

*U.S. DEPARTMENT OF COMMERCE
Office of Inspector General*



*National Telecommunications
and Information
Administration*

*Texas Public Safety
Interoperable
Communications Grant
Award No. 2007-GS-H7-0044*

*Final Report No. OIG-11-007-A
November 5, 2010*

FOR PUBLIC RELEASE

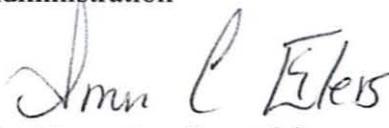
Office of Audit and Evaluation





November 5, 2010

MEMORANDUM FOR: Lawrence E. Strickling
Assistant Secretary for
Communications and Information
National Telecommunications and
Information Administration

FROM: Ann C. Eilers 
Principal Assistant Inspector General for
Audit and Evaluation

SUBJECT: Final Audit Report No. OIG-11-007-A
Auditee: Texas Department of Public Safety, Division of
Emergency Management
PSIC Award No. 2007-GS-H7-0044

Attached is a copy of our final audit report of the Texas Public Safety Interoperable Communications (PSIC) award for your action in accordance with Department Administrative Order (DAO) 213-5, *Audit Resolution and Follow-up*. Our original audit report has been sent to the recipient, who has until December 5, 2010, to submit comments and supporting documentation to you. A copy of our final audit report will be posted on the Office of Inspector General's (OIG's) website pursuant to section 8L of the Inspector General Act of 1978, as amended.

Under DAO 213-5, you have 60 calendar days from the date of this memorandum to reach a decision on the actions you propose to take on each audit finding and recommendation and to submit an audit resolution proposal to this office. The format for the proposal is shown in Exhibit 8 of the DAO. As applicable, your written proposal must include the rational and/or legal basis for reinstating any questioned costs in the report and should reference any supporting documentation you relied on. Your comments should also address the funds to be put to better use cited in the report. Under the DAO, OIG must concur with your proposal before it may be issued as a final determination and implemented. The DAO prescribes procedures for handling any disagreements this office may have with the audit resolution proposal. Also, please copy us when the audit determination letter is sent to the auditee.

Please direct any questions regarding this report to Jerry McMahan, Assistant Regional Inspector General for Audits, at (404) 730-2065 and refer to the final audit report number listed above in any related correspondence.

Attachment

cc: Milton Brown, NTIA Audit Liaison
Kathy Smith, NTIA Chief Counsel
Laura M. Pettus, NTIA PSIC Program Manager
Daniel Meyerson, JD, NTIA Deputy Program Manager



UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, D.C. 20230

November 5, 2010

Ms. Elizabeth M. Harman
Assistant Administrator
Grant Programs Directorate
Federal Emergency Management Agency
500 C Street, SW
Washington, DC 20472-3635

Dear Ms. Harman:

Attached is a copy our final audit report (OIG-11-007-A) regarding Public Safety Interoperable Communications (PSIC) grant awarded to the Texas Department of Public Safety, Division of Emergency Management (award number 2007-GS-H7-0044) by the National Telecommunications and Information Administration (NTIA).

Our original audit report has been sent to the recipient, who has until December 5, 2010, to submit comments and supporting documentation to the Department of Commerce. NTIA will conduct the audit resolution and follow-up in accordance with Department Administrative Order (DAO) 213-5. A copy of the report will be posted on the Department of Commerce Office of Inspector General's website pursuant to section 8L of the Inspector General Act of 1978, as amended.

If you have any questions regarding this report, please call Jerry McMahan, Assistant Regional Inspector General for Audits, at (404) 730-2065, and refer to the final audit report number above in any related correspondence.

Sincerely,

Ann C. Eilers
Principal Assistant Inspector General for
Audit and Evaluation

Attachment

cc: Richard L. Skinner, DHS Inspector General
David Turner, DHS/FEMA Grant Programs Directorate
Bradley A. Shefka, DHS Audit Liaison
Penny McCormack, FEMA Audit Liaison
Gina Norton, FEMA Audit Liaison
Mildred Lloyd, DHS/FEMA Grant Programs Directorate Audit Liaison
Mike Sivy, DHS OIG Grants Management



November 5, 2010

Janice Bruno
SAA Administrator
Texas Department of Public Safety
Division of Emergency Management
5805 North Lamar Boulevard
Austin, TX 78752-0113

Dear Ms. Bruno:

Attached is a copy of final audit report number OIG-11-007-A concerning the Public Safety Interoperable Communications (PSIC) grant your agency received from the National Telecommunications and Information Administration (award number 2007-GS-H7-0044).

This letter is notice of your opportunity to review the report and develop a complete response that addresses each audit finding and recommendation. If you believe the report is incorrect, or if you disagree with any findings or recommendations, it is important that you explain the error or your reasons for disagreement and either submit evidence to the Department supporting your contentions or reference any such evidence submitted previously. You also should explain how each documentary submission supports your position; otherwise, we may be unable to assess the information.

Your response must be postmarked no later than December 5, 2010. There will be no extensions to this deadline, and you will have no other opportunity to submit comments, arguments, or documentation before the Department makes a decision on the audit findings and recommendations. The Department will consider your complete response in determining what action to take with respect to our audit. Enclosure 1 explains administrative dispute procedures available to you.

As you prepare your response, if you have any questions about this report or the process by which the Department reaches a final decision, please call Jerry McMahan, Assistant Regional Inspector General for Audits, at (404) 730-2065 and refer to final audit report number OIG-11-007-A.

Please send your response (including documentary evidence) to

Lawrence E. Strickling
Assistant Secretary for Communications and Information
National Telecommunications and Information Administration
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Please send a copy of your response letter only to

Ms. Elizabeth M. Harman
Assistant Administrator
Grant Programs Directorate
Federal Emergency Management Agency
500 C Street, SW
Washington, DC 20472-3635

Ann C. Eilers
Principal Assistant Inspector General for
Audit and Evaluation
U.S. Department of Commerce
1401 Constitution Avenue, N.W., Room 7886B
Washington, D.C. 20230

Jerry McMahan, Assistant Regional Inspector General for Audits
United States Department of Commerce
Office of Inspector General
Atlanta Regional Office of Audits
401 W. Peachtree Street, N.W., Suite 2742
Atlanta, GA 30308

After evaluation of your response, the audit action official may provide you with further guidance or request clarification. Our final report, along with your response, will be posted on OIG's website pursuant to section 8L of the Inspector General Act of 1978, as amended.

Sincerely,

A handwritten signature in cursive script that reads "Ann C. Eilers".

Ann C. Eilers
Principal Assistant Inspector General for
Audit and Evaluation

Attachments

cc (w/o attach): Laura M. Pettus, NTIA PSIC Program Manager
David Turner, DHS/FEMA Grant Programs Directorate
John Keel, Texas Legislative Auditor

NOTICE TO AUDITEES
Financial Assistance Audits

1. Audit requirements applicable to a particular financial assistance award may be established by law, regulation, policy, or the terms of the recipient's financial assistance agreement with the Department of Commerce.
2. Audit results will be reported to the bureau or office administering the financial assistance award and to you (the recipient/auditee), unless the Department's inspector general determines it is in the government's interest to withhold the audit report.
3. Audit results may lead to adverse consequences for you, including the following actions (which are subject to applicable laws and regulations):
 - suspension and/or termination of current awards;
 - referral of identified problems to other federal funding agencies and entities as deemed necessary for remedial action;
 - denial of eligibility for future awards;
 - cancellation of authorization for advance payment and substitution of reimbursement by check;
 - establishment of special conditions in current or future awards; and,
 - disallowance of costs, which could result in a reduction in the amount of federal payments, withholding of payments, offset of amounts due the government against amounts due you, or establishment of a debt and appropriate debt collection follow-up (including referrals to collection agencies).

Because of these and other possible consequences, it is important that you take your responsibility to respond to audit findings seriously by providing explanations and evidence to support your position with respect to the disputed results.

4. You have the following opportunities to point out errors (of fact or law) that you believe were made in the audit, to explain other disagreements with audit findings and recommendations, to present evidence that supports your positions, and to dispute final determinations:
- At any time during the audit, you may bring to the attention of the auditors evidence you believe affects the auditors' work.
 - At the completion of the audit on-site, as a matter of courtesy, you will usually be given the opportunity to discuss (during an exit conference) the preliminary audit findings and to present a clear statement of your position on the significant preliminary findings, including possible cost disallowances.
 - When the draft audit report is issued, you will have the opportunity to comment and to submit evidence during the 30 days after we transmit the report to you. (We will not extend this deadline.)
 - When the final audit report is issued, you will have the opportunity to comment and to present evidence during the 30 days after we transmit the report to you. (We will not extend this deadline.)
 - When the Department issues its decision (the "Audit Resolution Determination") on the audit report's findings and recommendations, you have the right to appeal for reconsideration within 30 calendar days after receiving the Determination Letter if monies are due the government. (We will not extend this deadline.) The Determination Letter will explain the specific appeal procedures.
 - Once you file an appeal or the appeal period has expired, the Department will not accept any further submissions concerning your dispute of its decisions. If it is determined that you owe money or property to the Department, the Department will take appropriate collection action but will not thereafter reconsider the merits of the debt.

There are no other administrative appeals available in the Department.



Report In Brief

U.S. Department of Commerce Office of Inspector General

November 5, 2010



Why We Did this Review

On September 30, 2007, the National Telecommunications and Information Administration (NTIA) awarded a \$65,069,247 Public Safety Interoperable Communications (PSIC) grant to the State of Texas to enhance interoperable emergency communications. NTIA also required a minimum 20 percent matching share from nonfederal sources for the acquisition and deployment of communications equipment, and management and administration costs.

The original award period ran from October 1, 2007, to September 30, 2010. In November 2009, the President signed an act extending the award period to September 30, 2011.

TxDPS was designated as Texas's state administrative agency to apply for and administer PSIC funds. We audited costs claimed by TxDPS to determine whether the recipient complied with NTIA PSIC grant guidelines and the Department of Homeland Security's (DHS) award terms and conditions.

Background

The Digital Television Transition and Public Safety Act of 2005 authorized NTIA, in consultation with DHS, to implement the PSIC program—a \$1 billion one-time, formula-based matching grant program intended to enable public safety agencies to establish interoperable emergency communications systems using reallocated radio spectrum.

The Implementing Recommendations of the 9/11 Commission Act of 2007 requires the Commerce Inspector General to conduct financial audits, over 4 years, of a representative sample of at least 25 states or territories receiving PSIC grants.

National Telecommunications and Information Administration

Texas Public Safety Interoperable Communications Grant PSIC Award No. 2007-GS-H7-0044 (OIG-11-007-A)

What We Found

Our audit covered the award period of October 1, 2007, through June 30, 2009, during which time the Texas Department of Public Safety's (TxDPS) Governor's Division of Emergency Management claimed total costs of \$2,207,092. In general, TxDPS appears to be on track to complete its investments before the end of the award, but we did discover several areas of concern. Specifically, we found the following:

- TxDPS has not provided sufficient nonfederal funds to meet its matching share requirement and has been incorrectly reporting its matching funds in its quarterly financial reports. While the agency agrees with this finding, it continues to report incorrect amounts.
- In 11 out of 25 cases we reviewed, TxDPS did not fully comply with the grant's requirements for drawing down funds within 30 days of disbursement and placing these funds in an interest-bearing account so that any accrued interest can be remitted to the U.S. Treasury. Based on this finding, we calculated that TxDPS needs to remit imputed interest of \$1,205 to the Treasury. In response to our draft report, TxDPS provided information that it had deposited the funds in an interest-bearing account; however, it still had not remitted the interest to the U.S. Treasury.
- TxDPS transferred a total of \$1,265,226 from the budgets of several of its investments to another investment without requesting or receiving the needed approval from NTIA or the Federal Emergency Management Agency (FEMA).

What We Recommended

We recommend the NTIA Assistant Secretary for Communications and Information, in conjunction with FEMA's Grant Programs Directorate, take the following actions:

- Direct TxDPS to provide evidence that it has addressed the deficiencies in its accounting system that allowed the improper nonfederal matching share to be reported, and confirm that the correct amount is currently being reported. If TxDPS cannot demonstrate that corrective actions have been taken, the agency should be designated "high risk" and advance payments suspended until corrective actions are implemented.
- Remind TxDPS of its obligations to (1) limit advances of federal funds to its immediate (30-day) cash needs, (2) deposit all advances in an interest-bearing account, and (3) remit to the federal government the interest earned on advances, including the \$1,205 of imputed interest mentioned above. Remitting this amount will enable these funds to be put to better use.
- Direct TxDPS to submit a modification request for the budget transfer between investments, explaining how the PSIC project will benefit from these transfers.

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INTRODUCTION

On September 30, 2007, the National Telecommunications and Information Administration (NTIA) awarded a Public Safety Interoperable Communications (PSIC) grant to the state of Texas to enhance interoperable emergency communications. The grant provided federal funding of \$65,069,247, of which \$63,836,923 required nonfederal matching contributions. Federal funds provided for acquisition and deployment of communication equipment and management and administration (M&A) costs must be matched by nonfederal contributions of at least 20 percent of the total cost of those activities. Statewide planning, planning and coordination, and training costs do not require matching share. The \$63,836,923 provided for acquisition and deployment and M&A represents 80 percent of the total cost of those activities, leaving a minimum nonfederal matching share requirement of \$15,959,231.

The award period runs from October 1, 2007, to September 30, 2011. On November 6, 2009, the President signed Public Law 111-96, which extended the PSIC program beyond its original expiration date of September 30, 2010. The new law extended the performance period of all PSIC grants through September 30, 2011, and allowed for additional extensions, through September 2012, on a case-by-case basis, if approved by the Assistant Secretary for Communications and Information.

The governor of Texas designated the Texas Department of Public Safety's (TxDPS) Governor's Division of Emergency Management as Texas's state administrative agency to apply for and administer PSIC funds.¹ TxDPS prepared an investment justification, based on the NTIA PSIC *Program Guidance and Application Kit*, which detailed individual communications projects intended to achieve meaningful and measurable improvements in interoperability and fill gaps identified in the statewide communications interoperability plan. The investment justification had 10 investments (table 1), involving a total of 42 subrecipients, and was approved by NTIA on April 3, 2008.

Public Safety Interoperable Communications Program

The *Digital Television Transition and Public Safety Act of 2005* authorized NTIA, in consultation with the Department of Homeland Security (DHS), to implement the PSIC program—a \$1 billion one-time, formula-based matching grant program intended to enable public safety agencies to establish interoperable emergency communications systems using reallocated radio spectrum.

NTIA signed a memorandum of understanding with DHS, under which DHS oversees and administers the PSIC program.

The Implementing Recommendations of the 9/11 Commission Act of 2007 requires the Commerce Inspector General to conduct financial audits, over 4 years, of a representative sample of at least 25 states or territories receiving PSIC grants. The Texas grant program is the second largest of the 56 states and territories receiving awards.

¹ The PSIC program requires the governor of each state and territory to designate a state administrative agency to apply for and administer PSIC funds. Administrative agencies are required to pass through no less than 80 percent of the total award amount to local or tribal governments or authorized nongovernmental public safety agencies, unless the local entity opts, via written agreement, to have the state agency retain and spend the funds on its behalf.

Table 1: Investment Justification and Funding

PSIC Investment Justification	PSIC Funds Awarded	Non-Federal Match (Budgeted)	Total
1. State of Texas Multi-Agency Interoperability Project	\$10,591,050	\$2,040,000	\$12,631,050
2. State of Texas Strategic Technology reserve Project	5,039,518	1,007,904	6,047,422
3. Multi-COG Communications Network	8,501,075	1,700,215	10,201,290
4. Regional - Texas/Mexico Border Interoperable Communications	9,117,464	1,813,493	10,930,957
5. Houston Urban Area Interoperability Expansion	14,586,128	3,646,532	18,232,660
6. San Antonio Urban Area P-25 700 MHz Multi-Region Evacuation/Border Security Initiative	3,043,692	442,904	3,486,596
7. Regional Interoperability Communication Upgrades	7,444,443	1,487,689	8,932,132
8. Coastal Four-County Trunked Radio Interoperability Expansion	1,798,271	454,567	2,252,838
9. Houston-Galveston Area Council Regional Infrastructure and Subscriber Units	1,238,481	306,145	1,544,626
10. North Central Texas Regional 700 MHz Interoperability Overlay	1,657,048	216,955	1,874,003
Management and Administration	1,952,077	488,019	2,440,096
Statewide Planning	100,000		100,000
State Match		2,354,808	2,354,808
Total	65,069,247	15,959,231	81,028,478

Source: TxDPS Investment Justification

States were required to include a prescribed strategic technology reserve in their investment justifications. The strategic reserve is designed to pre-position, or secure in advance, interoperable communications equipment for immediate deployment in an emergency situation or major disaster. Texas's prescribed strategic reserve amount was \$5,039,518 and was included as investment 2.

FINDINGS AND RECOMMENDATIONS

In June 2009, we initiated an audit of costs claimed by TxDPS to determine whether it had complied with NTIA PSIC grant guidelines and DHS award terms and conditions. The audit covered the award period of October 1, 2007, through June 30, 2009, during which time the recipient claimed total costs of \$2,207,092. The objective of our audit was to determine whether TxDPS was using its grant funds in accordance with federal requirements. In particular, we assessed whether TxDPS (1) is on track to complete its interoperable communications investment by September 30, 2011; (2) met the 20 percent matching share requirement for acquiring and deploying interoperable communications equipment and M&A costs; (3) claimed reasonable, allowable, and allocable costs under the award; and (4) complied with grant terms and conditions. Appendix A outlines the objectives, scope, and methodology we used in the audit. The following sections detail our findings with respect to each audit objective.

I. Investments Appear to Be on Schedule for Completion Before End of Grant

TxDPS anticipates completing the 10 investments by September 30, 2011. Our audit found nothing to indicate that any of the investments would not be completed before the end of the grant.

II. Matching Share Requirement in Process

In its approved investment justification, TxDPS budgeted the required 20 percent matching share from nonfederal sources for the acquisition and deployment of interoperable communications equipment, and M&A. The match is required by Section 3006 of the Digital Television Transition and Public Safety Act of 2005, Public Law 109-171, the *PSIC Program Guidance and Application Kit*, and the special award conditions.

We found that TxDPS' budgeted matching share of \$15,959,231 meets the minimum match required by the PSIC grant. We did note that six subrecipients, with combined matching share requirements of \$1,765,927, have not provided documentation to TxDPS in support of their matching share commitments. We discussed this issue with TxDPS officials who stated that the six subrecipients will not be allowed to proceed with their PSIC-funded projects until TxDPS receives evidence that matching share commitments are in place.

NTIA's *PSIC Program Guidance and Application Kit*, section VI, part B, requires the match to be expended at the same rate as the federal share. As of June 30, 2009, TxDPS had expended \$1,992,944 in federal funds and reported \$214,148 in matching expenditures, which is less than the required matching share for that level of federal expenditures. However, we were able to verify that an additional \$206,447 in nonfederal matching funds had been expended, but were not included in the state's financial reports. Thus, total nonfederal matching contributions were \$420,595 as of June 30, 2009. A summary of source and application of funds is provided in appendix B. After accounting for the unreported matching expenditures, TxDPS still has not fully provided sufficient nonfederal funds to meet its matching share requirement.

III. TxDPS Did Not Fully Comply with Grant Terms and Conditions

We found TxDPS to be in compliance with PSIC requirements related to timely submission of financial reports, but the reports themselves were not accurate. TxDPS complied with requirements to pass PSIC funds to local public safety agencies. We found instances of noncompliance in the areas of cash advances and approval for project scope modifications, as described below.

A. Financial Status Reporting Requirement Not Met

We reviewed the financial status reports (SF-269) filed by TxDPS for the period October 1, 2007, through June 30, 2009. The PSIC *Program Guidance and Application Kit*, section VI, part C.1, states that these reports must be filed within 30 days of the end of each calendar quarter for every quarter the award is active, including partial calendar quarters and periods during which no grant activity occurs. TxDPS submitted all of its financial status reports within the 30-day time period.

In our draft report, we stated that TxDPS did not report the correct matching share amount on its SF-269 for the period ended June 30, 2009. TxDPS had reported \$214,148 in matching share contributions, but we determined actual nonfederal matching share was \$420,595, as mentioned above. When we brought the discrepancy to the attention of TxDPS officials, they agreed that the reported matching share was inaccurate. The officials stated that the incorrect amount had been reported due to an error in TxDPS' accounting system. Even though TxDPS agreed that its reported nonfederal matching share was incorrectly reported as of June 30, 2009, it has not corrected the error and continues to report inaccurate matching share amounts on its quarterly financial reports.

TxDPS Response

TxDPS concluded that the amount shown in its accounting records is incorrect and that the actual amount should have been \$456,309. TxDPS stated that the correct amount will be reported on the quarterly reports dated September 30, 2010. TxDPS' complete response to our draft report, excluding attachments, is included as appendix E.

OIG Comments

We concur with TxDPS' stated corrective action; however, as we stated in our draft report, we were only able to verify a matching share amount of \$420,595.

Recommendation

We recommend that the NTIA Assistant Secretary for Communications and Information, in conjunction with the FEMA Grant Programs Directorate, direct TxDPS to provide evidence that it has addressed the deficiencies in its accounting system that allowed the improper nonfederal matching share to be reported and that the correct amount is currently being reported. If TxDPS cannot demonstrate that corrective actions have been taken, we recommend TxDPS be

designated “high risk” and advance payments suspended until corrective actions are implemented.

B. TxDPS Did Not Comply with Cash Drawdown Requirements

The PSIC *Program Guidance and Application Kit*, section VI, part B, page 31, states that grantees should draw down funds as close to expenditure as possible, up to 30 days prior to expenditure/disbursement. Advances of funds received by grantees must be placed in an interest-bearing account, and interest earned must be remitted to the United States Treasury. We reviewed 25 drawdowns to assess TxDPS’ compliance with PSIC requirements for advances of federal funds. Excluding one immaterial item, we found 11 drawdowns, totaling \$242,565, for which TxDPS exceeded 30 days between receipt and disbursement. On August 31, 2009, TxDPS returned \$211,643 of the cash accumulated through drawdowns to the program.

In our draft report, we stated TxDPS did not place the advanced funds in an interest-bearing account, as required by PSIC guidelines. In its response to our draft report, TxDPS provided information that it had deposited the funds in an interest-bearing account. However, it had not remitted the interest to the U.S. Treasury; therefore, we determined that imputed interest of \$1,205 is due the government. Grantees are allowed to retain up to \$100 per year for administrative expenses for all federal grants combined, and we allowed the full \$100 for simplicity of calculations. We calculated the imputed interest based on the U.S. Treasury Department’s 13-Week Treasury Bill rate during the state’s fiscal year, pursuant to requirements in Title 31, Code of Federal Regulations, § 205.19(b). See appendix D for details of our calculation of imputed interest.

TxDPS Response

TxDPS stated that it placed the funds from all drawdowns in an interest-bearing account (the Texas State Comptroller’s account), and that the Texas State Comptroller’s Accounting Policy #23, “Earned Federal Funds,” is the current policy over how federal funds are deposited in the State Comptroller’s account. The response further stated that the State Comptroller controls how the money and interest earned is remitted. TxDPS stated it is taking the necessary steps to refund to the U.S. Treasury the amount of interest accrued.

OIG Comments

The PSIC federal program requirement to deposit funds in an interest-bearing account and remit that interest to the U.S. Treasury takes precedence over a state requirement. However, since the state intends to remit the interest, we concur with its stated corrective action.

Recommendations

We recommend that the NTIA Assistant Secretary for Communications and Information, in conjunction with the FEMA Grant Programs Directorate, remind TxDPS of its obligations to (1) limit advances of federal funds to its immediate (30-day) cash needs, (2) deposit all advances in an interest-bearing account, and (3) remit to the federal government the interest earned on advances, including the \$1,205 of imputed interest discussed above.

Funds to Be Put to Better Use

The return of imputed interest on the advance drawdown of \$242,565 PSIC funds will permit \$1,205 to be put to better use.

C. TxDPS Did Not Comply with the PSIC Modification Policy

The PSIC *Budget and Scope Modification Packet*, section B, part 1, states that a written request and prior approval by NTIA and FEMA are required for modifications to PSIC investments and for budget and scope changes. A budget modification is defined as a transfer of funds among categories that are expected to exceed 10 percent of either the total approved investment budget or the budget for any individual investment category.

In our draft report, we stated that TxDPS transferred to investment 10 a cumulative total of \$1,265,226 originally budgeted for investments 1, 6, 7, and 9. TxDPS neither requested nor received approval for these transfers. TxDPS stated that the funds were moved to better address the needs of the project; however, this does not absolve TxDPS of the requirement for NTIA and FEMA approval for the transfers.

TxDPS Response

TxDPS stated that its investment justification submission to NTIA dated December 5, 2007, contained the wrong budgets for investment justifications 1, 6, 7, 9, and 10. TxDPS stated that it readjusted the budget figures for the affected justifications, thinking that it had authority to do so without written permission from NTIA. TxDPS also stated that it is now requesting NTIA approval of the stated budget corrections.

OIG Comments

We concur with TxDPS' stated corrective action.

Recommendation

We recommend that the NTIA Assistant Secretary for Communications and Information, in conjunction with the FEMA Grant Programs Directorate, direct TxDPS to submit a modification request for the budget transfer of \$1,265,226, explaining how the PSIC project will benefit from these transfers.

IV. Questioned Costs

TxDPS claimed costs of \$2,207,092 on its June 30, 2009, financial status report. We found that \$2,478 of claimed M&A costs lacked adequate supporting documentation; therefore, we questioned this amount in our draft report.

TxDPS provided a spreadsheet that included a breakdown of costs with appropriate support for the items, including the \$2,478 we questioned in our draft report. Therefore, we have eliminated the questioned cost.

V. Follow-Up on Prior Audit Recommendations

As part of our audit, we reviewed the state of Texas's Office of Management and Budget (OMB) Circular No. A-133 audit report for the year ended August 31, 2008. Although the PSIC grant was not part of the audit, we reviewed the report for issues that could have a direct and material effect on the PSIC program. We found no issues that would concern the PSIC grant.

SUMMARY RESULTS OF FINANCIAL AUDIT

The results of our interim cost audit for the period October 1, 2007, through June 30, 2009, which are detailed in appendix C, are summarized as follows:

Costs Claimed		\$2,207,092
Add: Nonfederal Costs Not Previously Claimed		<u>206,447</u>
Cost Accepted		\$2,413,539
Accepted Costs Not Subject to Match		\$1,200
Accepted Costs Subject to Match	\$2,412,339	
Federal Share Ratio	<u> x 80%</u>	<u>1,929,871</u>
Federal Funds Earned		1,931,071
Federal Funds Disbursed (a)		<u>2,056,927</u>
Excess Disbursements Due the Government		<u>\$ 125,856</u>
Interest Due the Government		<u>\$1,205 (b)</u>

- (a) Federal funds disbursed include total drawdowns of \$2,268,570, as of June 30, 2009, less \$211,643 of advanced funds that were returned to the government on August 31, 2009. Although the repayment was outside the scope of our audit period, we treated it as if it happened as of June 30, 2009.
- (b) Imputed interest \$1,305 (appendix D) less \$100 allowance for administrative expenses, as discussed on page 5.

APPENDIX A: OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our audit was to determine whether TxDPS was using its grant funds in accordance with federal requirements. In particular, we assessed whether TxDPS (1) is on track to complete its interoperable communications investments by September 30, 2011; (2) met the minimum 20 percent match for acquiring and deploying interoperable communications equipment, and M&A costs; (3) claimed reasonable, allowable, allocable costs under the award; and (4) complied with grant terms and conditions.

The audit scope included a review of costs claimed during the award period of October 1, 2007, through June 30, 2009. We conducted our audit fieldwork from June through September 2009 at TxDPS in Austin, Texas, and at subgrantee sites in Houston, Beaumont, and Bryan, Texas.

To meet our objectives, we did the following:

- reviewed investment documentation and discussed each investment with agency officials;
- analyzed source documents related to the minimum 20 percent match for acquiring and deploying interoperable communications equipment and for M&A of the grant;
- traced costs claimed to source documentation;
- interviewed TxDPS officials and the Texas state legislative auditor and reviewed the state's OMB Circular No. A-133 audit report for the year ended August 31, 2008; and
- reviewed pertinent laws, regulations, and guidance (listed below) against TxDPS' PSIC activities and internal controls.

We evaluated TxDPS' compliance with the following federal laws and regulations applicable to PSIC grants:

- Section 3006 of the Digital Television Transition and Public Safety Act of 2005, Public Law 109-171
- Call Home Act of 2006, Public Law 109-459
- Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53
- Public Safety Interoperable Communications Grants, Public Law 111-96
- Title 15, Code of Federal Regulations, Part 24, Uniform Administrative Requirements for Grants and Agreements to State and Local Governments
- *PSIC Program Guidance and Application Kit*, August 16, 2007
- NTIA PSIC Grant Program Allowable Cost Matrix
- NTIA PSIC Grant Program Frequently Asked Questions
- OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*
- OMB Circular A-133, Compliance Supplement, CFDA 11.555

- Special Award Conditions
- Department of Commerce *Financial Assistance Standard Terms and Conditions*
- DHS, Office of Grant Operations, *Financial Management Guide*

We verified the validity and reliability of computer-processed data supplied by TxDPS by directly testing data against supporting documentation. Based on our tests, we concluded the computerized data were reliable for use in meeting our objectives.

We analyzed nonstatistical samples of TxDPS, and subrecipient transactions, generally focusing on the highest dollar transactions and line items. Since we did not attempt to extrapolate findings from sample analyses to all transactions, we believe our sampling methodology represented a reasonable basis for the conclusions and recommendations included in our report.

We obtained an understanding of the management controls of TxDPS by interviewing TxDPS officials, as well as examining policies and procedures, the state's most recent single audit report, and written assertions from TxDPS officials. Our report contains recommendations to address TxDPS' reporting of matching share, cash drawdowns, budget and scope modifications, and undocumented costs.

We conducted this performance audit in accordance with 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 on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We performed this audit under the authority of Implementing Recommendations of the 9/11 Commission Act of 2007; the Inspector General Act of 1978, as amended; and Department Organization Order 10-13, August 31, 2006.

APPENDIX B: SUMMARY OF SOURCE AND APPLICATION OF FUNDS

**TEXAS DEPARTMENT OF PUBLIC SAFETY
DIVISION OF EMERGENCY MANAGEMENT
PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS
GRANT NUMBER 2007-GS-H7-0044
OCTOBER 1, 2007, THROUGH JUNE 30, 2009**

	<u>Approved Budget</u> (a)	<u>Receipts & Expenses</u> (b)
<u>SOURCE OF FUNDS:</u>		
Federal	\$65,069,247	\$2,056,927
Non-Federal	<u>15,959,231</u>	<u>420,595</u>
Total	<u>\$81,028,478</u>	<u>\$2,477,522</u>
<u>APPLICATION OF FUNDS:</u>		
Investment 1	\$12,631,050	\$ 905,280
Investment 2	6,047,422	391,346
Investment 3	10,201,290	0
Investment 4	10,930,957	0
Investment 5	18,232,660	0
Investment 6	3,486,596	0
Investment 7	8,932,132	506,574
Investment 8	2,252,838	0
Investment 9	1,544,626	0
Investment 10	1,874,003	166,510
M&A Costs	2,440,096	22,034
Statewide Planning	100,000	1,200
State Match	<u>2,354,808</u>	<u>420,595</u>
Total	<u>\$81,028,478</u>	<u>\$2,413,539</u>

Notes:

- (a) Approved budgeted costs are for the period of October 1, 2007, through September 30, 2011, based on Texas's approved investment justification.
- (b) Receipts and expenses are for the period of October 1, 2007, through June 30, 2009.

APPENDIX C: SUMMARY OF FINANCIAL/COMPLIANCE AUDIT

**TEXAS DEPARTMENT OF PUBLIC SAFETY,
DIVISION OF EMERGENCY MANAGEMENT
PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS
GRANT NUMBER 2007-GS-H7-0044
OCTOBER 1, 2007, THROUGH JUNE 30, 2009**

<u>Description</u>	<u>Approved Budget</u>	<u>Costs Claimed</u>	<u>Results of Audit</u>	
			<u>Costs Questioned</u>	<u>Costs Accepted</u>
Investment 1	\$12,631,050	\$ 905,280	\$ 0	\$905,280
Investment 2	6,047,422	391,346	0	391,346
Investment 3	10,201,290	0	0	0
Investment 4	10,930,957	0	0	0
Investment 5	18,232,660	0	0	0
Investment 6	3,486,596	0	0	0
Investment 7	8,932,132	506,574	0	506,574
Investment 8	2,252,838	0	0	0
Investment 9	1,544,626	0	0	0
Investment 10	1,874,003	166,510	0	166,510
M&A Costs	2,440,096	22,034	0	22,034
Statewide Planning	100,000	1,200	0	1,200
State Match	<u>2,354,808</u>	<u>214,148</u>	<u>-(206,447)*</u>	<u>420,595</u>
Total	<u>\$81,028,478</u>	<u>\$2,207,092</u>	<u>\$(206,447)</u>	<u>\$2,413,539</u>

Costs Claimed	\$2,207,092 (a)
Add: Nonfederal Cost not Previously Claimed	<u>206,447 *</u>
Cost Accepted	\$2,413,539

Accepted Costs Not Subject to Match	\$ 1,200 (b)
Accepted Costs Subject to Match	\$2,412,339
Federal Share Ratio	<u> x 80%</u>
Federal Funds Earned	<u>1,929,871</u>
Federal Funds Disbursed	<u>1,931,071</u>
Excess Disbursements Due the Government	<u>2,056,927</u>
	<u>\$ 125,856</u>

Interest Due the Government	<u>\$1,205 (c)</u>
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Notes:

- (a) TxDPS reported total outlays of \$2,207,092 on its June 30, 2009, financial status report.
- (b) Accepted costs not subject to the matching share requirement consist of \$1,200 in the statewide planning category.
- (c) Imputed interest \$1,305 (appendix D) less \$100 allowance for administrative expenses, as discussed on page 5.

APPENDIX D: IMPUTED INTEREST

Date	Drawn Down Amount	Carry over Balance	No. of Days Interest Incurred	Interest Rate for the Period	Imputed Interest
6/25/2008	16,449.37		5	1.940%	4.37
7/31/2008	14,709.07		0	1.877%	\$ -
7/31/2008		16,449.37	31	1.877%	26.22
8/31/2008		31,158.44	31	1.887%	49.94
9/4/2008	16,503.64		26	1.607%	18.89
9/30/2008		31,158.44	30	1.607%	41.15
10/3/2008	15,264.08		28	1.436%	16.81
10/7/2008	22,640.42		24	1.436%	21.38
10/31/2008		47,662.08	31	1.436%	58.13
11/7/2008	27,831.73		24	1.228%	22.47
11/13/2008	11,603.44		18	1.228%	7.03
11/31/2008		85,566.58	31	1.228%	89.24
12/19/2008	70,554.79		12	1.082%	25.10
12/31/2008		125,001.75	31	1.082%	114.87
1/27/2009	11,473.38		4	0.806%	1.01
1/31/2009		195,556.54	31	0.806%	133.87
2/12/2009	4,613.45		16	0.712%	1.44
2/28/2009		207,029.92	28	0.712%	113.08
3/31/2009		211,643.37	31	0.642%	115.40
4/28/2009					
4/30/2009		211,643.37	30	0.573%	99.68
5/26/2009	30,921.64	30,921.64	5	0.515%	2.18
5/31/2009		211,643.37	31	0.515%	92.57
6/30/2009		242,565.01	30	0.458%	91.31
7/31/2009		242,565.01	31	0.400%	82.41
8/31/2009		242,565.01	31	0.372%	76.64
Total	242,565.				1,305

APPENDIX E: RECIPIENT RESPONSE

TEXAS DEPARTMENT OF PUBLIC SAFETY

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October 12, 2010

Mr. Jerry McMahan, Assistant Regional Inspector General for Audits
United States Department of Commerce
Office of Inspector General
401 W. Peachtree Street NW, Suite 2742
Atlanta, Georgia 30308

Dear Mr. McMahan:

This letter is in answer to your letter of September 7, 2010 draft audit report number DEN-19671 concerning the Public Safety Interoperable Communications (PSIC) grant Texas received from the National Telecommunications and Information Administration (award number 2007-GS-H7-0044).

Texas Department of Public Safety (TXDPS) has reviewed the draft report and has provided comments below with supporting attachments.

In response to III, TXDPS Did Not Fully Comply with Grant Terms and Conditions

A: Financial Status Reporting Requirement Not Met

An Excerpt from Page 4 Section A- Draft Report DEN-19671 dated September 2010

While reviewing the reports we found that TXDPS did not report the correct matching share amount on its SF269 for the period ending June 30, 2009. TXDPS had reported \$214,148 in matching share contributions, but we determined actual nonfederal matching share was \$420,595.

After further research, we have concluded that the actual match share amount was incorrect. The amount of match shown in our accounting records is \$174,475.66, but the amount should have been \$456,308.97, which differs from the audit findings. Please see attached Share Match spreadsheet (Attachment 1a) to support these transactions. Additionally, we have attached a Summary of Managerial Services of America (MSA) Expenditures (Attachment 1b) and copies of Budget reports (Attachment 1c) for the months of April- June 2009 along with a copy of the SF269 Financial Status Report and an email from Accounting with the breakdown for each PSIC budget (Attachment 1d).

While TXDPS acknowledges that the figure reported was inaccurate, the correct amount will be reported on the quarterly reports dated through September 30, 2010 as well as any match amounts that have been met since.

B: TXDPS Did Not Comply with Cash Drawdown Requirements

An Excerpt from Page 4, Section B- Draft Report DEN-19671 dated September 2010

The PSIC Program Guidance and Application Kit, Section VI. Part B, page 31, states that grantees should draw down funds as close to expenditure as possible, up to 30 days prior to expenditure of disbursement. Advances of funds received by grantees must be placed in an interest-bearing account, and interest earned must be remitted to the United States Treasury. We reviewed 25 drawdowns to assess TXDPS compliance with PSIC requirements and found 11 drawdowns totaling \$245,042 that exceeded 30 days between receipt and disbursement.

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The funds from all drawdowns are placed in the Texas State Comptroller's account per Texas Government Code Title 4; Subtitle A, Chapter 404 Subchapter A, Section 404.055).

Texas State Comptroller's Accounting Policy #23 –(Attachment 2) Earned Federal Funds is the current policy over how federal funds deposited in the Texas State Comptroller's Account. As you can see from the policy, this is an interest bearing account and the Texas State Comptroller controls how the money and the interest earned is remitted.

We have since learned from the Texas State Comptroller's Office that we are able to refund the amount of interest accrued. We are in the process of taking the necessary steps to accomplish this.

C. TXDPS Did Not Comply with the PSIC Modification Policy

An Excerpt from Page 5 Section C. Draft Report DEN-19671 dated September 2010

The PSIC Budget and Scope Modification Packet, Section B, states that a written request and prior approval by NTIA and FEMA are required for modifications to the PSIC investments and for budget and scope changes. A budget modification includes a transfer of funds between approved investments that exceed 10 percent of the total approved budget for any investment.

Please see the attached summary, Texas PSIC Funding Summary (Attachment 2a) which shows the amount of Federal Funds Requested and the status. Additionally, we have attached the readjusted budget figures (Attachment 2b).

A review of the Texas SAA internally-recommended PSIC projects from November, 2007, in comparison to the Texas SAA PSIC IJ Submission to NTIA dated December 5, 2007, indicates that the wrong budgets were submitted for IJ's #1, 6, 7, 9, and 10. The error was discovered when the Texas SAA received the Texas PSIC IJ package approval notice from NTIA on or about April 4, 2008. Shortly thereafter, the SAA readjusted the budget figures for the affected IJ's, thinking that the Texas SAA had authority to do so without written permission from NTIA. The PSIC IJ narratives and justifications remained valid as originally submitted and approved by NTIA – the erroneous budget figures simply needed to be corrected to reflect those submitted by the sub-recipient jurisdictions and subsequently recommended by the Texas SAA PSIC Project Review Committee. The Texas SAA is now requesting NTIA approval of the stated budget corrections. The PSIC projects affected will still produce the benefits as originally proposed and approved by NTIA.

In Response to IV. Questioned Costs

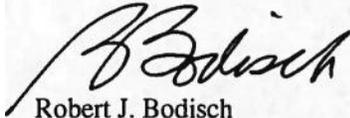
TXDPS claimed costs of \$2,207,092 on its June 30, 2009, financial status report. We found that \$2,478 of claimed M&A costs lacked adequate supporting documentation; therefore, we question this amount.

We have attached a summary detailing the expenditures by category for this reporting period, PSIC M&A Expenditures, (Attachment 3a), Budget Reports (Attachment 3b), as well as screen prints from MSA, (Attachment 3c) The attached reports show all of the expenditure transactions from the reporting period of April 1, 2009 through June 30, 2009. Accounting moved approximately \$211K of expenses off of the M&A budget due to the expenses being determined as unallowable under the PSIC grant.

Based on the documentation we were provided, we are unable to identify the \$2,478 dollars that the report indicates lacked adequate supporting documentation. The M&A expenditures were not only limited to salary expenses. If the audit team can provide us with the documents that contain cost but inadequate documentation, we will be happy to research and provide a response.

We are available to discuss our answers to your findings as you desire. Please let us know if you require additional information on any of the issues identified in the report.

Sincerely,



Robert J. Bodisch
Deputy Director, Texas Homeland Security

3 Attachments:

1. Share match spreadsheet and documentation
2. Changes to Original Investment Justifications
3. MSA Summary for Budget 0671A7, MSA Screen Shots

(DEN-19671)