

STATE OF NEBRASKA AUDITOR OF PUBLIC ACCOUNTS



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March 8, 2006

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Major General Roger Lempke, Adjutant General
Nebraska Military Department
1300 Military Road
Lincoln, Nebraska 68508-1090

Don Dunlap, CPA
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Dear Major General Roger Lempke:

Pat Reding, CPA
Asst. Deputy Auditor
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We have audited the basic financial statements of the State of Nebraska (the State) for the year ended June 30, 2005, and have issued our report thereon dated December 19, 2005. We have also audited the State's compliance with requirements applicable to major Federal award programs and have issued our report thereon dated February 2, 2006. In planning and performing our audit, we considered the State's internal controls in order to determine our auditing procedures for the purpose of expressing our opinions on the basic financial statements of the State and on the State's compliance with requirements applicable to major programs, and to report on internal control in accordance with the Federal Office of Management and Budget (OMB) Circular A-133 (the Single Audit); and not to provide assurance on internal control. We have not considered internal control since the date of our report.

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Mary Avery
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In connection with our audit described above, we noted certain internal control matters related to the activities of the Military Department (the Agency) or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of Agency's management, are intended to improve internal control or result in other operating efficiencies.

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Our consideration of internal control included a review of prior year comments and recommendations. To the extent the situations that prompted the recommendations in the prior year still exist, they have been incorporated in the comments presented for the current year. All other prior year comments and recommendations (if applicable) have been satisfactorily resolved.

Perry Pirsch, JD, MPA
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Our comments and recommendations for the year ended June 30, 2005, are shown on the following pages.

COMMENTS RELATED TO THE SINGLE AUDIT

1. **Program: CFDA 97.042 Emergency Management Performance Grants, 16.007/97.004 State Domestic Preparedness Equipment Support, and 12.401 National Guard Military Operation and Maintenance - Allowable Costs/Cost Principles**

Federal Grantor Agency: Department of Homeland Security and Department of Defense

Criteria: OMB Circular A-87 indicates the costs of compensation for personnel services are allowable if adequate support exists. Where employees are expected to work solely on a single Federal award or cost objective, charges for their salary and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semiannually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee. Where employees work on more than one Federal award, a distribution of their salaries or wages will be supported by personnel activity reports which reflect an after-the-fact distribution of the actual activity of each employee, must account for the total activity for which the employee is compensated, must be prepared at least monthly, and must be signed by the employee. Budget estimates determined before the services are performed do not qualify as support for charges to Federal awards.

Condition: Emergency Management Performance Grants and National Guard Military Operations and Maintenance did not require employees who worked only on one Federal program to complete semiannual certifications that the employees worked solely on that program for the period covered by the certification. The Nebraska Emergency Management Agency (NEMA) Assistant Director semi-annually approves payroll coding for the Emergency Management Performance Grants Program. However, the payroll coding listing does not certify that the employees worked solely on that program or the period covered. The National Guard Military Operation and Maintenance Program lists the business units and the Cooperative Agreements tied to each business unit. However, there is no documentation of approval by the supervisor, the listing does not include individual employees, and there is no certification that they worked solely on the program for the period covered. Time worked by employees on multiple federal programs was not based on an after-the-fact distribution of actual activity of each employee for the State Domestic Equipment Preparedness Support Program and Emergency Management Performance Grant.

Questioned Costs: None

Context: There are 35 employees for Emergency Management Performance Grants. All nine employees tested did not have semiannual certifications. The total payroll charged to this Federal program for fiscal year 2005 was \$510,651. There are 75 employees for National Guard Military Operations and Maintenance. All ten employees tested did not have semiannual certifications. The total payroll charged to this Federal program for fiscal year 2005 was \$3,880,671. Two of two employees tested with time charged to the State Domestic Equipment

Preparedness Support Program and Emergency Management Performance Grant did not have timesheets that identified total hours worked on each program. Total payroll charged to State Domestic Equipment Support Program for the fiscal year was \$338,049.

Cause: Agency thought they had met this Federal requirement by the approval of payroll coding.

Effect: Noncompliance with requirements could result in unallowable costs charged to Federal grants.

Recommendation: We recommend the Agency implement procedures to ensure the requirements of OMB Circular A-87 are met related to personnel services documentation. Charges must certify that employees work solely on that program and the period covered. Time worked by employees on multiple federal programs must be based on an after-the-fact distribution of actual activity.

Management Response: After the KPMG audit of 2004, NEMA instituted G.O. 1102, 10 June 2005, (copy furnished to Audit staff during the Statewide Single Audit) which sets forth that the Budget Manager will ensure payroll coding to the proper funding source per grant for each employee. Additionally, the employee's signature and the supervisor's approval are official acknowledgement by both the employee and the supervisor that the hours worked were true, correct, and had been credited to the proper funding source. NEMA very actively monitors employee work performance and grant guidelines for payroll and feel that the intent of OMB Circular A-87 is being fulfilled.

OMB Circular No. A-87 requires certifications be prepared at least semi-annually and will be signed by the employee OR the supervisory official having first hand knowledge of the work performed by the employee. This does not require the employee to make the certification. NEMA is meeting the intent of A-87 with the supervisory criteria contained in G.O. 1102 on a monthly basis with the approval of the employee timesheet.

Corrective Action Plan: NEMA will change the official timesheet adding the supervisory certification to match the requirement of G.O. 1102. The change to the official timesheet adding the supervisory certification was implemented January 1, 2006. Memorandum providing guidance for all federally reimbursed employees was implemented October 25, 2005. Employee timesheets and personnel activity reports further substantiate that the Nebraska Military Department/NEMA is in compliance with OMB Circular A-87. In addition, the HR Personnel Manager was notified of the importance of verifying supervisor signatures are on all timesheets submitted.

Contact: Al Berndt, NEMA

Anticipated Completion Date: January 1, 2006.

Auditor's Response: The timesheets utilized during fiscal year 2005 did not always account for total activity of the employee as required by Circular A-87, but only recorded leave usage. The timesheets did not indicate which program the employee worked for when activity related to multiple programs. In addition, all timesheets were not signed by the supervisor, 1 of 18 EMPG and 1 of 20 National Guard employees timesheets tested were not approved. The Agency was not in compliance with OMB Circular A-87 during fiscal year 2005.

2. Program: 97.042 Emergency Management Performance Grants - Subrecipient Monitoring

Federal Grantor Agency: Department of Homeland Security

Criteria: Per OMB Circular A-133, a pass-through entity is responsible for monitoring the subrecipient's use of Federal awards through site visits or other means to provide reasonable assurance that the subrecipient administers Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved. Good internal control requires the Agency to monitor the subrecipient's use of Federal awards to ensure compliance with Federal requirements.

Condition: We noted the Agency allowed subrecipients to submit a certification of expenses paid signed by the county clerk in lieu of submitting receipts and other supporting documentation. This finding was noted in the 2004 fiscal year audit. As a result, the Agency implemented a new policy for the Federal grant year beginning in October 2004. This policy requires subrecipients to submit invoices as supporting documentation for reimbursements.

Questioned Costs: \$77,918 known; \$690,652 likely

Context: We noted 12 of 16 expenditures tested did not have appropriate supporting documentation. This finding has since been corrected for the grant that began for the Federal fiscal year beginning in October 2004. Subrecipients are now required to send in all supporting documentation to receive reimbursement payments. Agency will no longer accept certifications signed by the County Clerk. We tested one reimbursement in the new grant year and noted that all documentation was included with the reimbursement request. Total expenditures for subrecipients tested that did not have appropriate supporting documentation totaled \$77,918, and the sample tested totaled \$88,224. Total expenditures during fiscal year 2005 prior to the new policy totaled \$690,652.

Cause: The Agency believed the certifications were appropriate supporting documentation. Although they began on-site visits after the prior audit findings were discussed, they did not have the resources to perform on-site visits for all agencies. They have since begun the policy of only accepting invoices for reimbursement requests for the grant that began for the Federal fiscal year beginning in October 2004.

Effect: There is an increased risk for loss or misuse of Federal funds.

Recommendation: We recommend the Agency continue their policy requiring all subrecipients provide all supporting documentation with their reimbursement requests.

Management Response: This is a moot issue, after the KPMG Audit of 2004; NEMA instituted G.O. 1502, SHSGP, and EMPG Sub-recipient Eligible Costs (copy furnished to Audit staff during the Statewide Single Audit). Established Policy of NEMA for the reimbursement of eligible cost will be on the basis of proper documentation submitted by subrecipients. Without the proper documentation, all grant awards after 1 October 2004 are not considered for reimbursement. The State Auditor's Office did not specify the number of documents tested after the Agency implemented the change recommended by the KPMG audit. The finding was based on State fiscal year - not Federal fiscal year (change was implemented by the Agency 01-Oct-2004). Test documents may have processed 01-Jul-2004 through 01-Oct-2004.

Corrective Action Plan: NEMA will continue to monitor grant programs and reimbursement guidelines and make appropriate changes to G.O. 1502 as needed.

Contact: Deb Simpson, NEMA Budget Manager

Anticipated Completion Date: Ongoing

Auditor's Response: The Statewide Single audit is performed for the State fiscal year in accordance with OMB Circular A-133. Documents tested that did not have adequate documentation were processed July 1, 2004, through December 28, 2004. The amount of likely questioned costs is based on 2004 grant award expenditures.

3. **Program: CFDA 97.004/16.007 State Domestic Preparedness Equipment Support and 97.036/83.544 Public Assistance - Subrecipient Monitoring**

Federal Grantor Agency: Department of Homeland Security

Criteria: Per OMB Circular A-133, a pass-through entity is responsible for (1) ensuring that subrecipients expending \$500,000 or more in Federal Awards during the subrecipient's fiscal year have met the audit requirements of OMB Circular A-133 and that the required audits are completed within nine months of the end of the subrecipient's audit period, (2) issuing a management decision on audit findings within six months after receipt of the subrecipient's audit report, and (3) ensuring that the subrecipient takes timely and appropriate action on all audit findings. Good internal control requires the Agency to monitor the subrecipients that receive \$500,000 or more in Federal funds to ensure that A-133 audits are completed and submitted to the Agency.

Condition: We noted the Agency did not ensure subrecipients that expended \$500,000 or more in Federal funds had an A-133 audit completed and submitted to the Agency. This finding was noted in the 2004 fiscal year audit. The Agency has since implemented a new policy for the

Federal fiscal year ended September 30, 2005. The Agency sent letters dated June 28, 2005, to all subrecipients requesting certification from each subrecipient confirming compliance with A-133 requirements.

Questioned Costs: None

Context: State Domestic Preparedness Equipment Program had four subrecipients that expended \$500,000 or more in Federal funds for fiscal year 2004. We noted two of the four tested did not have an A-133 audit on file. The Agency did not have a system for State Domestic Preparedness Equipment Program and Public Assistance to identify subrecipients requiring an A-133 audit.

Cause: The Agency did not have procedures in place to monitor which subrecipients they had passed through \$500,000 or more in Federal funds.

Effect: The Agency is not in compliance with subrecipient monitoring requirements and is unable to provide assurance that the subrecipients are in compliance with Federal requirements.

Recommendation: We recommend the Agency monitor subrecipients and ensure A-133 audit requirements are met.

Management Response:

Corrective Action Plan: NEMA instituted G.O. 1501, 01-Jun-2005, Sub Contract (Subrecipient) monitoring to put a program in place to monitor all recipients receiving more than \$500,000. Each subrecipient receives a letter advising them of the A-133 requirement.

Contact: Deb Simpson, NEMA Budget Manager

Anticipated Completion Date: Ongoing

4. Program: CFDA 97.036/83.544 Public Assistance - Subrecipient Monitoring

Federal Grantor Agency: Department of Homeland Security

Criteria: Per OMB Circular A-133, a pass-through entity is responsible for at the time of the award, identifying to the subrecipient the Federal Award information (e.g. CFDA title and number, award name, name of Federal Agency) and applicable compliance requirements.

Condition: None of the sixteen subrecipients tested had documentation of award notification detailing the CFDA number and title.

Questioned Costs: None

Context: Public Assistance had 101 subrecipients for fiscal year 2005.

Cause: The Agency was unaware of this compliance requirement and did not have procedures in place to ensure the subrecipients were provided with essential award information.

Effect: Proper documentation on the award information ensures that subrecipients are fully informed of their award and granting agency.

Recommendation: We recommend the Agency at the time of the award provide subrecipients the required Federal award information. The CFDA number and title could be applied to a form issued to subrecipients with their application packets.

Management Response: NEMA will amend G.O. 8100, Public Assistance Program, to properly reflect the notification of subrecipients of essential award information. The procedural section of the G.O. will reflect the proper forms and procedures to follow for the disbursements of funds under the program which will include the CFDA number and title in the application packets.

Corrective Action Plan: Review and update G.O. 8100 to be reflective of, and contain the proper documentation and award numbers for, subrecipients.

Contact: Cindy Newsham, NEMA Response and Recovery Supervisor

Anticipated Completion Date: January 30, 2006

5. **Program: CFDA 12.401 National Guard Military Operations and Maintenance - Cash Management**

Federal Grantor Agency: Department of Defense

Criteria: Title 31 CFR 205.33 requires that a State must minimize the time between the drawdown of Federal funds from the Federal government and their disbursement for program purposes. The timing and amount of funds transferred must be as close as is administratively feasible to a State's actual cash outlay for direct program costs. The CMIA (Cash Management Improvement Act) agreement requires the State shall request Federal funds in accordance with the appropriate cut-off times shown in Exhibit I to ensure funds will be received and credited to a State account by the times specified in the funding techniques. The agreement also requires the State shall request funds such that they are deposited in a State account not more than three days prior to the day the State makes a disbursement. The request shall be made in accordance with the appropriate Federal agency cut-off time specified in Exhibit I. Exhibit I specifies a 15 day receipt window on all Federal cash drawdowns.

Condition: 15 of 25 cash draws tested were expended after 18 days (15 day receipt window and 3 day pre-issuance requirement). The Agency did not minimize the time between the drawdown of Federal funds from the Federal government and the disbursement for program purposes.

Questioned Costs: None

Context: We noted the following draws had not been expended within 18 days after the drawdown date:

<u>Doc. No.</u>	<u>Drawdown Date</u>	<u>Deposit Date</u>	<u>Drawdown Amount</u>	<u>Expended 0 to 18 Days after Drawdown Date</u>	<u>Expended Over 18 Days after Drawdown Date</u>
61896	7/9/2004	7/15/2004	\$ 50,000	\$ 2,347	\$ 47,653
61942	7/8/2004	7/15/2004	\$ 50,100	\$ 1,416	\$ 48,684
65136	8/5/2004	8/24/2004	\$ 78,336	\$ 36,686	\$ 41,650
65239	8/5/2004	8/13/2004	\$ 50,000	\$ 1,018	\$ 48,982
75007	11/3/2004	11/12/2004	\$ 171,550	\$ 64,692	\$ 106,858
75014	11/3/2004	11/12/2004	\$ 4,167	\$ 2,216	\$ 1,951
81450	1/6/2005	1/25/2005	\$ 3,700	\$ 1,682	\$ 2,018
87471	3/2/2005	3/7/2005	\$ 11,000	\$ 358	\$ 10,642
93462	4/25/2005	5/2/2005	\$ 6,359	\$ -	\$ 6,359
94076	5/4/2005	5/12/2005	\$ 173,000	\$ 93,294	\$ 79,706
98032	6/3/2005	6/10/2005	\$ 7,000	\$ 1,003	\$ 5,997
98047	6/3/2005	6/16/2005	\$ 5,278	\$ 3,946	\$ 1,332
99484	6/14/2005	6/20/2005	\$ 20,000	\$ 19,121	\$ 879
61893	7/9/2004	7/14/2004	\$ 500,000	\$ -	\$ 500,000
79738	12/20/2004	12/23/2004	\$ 338,098	\$ 45,063	\$ 293,035

Cause: The Agency tracks expenditures and compares to the budget on a monthly basis.

Effect: The Agency is not in compliance with cash management requirements.

Recommendation: We recommend the Agency comply with the cash management requirements and the CMIA agreement to ensure a minimal amount of time between the federal draw and the disbursement of the funds for program purposes.

Management Response: CMIA requires state and Federal agencies to minimize the time between the drawdown and the subsequent expenditure of Federal funds for Federal program purposes. A state may only drawdown Federal funds in accordance with the time and amounts dictated by the agreed upon funding technique. Drawdowns may not include an extra amount, or occur earlier, to create a balance for the purpose of compensation.

Please confirm that the minimum time allowed is 15 days. Oftentimes Federal funds receipted may take 7-10 days to be deposited by the State - after request. Also, expenditures such as payroll, may have to coincide with the receipt of other Federal funding in order to process. To date, the USPFO (Federal Fiscal Office) has not required interest to be paid by the State of Nebraska because of an excess of receipted Federal funds.

The State Auditor's Office forwarded a copy of Exhibit I of the CMIA Agreement between The State of Nebraska and The Secretary of the Treasury, United States Department of the Treasury.

Exhibit I - Funds Request and Receipt Times Schedule for Nebraska

This documentation confirms that the State of Nebraska Army and Air National Guard should receive Federal funds in the State of Nebraska within 15 days of request. This does not reference a specified expenditure time limit.

The CMIA Agreement states the amount of the request shall be the amount the State expects to disburse.

The Army and Air National Guard are not listed in Exhibit II - Average Clearance Patterns, and will therefore exercise all efforts to minimize the time between the drawdown of Federal funds from the Federal government and their disbursement for program purposes.

Corrective Action Plan: It is the consensus of the Military Department that Finding #05-31-05 be deleted from final reporting. CMIA Agreement language does not stipulate that Federal funds be expended within 15 days.

Contact: Shawn D. Fitzgerald, Agency Controller

Anticipated Completion Date: Ongoing Action

Auditor's Response: As stated above, Title 31 CFR 205.33 requires that a State must minimize the time between the drawdown of Federal funds from the Federal government and their disbursement for program purposes. The CMIA Agreement also requires the State shall request funds such that they are deposited in a State account not more than three days prior to the day the State makes a disbursement. The Agency is not in compliance with cash management requirements.

6. Program: CFDA 97.036/83.544 Public Assistance - Allowable Activities/Cost Principles

Federal Grantor Agency: Department of Homeland Security

Criteria: The allowed activities for the Public Assistance program are for the approved project as described on the Project Worksheet and supporting documentation. The OMB Circular A-87 states costs must be reasonable and necessary for the performance and administration of Federal awards and must be adequately documented. "Cost" means an amount as determined on a cash, accrual, or other basis acceptable to the Federal awarding or cognizant agency. It does not include transfers to a general or similar fund.

Condition: Money received by the Agency for Public Assistance from the Federal Emergency Management Agency (FEMA) for administrative costs such as travel, per diem, and overtime reimbursements that is unspent is transferred to the Governor's Emergency Fund to be used for all disasters; however, there was no documentation to support the transfers were used for allowable expenditures.

Questioned Costs: \$29,932 known; \$144,523 likely

Context: Agency transfers of Grantee Administration Funds to the Governor's Emergency Fund totaled \$144,523 for fiscal year 2005. One transfer was tested totaling \$29,932.

Cause: The Agency indicated that per past practice from FEMA and the reading of 44 CFR, Section 206, Grantee Administrative Costs, this had been the accepted policy for the management of Grantee Administrative Costs. The Agency has been awaiting new Federal policy addressing this issue and to date has not received. The Agency stated that in October 2004, they initiated an internal policy for new disasters to only draw actual supported administrative costs such as overtime, per diem, travel, and other documented administrative expenses.

Effect: Increased risk of unallowable activities and misuse of Federal funds.

Recommendation: We recommend the Agency internally formalize their established policy of October 2004; drawing Administrative funds for actual expenses in support of State disaster response upon closeout of a Federal disaster.

Management Response: Effective 2004, NEMA instituted the "unofficial policy" of FEMA in the drawdown of State Administrative Funds for current open disasters. Pursuant to statute, these administrative funds are credited to the Governor's Emergency Fund to cover disaster-related administrative expenditures. The statement "any unspent grant funds should be remitted back to the Federal government" is unclear and does not give guidance as to what funds this statement is addressing.

44 CFR 206.228 *Allowable Costs* authorizes states an allowance to cover the extraordinary costs that are incurred when formulating Project Worksheets for small and large projects, to validate small projects, to prepare final inspection reports, project applications, final audits, and to make related field inspections by state employees. Eligible costs include overtime pay, per diem and travel expenses, but do not include regular payroll for employees. The allowance is based upon a formula associated with the total proposed disaster expenditure.

44 CFR, as a stand alone document, only exempts and prohibits regular time for employees as an allowable cost. The language in and of itself gives overtime, per diem, and travel expenses as examples of allowable costs but in and of itself does not limit the allowable administrative costs to these categories. Established practice of all states has been to take the full administrative allowance at the close of a disaster. NEMA would pose the question, would not state audit costs of the public assistance program be an allowable administrative cost? If limits are set for overtime, per diem, and travel, then all audit costs would be a 100% generally funded expenditure.

Specific guidance as to what is an allowable administrative cost has been at the forefront of conversations between state emergency management agencies and FEMA for the past several years. States have asked for a clear interpretation from FEMA of this section of 44 CFR and to date have not received an "official" interpretation.

NEMA, internally, made the decision in October 2004 to only take the administrative costs that were directly supported by overtime, per diem, travel, and other direct State costs - excluding regular salary for the administrative support of the public assistance program under a specific Federal disaster. The public assistance program direct costs, in support of State disaster response at the time of a Governor's declaration of emergency, have always been paid out of the Governor's Emergency Fund. When the disaster is closed, NEMA takes only the administrative allowance based upon overtime, per diem, and travel expenses. This decision was made internally based upon anticipated Federal guidance.

Administrative costs received from a Federal disaster are credited to the Governor's Emergency Fund per Neb. Rev. Stat. Section 81-829.58 R.R.S., Emergency management; supplies and services from Federal government funds; disposition. All such funds received on behalf of the State shall be remitted to the State Treasurer for credit to the Governor's Emergency Fund. Administrative costs received now only reimburse expenses directly incurred and paid for in support of State disaster response.

Corrective Action Plan: Implementation is based upon implied Federal guidance yet to be received. This has been an identified issue at the State/Federal level since 2000 and to-date no guidance has been received.

Contact: Al Berndt, NEMA

Anticipated Completion Date: Ongoing Action

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Agency and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to you.

This report is intended solely for the information and use of the Agency, the Governor and State Legislature, Federal awarding agencies, pass-through entities, and management of the State of Nebraska. However, this report is a matter of public record and its distribution is not limited.

We appreciate and thank all of the Agency employees for the courtesy and cooperation extended to us during our audit.

Sincerely,

Pat Reding, CPA

Pat Reding
Assistant Deputy Auditor