

GAO

Report to the Committee on
Appropriations, U.S. Senate, and the
Committee on Appropriations, House of
Representatives

December 2003

FEMA CERRO GRANDE CLAIMS

Payments Properly Processed, but Reporting Could Be Improved



G A O

Accountability * Integrity * Reliability



Highlights of [GAO-04-129](#), a report to the Committee on Appropriations, U.S. Senate, and the Committee on Appropriations, House of Representatives

Why GAO Did This Study

The Cerro Grande Fire Assistance Act (CGFAA) mandated that GAO annually audit all claim payments made to compensate the victims of the Cerro Grande Fire in northern New Mexico. For this third report on this topic, GAO determined whether the Federal Emergency Management Agency (FEMA), which is now a part of the Emergency Preparedness and Response Directorate of the Department of Homeland Security, (1) paid fire claims in accordance with applicable guidance and (2) implemented corrective actions to address prior GAO recommendations, including determining if FEMA properly reported claim payments to the Congress.

What GAO Recommends

To help FEMA improve the usefulness of its reports to the Congress, GAO recommends that the Secretary of Homeland Security require the Emergency Preparedness and Response Directorate to include summary information on amounts claimed, approved, and paid and remaining estimated program liabilities in its annual report to the Congress.

The Department of Homeland Security's Emergency Preparedness and Response Directorate concurred with our recommendation to include the summary-level information in its next annual report.

www.gao.gov/cgi-bin/getrpt?GAO-04-129.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Linda M. Calbom at (202) 512-9508 or calboml@gao.gov.

FEMA CERRO GRANDE CLAIMS

Payments Properly Processed, but Reporting Could Be Improved

What GAO Found

FEMA processed and paid its claims in accordance with its policies and procedures that were established and in place at the time the claims were reviewed and processed. For the period from August 29, 2002, to June 30, 2003, FEMA approved \$40 million in claims for payment, including the initial payment of most of the subrogation claims made by insurance companies.

In response to GAO's May 2003 report, FEMA established processes to address GAO's recommendations related to reconciling claimed amounts approved with actual amounts paid. These processes included comparing the individual amounts approved for payment to the amounts actually paid from inception through June 30, 2003, by claim, as well as performing complete reconciliations of total amounts that were approved and paid for the same period and as of August 31, 2003. In addition, in our prior report, we noted that FEMA improperly reported unreconciled claim amounts approved for payment as amounts actually paid. In its 2003 annual report, FEMA properly identified claimed amounts as approved amounts for payment rather than actual amounts paid in a schedule that was included in its annual report to the Congress. However, FEMA no longer provided summary information on amounts claimed, amounts approved, and its remaining estimated liabilities in its report to the Congress and did not include any information on claims paid as is required by CGFAA. Without this information, the report is less useful to the Congress and other stakeholders.

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United States General Accounting Office
Washington, D.C. 20548

December 24, 2003

The Honorable Ted Stevens
Chairman
The Honorable Robert C. Byrd
Ranking Minority Member
Committee on Appropriations
United States Senate

The Honorable C.W. Bill Young
Chairman
The Honorable David R. Obey
Ranking Minority Member
Committee on Appropriations
House of Representatives

On July 13, 2000, the President signed into law the Cerro Grande Fire Assistance Act (CGFAA).¹ CGFAA established the Office of Cerro Grande Fire Claims (OCGFC) and directed the Federal Emergency Management Agency (FEMA)² to expeditiously investigate claims, determine damages, and compensate the victims of the Cerro Grande fire in northern New Mexico. CGFAA also requires FEMA to submit an annual report to the Congress by August 28 that provides information on claims submitted and amounts paid during the year. CGFAA, as amended,³ requires that we audit all claim payments made under the act, including subrogation claims⁴ made by insurance companies, and report the results of our audit within 120 days of the issuance of FEMA's annual report. In this our third report under CGFAA, we determined whether FEMA (1) paid fire claims in accordance with applicable policies and procedures and (2) implemented corrective actions to address our prior report's recommendations, including determining if FEMA properly reported claim payments to the Congress.

¹Pub. L. No. 106-246, Div. C, Title I, 114 Stat. 511, 583 (2000).

²As of March 2003, FEMA became part of the Emergency Preparedness and Response Directorate of the Department of Homeland Security.

³Pub. L. No. 107-73, Title IV, § 428, 115 Stat. 651, 697 (2001).

⁴A subrogation claim is the right of one who has paid an obligation that another should have paid to be indemnified by the other. In this case, insurance companies and possibly others paid claims that the federal government is responsible for paying.

Results in Brief

Based on the results of our statistical testing, FEMA processed and paid its claims in accordance with its policies and procedures that were established and in place at the time the claims were reviewed and processed. These procedures included obtaining and reviewing proper documentation of claims, approvals, and release forms. For the period from August 29, 2002, through June 30, 2003, FEMA approved \$40 million in claims for payment, including the initial payment of subrogation claims.

FEMA addressed our prior recommendations related to reconciling claimed amounts approved with actual amounts paid. In response to our May 2003 report,⁵ FEMA compared the amounts approved for payment to the amounts actually paid for each claim from inception through June 30, 2003. It also performed complete reconciliations of total amounts approved and paid through the same period and as of August 31, 2003. In addition, in our prior report, we noted that FEMA improperly reported unreconciled claim amounts approved for payment as amounts actually paid. In its 2003 annual report, FEMA properly identified claimed amounts as approved amounts for payment rather than actual amounts paid in a schedule that was included in its annual report to the Congress. However, FEMA no longer summarized the amounts claimed, amounts approved, and the remaining program liabilities in its report to the Congress and did not include any information on claims paid as is required by CGFAA. Without this information, the report is less useful to the Congress and other stakeholders.

We are making a recommendation that addresses this reporting issue. In commenting on a draft of the report, the Director of the Recovery Division of the Department of Homeland Security's Emergency Preparedness and Response Directorate agreed with our recommendation to include the summary-level information in its next annual report.

Background

On May 4, 2000, the National Park Service initiated a prescribed burn on federal land at Bandelier National Monument, New Mexico, in an effort to reduce the threat of wildfires in the area. The plan was to burn up to 900 acres. On May 5, 2000, the prescribed burn exceeded the capabilities of the

⁵U.S. General Accounting Office, *FEMA Cerro Grande Claims: Payments Properly Processed, but Reported Payments Somewhat Overstated*, GAO-03-623 (Washington, D.C.: May 8, 2003).

National Park Service, spread to other federal and nonfederal land, and was characterized as a wildfire. On May 13, 2000, the President issued a major disaster declaration, and subsequently, the Secretary of the Interior and the National Park Service assumed responsibility for the fire and the loss of federal, state, local, tribal, and private property. The fire, known as the Cerro Grande fire, burned approximately 48,000 acres in four counties and two Indian pueblos, destroyed over 200 residential structures, and forced the evacuation of more than 18,000 residents.

On July 13, 2000, the President signed CGFAA into law. Under CGFAA, each claimant is entitled to be compensated by the United States government for certain injuries and damages that resulted from the Cerro Grande fire. CGFAA required that FEMA promulgate and publish implementing regulations for the Cerro Grande program within 45 days of enactment of the law. On August 28, 2000, FEMA published *Disaster Assistance: Cerro Grande Fire Assistance: Interim Final Rule* in the *Federal Register* (Interim Rule).⁶ FEMA modified the Interim Rule with a set of implementing policies and procedures on November 13, 2000. FEMA updated these policies and procedures in January and March 2001. After reviewing public comments on the Interim Rule, FEMA finalized and published *Disaster Assistance: Cerro Grande Fire Assistance Final Rule* (Final Rule) on March 21, 2001.⁷

The Congress initially appropriated \$455 million to FEMA for the payment of such claims and \$45 million for the administration of the Cerro Grande program.⁸ In March 2002, FEMA requested, but did not receive, additional appropriated funding of \$80 million to cover additional claims and administrative costs. In December 2002, FEMA revised its estimate and requested additional appropriated funding of \$155 million, including \$5 million for administrative costs. The revised estimate was based on more complete claim information since the final date to submit claims had passed on August 28, 2002. In February 2003, FEMA was appropriated an additional \$90 million, of which up to \$5 million may be made available for

⁶5 Fed. Reg. 52260, 44 C.F.R. Part 295 (2000).

⁷66 Fed. Reg. 15948, 44 C.F.R. Part 295 (2001).

⁸CGFAA, Sec. 105, 114 Stat. 590.

administrative purposes.⁹ FEMA stated that only \$2 million was used in fiscal year 2003 for administrative purposes. In October 2003, FEMA received an additional appropriation of \$38.062 million, of which 5 percent may be made available for administrative costs.¹⁰ After FEMA allocated a specific amount for administrative costs, it had a maximum of \$578.6 million available for the payment of claims under CGFAA. During the audit, FEMA provided revised claim data that reflected the amounts shown in table 1.

Table 1: Summary of CGFAA Approved and Estimated Claims to Be Paid as of September 9, 2003

Dollars in thousands	
	Claim amounts
Amounts approved for payment from inception	\$505,698
Estimated additional liabilities:	
Pending claims	3,705
Appeals	12,973
Mitigation	1,138
Projected liabilities	9,339
Subrogation claims--approved but unpaid	1,634
Subrogation claims--unapproved amounts	53,160
Total estimated additional liabilities	\$81,949
Total actual and estimated claims to be paid	\$587,647

Source: FEMA OCGFC.

The claimed amounts that FEMA approved for payment through September 9, 2003, included \$51.5 million of approved subrogation claims. Pending claims included expected payments for individual, business, governmental, and pueblo claims, and projected liabilities consisted of potential future appeals, potential arbitrations, and contingency for judicial review.

⁹Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003, Pub. L. No. 108-7, Div. K, Title III, 117 Stat. 474, 516.

¹⁰Department of Homeland Security Appropriations Act, 2004, Pub. L. No. 108-90, Title III, 117 Stat. 1137, 1150 (2003).

CGFAA requires that FEMA submit an annual report to the Congress that provides information about claims submitted under the act. This annual report is to include the amounts claimed, a description of the nature of the claims, and the status or disposition of the claims, including the amounts paid. FEMA's report is to be issued annually by August 28. CGFAA, as amended, requires that we conduct annual audits on the payment of all claims made and report the results of the audits to the Congress within 120 days of FEMA's issuance of its annual report. The act also requires that our report include a review of all subrogation claims for which insurance companies have been paid. In May 2003, we issued our second report on the audit of Cerro Grande claim payments made from inception through August 28, 2002. The report stated that FEMA properly processed and paid claims but overstated amounts paid in its report to the Congress and made two recommendations regarding the reconciliation of the approved and paid amounts in its payment approval and accounting systems.¹¹ FEMA issued its most recent annual report on August 28, 2003, with claim amounts approved for payment through June 30, 2003.

Scope and Methodology

In performing our review, we considered the *Standards for Internal Control in the Federal Government*.¹² To reaffirm our understanding of the claim review and payment process established by OCGFC and to follow up on the changes made to this process since our last report, we interviewed FEMA officials and analyzed data used in FEMA's annual report to the Congress and data used by FEMA to determine the estimated claim liability. We also reviewed the following:

- the requirements of CGFAA;
- the final regulations published in the *Federal Register*;
- FEMA's policies and procedures manual;
- a summary of FEMA's unpaid claim liability estimates as of September 9, 2003;

¹¹GAO-03-623.

¹²U.S. General Accounting Office, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

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- FEMA's fiscal year 2002 audited financial statements; and
 - the fiscal year 2003 approvals, payments, and other documentation concerning the Cerro Grande program and submitted claims.

Finally, we selected a statistical sample from the population of all partial and final claimed amounts approved for payment from August 28, 2002, through June 30, 2003, to determine whether FEMA processed, approved, and paid the Cerro Grande fire claims in accordance with its applicable policies and procedures.

We selected a dollar unit (statistical) sample of 99 intervals representing 84 claims totaling \$21,000,928 that were approved for payment from a population of 1,868 reported partial and final claim amounts that had been approved for payment from August 28, 2002, through June 30, 2003 (FEMA's cutoff date for the annual report to the Congress), to test specific control activities, such as adequacy of supporting documentation, evidence of claims manager and approving official review, and actual payment by FEMA. We obtained and reviewed related supporting documentation for the approved claim payments that were selected from OCGFC's payment approval system.

In order to follow up on FEMA's corrective actions to address our prior year recommendations, as well as determine whether FEMA properly reported claim payment information to the Congress, we reviewed OCGFC's reconciliations of claimed amounts that were approved by OCGFC for payment from its payment approval system and the actual claim payments made by FEMA's Disaster Finance Center (DFC) and reported in FEMA's accounting system.

Our work was conducted in Denton, Texas,¹³ and Washington, D.C., from September 2003 through October 2003 in accordance with generally accepted government auditing standards. We requested agency comments on a draft of this report from the Under Secretary of the Department of Homeland Security's Emergency Preparedness and Response Directorate or his designee. The Director of the Recovery Division of the Department of Homeland Security's Emergency Preparedness and Response

¹³In December 2002, OCGFC closed its headquarters operations in Santa Fe, New Mexico, and moved the remaining claims operations to FEMA's National Processing Center in Denton, Texas.

Directorate provided written comments on our draft, which are reprinted in appendix I. We discuss the written comments in the “Agency Comments and Our Evaluation” section of this report.

Policies and Procedures for Claim Processing Were Followed

Based on the results of our statistical testing, FEMA processed, approved, and paid its claims in accordance with its guidelines that were established and in place at the time the claims were reviewed and processed. FEMA’s guidelines for the approval and payment of claims specify the following steps.

- An injured party submits a Notice of Loss (NOL)¹⁴ to OCGFC to initiate the claim payment process.
- Upon receipt of the NOL, a claim reviewer contacts the claimant to discuss the claim, explain the claims process, and determine the best means to substantiate the loss or damages.
- The claim reviewer then assigns a claim number and enters the information into OCGFC’s claim-processing database, the Automated Claim Information System, and begins the process of verifying the victim’s claim.
- Upon completion of its review, the claim reviewer prepares a claim payment recommendation package, which specifies that a claimant’s injuries or damages occurred as a result of the Cerro Grande fire and that claimed amounts are eligible for compensation under CGFAA.
- The claim reviewer also inputs reserve amounts equal to the total claimed amounts that he/she expects to be paid into the claim-processing database.
- A claim supervisor reviews to ensure that a proper investigation of the claim occurred and that the proper documentation exists, among other things, and approves each recommendation package.

¹⁴The NOL describes in general terms the types of injury, damages, or both a claimant has incurred as a result of the fire.

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- Upon approval of the claim payment recommendation package, an Approval for Payment form is completed and sent to an OCGFC authorizing official for review and approval.
 - The Comptroller receives a Schedule of Payments, consisting of amounts approved for payment, and reviews a sample of requested and approved payments.
 - The Comptroller then approves the Schedule of Payments, records the approved amounts in OCGFC's payment approval system, and sends the schedules to FEMA's DFC for additional manual processing.
 - FEMA records all payments in its accounting system, the Integrated Financial Management Information System, which is not linked to OCGFC's payment approval system, before funds are disbursed by Treasury.

In addition to the above steps from the claim review process, which is used for both partial payments¹⁵ and final payments, the claim reviewer prepares a Proof of Loss (POL) form prior to processing a final payment. This form summarizes all amounts recommended for payment, including those amounts previously paid through a partial payment. The POL form must be signed by the claimant subject to the provisions of 18 U.S.C. §1001, which establishes criminal penalties for false statements. Once a signed POL form is received, an OCGFC authorized official sends a Letter of Final Determination to tell the claimant the total amount of compensation being offered under CGFAA. Accompanying this letter is a Release and Certification form that the claimant signs if he or she accepts the OCGFC compensation determination, thereby releasing the federal government from any additional claims arising from the Cerro Grande fire.¹⁶ Upon receipt of the signed Release and Certification form, FEMA processes and mails a claimant's final payment.

¹⁵In order to get assistance to fire survivors as soon as possible, CGFAA allows for claimants to receive partial payments before the start of the rebuilding process. Partial payments may be based upon actual receipts or estimates. Final payments are made only after the entire claim review process is completed.

¹⁶Under certain circumstances, claims may be reopened notwithstanding the submission of a Release and Certification form pursuant to 44 C.F.R. Sec. 295.34 (2002).

Our review of the statistically selected sample of approved claims determined that the above steps were performed in accordance with FEMA's established approval and payment process. For the period from August 29, 2002, through June 30, 2003, FEMA approved claims in the amount of \$40 million for payment,¹⁷ including the partial payment of approved subrogation claims filed by insurance companies.

Progress Made in Addressing Prior Recommendations, but Reporting Could Be Improved

FEMA addressed our prior recommendations related to reconciling the reported amounts approved for payment to amounts actually paid. FEMA reconciled the total amounts approved for payment to the amounts actually paid as of June 30, 2003, which was the cutoff date for its annual report, and as of August 31, 2003. FEMA officials stated they would continue to perform these reconciliations periodically. In reviewing FEMA's annual report to the Congress required by CGFAA, we found that while improvements were made in how FEMA represented the detailed claim information in its report, claim information was no longer summarized in the report, making it less useful and transparent.

In our May 2003 report, we recommended that FEMA reconcile the amounts approved for payment in its payment approval system to amounts actually paid in its accounting system and correct all identified errors in its payment approval system. We also recommended that FEMA perform monthly reconciliations of the approved and paid amounts for as long as both systems are used to track and report paid amounts or request additional funding.

In response to our recommendations, OCGFC implemented a detailed process that consisted of compiling the claimed amounts by individual claims from both the accounting system and the payment approval system and matching the amounts approved and paid for each claim. It also performed an overall reconciliation of the total amounts approved and paid through June 30, 2003.

In performing the detailed matching process, OCGFC compared the individual claim approval data and claim payment data from August 28, 2000, through February 19, 2003, and performed periodic comparisons of individual claims from February 20, 2003, to May 31, 2003, and from June 1

¹⁷From inception of CGFAA through June 30, 2003, FEMA reported a total of \$462 million in claims approved for payment.

to June 30, 2003. When OCGFC identified differences between amounts reported as paid by FEMA's accounting system and OCGFC's payment approval system, it recorded the adjustments and corrections into its payment approval system to eliminate duplication and made note of data entry errors, which did not require adjustments. The identified differences generally consisted of the following:

- Duplicate approved amounts that represented a claimed amount that was approved for payment more than once. For example, in one case OCGFC approved a final payment of \$934,802. Since the claimant appealed, the amount was not paid. While the claim was being appealed, OCGFC approved a partial payment of \$919,802. Both of these amounts appeared as approved payments in its payment approval system. After we brought this duplicate approval to OCGFC's attention during our prior review, it subsequently removed the original unpaid amount from its system during its claims comparison process later in fiscal year 2003.
- Data entry errors by claim reviewers when entering data into the payment approval or accounting systems. For example, if an incorrect identification number was used to process a payment, no comparison could be made between the approved amount recorded by claim number in the approval system and the paid amount recorded by claimant's identification number in the accounting system. To resolve the situation, OCGFC listed the approved amount as an unmatched item until it located the matching payment that was recorded to a different identification number.

In addition to these comparisons of individual claim amounts, FEMA's Financial and Acquisition Management Division (FAMD) performed a complete reconciliation of the total amounts that were approved for payment and paid as of June 30, 2003. We reviewed this overall reconciliation of the total claim amounts approved and paid under CGFAA, from inception through June 30, 2003, and found that all corrections and adjustments identified during OCGFC's comparison were made. FAMD also performed a similar reconciliation of total approved and paid amounts through August 31, 2003, and stated that it plans to perform this overall reconciliation more regularly, at least quarterly.

In our prior report, we noted that FEMA improperly reported unreconciled amounts that were approved for payment in its prior annual reports to the Congress as amounts actually paid. In its 2003 annual report to the

Congress, FEMA continued to include claimed amounts approved for payment in a detailed schedule of claim information, but it properly identified the amounts as such instead of as paid or expended amounts. However, FEMA's report no longer summarized information on the amounts claimed, amounts approved, and the estimated liabilities for the remainder of the program. In addition, FEMA did not include any information on claims paid as is required under CGFAA. Without this information, FEMA's annual report is less useful to the Congress and other stakeholders.

Conclusions

FEMA strengthened its internal controls over its claim approvals and payments by implementing a process to reconcile its detailed approval information to its payment information. This helps improve the accuracy of claims information included in its systems and reports to the Congress. The usefulness and transparency of the report would be further improved if it included summary claim activity information.

Recommendation for Executive Action

We recommend that the Secretary of Homeland Security direct the Under Secretary of the Emergency Preparedness and Response Directorate to include summary-level claim information in its annual report to the Congress, including amounts claimed, approved, and paid and remaining estimated program liabilities.

Agency Comments

FEMA, in a letter from the Director of the Recovery Division of the Department of Homeland Security's Emergency Preparedness and Response Directorate, agreed with our recommendation to include summary-level claim information on amounts claimed, approved, and paid and remaining estimated program liabilities, if any, in its next annual report to the Congress. The Department of Homeland Security's comments are reprinted in appendix I.

We are sending copies of this report to the congressional committees and subcommittees responsible for issues related to FEMA and the Department of Homeland Security, the Secretary of the Department of Homeland Security, the Under Secretary of the Department of Homeland Security's Emergency Preparedness and Response Directorate, and the Inspector General of the Department of Homeland Security. Copies will also be made

available to others upon request. In addition, this report is available at no charge on GAO's Web site at <http://www.gao.gov>.

If you have any questions about this report, please contact me at (202) 512-9508 or Steven Haughton, Assistant Director, at (202) 512-5999. The other key contributors to this assignment were Christine Fant and Estelle Tsay.



Linda M. Calbom
Director, Financial Management and Assurance

Comments from the Department of Homeland Security

U.S. Department of Homeland Security
500 C Street, SW
Washington, DC 20472



FEMA

DEC 19 2003

Ms. Linda M. Calbom
Director, Financial Management and Assurance Office
United States General Accounting Office
441 G Street, N.W.
5th Floor
Washington, D.C. 20548

Dear Ms. Calbom :

Thank you for forwarding the draft General Accounting Office (GAO) report entitled "FEMA Cerro Grande Claims Payments Properly Processed, but Reporting Could be Improved." (GAO-04-129). We are gratified to note your determination that the Office of Cerro Grande Fire Claims ("the Office") has successfully implemented recommendations from the previous GAO report (GAO-03-623) and that we have completed reconciliations of amounts approved for payment in our Payment Approval System (PAS) to amounts actually paid in FEMA's accounting system from program inception on August 28, 2000, to August 31, 2003.

As noted in your report, we have strengthened our periodic reconciliations at the claims level by collaborating with FEMA's Financial and Acquisition Management Division (FAMD) to coordinate overall reconciliation. We have agreed to complete these overall reconciliations on a quarterly basis for the duration of the Office's activities. We were also gratified that your examination of 99 intervals representing 84 claims totaling \$21,000,928 approved for payment from August 28, 2002 through June 30, 2003 revealed no discrepancies.

We concur with the recommendation in your draft report that we include in future reports to Congress summary information on amounts approved and paid, as well as remaining estimated program liabilities. We agree that providing information relating to each of these categories of information will more effectively facilitate an understanding of the financial status of the Office's operations, so we will include such information in future reports.

We sincerely appreciate the cooperation you and your staff have demonstrated as we have worked together in examination of Cerro Grande claims processing, approval and payment procedures. We are also pleased your report acknowledges the improvements we made during fiscal year 2003. We believe our compliance with your recommendations has strengthened our program. Thank you again for all the assistance you and your staff have provided.

Sincerely,

A handwritten signature in black ink that reads "D. Craig".

Daniel A. Craig
Director
Recovery Division
Emergency Preparedness and Response

www.fema.gov

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