MEMORANDUM

Date: February 12, 2018

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Operation Stonegarden**

To assist the Board of Supervisors in obtaining additional information regarding the Operation Stonegarden (OPSG) grant from the Federal Department of Homeland Security, I am enclosing a November 9, 2017 report from the Office of the Inspector General regarding FEMA and Customs and Border Protection's oversight of OPSG.

I have also inquired of the Sheriff, County Attorney and Public Defense Director asking for what additional costs may arise through the acceptance, use and administration of the OPSG related to Pima County Adult Detention Center detention, prosecution of border-related and drug smuggling crime by the County Attorney and the cost of public defense of non-citizens provided by our public defense agency.

CHH/anc

Attachment

c: The Honorable Mark Napier, Pima County Sheriff
Jan Lesher, Chief Deputy County Administrator
Wendy Petersen, Assistant County Administrator

OFFICE OF INSPECTOR GENERAL

FEMA and CBP Oversight of Operation Stonegarden Program Needs Improvement

Homeland Security

November 9, 2017

OIG-18-13

DHS OIG Highlights

FEMA and CBP Oversight of Operation Stonegarden Program Needs Improvement

November 9, 2017

Why We Did This Audit

Operation Stonegarden Grant Program (Stonegarden) funds overtime and related expenses for the coordination of law enforcement border security. Overtime payments to law enforcement have long been a concern to the public and to Federal officials because those payments may be overused, misused, and not well controlled. Our audit objective was to determine whether the Federal Emergency Management Agency (FEMA) and U.S. Customs and Border Protection (CBP) met their oversight responsibilities for Stonegarden to monitor grantees, issue guidance and approve costs, and demonstrate program performance.

What We Recommend

We made seven recommendations to FEMA and CBP. When implemented, these recommendations should improve oversight of the Operation Stonegarden Program.

For Further Information:
Contact our Office of Public Affairs at (202) 254-4100, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

FEMA and CBP did not meet their oversight responsibilities to monitor Stonegarden grantees, issue guidance and approve costs, and demonstrate program performance.

Specifically, FEMA is not meeting its monitoring responsibilities because it does not have accurate financial data to identify grantees that require additional monitoring. Also, FEMA has included just 4 of 79 Operation Stonegarden awards made during fiscal years 2011–14 in its financial monitoring reviews required under the *Homeland Security Act of 2002*, as amended.

FEMA and CBP have not issued adequate guidance or conducted thorough reviews of proposed Stonegarden spending. As a result, FEMA and CBP approved more than $14.6 million (or 72 percent of the amount audited) in overtime costs and more than $390,500 (or 4 percent of the amount audited) in equipment costs without addressing the risk of supplantation. This occurs when a grantee uses Federal funds for an activity in place of its own funds specifically because Federal funds are available to fund that same activity.

Moreover, FEMA and CBP have not collected reliable program data or developed measures to demonstrate program performance resulting from the use of more than $531.5 million awarded under Stonegarden since FY 2008.

FEMA's Response

According to FEMA's response, FEMA and CBP concurred with six of the seven recommendations, and non-concurred with one.

OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

November 9, 2017

MEMORANDUM FOR: Thomas DiNanno
Assistant Administrator
Grant Programs Directorate
Federal Emergency Management Agency

Carla L. Provost
Acting Chief
United States Border Patrol
U. S. Customs and Border Protection

FROM: John E. McCoy II
Acting Assistant Inspector General for Audits

SUBJECT: *FEMA and CBP Oversight of Operation Stonegarden Program Needs Improvement*

Attached for your action is our final report, *FEMA and CBP Oversight of Operation Stonegarden Program Needs Improvement.* We incorporated the formal comments provided by your office.

The report contains seven recommendations aimed at improving oversight of the Operation Stonegarden Program. Your office concurred with six recommendations, and non-concurred with one. Based on information provided in your response to the draft report, we consider recommendations 1, 2, 3, and 4 open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Based on information provided in your response to the draft report, we consider recommendations 5, 6, and 7 open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Maureen Duddy, Deputy Assistant Inspector General, at (617) 565-8723.

Attachment

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Abbreviations

CBP	U.S. Customs and Border Protection
DAR	Daily Activity Report
FEMA	Federal Emergency Management Agency
FOA	Funding Opportunity Announcement
HSGP	Homeland Security Grant Program
NOFO	Notice of Funding Opportunity
OIG	Office of Inspector General
PARS	Payment and Reporting System
SAA	State Administrative Agency
SHSP	State Homeland Security Program
UASI	Urban Area Security Initiative

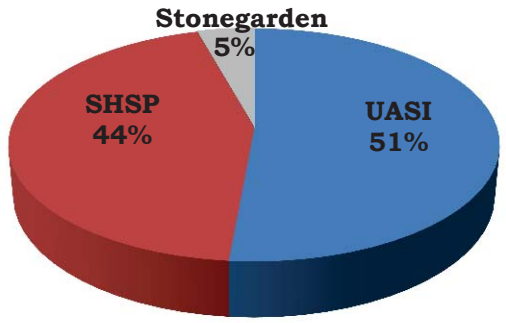
Background

Operation Stonegarden (Stonegarden) is a grant that falls under the Homeland Security Grant Program (HSGP), along with two other grants — the State Homeland Security Program (SHSP) and the Urban Area Security Initiative (UASI). SHSP and UASI grants are used to fund preparedness activities to help states and urban areas address the threat of terrorist attacks. Stonegarden grants fund overtime and related expenses for the coordination of law enforcement efforts to enhance security along the Nation's borders. Local law enforcement agencies at the county level and federally recognized tribes in states bordering Canada, Mexico, and with international water borders are eligible for the program. As of fiscal year 2016, 22 states and territories received Stonegarden funds.

A State Administrative Agency (SAA) is the only entity eligible to apply for Stonegarden funds. The Federal Emergency Management Agency (FEMA) is responsible for disbursing Stonegarden funds to the SAA, which then passes the funds to local law enforcement subgrantees. Per Federal grant requirements, the SAA provides day-to-day oversight of the subgrantees to ensure Stonegarden funds are used according to FEMA and U.S. Customs and Border Protection (CBP), Office of Border Patrol (Border Patrol) program guidance; and Federal grant requirements. FEMA's monitoring responsibilities are largely limited to the review of SAA periodic financial and program reporting. FEMA is mandated to monitor each SAA's administration of the program at least once every 2 years, but it may perform additional monitoring as needed. Border Patrol is responsible for providing oversight of subgrantees to ensure Stonegarden operations are consistent with its objectives for border security and the overall grant purpose.

From its inception in FY 2008 to FY 2016, FEMA allocated about $59 million annually, or $531.5 million in total, for Stonegarden. This represents approximately 5 percent of the $11.6 billion in HSGP grant awards during that same period, as illustrated in figure 1.

Figure 1: HSGP Funding Allocations by Grant



Source: Office of Inspector General (OIG) analysis of FEMA Preparedness Grant allocations

Stonegarden funds may be used for personnel-related costs, including overtime, travel, and per diem, as well as vehicle rentals, mileage and fuel costs, and other equipment. However, funding must be used to supplement

existing funds, not to supplant[1] state funds for the same purpose. Additionally, overtime payments to law enforcement have long been a concern to the public and to Federal officials who award funds for such use because those payments may be overused, misused, and not well controlled. Therefore, the program has unique risks that must be addressed in the oversight and monitoring processes.

According to FEMA officials, Stonegarden has historically not received the same level of oversight as the other HSGP grants due to the relatively small amount of Stonegarden funding.[2] Allegations of fraud, waste, and abuse within the Stonegarden program have been the focus of recent news articles. The U.S. Senate Committee on Homeland Security and Governmental Affairs highlighted these allegations in a November 2, 2015 memorandum to FEMA. One state allegedly received more than $162,000 in overtime payments for duties unrelated to border security. In another instance, one state allegedly used nearly $65,000 for overtime, training, and travel expenses — all without maintaining any supporting documentation. The Senate Committee's memorandum also expressed concerns about FEMA's oversight and how it maintains awareness of the Stonegarden program. The Committee also requested data regarding program performance.

We conducted this audit to determine whether FEMA and CBP met their oversight responsibilities for Stonegarden to monitor grantees, issue guidance and approve costs, and demonstrate program performance.

Results of Audit

FEMA and CBP did not meet their oversight responsibilities to monitor Stonegarden grantees, issue guidance and approve costs, and demonstrate program performance. Specifically, FEMA is not meeting its monitoring responsibilities because it does not have accurate financial data to identify grantees that require additional monitoring. Also, FEMA has included just 4 of 79 Stonegarden awards made during FYs 2011–14 in its financial monitoring reviews required under the *Homeland Security Act of 2002*,[3] as amended. FEMA and CBP have not issued adequate guidance or conducted thorough reviews of proposed Stonegarden spending. As a result, FEMA and CBP approved more than $14.6 million (or 72 percent of the amount audited) in overtime costs and more than $390,500 (or 4 percent of the amount audited) in equipment costs without addressing the risk of supplantation. Moreover, FEMA and CBP have

[1] Supplanting occurs when a State or unit of local government reduces State or local funds for an activity specifically because Federal funds are available or expected to be available to fund that same activity.
[2] Notwithstanding FEMA's assertion that HSGP grants are monitored, previous OIG reports have highlighted serious concerns with the management of those grant funds as well. See, e.g., *Analysis of Recurring Audit Recommendations Could Improve FEMA's Oversight of HSGP*, OIG-16-49 (March 2016).
[3] *Homeland Security Act of 2002,* 6 USC 101.

not collected reliable program data or developed measures to demonstrate program performance resulting from the use of more than $531.5 million awarded under Stonegarden since FY 2008.

FEMA's Monitoring of Stonegarden Needs Improvement

FEMA's monitoring and review procedures are inadequate to ensure that Stonegarden funds are used appropriately. In addition, FEMA does not have financial information at the overall Stonegarden grant program level, meaning the SAA level. As a result, FEMA cannot identify SAAs that require additional monitoring for Stonegarden awards. Also, FEMA could improve its oversight responsibilities as required by the *Homeland Security Act of 2002*, as amended. Instead, FEMA relies on the SAAs to ensure that Stonegarden funds are used in accordance with program and Federal requirements. However, $574,895 (or 13 percent of the amount audited) of more than $4.3 million in Stonegarden costs reviewed were unsupported or unreasonable.

FEMA Cannot Identify SAAs for Additional Monitoring

Even though FEMA's monitoring plan requires it to conduct a quarterly cash analysis of all open grant awards to identify SAAs that need additional monitoring, it cannot identify those SAAs. FEMA uses the information reported in the Payment and Reporting System (PARS) to conduct a cash analysis of all open grant awards. Within PARS, FEMA requires each SAA to report obligations and expenditures quarterly. However, the PARS only allows the SAA to identify the overall HSGP award, and not the individual HSGP grant awards for Stonegarden, SHSP, or UASI, when reporting financial information. This prevents FEMA from identifying issues at the Stonegarden level.

FEMA's practice of performing cash analyses at the HSGP award level is not appropriate for Stonegarden because the associated risks are inherently different than other grant programs. The other HSGP grant programs (SHSP and UASI) primarily fund equipment and training necessary to protect against and respond to terrorist attacks. Stonegarden primarily funds law enforcement overtime operations focused on enhancing border security. As such, the risks are not comparable to the other HSGP programs or at the HSGP level.

FEMA Could Improve Its Monitoring Activities

FEMA could improve its SAA monitoring by including Stonegarden awards in its financial reviews. The *Homeland Security Act of 2002*, as amended, requires FEMA to monitor all grants awarded to each SAA a minimum of once every 2 years to determine whether funds were used in accordance with Federal and program requirements. However, FEMA has included just 4 of 79 Stonegarden awards made during FYs 2011–14 in its financial reviews. Since FEMA is

required to monitor all grants awarded every 2 years, it would not have monitored the FY 2015 awards yet. FEMA officials said Stonegarden has historically not been monitored because it represents a relatively small percentage of overall HSGP funding. As a result, FEMA must rely on the SAA to ensure that Stonegarden funds are used in accordance with program and Federal requirements.

SAA Oversight is Insufficient

SAA oversight is not sufficient to ensure costs are supported and reasonable. Federal grant requirements[4] provide that Federal agency monitoring of SAAs is largely limited to periodic financial and performance reporting. However, the Agency may make site visits as warranted by program needs or when the SAA is considered "high risk."[5] Otherwise, monitoring of subgrantee costs is largely a responsibility of the SAA. We selected more than $4.3 million in Stonegarden reimbursements during FYs 2011–15 to determine whether SAA oversight was sufficient to ensure costs were supported and reasonable.

We found $574,895 (or 13 percent of the amount audited) of the more than $4.3 million tested was unsupported or unreasonable. Specifically:

- Overtime reimbursements, totaling $369,053 (or 27 percent of the amount audited) out of $1,367,263, did not contain adequate documentation regarding the total work activity of the law enforcement officer to allow for a determination of reasonableness, as documentation that accounted for both Stonegarden overtime worked and other time worked was not provided.

- Overtime reimbursements, totaling $87,224 (or 6 percent of the amount audited) out of $1,367,263, were unsupported.

- Equipment reimbursements, totaling $118,618 (or 4 percent of the amount audited) of $2,655,773, were unsupported by documentation that the equipment had been ordered and received by the subgrantee.

[4] *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,* 44 Code of Federal Regulation (CFR) 13.37, 13.40, and 13.41, and *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 2 CFR 200.327 and 200.328.
[5] A grantee or subgrantee may be considered "high risk" if an awarding agency determines that a grantee or subgrantee: (1) has a history of unsatisfactory performance; (2) is not financially stable; (3) has a management system that does not meet the management standards set forth in 44 CFR 13 or 2 CFR 200.205; (4) has not conformed to terms and conditions of previous awards; or (5) is otherwise not responsible, 44 CFR 13.12 and 2 CFR 200.205.

These results indicate that improvements to SAA oversight are needed to ensure Stonegarden costs comply with program and Federal grant requirements.

Grant Guidance and Approval of Proposed Spending Needs Improvement

FEMA and Border Patrol have neither issued adequate guidance nor conducted thorough reviews of proposed costs in subgrantee Stonegarden spending plans (operations orders) to ensure approved costs comply with grant guidance and Federal requirements. As a result, FEMA and Border Patrol approved more than $14.6 million (or 72 percent of the amount audited) in overtime costs and more than $390,500 (or 4 percent of the amount audited) in equipment costs without addressing the risk of supplantation.

FEMA and Border Patrol issue program guidance in an annual Notice of Funding Opportunity (NOFO), which sets forth requirements for Stonegarden activities and the use of grant funds. Prior to FY 2015, this document was called a Funding Opportunity Announcement (FOA). Both agencies also receive information about each subgrantee's planned Stonegarden overtime activities through spending plans, known as "Operations Orders." FEMA reviews the spending plans to ensure the proposed costs comply with the NOFO/FOA guidance and Federal regulations. Border Patrol reviews the spending plans to ensure the described overtime operations are consistent with its objectives for border security (see appendix C for a high-level flowchart of the Stonegarden Application through Reimbursement Process).

We reviewed approved spending plans totaling more than $29.5 million in approved Stonegarden overtime and equipment costs for FYs 2011–15. FEMA and CBP did not adequately review spending plans prior to approval to ensure compliance with Federal requirements and NOFO/FOA guidance for overtime and equipment costs.

Overtime Guidance Not Enforced and Needs Improvement

The *Homeland Security Act of 2002*, as amended, specifies that no more than 50 percent of a grant may be used to pay for personnel costs, such as overtime, without first obtaining a specific waiver from the FEMA administrator.

> <u>FEMA failed to enforce the requirement that subgrantees include a 3-year staffing history with overtime waiver requests to avoid supplantion issues.</u>
>
> FEMA and Border Patrol approved Stonegarden overtime and fringe benefit costs during FYs 2011–15, totaling more than $14.6 million,

which exceeded the 50 percent personnel cost threshold. FEMA and Border Patrol approved $3.9 million of the $14.6 million for grant year 2015. Although the counties submitted a waiver request and the FEMA administrator approved these requests, none of the counties included a 3-year staffing history to support the waiver.

The FYs 2011–14 FOAs all required that overtime waiver requests "must" include a 3-year staffing history for the requesting entity to avoid "supplanting issues." However, FEMA failed to enforce this requirement.

Our review of the NOFO guidance disclosed the "3-year staffing history" language has been removed from the Stonegarden guidance, effective in FY 2015. Without a staffing history, the risk of supplantation from overtime is increased. For example, a local police department may simply increase the overtime hours charged to the grant in place of hiring additional officers needed for local patrols in the same coverage area.

FEMA and Border Patrol have not included any restrictions on the amount of Stonegarden overtime that may be worked within a given 24-hour period.

We noted instances of officers working more than 18 hours in a 24-hour period in conjunction with our review of more than $4.3 million in selected reimbursements. We found no evidence of fraud, as the payments were supported by approved timesheets. Nonetheless, excessive or unreasonable overtime is an indicator of potential fraud and it also points to a heightened safety risk. A 2012 study funded by the Department of Justice (entitled *Shifts, Extended Work Hours, and Fatigue: An Assessment of Health and Personal Risks for Police Officers*), found that police officer decision making is significantly impaired by the fatigue resulting from working extended work hours. The study also cited evidence that fatigued or tired persons show significantly greater difficulty distinguishing an appropriate course of action in emotionally charged circumstances, are prone to risky decision making, and are at a greater risk for accidents. Therefore, a restriction on Stonegarden overtime hours is needed to assure that the risk of overtime fraud is addressed and that officers working Stonegarden operations are not endangering themselves or the public.

Equipment Guidance Needs Improvement

FEMA and Border Patrol have not issued adequate guidance or conducted thorough reviews of Stonegarden spending plans to address the risk of supplantation for equipment purchases. To avoid supplantation, the equipment must be allowable under the grant program and must be used routinely in

Stonegarden overtime operations to benefit or enhance border security efforts. FEMA publishes the Authorized Equipment List (Equipment List), which includes approved equipment types allowed under FEMA's preparedness grant programs, including Stonegarden. For items not included on the Equipment List, a request for waiver or justification should be required that demonstrates the need or operational relevance of the Stonegarden requested equipment, as well as how the equipment will be routinely used to enhance border security.

FEMA and Border Patrol do not require an equipment justification for items that are not on the Equipment List and cost less than $100,000.

We reviewed the spending plans for equipment items valued at less than $100,000 to determine whether the items were on the Equipment List. For items not on the Equipment List, we verified that there was an equipment justification. In FYs 2011–15, FEMA and Border Patrol approved, without subgrantee justification, more than $390,500 (or 4 percent of the amount audited) in equipment costs that were not on the Equipment List. For instance:

Figure 2: License Plate Readers

Source: International Association of Chiefs of Police

- FEMA and Border Patrol approved about $294,669 in equipment costs for license plate readers, which are not on the Equipment List. The Equipment List includes Vehicle Identification Systems as allowable. Although a license plate reader is a type of vehicle recognition system, the Equipment List describes these systems as ranging from decals to transponder devices and notes the purpose is for controlling access. Typically, a license plate reader consists of a camera, rather than a transponder, with built-in software to read license plate numbers. Also, the approved spending plans noted that the license plate readers would be used to gather intelligence on drivers suspected of smuggling or terrorist activity rather than controlling access (see figure 2).

- FEMA and Border Patrol approved $88,752 in equipment costs for All-Terrain Vehicles, which are not on the Equipment List. The Equipment List clearly limits such specialized vehicles to those used for transport of "Chemical, Biological, Radiological, Nuclear, and Explosives" terrorism response equipment and personnel to an incident site. Also, the

Equipment List specifically states that general purpose vehicles, including those used for patrol purposes, are not allowable.

- FEMA and Border Patrol approved $7,093 in equipment costs for computer monitors. The FOA clearly indicates that general information technology computing equipment and hardware is unallowable for Stonegarden. Nevertheless, FEMA and Border Patrol approved the purchase of computer monitors in one county's spending plan.

In addition, even though FEMA and Border Patrol require an equipment waiver request or justification for items costing more than $100,000, there is currently no requirement that the waiver request or justification detail the need, operational relevance, and how the equipment will enhance border security. There is also currently no requirement that FEMA and Border Patrol approve the waiver request or justification prior to purchase. In conjunction with our review of the more than $4.3 million in selected reimbursements, discussed in the FEMA Monitoring section of this report, we noted that FEMA and Border Patrol approved seven equipment items costing more than $100,000. These equipment items totaled $1,046,638 and were not on the Equipment List. Although the subgrantees did submit the required equipment justifications, none of the justifications identified the enhancement to border security that would result from purchasing the otherwise ineligible equipment item.

Stonegarden Performance Measures Need Improvement

FEMA and CBP have not collected reliable program data nor have they developed appropriate performance measures. Currently, miles driven and hours worked are the only performance measures in place for Stonegarden. These measures reflect the basis of subgrantee reimbursements rather than performance resulting from the use of grant funds. As a result, FEMA and CBP cannot demonstrate program performance resulting from the use of more than $531.5 million awarded under Stonegarden since FY 2008.

Program Output Reporting is Not Enforced or Assessed

Stonegarden output data has not been captured or reported consistently because FEMA and Border Patrol have not enforced the requirements in Stonegarden guidance. The guidance dictates that participation in the program requires accurate and consistent reporting of how funds are used and how operations have impacted border security. Specifically, the guidance contains a standardized template for Daily Activity Reports (DARs), which are reports generated by the officers working overtime to record the output data resulting from Stonegarden-funded operations. However, the reporting process has been weakened because the standardized template has not been used by subgrantees. Enforcing the use of the standardized template would help FEMA

and Border Patrol more accurately and consistently capture data resulting from daily operations.

We found deficiencies in the DARs we reviewed, which included:

- DARs were not always submitted to the Border Patrol;
- DARs did not always agree to timesheet information; and
- DARs did not always capture standardized data for overtime worked.

Additionally, the only metrics that Border Patrol reports are the number of miles patrolled and number of hours worked, and these metrics are not assessed against the law enforcement activity data required by the standardized DARs. The DAR includes such data as the number of vehicle stops, citations, arrests, and people turned over to Border Patrol. The data captured by Stonegarden should be reported, tracked, and compared over time to reflect program performance, but Border Patrol has not performed these functions for Stonegarden. Therefore, Border Patrol is unable to accurately depict how border security has been enhanced by program funds.

Stonegarden guidance also requires subgrantees to submit After Action Reports at the end of the grant award period of performance. This report has the intended effect of describing the subgrantee's law enforcement activity data in relation to the operation's original objectives. But these reports do not ultimately illustrate the program's achievements in comparison to any measurable goals. This is a result of Border Patrol not effectively linking the performance measures to the law enforcement activity data. The weaknesses we identified in the program's reporting procedures highlight the fact that the resources used by subgrantees are not properly aligned with Stonegarden operational results to measure program performance. Absent adequate performance measures and accurate output data, FEMA and Border Patrol are unable to support that the more than $531.5 million awarded for Stonegarden to date is justified.

Performance Measures are Not Appropriate

FEMA and Border Patrol have not developed performance measures that demonstrate that Stonegarden achieves its goal of enhancing border security. Prior to FY 2016, no formal performance measures existed for the program. In 2015, Border Patrol and FEMA chose miles patrolled and hours of overtime worked annually to be the performance measures for Stonegarden. Border Patrol contends the only way to measure Stonegarden performance is to depict the law enforcement presence resulting from the miles patrolled and the hours worked during program operations. Border Patrol also contends that law enforcement presence is a definitive deterrent to illegal activity along the

border. However, Border Patrol has not gathered and produced verifiable data to support that claim.

Miles patrolled and hours of overtime worked reflect metrics that are billable to Stonegarden, not outputs or outcomes. Stonegarden performance should be clearly demonstrated through the outcomes of the program to illustrate the border security enhancements resulting from grant-funded activity. The DHS strategy[6] notes that a performance measure should establish a results-oriented measurable objective in order to determine the actual achievements produced. Currently, Stonegarden performance measures fail to meet these standards because miles patrolled and hours of overtime worked depict only resources used by the subgrantees and do not reflect measurable progress toward Stonegarden's goal of enhancing border security.

Conclusion

FEMA and Border Patrol need to improve oversight to ensure Stonegarden funds are used according to Federal and program requirements. FEMA and Border Patrol also must enforce and improve guidance to address the risk of supplantation. Moreover, FEMA and Border Patrol must collect reliable program data and develop performance measures to demonstrate performance resulting from the approximately $59 million awarded annually for Stonegarden.

Recommendations

Recommendation #1: We recommend the FEMA Assistant Administrator for the Grant Programs Directorate improve oversight to ensure Stonegarden funds are used in accordance with grant guidance and Federal laws by collecting and maintaining financial information at the Stonegarden award level.

Recommendation #2: We recommend the FEMA Assistant Administrator for the Grant Programs Directorate improve oversight to ensure Stonegarden funds are used in accordance with grant guidance and Federal laws by designing and implementing procedures to conduct additional monitoring of Stonegarden SAAs to determine risk.

Recommendation #3: We recommend the FEMA Assistant Administrator for the Grant Programs Directorate improve oversight to ensure Stonegarden funds are used in accordance with grant guidance and Federal laws by designing and implementing procedures to ensure Stonegarden grant awards are monitored

[6] *State and Urban Area Homeland Security Strategy; Guidance on Aligning Strategies with the National Preparedness Goal, July 22, 2005.*

as part of the financial reviews mandated by the *Homeland Security Act of 2002*, as amended.

Recommendation #4: We recommend the FEMA Assistant Administrator for the Grant Programs Directorate coordinate, consistent with the responsibilities outlined in the March 2012 Stonegarden Memorandum of Agreement, with the Chief, U.S. Border Patrol to improve and enforce program guidance by addressing the risk of supplantation for overtime and equipment costs.

Recommendation #5: We recommend the FEMA Assistant Administrator for the Grant Programs Directorate coordinate, consistent with the responsibilities outlined in the March 2012 Stonegarden Memorandum of Agreement, with the Chief, U.S. Border Patrol to improve and enforce program guidance by establishing a restriction on the number of total hours (regular and Stonegarden overtime) that may be worked within a 24-hour period.

Recommendation #6: We recommend the FEMA Assistant Administrator for the Grant Programs Directorate coordinate, consistent with the responsibilities outlined in the March 2012 Stonegarden Memorandum of Agreement, with the Chief, U.S. Border Patrol to improve program performance reporting and measurement by designing, implementing, and enforcing procedures to capture standardized performance data regarding program output.

Recommendation #7: We recommend the FEMA Assistant Administrator for the Grant Programs Directorate coordinate, consistent with the responsibilities outlined in the March 2012 Stonegarden Memorandum of Agreement, with the Chief, U.S. Border Patrol to improve program performance reporting and measurement by developing performance measures based on the standardized data aligned with the program's objectives and measure performance in terms of Stonegarden outputs or law enforcement activities. This should include reporting, tracking, and comparing such performance data over time.

FEMA's Comments and OIG Analysis

According to FEMA's response, FEMA and CBP concur with six of the seven recommendations and non-concur with one.

We have included a copy of the management comments in their entirety in appendix B. A summary of FEMA's response and our analysis follows.

Response to Recommendation #1: Concur. FEMA responded that it partnered with CBP in 2015 to implement MAX.gov, a singular platform to provide transparency, visibility, and increased accountability for Stonegarden funds. According to FEMA, the implementation of MAX.gov will provide the Stonegarden financial information needed to monitor spending commitments, obligations, and outlays; financial plans and funding transfers or reallocations;

as well as plan adjustments and reprogramming. The response also notes that FEMA believes MAX.gov will also allow for better oversight and tracking of Stonegarden Operation Orders (spend plans). Additionally, FEMA noted that it collects semiannual information on Stonegarden funding through the Biannual Strategy Implementation Report. FEMA believes the intent of this recommendation has been met and requested that we consider this recommendation resolved and closed.

OIG Analysis: FEMA's described corrective actions are responsive to our recommendation. However, the response indicates that MAX.gov has been fully implemented and provides the Stonegarden financial information needed to monitor spending commitments, obligations, and outlays; financial plans and funding transfers or reallocations; as well as plan adjustments and reprogramming. However, the MAX.gov system had only been piloted in five U.S. Border Patrol sectors and its use was limited to Operation Order submission by subgrantees for Border Patrol's approval when it provided us with a demonstration of the system during our audit. During this demonstration, we saw no evidence that Stonegarden obligation or outlay data was being captured or reported in MAX.gov. Furthermore, the Biannual Strategy Implementation Report reports Stonegarden data using funding allocations, rather than actual award amounts, and also does not capture information regarding the use of Stonegarden funds. Therefore, this recommendation will remain open and unresolved until FEMA provides an Estimated Completion Date, and we receive and review evidence that MAX.gov has been fully implemented for all SAAs receiving Stonegarden funding and that financial information regarding the use of Stonegarden funds is being captured and maintained in MAX.gov.

Response to Recommendation #2: Concur. According to FEMA, it uses a risk based approach for determining which grants require further monitoring. FEMA noted it has continually revised the First Line Review since 2013 and updated it again in FYs 2016 and 2017 to specifically address Stonegarden. FEMA also notes it adapted advanced monitoring tools for Stonegarden. Additionally, FEMA indicated that during the FY 2018 First Line Review cycle, FEMA's Grant Programs Directorate incorporated the "Program and Leadership Priorities" criteria designed to address program specific challenges and bring high-priority awards to the top of the prioritization list. FEMA believes the intent of this recommendation has been met and requests that we consider this recommendation resolved and closed.

OIG Analysis: FEMA's corrective action is responsive to the recommendation. However, the recommendation will remain open and unresolved until FEMA provides an Estimated Completion Date and adequate supporting documentation of FYs 2016 and 2017 First Line Review revisions made to specifically address Stonegarden, as well as the adaption of the advanced

monitoring tools. Additionally, FEMA needs to provide evidence demonstrating how the "Program and Leadership Priorities" criteria incorporated in FY 2018 addresses specific challenges and identifies high-priority awards for Stonegarden.

Response to Recommendation #3: Non-concur. FEMA's response indicates that it complies with the monitoring requirements contained in the *Homeland Security Act of 2002*, as amended, which requires FEMA to monitor grants provided to each state and high-risk urban area not less than once every 2 years. According to FEMA, it complies with the statutory monitoring and oversight requirements by monitoring 100 percent of the HSGP awards, including Stonegarden awards, each year through the First Line Review process. FEMA also noted it conducts advanced financial monitoring of HSGP grant awards, including Stonegarden awards, on a biannual basis and conducts quarterly cash analysis for each award to ensure that grant funds are being evaluated for risk and monitored as mandated by the *Homeland Security Act of 2002*, as amended.

FEMA believes our analysis on page 4 of the draft report that indicates the agency conducted only 4 of 79 required financial reviews of HSGP during the FY 2011–14 grant period is provided without context. FEMA notes that between FYs 2011–14, it conducted 170 monitoring activities of HSGP. Per FEMA, these 170 monitoring activities were of awards to areas that had received Stonegarden funding, a subprogram under HSGP, and 29 of these monitoring activities were specifically of Stonegarden awards. FEMA also indicated the law requires it to monitor the 56 states and territories HSGP awards every other year, not 79 — and it is meeting this requirement. FEMA requested that we consider this recommendation resolved and closed.

OIG Analysis: During a meeting with FEMA after the issuance of our draft report, we agreed to revise our draft recommendation to clarify our intent and FEMA's compliance with the *Homeland Security Act of 2002*, as amended. We agreed that even though FEMA may be in compliance, good management practices dictate that FEMA conduct additional financial monitoring specific to Stonegarden. As discussed in our report, FEMA's current financial review and cash analysis process occurs at the overall HSGP level, and obligations and expenditures are not distinguished or analyzed by grant subprogram source, including Stonegarden, on the financial reports. We believe that FEMA could strengthen its oversight of Stonegarden funds by including Stonegarden awards in the financial reviews it is required to conduct for each state or urban area receiving HSGP funds every 2 years — as prudent management practices would dictate doing considering that overtime payments are at a heightened risk of misuse. FEMA indicated its concurrence with our proposed revision during the meeting held.

Furthermore, our analysis on page 4 of the draft report has been revised to reflect that FEMA has included 4 of 79 Stonegarden awards made during FYs 2011–14 in its advanced biannual financial reviews. This statement is based on our analysis of the number of Stonegarden awards made each fiscal year during this period to eligible States and not on the number of States eligible for HSGP awards each year. Specifically, FEMA provided documentation reflecting the following number of Stonegarden awards to eligible states in the following fiscal year: 18 awards in FY 2011; 20 awards in FY 2012; 20 awards in FY 2013; and 21 awards in FY 2014. Also, FEMA provided documentation to support that only 4 of these Stonegarden awards (all of which were to the same State) had been included in its advanced biannual financial review mandated by the *Homeland Security Act of 2002*, as amended.

As a result, we have revised the recommendation to clarify that FEMA had included Stonegarden in four of its advanced financial reviews. We request that FEMA re-evaluate our revised recommendation for concurrence. This recommendation will remain open and unresolved until FEMA proposes and implements a corrective action consistent with the intent of our revised recommendation.

Response to Recommendation #4: Concur. The response noted that FEMA and CBP have collaborated to implement a framework to better mitigate the risk of supplanting through updating and revising the NOFO grant guidance. The latest NOFO guidance includes a requirement for a minimum of two Integrated Planning Team meetings to be held between CBP Border Patrol, SAAs, and subrecipients to ensure strategic operational collaboration takes place in order to reconcile Border Patrol Sector operational requirements to the resource capabilities of the state, local, and tribal agency capabilities. FEMA believes the intent of this recommendation has been met and requested that we consider this recommendation resolved and closed.

OIG Analysis: FEMA's corrective action is responsive to the recommendation. However, the recommendation will remain open and unresolved until FEMA provides an Estimated Completion Date, and evidence demonstrating how the NOFO requirement for two Integrated Planning Team meetings has ensured that operational requirements are reconciled to State resource capabilities and the risk of supplantation for overtime and equipment costs has been mitigated.

Response to Recommendation #5: Concur. FEMA's Grant Programs Directorate will revise the FY 2018 NOFO and create a new overtime policy. This new policy will limit overtime for law enforcement personnel to 8 hours in any 24-hour period in which the person works an 8-hour shift. If the person is not working an 8-hour shift then they will be permitted to work 16 hours of overtime paid through Stonegarden award funds. This new requirement will

limit the total number of hours worked to be no more than 16 hours in a contiguous 24-hour day. Estimated Completion Date: June 30, 2018.

OIG Analysis: FEMA's corrective action is responsive to the recommendation but will remain open and resolved pending receipt of the 2018 NOFO documenting the overtime policy revisions.

Response to Recommendation #6: Concur. The response noted that FEMA's Grant Programs Directorate and CBP have developed and implemented the Operation Stonegarden MAX.gov data management platform, trained more than 700 users on this platform, and implemented new review processes to clearly define Daily Activity Report and Monthly Activity Report submission requirements. The response also indicated CBP has included requirements that U.S. Border Patrol Sector Chiefs monitor and ensure compliance with required Stonegarden report submissions, which includes verification of the timely and accurate submission of the Daily Activity Reports and After-Action Reports in its Self-Inspection Program. CBP plans to transfer the MAX.gov Stonegarden data management platform to a DHS web-based platform to provide for more efficient submission, review, and analysis of all required documentation. Estimated Completion Date: December 31, 2018.

OIG Analysis: FEMA and CBP described corrective actions are responsive to our recommendation. FEMA and CBP indicated in the response that MAX.gov has been fully implemented and more than 700 users have been trained. However, Border Patrol had only piloted the system in five sectors, was only using the system for Operation Order submission and Border Patrol approval, and had not finalized reporting requirements when it provided us with a demonstration of the system or in its follow up response. This recommendation will remain open and resolved until we receive and review: evidence that the data management platform, incorporating Stonegarden performance reporting, has been fully implemented for all SAAs and subrecipients receiving Stonegarden funding; and policy documents that incorporate the timely, accurate submission of Stonegarden Daily Activity Report and Monthly Activity Report submissions into the Border Patrol's Self-Inspection Program.

Response to Recommendation #7: Concur. FEMA and CBP acknowledged that the use of standardized data will assist in validating performance and noted that U.S. Border Patrol has standardized and implemented electronic submission of the Daily Activity Report. The response noted that FEMA and CBP have developed and designed a Daily Activity Report form for accurate, uniform capture of performance data and adopted performance measures gathered from data already captured in Daily Activity Reports and other required reports. These new performance measures are intended to measure the percent of Stonegarden funds that provide intelligence-based operational support and the percent of Stonegarden funds that have contributed to force

multiplier activities. FEMA and CBP expect to receive final Office of Management and Budget approval of the Daily Activity Report form by October 31, 2017, and to adopt the new performance measures for the *2018 Redundancy Elimination and Enhanced Performance for Preparedness Grants Act* reporting. Estimated Completion Date: December 31, 2018.

OIG Analysis: FEMA and CBP described corrective actions are responsive to our recommendation. However, this recommendation will remain open and resolved until we receive and review the final Office of Management and Budget approved Daily Activity Report form and evidence that the two new performance measures have been adopted.

Appendix A
Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107–296) by amendment to the *Inspector General Act of 1978*.

Our audit objective was to determine whether FEMA and CBP met their oversight responsibilities for Stonegarden to monitor grantees, issue guidance and approve costs, and demonstrate program performance. To accomplish our objective, we conducted interviews at FEMA, CBP, and Financial Assistance Policy and Oversight Headquarters offices in Washington, DC; as well as FEMA's regional offices and State Administrative Agency (SAA) offices in Florida and Texas. We also conducted interviews with Stonegarden program officials from Border Patrol's Miami Sector in Florida and its Rio Grande Valley Sector in Texas.

We identified and analyzed prior audits and reports related to the audit subject, including DHS OIG audits, the Government Accountability Office reports, and congressional testimony. We also reviewed and analyzed applicable Federal requirements for the management and administration of grants to state and local governments, such as OMB Circular A-102, *Grants and Cooperative Agreements with State and Local Governments*; OMB Circular A-87, Part 225, "Cost Principles for State, Local, and Indian Tribal Governments;" and 2 CFR 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

Additionally, to gain an understanding of FEMA's procedures for administering and managing grant awards, we reviewed FEMA's integrated monitoring plans and FEMA's Grant Programs Directorate draft guidance. We identified the responsibilities of FEMA, Grant Programs Directorate and CBP, Office of Border Patrol for the Stonegarden program by reviewing a Memorandum of Understanding, dated March 21, 2012. To understand Stonegarden-specific requirements and funding restrictions, we analyzed program guidance contained in the annual Notice of Funding Opportunity (also known as a Funding Opportunity Announcement) for fiscal years 2011–2016.

We selected a judgmental sample of six counties in two States, New York and Texas. This sample of six counties:

- totaled $42.1 million in Stonegarden grant funds awarded and allocated by FEMA for FYs 2011–15; and
- represented 16 percent of total Stonegarden grant awards allocated by FEMA, which totaled $266.1 million during this period.

About $34.2 million, or 81 percent of the $42.1 million awarded to New York and Texas, had been spent. We selected a subsample of more than $4.3 million, or 13 percent, in reimbursements to assess whether costs were supported, reasonable, and allowable. We selected this subsample from financial system reports provided from New York and Texas. We assessed the reliability of the financial system reports by comparing expenditure totals for each county to totals reported in the Biannual Strategy Implementation Reports to FEMA, as well as to FEMA reported fiscal year allocations to each county, and determined that the financial data for each county was materially complete and reliable.

We also reviewed Operation Orders totaling $29.5 million in FEMA-approved overtime and equipment costs for the six sampled counties. For each Operation Order, we reviewed the associated overtime waiver requests, as applicable, to assess whether such waiver requests contained a 3-year staffing history. We also reviewed each Operation Order to assess whether approved equipment costs for items exceeding $100,000 were accompanied by a justification, and whether approved equipment costs for items under $100,000 were on the Authorized Equipment List, dated May 8, 2015.

FEMA integrated its financial and programmatic monitoring plan in FY 2013. Therefore, we reviewed FEMA financial monitoring reviews that were conducted in FYs 2013–15 for Homeland Security Grant Awards to New York and Texas. Although these reviews were conducted in FYs 2013–15, the reviews included Stonegarden awards for FYs 2011–15 to New York and Texas. We also requested and reviewed all FYs 2011–15 Stonegarden-specific financial monitoring reports for reviews conducted by FEMA pursuant to its review requirements contained in Section 2022 of the *Homeland Security Act of 2002*, as amended.

This performance audit was conducted between March 2016 and May 2017 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.

Appendix B
FEMA's Comments to the Draft Report

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

FEMA

October 3, 2017

MEMORANDUM FOR: John V. Kelly
Deputy Inspector General
Office of the Inspector General

FROM: David Bibo
Associate Administrator (Acting)
Office of Policy and Program Analysis

SUBJECT: Management's Response to OIG Draft Report: "FEMA and CBP Oversight of Operation Stonegarden Needs Improvement" (Project No. 16-048-AUD-CBP, FEMA)

Thank you for the opportunity to review and comment on this Draft Report. The Federal Emergency Management Agency (FEMA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

The Draft Report contained seven recommendations, with which FEMA and CBP concur with six, and non-concur with one. Attached find our detailed response to each recommendation.

Again, thank you for the opportunity to review and comment on this Draft Report. Technical comments were previously provided under separate cover. Please feel free to contact Gary McKeon, Director Audit Liaison Office at 202-646-1308 if you have any questions. We look forward to working with you in the future.

Attachment

www.fema.gov

Attachment: Management Response to Recommendations Contained in OIG- 16-048-AUD-CBP, FEMA

The OIG recommended that the FEMA Assistant Administrator for the Grant Programs Directorate improve oversight to ensure Stonegarden funds:

Recommendation #1: are used in accordance with grant guidance and Federal laws by collecting and maintaining financial information at the Stonegarden award level.

Response: Concur. CBP and FEMA's Grant Programs Directorate (GPD) identified the need for improved performance reporting and measurement prior to the Operation Stonegarden (OPSG) Fiscal Year (FY) 2015 grant cycle. Since 2015, CBP and FEMA have implemented an OPSG-specific data management platform that captures standardized performance data regarding program and financial output.

FEMA collects semi-annual information on OPSG funding at the project level via the Biannual Strategy Implementation Report (BSIR). The following data for OPSG can be found and measured on the FEMA BSIR:

- Percentage of OPSG funding used to sustain core capabilities
- Percentage of OPSG funding used to build core capabilities

In 2015, FEMA partnered with CBP to implement the MAX.gov data management platform managed by the Office of Management and Budget (OMB). MAX.gov replaced the previous OPSG grant administrative and operational review process with a singular platform providing transparency, visibility, and increasing accountability and oversight between FEMA, CBP, State Administrative Agencies (SAAs), and the subrecipients. Using MAX.gov as a data management platform makes OPSG grant allocations available for: monitoring spending commitments, proposed obligations, and chronological outlays; operating (financial) plan and transfers or reallocations; operating plan adjustments and reprogramming; executing cancellations and rescissions; and funding year-end closeout and reporting activities.

This system allows for better oversight and tracking of the Operation Orders (OO) and Fragmentary Orders (FRAGOS) submitted by OPSG subrecipients (local and tribal governments). The OOs contain the border centric tactical plan and the budget details to accomplish the tactical operations. The budget contains overtime (OT) and equipment. The FEMA Homeland Security Grant Program (HSGP)[1] Program Analyst (PA) assigned to a state with an OPSG award reviews the OO in Max.Gov. This review consists of reviewing the amount of OT requested and determining if the amount of OT funds requested is over 50 percent of the total award. Under the OPSG Program, overtime costs are allowable only in so far as they meet the intent of the Program. Under section 2008(b) of the Homeland Security Act of 2002, Pub. L. No. 107-296, as amended (6 U.S.C. § 609(b)), recipients and subrecipients may not use more than 50 percent of their awards or subawards to pay for personnel activities, unless they receive a waiver from FEMA. The PA either approves the financial request by promoting the Operation Order to "FEMA Approved" or demotes it back to CBP for updates and/or changes.

[1] OPSG funds are competitively awarded as part of the HSGP. HSGP awards, where applicable, consist of three components of funds: State Homeland Security Program (SHSP); Urban Area Security Initiative (UASI); and OPSG.

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In light of the actions described, FEMA believes the intent of this recommendation has been met and requests that the OIG consider this recommendation resolved and closed.

Recommendation 2: are used in accordance with grant guidance and Federal laws by designing and implementing procedures to conduct additional monitoring of Stonegarden SAAs to determine risk.

Response: Concur. FEMA has implemented a robust risk assessment and monitoring protocol in accordance with grant guidance and Federal laws as outlined below.

GPD implemented its risk-based programmatic monitoring program in 2013. The foundation of GPD's risk-based monitoring program is the First Line Review (FLR), which determined the prioritized list of recipients for the 2014 advanced monitoring consisting of either a desk review or onsite monitoring.

Through the FLR, GPD HSGP Program Analysts (PAs) annually analyze the risk of HSGP recipients by monitoring 100 percent of HSGP awards, including those with OPSG funding. If the awards identified have not received programmatic advanced monitoring or been audited by the OIG within the previous two fiscal years, the award is flagged as a high-priority for a desk review or site visit under the prioritization process.

Once the programmatic advanced monitoring priorities are established, GPD HSGP PAs conduct the site visit or desk monitoring. Programmatic monitoring, while focused on project level grant-funded activities, also addresses areas of the recipient's grant management practices. Included in the monitoring tool is a grant recipient management review that examines the recipient's monitoring of sub-recipients and reimbursement of costs to sub-recipients. During programmatic advanced monitoring, GPD HSGP PAs and the recipient review and discuss a series of questions designed to identify any issues and determine the recipient's overall level of compliance with regard to sub-recipient oversight. As OPSG is part of the HSGP award and limited to a select number of grant recipients, the practices of the recipient with regard to the management of State Homeland Security Program and Urban Area Security Initiative also apply to OPSG. Issues identified during the advanced monitoring that require corrective action would also apply to OPSG.

Since 2013, GPD has refined and implemented more enhanced and comprehensive programmatic monitoring processes and tools based on lessons learned, program trends, and issues identified through daily management of HSGP awards. The FLR has been continually revised since 2013 and was updated again in FY 2016 and FY 2017 to specifically address OPSG. In addition, advanced monitoring tools were adapted for OPSG. During the FY 2018 FLR cycle, GPD incorporated the "Program and Leadership Priorities" criteria, designed to address program-specific challenges and bring high-priority awards to the top of the prioritization list.

FEMA also conducts advanced financial monitoring of HSGP grant awards, which includes OPSG awards, on a bi-annual basis and conducts quarterly cash analysis for each award to ensure that grant funds are being evaluated for risk and monitored as mandated by the Homeland

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Security Act of 2002. Financial monitoring staff use a monitoring assessment to identify the appropriate level of monitoring for each FEMA grant recipient and grant award using an established set of 12 assessment indicators and resulting in a total risk score. The monitoring staff also use the monitoring assessment and cash analysis process to determine whether a grant needs additional advanced monitoring. Monitoring levels range from the ongoing assessment of grantee performance through the review of required financial and programmatic performance reports submitted by grantees, review of payment requests and supporting documentation, and up to and including comprehensive site visits.

Grants that are subject to the monitoring requirement of Section 2022(a)(2) of the Homeland Security Act of 2002, Pub. L. No. 107-296, as amended (6 U.S.C. § 612(a)(2)), require monitoring regardless of their assessment score. The Regional schedules must include all open grants in the grant programs that have statutory monitoring requirements under the HSA, this includes OPSG. The Monitoring and Compliance rotation of states and territories is set up to help FEMA Regional Offices manage the workload associated with monitoring these grants. The FEMA GPD Grants Management Specialist (GMS) can schedule grants within states not on rotation, as needed, to maintain compliance.

In light of the actions described, FEMA believes the intent of this recommendation has been met and requests that the OIG consider this recommendation resolved and closed.

Recommendation 3: are used in accordance with grant guidance and Federal laws by designing and implementing procedures to ensure Stonegarden grant awards are monitored as mandated by the *Homeland Security Act of 2002*, as amended.

Response: Non-concur. Section 2022(a)(2)(A) of the Homeland Security Act of 2002, Pub. L. No. 107-296, as amended (6 U.S.C. § 612(a)(2)(A)), requires FEMA to monitor grants provided to states and high risk urban areas for each recipient's entire HSGP award not less than once every two years.

FEMA already complies with the statutory monitoring and oversight requirements. FEMA meets this requirement by analyzing risk of OPSG funding by monitoring 100 percent of HSGP awards including OPSG awards each year through the First Line Review process. The OIG's assertion on page 4 of the draft report that the agency conducted only 4 of 79 required financial reviews of the Homeland Security Grant Program (HSGP), during the FY 2011-2014 grant period is provided without context. In fact, between FY 2011 – 2014, FEMA conducted 170 monitoring activities (39 in 2011, 55 in 2012, 38 in 2013, and 38 in 2014) all of which involved HSGP. And, each of these 170 monitoring activities were of awards to areas that had received OPSG funding, a sub-program under HSGP; 29 of these monitoring activities were specifically of OPSG awards. Finally, the law requires FEMA to monitor the 56 state and territory HSGP awards every other year, not 79 – and FEMA is meeting this requirement. FEMA conducts advanced financial monitoring of HSGP grant awards, including OPSG awards, on a bi-annual basis, and conducts quarterly cash analysis for each award to ensure that grant funds are being evaluated for risk and monitored as mandated by the Homeland Security Act of 2002.

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Cash on Hand Analysis – In conjunction with the Regions, GPD has implemented a multi-layered quarterly review of each HSGP grant which includes OPSG which by law is a portion of the SHSP award. The Regions conduct a quarterly Cash on Hand Analysis, which includes reviewing SF-425s and Integrated Financial Management Information System (IFMIS) drawdown activity. GPD GMS staff review the details of the FEMA Regions' assessments and conduct a secondary review to resolve issues, address payment related matters, and educate recipients on proper payment and reporting requirements.

Annual Improper Payments Review per the Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. No. 112-248 – The HSGP, which includes OPSG awards, annually undergoes an improper payment assessment, which includes testing a sample population of payments made in the previous fiscal year. Recipients are required to provide all documentation associated with the selected payments and transactions. Documentation must support the allowability of the drawdown and validate that the payment was utilized in a "proper" manner.

We request that the OIG consider this recommendation resolved and closed.

The OIG also recommended that the FEMA Assistant Administrator for the Grant Programs Directorate coordinate, consistent with the responsibilities outlined in the March 2012 Stonegarden Memorandum of Agreement with the Chief, U.S. Border Protection to:

Recommendation 4: improve and enforce program guidance by addressing the risk of supplantation for overtime and equipment costs.

Response: Concur. FEMA and CBP established and continue to augment the implementation of a framework to better mitigate the risk in OPSG grant management of waste, fraud, abuse, and supplanting – as that term is applied by section 2008(b)(1)(A) of the Homeland Security Act of 2002, Pub. L. No. 107-296, as amended (6 U.S.C. § 609(b)(1)(A)). OPSG funds support existing law enforcement agencies in securing the nation's border. These funds exclusively support the sustainment of existing law enforcement capabilities or add to the existing capabilities with new, updated, or innovative equipment.

- FEMA and CBP have collaborated to update and revise OPSG grant guidance in subsequent Notices of Funding Opportunity (NOFO) since FY 2015. The implementation of this updated and revised NOFO guidance provides more prescriptive requirements for SAAs and OPSG subrecipients. Specific documentation and reporting requirements assist FEMA and CBP in accomplishing detailed reviews and closer scrutiny, therefore addressing and reducing the risk of supplanting.
    - Updated and revised NOFO guidance includes: requiring a minimum of two Integrated Planning Team (IPTs) meetings between the U.S. Border Protection (USBP), SAAs, and subrecipients to ensure strategic operational collaboration takes place in order to reconcile USBP Sector operational requirements to the resource capabilities of the state, local, and tribal agency capabilities.

In light of the actions described, FEMA believes the intent of this recommendation has been met

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and requests that the OIG consider this recommendation resolved and closed.

Recommendation 5: improve and enforce program guidance by establishing a restriction on the number of total hours (regular and Stonegarden overtime) that may be worked within a 24-hour period.

Response: Concur. FEMA-GPD will incorporate revision in the FY 2018 NOFO to create a new overtime policy. This policy revision would look to limit overtime for each officer/deputy/dispatcher/agent to 8 hours in any 24 hour period when the officer works an 8 hour shift. If the officer is not working an 8 hour shift in any 24 hour period, the officer may receive 16 hours overtime from the OPSG award funds. This new requirement will limit OPSG subrecipients to a double shift, of no more than 16 hours in a contiguous 24 hour day. ECD: June 30, 2018

Recommendation 6: improve program performance reporting and measurement by designing, implementing, and enforcing procedures to capture standardized performance data regarding program output.

Response: Concur. U.S. Border Patrol identified the need for improved performance reporting and measurement prior to the OPSG FY 2015 grant cycle. Since 2015, CBP implemented an OPSG specific data management platform, user-friendly interfaces, data system training, and streamlined operating procedures that capture standardized performance data regarding program output, as well as facilitates and demands the regular review of OPSG operations by analysis of outcomes.

Actions Already Taken-
FEMA-GPD and CBP collaborated on the:

- Development, testing, and socialization of the MAX.gov OPSG data management platform as well as providing improved oversight and accountability of the OPSG grant process.
- Training of over 700 OPSG MAX.gov participants at the Federal, state, local, territorial, and tribal levels of government and law enforcement,
- Transfer of the previous OPSG administrative submission and operational review process functions into the implementation of the OPSG FEMA administrative submission and CBP operational review process to provide for greater transparency, oversight, accountability and the administration of Federal grant funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the award which include:
    - Clearly defining the roles and responsibilities of FEMA, CBP, the SAA, and the subrecipients as well as requiring submission of Daily Activity Reports (DARs) within 48 hours of completing the OPSG shift.
    - Requiring Monthly Activity Reports (MARs) submission at the Sector and HQ levels on the 10th and 15th of the month, respectively, to document the operational activity and collect data for performance measurement.

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- Requiring After Action Reports (AARs) within 10 days of the closing of the operational period of performance.
- Providing Sectors the ability and authority to conduct random on-site operational verification of OPSG shift.

- CBP developed and implemented the USBP Self Inspection Program (SIP), including requirements that target USBP Sector Chiefs to monitor and ensure compliance with required OPSG operational documentation and report submissions. SIP charges Sector Chiefs to verify the completion of IPTs, authorize the monitoring of random subrecipient operational performance verification, requires them to facilitate the timely submission of operational AARs, and requires them to facilitate the timely and accurate submission of DARs.
- FEMA and CBP developed and implemented the MAX.gov OPSG data management platform managed by OMB. MAX.gov replaced the previous OPSG grant administrative and operational review process with a singular platform providing transparency, visibility, and increasing accountability and oversight between FEMA, CBP, SAAs, and subrecipients. The advent of MAX.gov reduced the review and processing time for OOs and FRAGOs by approximately 70 percent. MAX.gov also provides access and visibility of the OPSG grant administrative and operational review process to all levels of grant stakeholders behind a secure firewall that is accessible nationwide.

Actions Ongoing-

- CBP continues to employ the OPSG Self Inspection Program (SIP) that targets USBP Sector Chiefs to monitor and ensure compliance with required OPSG operational documentation and report submissions, facilitate the timely submission of Operational After-Action Reports (AARs), and facilitate the timely and accurate submission of Daily Activity Reports.

Actions Planned-

- CBP will reduce the OPSG MAX.gov Management and Administration costs by transferring the MAX.gov OPSG data management platform (used for administrative submission and operational review process functions) to a DHS Homeland Security Information Network (HSIN) web-based platform to provide for greater transparency, oversight, accountability, and the administering of Federal grant funds in a manner consistent with FEMA underlying agreements, program objectives, and the terms and conditions of the award. The transfer of the OPSG data management platform will provide more efficient submission and review of all required documentation, including OOs, AARs, and DARs. The DHS HSIN-based platform removes the cost-related constraints on the quantity of user accounts, facilitating even greater accountability and oversight; and allows for better analysis and improved review of the collected data, providing better operational direction and increasing accountability and oversight.

ECD: December 31, 2018

Recommendation 7: improve program performance reporting and measurement by developing performance measures based on the standardized data aligned with the program's objectives and

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measure performance in terms of Stonegarden outputs or law enforcement activities. This should include reporting, tracking, and comparing such performance data over time.

Response: Concur. The use of standardized data will assist in validating the performance of obligated resources and the application of equipment to provide enhanced capabilities. U.S. Border Patrol has standardized and implemented electronic submission of both the OO Form and the DAR Form. The forms can be submitted electronically by the subrecipients via the MAX.gov OPSG data management platform. Standardization of the forms and the data input mechanism provide for reliable and consistent data collection. The OPSG data sets extrapolated from the subrecipient submissions provide FEMA and CBP with the empirical collected data of OPSG funded law enforcement activities. The MAX.gov data management platform allows accurate reporting, tracking, analysis, and progress toward successful trends or the informing of deficits affecting OPSG grant program operational objectives.

Actions Already Taken-

- FEMA and CBP developed and designed a DAR Form for accurate, uniform capture of programmatic performance data.
- FEMA adopted the use of "Percentage of OPSG funding used to sustain a core capability" as a performance measure in FY 2014. FEMA accomplished this by modifying BSIR requirements to more accurately assess the allocation of grant funds towards activities that sustain existing or build a new capability.
- OPSG funds support existing law enforcement agencies in securing the nation's border, exclusively supporting the sustainment of existing law enforcement capabilities, or adding to the existing capabilities with new, updated, or innovative equipment capabilities.
- As required by section 2023 of the Homeland Security Act of 2002, Pub. L. No. 107-296, as added by the Redundancy Elimination and Enhanced Performance for Preparedness Grants Act (REEPPG), Pub. L. No. 111-271 (2010) (6 U.S.C. § 613), since 2014, FEMA and CBP have completed efforts to reduce recipient reporting burden, refine grant performance measures to assess grant effectiveness, and assess performance of the grant programs authorized under the Homeland Security Act of 2002.
- FEMA and CBP adopted the use of specific performance measures, gathered from data already captured in DARs and other required reports, in order to mitigate the administrative burden on subrecipients.

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Measure	2013	2014	Context
OPSG			
Percentage of OPSG funding used to sustain a core capability	100%	100%	In FY 2014, FEMA modified BSIR requirements to more accurately assess the allocation of grant funds towards activities that sustain existing or build a new capability. OPSG funds support existing law enforcement agencies in securing the nation's border, exclusively supporting the sustainment of existing capabilities. FEMA will continue to track these metrics in subsequent FYs.
Percentage of OPSG funding used to build a new core capability	0%	0%	
Number of man hours worked supported by OPSG funds	1,217,344	1,329,064	CBP tracks multiple indicators to assess the enhanced law enforcement presence along the border enabled by OPSG funds. The number of hours worked, miles patrolled, and patrols conducted are key indicators used to assess increased security enhancement as a result of OPSG-funded operations. FEMA allocates OPSG funds based on risk-based prioritization; length of the border in miles is one of these risk-based factors.
Number of miles of border patrols supported by OPSG funds	4,642,999	5,691,689	
Number of border security patrols supported by OPSG funds	152,168	153,633	
Number of penal code arrests	8,969	11,542	The number of arrests and the number of those turned over to Border Patrol provide third-party indicators of involvement in OPSG Operations. The metrics reflect the enhanced presence of joint state, local, and tribal law enforcement operations along the border.
Number of arrests turned over to Border Patrol	5,589	6,806	

Figure 1: Operation Stonegarden Performance Measures

Actions On-going-

- FEMA: Pending OMB Final Approval of OPSG Operation Order and Daily Activity Report Forms. ECD: October 31, 2017.

Actions Planned-

- For the 2018 biennial REEPPG report required by section 2023(c) of the Homeland Security Act (6 U.S.C. § 613(c), FEMA and CBP have continued the refinement of existing performance measures and developed and proposed the addition of two new performance measures:
  - The proposed measures are in the review process for adaptation in the 2018 REEPPG report. ECD: December 31, 2018.

Proposed Measure Name	*Percent of Operation Stonegarden (OPSG) funds that provide intelligence-based operational support*
Grant Program(s)	OPSG
Numerator	Total Funds That Provided Intelligence-Based Operational Support
Denominator	Total OPSG Funding
Define Key Terms	No key terms to identify
Objective Alignment	▪ *FY 2016 Homeland Security Grant Program (HSGP), Appendix B, Supplemental OPSG Guidance:* Provide intelligence-based operations through USBP Sector Level experts to ensure safety and operational oversight of Federal, state, local, tribal, and territorial law enforcement agencies participating in OPSG operational activities

Proposed Measure Name	*Percent of Operation Stonegarden (OPSG) funds that contributed to force multiplier activities across two or more State, local, or tribal law enforcement agencies*
Grant Program(s)	OPSG
Numerator	Total OPSG funds that contributed to Force Multiplier Activities Across Two or More State, Local, or Tribal Law Enforcement Agencies
Denominator	Total OPSG Funding
Define Key Terms	▪ Force Multiplier Activities: Multiple law enforcement agencies assisting jurisdictions to meet OPSG goals
Objective Alignment	▪ *FY 2016 Homeland Security Grant Program (HSGP), Appendix B, Supplemental OPSG Guidance:* Increase coordination and collaboration among Federal, state, local, tribal, and territorial law enforcement agencies

Figure 2: Proposed New Operation Stonegarden Performance Measures

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Attachment: Management Response to Recommendations Contained in OIG- 16-048-AUD-CBP, FEMA

- CBP: Complete contract for services for 2018 MAX.gov platform usage. ECD: October 15, 2017
- FEMA: FEMA and CBP are collaborating on the development of a zero-sustainment costs or reduced sustainment cost, Homeland Security Information Network web-based OPSG data management platform.
  - Interim action include:
    - Define stakeholder governance
    - Sign HSIN Operation Stonegarden Charter
    - Define Operation Order form
    - Define Daily Activity Report form
    - Automate Operation Order process
    - Automate Daily Activity Report review process
    - Define standard reports
    - Create automated reports for standard reports
    - Provide access to data for ad hoc reporting
    - Implementation campaign, to include communications, outreach and training for new users
    - Establish feedback mechanism with all stakeholders

- CBP has established inclusion of a sector-by-sector risk analysis to establish OPSG operational priorities.
- The State of the Border Risk Analysis (SOBRA) is used for matching capabilities and assets in conjunction with analysis of OPSG resource operational profiles.
- The Effectiveness Feasibility Operational Performance (EFOP) matrix is utilized in order to create performance metrics that more closely align with the intent of the OPSG grant, allowing the continual effective application of OPSG operational resources, based on the greatest mitigation of border security gaps.

ECD: October 31, 2018

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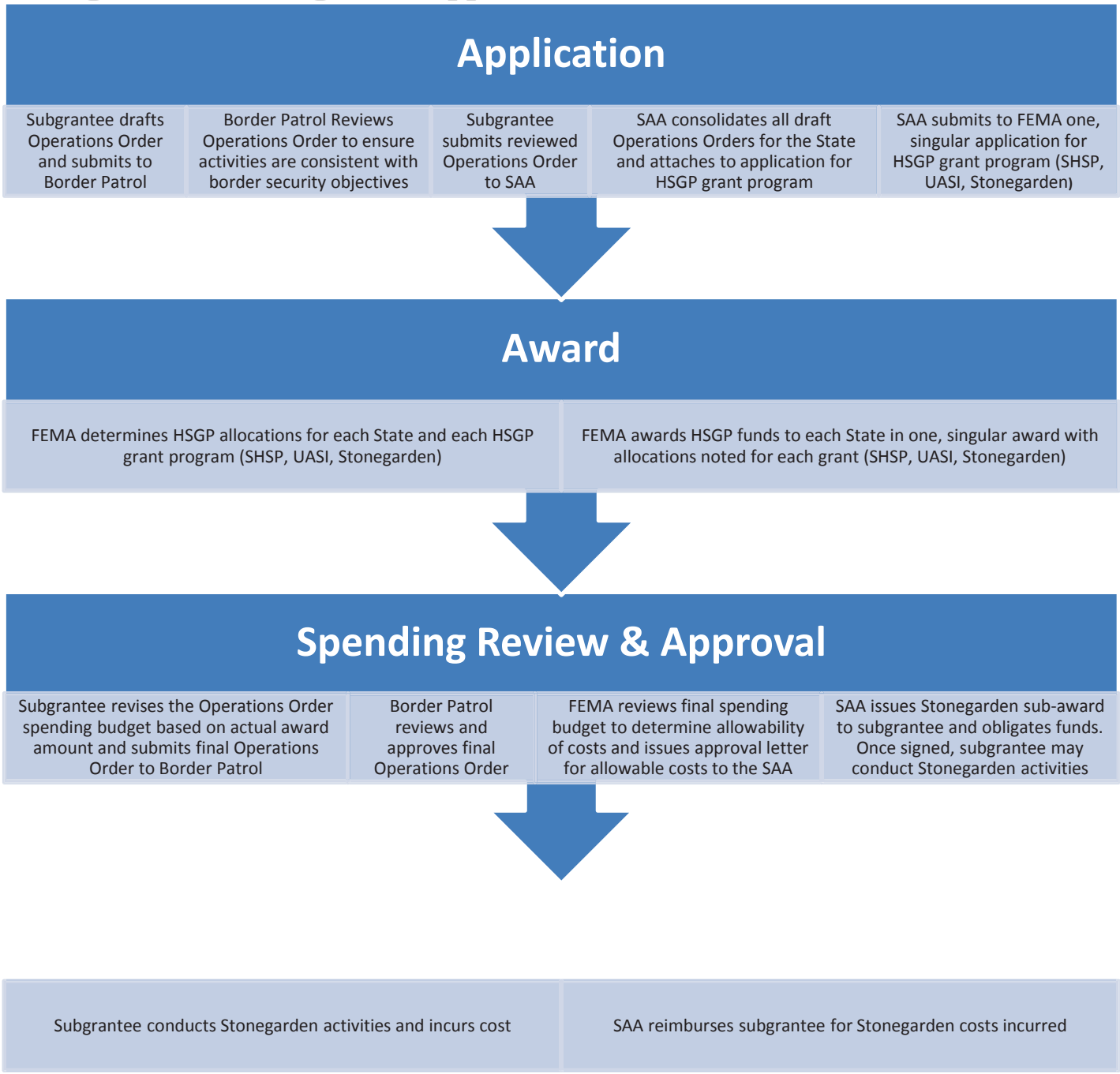
Appendix C
High-Level Stonegarden Application and Award Process



Source: OIG Analysis of FEMA & CBP Stonegarden guidance and program related documents and interviews with OPSG program officials

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