Consequently, a significant increase in grant funds may pose unforeseen challenges that FEMA's "in lieu of high-risk" approach may not effectively and efficiently address. By designating American Samoa as a high-risk grantee in accordance with 44 Code of Federal Regulations (CFR) 13.12, corrective actions that must be taken and the time allowed for completing these actions are provided in writing to the grantee.

If the results of the 2010 OMB Circular A-133 single and program audits are disclaimed and include material qualifications, FEMA should consider formally designating American Samoa as a high-risk grantee in accordance with federal regulations given the history of unsatisfactory performance; lack of financial stability; non-conformance to terms and conditions of previous awards; and systemic internal control deficiencies.

Improving federal oversight and monitoring will improve the efficiency and accountability of programs in American Samoa, to the benefit of most American Samoans.

Recommendation

We recommend that the FEMA Regional Administrator, Region 9:

Recommendation #1: Continue to take all necessary actions to ensure that the American Samoa government properly expends and accounts for federal grant funding. Based on the results of the FY-2010 Office of Management and Budget Circular A-133 audits and according to federal regulations, these actions should include consideration of whether to designate American Samoa as a high-risk grantee.

[8] According to American Samoa's independent public accountants, the Territorial Office of Fiscal Reform and the American Samoa Disaster Recovery Office.

Management Comments and OIG Analysis

FEMA concurred with this recommendation and agreed that they would continue to take all necessary actions to ensure that the American Samoan government properly expends and accounts for federal grant funding under FEMA's administrative purview.

FEMA, short of formally designating the American Samoa government as a high-risk grantee, has implemented a number of actions to help address concerns with the American Samoa government's ability to properly expend and account for federal grant funds. In addition, American Samoa has worked with FEMA over the years to improve its internal controls. However, we remain concerned that FEMA's "in lieu of high-risk" approach may not effectively and efficiently address the lax accountability in American Samoa given that:

1. FEMA anticipates providing more than $92 million in federal disaster assistance grants to American Samoa for infrastructure repairs and hazard mitigation;

2. The American Samoa government has a history of unsatisfactory performance in managing and accounting for federal grant funds, including those from FEMA;

3. The American Samoa government is not financially stable;

4. The American Samoa government uses a stand-alone, customized system to manage FEMA grant funds that is not fully integrated into the American Samoa government financial accounting system and has not been separately audited;

5. The American Samoa government has not conformed to terms and conditions of previous awards according to the American Samoa Territorial Auditor, independent public accountants, federal auditors, and FEMA grant monitoring officials; and

6. Local funds' liquidity issues put pressure upon American Samoa government officials to divert grant funds to pay bills for non-grant purposes.

If the results of the FY-2010 OMB Circular A-133 single and program audits are disclaimed and include material qualifications,

FEMA should consider formally designating the American Samoa government as a high-risk grantee in accordance with federal regulations. Such a designation would require the American Samoa government to comply with special written conditions for future or existing grants and corrective actions that must be taken, including the time allowed for completing these actions.

We consider this recommendation open and unresolved, pending review of corrective actions taken.

Restoring Power to Disaster Survivors

The Satala Power Plant is a 13,215-square-foot building located on the coastline in the village of Satala on the island of Tutuila. The plant provided electrical power generation to the American Samoa Power Authority (ASPA) system and was a primary source of power for the shipyard, the waterfront industrial area, and the power grid on the eastern end of the island. After the earthquake and tsunami, water entered the building through doors, sound attenuator panels, and cabling trenches. The initial set of waves reached 11 feet high and submerged the building and equipment in salt water. The second wave was about 4 to 5 feet high and had more energy, knocking down barrels of waste oil and sludge, causing significant contamination. In addition, the cooling equipment, sound baffles, generators, transformers, switchgear, and other equipment were damaged by the submergence in saltwater and contamination with oil. As a result of the damage, the power generation capacity was lost.

Figure 6. Destroyed Generator at Satala Power Plant

Source: DHS OIG

The Satala Power Plant is capable of providing 29.5 megawatts of power, although only 23 megawatts were operational at the time of the disaster. In coordination with the U.S. Army Corps of Engineers, U.S. Department of Energy, and ASPA, FEMA assembled a power restoration team to assess damages at the Satala Power Plant and to develop a strategy to restore power in American Samoa. FEMA's power restoration strategy consisted of three phases (referred to as tiers) that addressed short-, near-, and long-term power requirements.

Timeline for Restoration of Power

2009

- **September 29:**
  - Power plant is flooded, causing power outages on the island.
- **October 1–15:**
  - Three-tier plan is developed.
  - FEMA gives ASPA 6 months to complete all emergency work; soon after, an additional 6-month extension is granted.
  - Initial inspection of the Satala Power Plant is conducted to assess the damage.
- **October 15–31:**
  - 56 emergency generators from FEMA and ASPA are put into operation (Tier I).
  - Additional inspections of the Satala Power Plant are conducted.
  - FEMA determines that the plant is not repairable.
  - Installation of 27 generators (Tier II) begins. These generators are rented from an outside vendor.
- **November 15–30:**
  - Tier II generators are installed.
  - Planning for replacement of the Satala Power Plant (Tier III) begins.

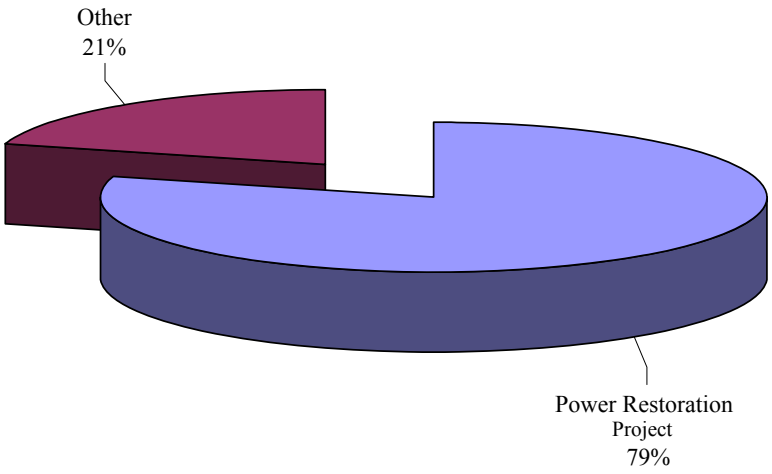
2010

- **February 15–28:**
  - Tiers I and II have been fully implemented.
  - Planning for Tier III is ongoing.

After the disaster, FEMA estimated the total costs to replace the Satala Power Plant to be $52.2 million, to be funded through a PA Grant. The project was designated a "replacement project," meaning the costs are not

capped[9] and may ultimately exceed $52.2 million. FEMA is required to reduce replacement costs by the amount of anticipated insurance proceeds.[10] ASPA anticipates $19 million in insurance proceeds from the National Flood Insurance Program and a private insurance policy. However, ASPA has requested that FEMA fund the full cost of the project because it intends to use the insurance proceeds as collateral on a loan, to be used for financing government operations. A lender has not been found; therefore, at this time the status of the insurance proceeds is uncertain. In addition to the replacement costs, FEMA is spending $7.6 million on temporary power generation (Tier II).[11]

Figure 7. FEMA Public Assistance Funding to American Samoa



Source: OIG analysis of FEMA disaster funding data

Due to the high dollar cost of this project, FEMA plans to continue to closely and aggressively monitor all aspects of the Satala power plant project. We agree with this decision. FEMA needs to document each step of the restoration, and maintain a timeline with completion dates, to ensure that tasks are completed in a timely manner. In addition, FEMA needs to

[9] 44 CFR 206, Subpart G provides regulations for cost reimbursement under the PA program. A project designated an "improved project" caps the total costs eligible for reimbursement by FEMA. A "replacement project" is one in which the total costs eligible for reimbursement by FEMA are not capped.
[10] According to 44 CFR 206.250(c), "Actual and anticipated insurance recoveries shall be deducted from otherwise eligible costs…"
[11] The $7.6 million cost is dependent upon the reconstruction project; if the plant is not rebuilt in the next year or two, temporary power generation project costs could increase to more than $25 million, as temporary generators are being rented. The primary funding source for these generators will continue to be FEMA, on a cost reimbursable basis.

monitor management of funds to ensure that funds are being used as designated. ASPA might not have its insurance proceeds available at the time of construction, yet FEMA must adhere to the CFR so there is no duplication of benefits. Close monitoring of the funds will increase transparency, assure that the power plant is restored, and protect U.S. taxpayers' interests.

FEMA's Permanent Housing Construction Pilot Program

Within 10 days of the disaster, FEMA elected to use its authority under the *Stafford Act* to commence a pilot program to build permanent housing in American Samoa.[12] The decision to build permanent housing was based on the following conclusions:

- Insufficient available rental housing;
- Unfeasibility of transporting temporary housing, such as mobile homes, thousands of miles by sea;
- Limited supply of labor and materials; and
- Impracticality of moving families off the island where American Samoans have lived for generations.

At the time of the disaster, FEMA had no plans in place for building permanent housing in insular areas such as American Samoa. FEMA chose not to activate Emergency Support Function 14, Long-Term Community Recovery (ESF #14)[13] under the National Response Framework. FEMA said that the U.S. Department of Housing and Urban Development (HUD) had no presence on the island and that the disaster was too small to activate this function. However, FEMA's National Housing Strategy calls for HUD's leadership when permanent housing is needed. As the lead agency, FEMA serves as the coordinator for ESF #14; HUD is one of the primary ESF #14 agencies. FEMA's Transition Binder (prepared for the Presidential transition team in 2008) recommends increased use of ESF #14.

FEMA decided to use its Individual Assistance–Technical Assistance Contract[14] (IA-TAC) contractors, the Partnership for Temporary Housing[15] to build the homes. This decision appears to have been made before FEMA determined the availability of local resources as mandated by the *Stafford Act*[16] or publicized the proposed acquisition of services and conducted market research as required by the Federal Acquisition

[12] According to Section 408 (c)(4) of the Stafford Act, the President may provide financial or direct assistance to construct permanent housing in insular areas outside the continental United States and in other locations in cases in which (1) no alternative housing resources are available, and (2) the types of temporary housing assistance described in paragraph (1) are unavailable, unfeasible, or not cost effective.
[13] ESF #14 promotes successful long-term recovery for communities suffering significant damages.
[14] IA-TAC contractors support FEMA's implementation of its IA programs. FEMA divided the country into four regions, and each of the four IA-TAC contractors has the lead responsibility in one of the regions.
[15] The Partnership for Temporary Housing is a limited liability corporation consisting of DynCorp International, LLC; Dewberry; and Parsons Corporation. It was the IA-TAC contractor responsible for the region that includes American Samoa.
[16] Section 307(a) requires that preference be given to firms and individuals doing business primarily in the area affected when federal funds are expended for debris removal, reconstruction, and other activities.

Regulation (FAR).[17] FEMA selected the Partnership for Temporary Housing to build the homes in October 2009, but did not publicize the acquisition or conduct market research until November 2009. According to FEMA Housing Strategy white paper created on October 30, 2009, when the permanent housing construction pilot is approved, "the intention would be to implement the program by utilizing…the current IA-TAC, PaTH for construction labor." According to an October 31, 2009, email among various FEMA officials involved in the housing project on American Samoa: "The JFO [Joint Field Office] expects a Task Order for permanent construction is imminent and will happen within the next two weeks. [FEMA official's name] is requesting that one or two PaTH staff be deployed, as early as tomorrow, to start preparing for a housing operation." FEMA's decision to use the Partnership for Temporary Housing for the permanent housing pilot soon after the disaster was confirmed by a knowledgeable FEMA official.

Figure 8. FEMA Home Under Construction in American Samoa

Source: American Samoa Department of Commerce

[17] FAR Part 5 requires publicizing of contract actions to increase competition, broaden industry participation in meeting government requirements, and assist small business concerns in obtaining contracts. FAR Part 10 requires agencies to conduct market research before soliciting offers.

Additionally, building permanent homes was not within the scope of the FEMA/Partnership for Temporary Housing contract. Section 5.1 of the contract, awarded on May 14, 2009, lists more than ten housing-related tasks the contractor may undertake, none of which involve building permanent private homes. FEMA modified the contract on December 28, 2009, to add "General Construction Services" terms and conditions. However, the FAR requires that the normal acquisition processes be followed if needed services are outside the scope of the existing contract.

FEMA rejected each of the nine companies that expressed interest in building the needed homes in response to FEMA's November 4, 2009, Request for Information. Reasons for rejection included not being licensed to do business in American Samoa, no experience in building on American Samoa, and no experience in building private residences. However, the Partnership for Temporary Housing, which did not respond to this Request for Information, could not meet some of those same requirements.

In FEMA's November 4, 2009, Request for Information, interested parties were to indicate their ability to build up to 150 homes. Although more than 150 homes had been destroyed on the island, former homeowners were given the option of receiving a cash payment or having a new home built. As of November 20, 2009, only three American Samoans had chosen the new home option. Ultimately, only 45 people opted to have FEMA build them a home.

FEMA acknowledged that in its desire to help survivors, assumptions are quickly made and acted upon, and then require revision as time passes. In the past, these assumptions have resulted, for example, in travel trailers, mobile homes, and modular homes being bought and not used,[18] underutilized base camps being constructed,[19] and unneeded mobile medical units being leased,[20] at a cost to the taxpayers of millions of dollars. We understand FEMA's desire to help disaster survivors as quickly as possible, but this desire must be tempered by proper planning and a concern for the costs involved.

In American Samoa, had FEMA looked at the ratio of Samoans choosing to receive cash rather than request a home, FEMA may have realized that many fewer than 150 homes needed to be built. Thus, it may have been possible to build all the needed homes by using a combination of local small businesses, volunteer organizations (who said they could build 20 homes) and foreign companies. Meeting the need in this manner may

[18] FEMA's Sheltering and Transitional Housing Activities After Hurricane Katrina, OIG-08-93, Sept.2008.
[19] Improvements Needed in FEMA's Disaster Contract Management, OIG-10-53, Feb. 2010.
[20] ibid

have provided FEMA with more valuable lessons learned for future building in the territories than could be learned from the use of one large American business.

Another reason given for rejecting bidders was the *Buy American Act*.[21] The FAR creates exceptions to the *Buy American Act*, but the market research team did not recognize or consider these exceptions.[22] Additionally, the *Buy American Act* applies only to the purchase of materials to be put to public use. Because the homes being built under the pilot were for individual, private use, the *Buy American Act* appears to be inapplicable, and thus foreign construction companies could have been considered for the construction program. Interested foreign companies from Australia and New Zealand, which were licensed builders on American Samoa, may have been able to build the houses at a lower cost to the taxpayer. The interested Australian company estimated the cost of the homes at $250,000 and the New Zealand company at $240,000, far below the high end of the estimated costs discussed below.

FEMA set a goal to complete the home construction on the 1-year anniversary of the disaster, September 29, 2010. This date was not based on any analysis of the time it would reasonably take to build the number of homes needed. It may have been simply a symbolic choice, but it led FEMA to eliminate companies and volunteer organizations that were unable to meet the self-imposed deadline.

According to 2000 Census data, more than 80% of American Samoan homes had zero to three bedrooms and more than 60% were valued at less than $60,000. The homes to be built by FEMA were based on plans developed by the Development Bank of American Samoa (DBAS). The homes are basic two- and three-bedroom, one-bathroom block homes, approximately 920 square feet for the two-bedroom and 1,262 square feet for the three-bedroom homes. Historically, DBAS loaned applicants approximately $40,000 to build two-bedroom homes and $60,000 to build three-bedroom homes.[23]

The initial estimates provided to FEMA were three to four times higher than the DBAS loan amounts. FEMA proceeded with the pilot, even as unanticipated factors increased the costs. For example, archeological monitoring was required at every site, and landfill had to be tested. The

[21] 41 United States Code §10a-10d.
[22] FAR § 25.202
[23] A direct comparison between DBAS loan amounts and the actual costs to FEMA of building the homes cannot be made because (1) the relationship between the loan amounts and the actual costs of building are not known, (2) the homes to be constructed under FEMA's purview are subject to more stringent building standards and other federal laws, and (3) the loan amounts do not include site preparation and related costs.

cost of rebuilding was in flux for months owing to unapproved design plans and disagreements between FEMA's IA-TAC personnel and the U.S. Army Corps of Engineers over what should and should not be included in the cost of home building. Because FEMA did not have construction expertise, it negotiated an interagency agreement with the U.S. Army Corps of Engineers to supply construction project management services. If all services are utilized, this 9-month agreement will cost $3.7 million.

Figure 9. FEMA-Built Home in American Samoa

Source: FEMA

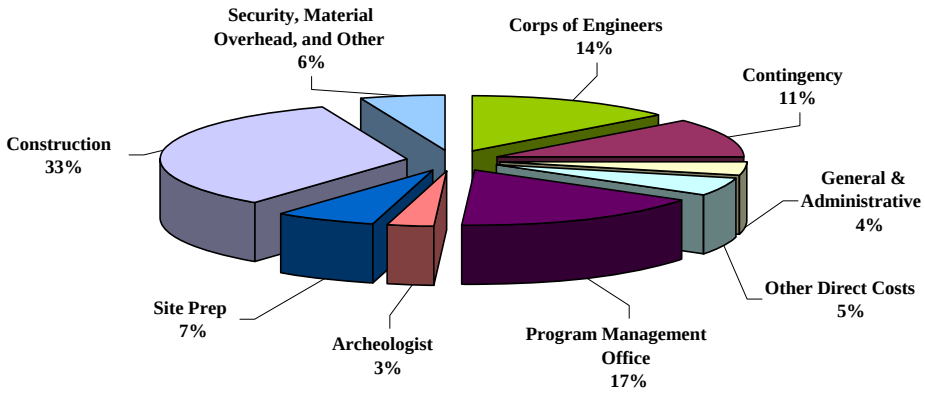
Under pressure to move forward, FEMA gave the Partnership for Temporary Housing a "Notice To Proceed" in January 2010, which authorized $3.9 million to build up to eight homes. FEMA intended to use the actual costs incurred by the Partnership for Temporary Housing to determine the true cost of the homes, determine the independent government estimate of the building costs, and negotiate a firm fixed-price task order with the Partnership for Temporary Housing for building the remaining houses.

A ground-breaking ceremony was held on January 11, 2010. Construction on the first home began in February. However, it is unclear how construction could have begun without an approved design plan, since the U.S. Army Corps of Engineers did not turn in the final design plans until March 23, 2010. As months went by, FEMA continued to receive estimates of costs and debate what should be included in the cost of the

pilot. FEMA received varying estimates of costs, ranging from $140,000 to $381,000. Several FEMA officials acknowledged that the cost to build the homes was high − one official claimed to have had "sticker shock" after realizing the costs involved − but believed that it was simply the cost of doing business.

In addition, FEMA faced difficulties with site demolition and preparation. The land that an American Samoa family lives on is not just land; they have a "deep-rooted" connection and past with it. Traditionally, the Samoan people bury their loved ones on the aiga property with elaborate gravesites to signify a bond with the land and to remain close to the family. As a result, during the site demolition and preparation process, workers found remains of generations of family members. Additionally, archeological artifacts were found that required removal and study.[24] This delayed the building process and increased costs.

Figure 10. Estimated Distribution of Costs per Home



Source: OIG analysis of FEMA data

According to the applicable federal regulation that implements Section 408 of the *Stafford Act*: "Permanent housing construction …must be consistent with current minimal building codes and standards, where they exist, or minimal acceptable construction industry standards in the area, including reasonable hazard mitigation measures, and federal environmental laws, and regulations. Dwellings will be of average quality, size, and capacity, taking into account the needs of the

[24] Any activities that involve ground disturbance trigger a review for historic preservation consideration to comply with numerous federal laws, such as the *National Historic Preservation Act*, the *Resource Conservation and Recovery Act*, and the *Archeological Resources Protection Act of 1979*.

occupant."[25] The building specifications being used for construction of the houses were improved to a higher standard than those customarily used in American Samoa, in violation of this regulation.[26] Additionally, U.S. Army Corps of Engineers included commercial specifications in the final residential building plans.

FEMA advised us in early September that a specific task order agreement for the Partnership for Temporary Housing's services for the permanent housing construction pilot program in American Samoa had been reached. Eight homes have been completed; 37 homeowners are still waiting for their new homes, eleven months after the tsunami struck. FEMA is preparing to obtain offers from other parties to build the remaining homes.

Recommendations

We recommend that the Federal Emergency Management Agency Associate Administrator, Response and Recovery:

Recommendation #2: Conduct a comprehensive "lessons learned" study of the permanent housing construction pilot program in American Samoa no later than 90 days following completion of the pilot and use that study as the basis for:

- Future policies regarding insular areas;
- The decision-making process for how and when to use permanent construction;
- The decision-making process for who should build the homes; and
- Determining the use of local resources and voluntary organizations.

Recommendation #3: Develop comprehensive, executable, and regularly updated permanent housing plans for insular and other areas for which the Federal Emergency Management Agency has the authority to construct permanent housing under Section 408 of the *Stafford Act*. Such plans should include the use of local and volunteer resources to the maximum extent possible, consideration of Emergency Support Function #14 in the development of these plans, and approval by the cognizant state, territorial, or tribal leaders.

[25] 44 CFR 206.117(c)(3).
[26] The standard used was the 2006 International Residential Building Code/2006 International Building Code.

We recommend that the Federal Emergency Management Agency Chief Counsel:

Recommendation #4: Determine whether the *Buy American Act* applies to the Federal Emergency Management Agency construction of permanent housing authorized by Section 408 of the *Stafford Act*, and work with the appropriate officials to incorporate such determination into relevant policies and procedures.

Management Comments and OIG Analysis

FEMA concurs with Recommendation #2. This recommendation is unresolved and open until FEMA conducts a pilot study and the lessons learned are used to establish policies for permanent housing plans.

FEMA concurs in part with Recommendation #3. FEMA does not concur with the requirement that permanent housing plans be approved by the applicable local government, because FEMA's authority to build permanent housing is no longer limited geographically; thus, the "local government" may be at the State/Territorial level." Our use of the phrase "local government" was meant to refer to the highest level of government, be it a state, territory or tribal area. We have revised the recommendation accordingly. Based on this revision, we consider the recommendation unresolved and open until such plans are established.

FEMA's Office of Chief Counsel determined that FEMA's permanent housing program is subject to the Buy American Act, but pursuant to Recommendation #4 the FEMA Office of Chief Counsel will review the Act and make a determination of its bearing on FEMA's authority to build permanent homes for private use. We will pursue this matter further with DHS Office of the General Counsel if FEMA's Office of Chief Counsel determines that the Buy American Act applies to the building of homes for private use. This recommendation is unresolved and open, pending review of corrective actions taken.

FEMA's comment letter contained some comments not directly related to recommendations. FEMA officials deny selecting the Partnership for Temporary Housing to build permanent homes

before the necessary acquisition steps were taken. We based our conclusion on pre-decisional documents, emails, and the testimony of a knowledgeable FEMA official involved in the process. FEMA officials in Region 9 provided us with final documentation and email which they assert refutes our conclusion.

We have updated the number of homes completed and the status of the task order between FEMA and the Partnership for Temporary Housing.

As a result of Federal Disaster Declaration 1859, we deployed an EMOT consisting of auditors and one investigator to American Samoa from November 4 to 23, 2009. Our objectives were to (1) promote accountability instituting measures and processes to evaluate the actions of federal emergency professionals, (2) serve as an independent entity for oversight of disaster response and recovery activities, and (3) determine whether FEMA had identified and taken steps to effectively mitigate the risk of fraud, waste, and abuse or mismanagement of its assistance.

Relevant criteria included *Robert T. Stafford Disaster Relief and Emergency Assistance Act*, Public Law 93-288, as amended; Code of Federal Regulations; and FEMA disaster assistance policies.

We performed extensive document review and analysis of FEMA's deployment and JFO operation records, standard operating procedures, directives and policies, budgetary information, program data, e-mails, and statistical information. We reviewed prior federal audit reports; *Single Audit Act* results maintained in the Federal Audit Clearinghouse for the American Samoa government, FYs 1997 through 2008; the American Samoa government *Single Audit Act* reports, FYs 2007 through 2008; and the American Samoa government audited financial statements, FYs 2007 and 2008.

We interviewed officials from FEMA Headquarters, FEMA Region 9, FEMA Pacific Area Office, U.S. Department of the Interior, U.S. Department of Justice/Federal Bureau of Investigation (FBI) in Hawaii and in American Samoa, the American Samoa Territorial Audit Office, and auditors from the certified public accounting firm that performs the American Samoa government's single audits. We also met with more than 60 key officials, including FEMA officials at the JFO and the American Samoa Governor and his representatives.

During our deployment, we participated in FEMA and American Samoa government joint situation meetings and visited the Disaster Recovery Center and damaged areas (ASPA power plant in Satala, Pago Pago bay area, villages of Leone, Nua/Seetaaga, Amanave, and Poloa).

We conducted this review between November 2009 and June 2010 under the authority of the *Inspector General Act of 1978*, as

amended, and according to the *Quality Standards for Inspections* issued by the Council of the Inspectors General on Integrity and Efficiency.

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Management Comments to the Draft Report

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

FEMA

September 18, 2010

MEMORANDUM FOR: Matt Jadacki
Assistant Inspector General
Department of Homeland Security

FROM: David Garratt
Associate Administrator for Mission Support

SUBJECT: FEMA Response to Revised Draft DHS/OIG Report on American Samoa *(10-126-EMO-FEMA)*

On July 28, 2010, your office forwarded to FEMA leadership a draft report titled: *American Samoa 2009 Earthquake and Tsunami: After-Action Report*. That draft report contained five recommendations for FEMA to consider with respect to its responsibilities in providing disaster assistance to the disaster survivors and governmental agencies in the Territory of American Samoa. FEMA provided a written response to this draft report, as well as met with your office to discuss our concerns with certain elements thereof. On September 10, 2010, your office forwarded a memorandum titled: *Revised Draft Report: American Samoa 2009 Earthquake and Tsunami. After-Action Report*. That memorandum conveyed an attachment revising Recommendation 1 and supporting language. The memorandum further indicated that additional modifications to the original draft report would be made, including a retraction of Recommendation 2. Based on the revisions to the original draft report, FEMA rescinds its original written response, and submits this revised reply. FEMA's revised response to each of the four remaining report recommendations follows.

OIG (Revised) Recommendation #1:

Continue to take all necessary actions to ensure that the American Samoa government properly expends and accounts for federal grant funding. Based on the results of the 2010 Office of Management and Budget Circular A-133 audits and in accordance with federal regulations, these actions should include consideration on whether American Samoa be formally designated a high-risk grantee.

FEMA Response:

FEMA concurs with this revised recommendation, and we will ***continue*** to take all necessary actions to ensure that the American Samoan government properly expends and accounts for federal grant funding that is ***under FEMA's administrative purview.***

While the narrative accompanying and supporting the OIG recommendation provides considerable detail on the concerns related to the quality of American Samoa's financial accountability regarding FEMA-administered grant funding, it does not do equal justice to the history of aggressive actions and significant enhancement efforts undertaken by American Samoa and FEMA Region IX to positively address those concerns, nor does it equitably recognize the measurable improvements in qualitative

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accountability those efforts (exerted by both American Samoa and FEMA) have produced. We believe those facts, efforts and achievements - detailed below - are noteworthy, and deserve acknowledgement.

- Although not officially designated "high risk" by DHS/FEMA, American Samoa has been – since December 2005 – designated "in lieu of high risk." As a result of this latter designation, and for all intents and purposes, American Samoa has been effectively operating *(and improving)* within a "high risk" accountability environment for nearly 5 years, ensuring strict and closely monitored accountability for both disaster and non-disaster grant funding, and helping to restore the public trust.

- By letter dated October 29, 2007, Governor Tulafono requested that FEMA restore funding for American Samoa Public Assistance and Hazard Mitigation Grant Programs for open disasters. In response, the FEMA Regional Administrator initiated and completed - in conjunction with the FEMA Headquarters National Preparedness Directorate and Grant Programs Directorate - a full and comprehensive review of FEMA grant programs provided to American Samoa, including direct on-site assessments. In February 2008, FEMA convened a high-level working group (comprised of Region IX leadership and staff and key FEMA headquarters officials, to include representatives from the Program Development and Administration and Financial Oversight and Accountability offices under the Grant Programs Directorate) to review program requirements and, most importantly, develop a rigorous corrective action plan to authoritatively guide American Samoa's grant eligibility restoration efforts. The working group also established - ***utilizing high risk requirements*** – demanding criteria for the release of specified grant funds, to include a restricted draw-down process that requires substantial justification and a carefully monitored documentation approval process to enable the distribution of funds. By working closely and collaboratively with American Samoa officials; by actively promoting rigorous accountability; by instituting measures and processes to ensure close and continued oversight; and by requiring detailed and demanding corrective actions, FEMA took and sustained aggressive and fundamentally sound steps to help American Samoa down the path towards financial accountability and, eventually, grant eligibility restoration.

- Crucial to the measured and validated improvement in performance of American Samoa was the cooperative development of a corrective action plan to authoritatively address identified deficiencies. In December 2008, Region IX sent a letter to Governor Tulafono regarding the status of the Inspector General audit findings (OIG-47-02) for Homeland Security grants for fiscal years 2002, 2003 and 2004, and requested that a corrective action plan be submitted to address the audit findings. The letter also requested information or documentation on corrective actions that American Samoa implemented to address the non-compliance issues identified in the Inspector General report. The letter stipulated that approval of the corrective action plan was a factor in any determination to release funds, and that outstanding issues must be satisfactorily addressed before FEMA would allow American Samoa to be placed on restricted cash draw-down status for five specified preparedness grants. Even then, FEMA controls remained tight, as the restricted cash draw-down process requires American Samoa to submit requests for expenditures related to specified grants to FEMA for review and approval, prior to FEMA releasing ***any*** funds.

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- The Inspector General audit (OIG-47-02) identified several audit findings and recommendations requiring corrective action. Accordingly, FEMA directed American Samoa to provide a corrective action plan to authoritatively remediate the three recommendations of the report. Specifically, American Samoa was required to (1) provide supporting documentation within 45 days pertaining to the questioned costs identified in the first recommendation; (2) provide supporting documentation for cell phones, printing costs and gasoline charges identified in a second recommendation; and (3) American Samoa was required to repay funds for disallowed purchases identified in a recommendation. American Samoa submitted their corrective action plan and supplemental information in February 2009, on time, and as requested. FEMA noted that American Samoa staff was very cooperative and responsive to inquiries and requests for supplemental documentation during the corrective action plan review process.

- FEMA conducted an on-site programmatic and financial review in May 2009 to assess the corrective actions implemented by American Samoa to address non-compliance issues identified by the Inspector General, and to ensure that policies and procedures were in place to properly account for receipt and expenditure of DHS and FEMA preparedness, mitigation and disaster funds. The results of the review determined that American Samoa would be placed in restricted cash draw-down status once the funds for audit disallowances were returned. The funding freeze was lifted for mitigation and disaster programs, as well as the specified preparedness grant programs. However, in furtherance of FEMA's responsibility to ensure financial oversight, American Samoa continues to be on a restricted cash draw-down status. FEMA regional staff continue to closely monitor (both programmatically and financially) American Samoa programs, continue to provide technical assistance, and continue to conduct administrative compliance reviews in an ongoing effort to sustain sound administrative practices and financial accountability. Multiple visits during the past year have facilitated and affirmed American Samoa accountability improvements, and this high level of scrutiny will continue.

- At the time of the September 2009 disaster event, the FEMA Region IX Regional Administrator had restricted access by American Samoa to all but a few grant funds, pending the final outcome of ongoing investigations and the implementation of a comprehensive and rigorous corrective action plan to ensure the integrity of these programs. However, unambiguous humanitarian considerations demanded that FEMA not deny critical disaster assistance to otherwise eligible American Samoan residents affected by the disaster; accordingly, FEMA appropriately authorized Individual and Households Program funding to be provided to eligible individuals and families. FEMA also assured officials of American Samoa that the decision to suspend funding for other FEMA grants would not affect the Federal response to a Presidential disaster declaration.

- Regardless of the formal designation of American Samoa as "high risk" by other federal agencies, the regulatory process allows for each awarding agency to separately and independently determine the need to consider a grantee or sub-grantee "high risk," based on the five criteria specified in 44 CFR, Section13.12. The awarding agency applies the criteria in the context of the current conditions and capabilities for managing *specific grant awards*. While

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FEMA is cognizant of other agency high-risk designations. FEMA has separately and independently determined that its current policy and methodology for American Samoa – *as it applies to those grant systems that support FEMA programs* - is effective, and that other agency "high risk" determinations apply to systemic conditions that are not relevant to FEMA's grant programs.

OIG Recommendation #2:

Conduct a comprehensive "lessons learned" study of the permanent housing construction pilot program in American Samoa no later than 90 days following completion of the pilot and use that study as the basis for:

- *Future policies regarding insular areas;*
- *The decision-making process for how and when to use permanent construction;*
- *The decision-making process for who should build the homes; and*
- *Determining the use of local resources and voluntary organizations.*

FEMA Response:

FEMA agrees with the premise of this recommendation and fully intends to conduct a "lessons learned" assessment. Representatives from FEMA Headquarters have already spent time in American Samoa gathering lessons-learned related to this assessment. These learned lessons will ultimately inform and support changes to policies and procedures. However, there are a number of anomalies or discrepancies in the report, which we address below.

- Page 13: Concerning the selection of Partnership for Temporary Housing (PATH): The report states that FEMA selected PATH to build the homes in October, but it did not conduct the market research until November 2009. This is inaccurate. The decision to utilize PATH was made after the companies provided their responses to the Request for Information and Market Research Review and Analysis.

- Page 13: Concerning the role of the U.S. Department of Housing and Urban Development (HUD): Since HUD does not have a presence in American Samoa, the Development Bank of American Samoa (DBAS) serves as their representative for administering HUD loans. The loan program utilizes the DBAS plans. DBAS was actively engaged in the Housing Task Force.

- Page 14: Concerning the use of local housing contractors. Following the earthquake and tsunami-related destruction, FEMA performed an analysis of the long-term housing need and determined that permanently constructing homes for eligible disaster survivors would best meet the housing need. FEMA performed a Market Research Review and Analysis and requested local contractor information and proposals to build an expected total of 150 homes. Multiple companies responded, but they did not meet the criteria to serve as prime contractor for various

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reasons, such as the companies did not have a large enough labor force to meet the need of the contract or they did not possess the financial resources to cover the cost of materials and wages.

- Page 14: Concerning the selection of PATH: To help expedite the rebuilding process, FEMA looked to PATH, its technical assistance contractor. Technical assistance contracts are in place to ensure that resources are available and standing by to complete a disaster housing mission, and are awarded to vendors on a regional basis with funding designated for vendors to maintain readiness to assist in various housing missions. At the time of the disaster, Region IX had a technical assistance contract in place with PATH.

- Page 14: Concerning the selection of PATH: Once the Market Research Review and Analysis results determined that no local firms were a viable option, PATH was selected as the prime contractor for the housing project for the initial eight homes (note: a local vendor is expected to be awarded the Phase 2 contract to build the remaining approximately 30 homes under the pilot program). PATH has previous construction experience building residential housing, including military housing, in Hawaii, Missouri, Idaho and North Carolina. PATH has proven to have access to financial resources for projects which require funds in advance and has performed successfully on FEMA contracts since 2006. Although PATH was designated as the prime contractor, it is noteworthy that a number of American Samoa-based firms were selected as sub-contractors for the project.

- Page 15: Concerning the use of volunteer organization: The report implies that FEMA did not make an effort to utilize volunteer organizations. On at least four separate occasions, FEMA leadership consulted with Mennonite Disaster Services, who was representing the other volunteer organizations, to discuss their ability to construct homes. In every case, they were not able to build the number of homes required by the Permanent Housing Construction program. Instead, they provided assistance to those homes that could be repaired. This action freed up the limited pool of workers to focus on reconstruction. FEMA has spent over $260,000 in invitational travel and supply requirements for over 120 individuals providing voluntary services.

- Page 17: Concerning the number of homes completed: All eight homes mentioned in the report were completed by August 9, 2010. The site preparation work for ten additional sites is also complete.

OIG Recommendation #3:

Develop comprehensive, executable, and regularly updated permanent housing plans for insular and other areas for which the Federal Emergency Management Agency has the authority to construct permanent housing under Section 408 of the Stafford Act. Such plans should include the use of local and volunteer resources to the maximum extent possible, consideration of Emergency Support Function #14 in the development of these plans, and approval by the local government of these plans, (including its housing authority, if any).

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FEMA Response:

FEMA concurs with the desirability and need for scalable, flexible, executable permanent housing plans, as well as with the recommendation that such plans include the participation of ESF#14 and maximize the use of local and volunteer resources. However, FEMA does *not* concur that it is either appropriate or realistic to require *local* government approval for standing FEMA-developed plans. The OIG recommendation indicates that such plans should be developed for *"... insular and other areas for which the Federal Emergency Management Agency has the authority to construct permanent housing under Section 408 of the Stafford Act."* It should be noted that Section 408 imposes no geographic limits on the President's authority to provide permanent housing. Accordingly, permanent construction may be authorized *in any area* that otherwise meets the criteria established in Section 408(c)(4). Accordingly, the appropriate and realistic coordination and approval level for FEMA would be at the State/Territory level, not at the individual local government level.

The narrative accompanying this recommendation states that *"FEMA chose not to activate Emergency Support Function 14, Long-Term Community Recovery (ESF#14) under the National Response Framework."* The report fails to reflect that the Governor of American Samoa specifically stated he did not want to activate ESF 14, nor does the report acknowledge that it would be entirely inappropriate for FEMA to require a supported Territory to accept a form of federal assistance that it has clearly declined.

OIG Recommendation #4:

Determine if the Buy American Act applies to the Federal Emergency Management Agency construction of permanent housing authorized by Section 408 of the Stafford Act, and work with the appropriate officials to incorporate such determination into relevant policies and procedures.

FEMA Response:

FEMA and its Office of Chief Counsel (OCC) do not agree with the assertion that the Buy American Act (BAA) is not applicable to section 408, permanent housing construction. The permanent construction of housing under the Stafford Act appears to fall within the BAA definition for public use, particularly since FEMA is contracting for the work directly. However, per the recommendation, OCC will determine whether the BAA applies to section 408 projects and work with FEMA Office of Acquisitions to ensure the BAA is properly applied to future procurement actions.

cc: David Kaufman, Director, OPPA

Appendix C
The Territory of American Samoa

American Samoa (AS) is an unincorporated part of the United States, located in the South Pacific Ocean about halfway between Hawaii and New Zealand. As a territory, American Samoa is administered by the Office of Insular Affairs, U.S. Department of the Interior. Each of the islands became a territory of the United States on April 17, 1900, when the Deed of Cession was signed. Prior to that date, Germany and the United States shared ownership of the islands; Germany owned the western part of the territory and the United States owned the eastern part. The five volcanic islands have rugged peaks and limited coastal plains with a hot and humid climate. Because of the rough terrain, very limited amounts of land can be inhabited. Together, the islands are about 199 square miles in area and the population is 65,628. Most of the population is of Samoan ancestry. As of 2005, 29.8% of American Samoa was unemployed. Their social basis is the land and 90% of the land is communally owned by families that are led by chiefs called matais. Religion is also very predominant in the American Samoa culture and much of the village life centers around the church. The American Samoa government structure is very similar to that of the United States, in that there is an executive, legislative, and judicial branch. The executive branch is led by the Governor and Lieutenant Governor. The legislative branch consists of the House of Representatives, which is elected by popular vote, and the Senate, whose members are selected by the matais. The judicial branch is a part of the U.S. judicial system. Agricultural products of American Samoa include oranges, limes, mangoes, alligator pears, yams, pineapples, papayas, breadfruit, and dairy products.

Appendix D
Financial Data for American Samoa

Chart 1. Federal Grants Funding

Fiscal Year	FEMA	Other Federal Agencies	Total Federal Grants
2007	$ 2,724,758	$ 94,983,585	$ 97,708,343
2008	3,807,605	125,497,726	129,305,331
2009	(794,612)	121,342,469	120,547,857
Subtotal	$ 5,737,751	$341,823,780	$347,561,531
2010[27]	35,748,614	206,520,502	242,269,116
Total	$41,486,365	$548,344,282	$589,830,647

Chart 2. Disaster 1859 Public Assistance Funding, by Work Category

Public Assistance Work Categories	Total Category Amounts
A – Debris Removal	$ 990,831
B – Emergency Protective Measures	39,512,040
C – Roads and Bridges	565,991
D – Water Control Facilities	702,664
E – Buildings and Equipment	10,756,832
F – Utilities	55,350,507
G – Parks, Recreation, and Other	3,171,551
Z – State Management	663,759
Rounding	1
Total	$ 111,714,176

Source: FEMA Public Assistance Summary dated September 21, 2010

This chart represents total requested funds for all public assistance projects. Project costs are not reduced to reflect possible federal cost share provisions.

[27] As of September 24, 2010.

Chart 3. Public Assistance Projects Obligated

American Samoa Applicant	Project Total
American Samoa Community College	$ 1,702
American Samoa Environmental Protection Agency	24,384
American Samoa Power Authority	12,606,088
American Samoa Telecommunications Authority	358,135
ASG - Territorial Office Of Financial Reform	597,383
Department of Administrative Services	21,385
Department of Agriculture	47,779
Department of Education	89,237
Department of Health	68,741
Department of Human And Social Services	7,237
Department of Human Resources	7,067
Department of Marine And Wildlife Resources	542,859
Department of Parks And Recreation	294,414
Department of Port Administration	880,312
Department of Public Safety	156,519
Department of Public Works	369,376
Dept of Legal Affairs/Territorial Registrar Office	4,043
Development Bank of American Samoa	110,220
High Court of American Samoa	50,574
LBJ Tropical Medical Center	9,120
Legislature Of American Samoa	114,860
Museum Of American Samoa - Jean P. Haydon Facility	33,170
Office Of Procurement	283,775
Territorial Administration On Aging	163,661
Territorial Office Of Homeland Security	179,845
Total	**$ 17,021,886**

Source: FEMA as of September 2010.

This chart displays the PA projects that have been obligated.

Appendix E
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Assistant Secretary for Office of Public Affairs
Assistant Secretary for Office of Legislative Affairs
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FEMA Administrator
FEMA Deputy Administrator
FEMA Regional Administrator, Region IX
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