

THE HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS PROGRAM

RECIPIENT REVIEW AND ASSESSMENT

REPORT TP003T I

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REPORT TP003T1/AUGUST 2011

Executive Summary

The Hazardous Materials Emergency Preparedness (HMEP) program is a grant program administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA), a component of the U.S. Department of Transportation (DOT). The program was established in 1993 to ensure that the needed planning and training and infrastructure are in place to enable protection of the public in the event of a transportation-related hazardous materials incident. HMEP grants are available, upon application, to the 50 States, U.S. territories, and tribes. Among the statutory requirements for HMEP grants are discrete funding for planning and training with pass-through requirements, use of a formula in determining funding amounts for training, recipient sharing in 20 percent of the total costs of the planning and training activities, and maintenance of the level of aggregate expenditures by a recipient for a prior period. Through its program regulations at 49 CFR 110, the program has adopted several additional requirements not required by statute, e.g., use of reimbursement as the principal payment method. Apart from those requirements, the program offers PHMSA and recipients significant flexibility.

PHMSA—concerned about recipients’ potential and actual noncompliance with programmatic requirements and their limited accountability for expenditure of federal funds—asked LMI to assess the HMEP program. Specifically, it asked us to review the HMEP experience in program year 2007–08, a year that PHMSA believed differed from other program years in terms of recipient noncompliance.

From our initial review of files from a sample of 13 recipients, LMI concluded that the types of issues found (1) were not unique to the 2007–08 program year; (2) were due, in large part, to the overall design and handling of the program by PHMSA; and (3) needed to be corrected or improved by all recipients, not just those reviewed. Subsequently, PHMSA added 3 more recipients to the sample, for a total of 16, and asked us to review additional files and participate in on-site and desk review teams. Those reviews enabled us to gain a more detailed understanding of the extent of the problems and, in some cases, their causes.

Considering our findings and conclusions about the design of the HMEP program, PHMSA implementation and management of the program, and recipient management of HMEP grant funds, LMI believes that PHMSA could take a number of important steps to increase the potential for program success, make better use of its limited resources, and increase the potential for recipient compliance with programmatic objectives and accountability requirements.

The following are key steps that PHMSA should take to improve its *management approach and processes*:

- ◆ Designate some personnel to become experts in grants management (a “center of grants management excellence”) and others to become experts in the technical aspects of the HMEP program (such as best practices in planning, including commodity flow studies), and, to administer each grant, use a pair of HMEP program employees, one from each area of expertise.
- ◆ Balance successful programmatic outcomes against appropriate expenditure of grant funds. To accomplish this, PHMSA, working with the DOT Office of the General Counsel (OGC), should reconsider certain of its processes, including the use of
 - a formula basis for funding only as required by statute (i.e., for training) and, then, only as a basis for determining part of the funding, complemented by awards of additional amounts based on past performance, demonstrated need, and other factors;
 - a means other than a formula to determine funding amounts for planning;
 - separate applications for planning and training, submitted at different points in the year;
 - a reallocation process for funds that will not be obligated by recipients; and
 - advance payments for planning activities by Local Emergency Planning Committees (LEPCs).
- ◆ Working with the OGC, explore the potential for—and advantages and disadvantages of—approving awards for planning that cover multiple years, while still providing funding each year (i.e., continuation funding).
- ◆ Implement a qualitative application review process, and delay or impose conditions on awards if an application is deficient.

- ◆ Partner with the Federal Emergency Management Agency to better understand the potential for overlap, duplication, or gaps (e.g., in training or use of regional response teams); ensure appropriate allocation of funds by recipients; and stretch its oversight resources.
- ◆ Continue to improve postaward monitoring, reviewing for program performance and aspects of compliance other than making certain that the numbers match.
- ◆ As the HMEP program undergoes its transition, ensure that recipients understand the seriousness of the deficiencies in their processes, while maintaining credibility and consistency for HMEP program personnel, many of whom still are in a learning mode, in their interactions with the recipients.

Among the steps that PHMSA should take to address issues related to *regulations, guidance, and award terms and conditions* are the following:

- ◆ Work with the OGC to revisit or, at a minimum, clarify certain requirements that are being ignored, are adhered to in the breach, are open to multiple interpretations, or do not reflect programmatic emphases.
- ◆ Redo its application package and programmatic reporting template.
- ◆ Ensure that the Notice of Grant Award constitutes the full legal agreement with recipients.

To improve *training and technical assistance*, we recommend that PHMSA do the following:

- ◆ Train PHMSA staff members on federal grants management, including how to specifically relate grants management requirements to the HMEP program.
- ◆ Train HMEP recipients on issues such as quality of documentation, matching, subgrant and vendor relationships, rebudgeting, and completion of the Federal Financial Report.
- ◆ Consider using contractor personnel to provide on-site technical assistance to recipients.

A key step that PHMSA should take to improve *management information* is to develop and maintain a database that includes, for each State, territory, and tribe, relevant characteristics, such as the individuals responsible for administering the HMEP grant, organizational location, other federal awards administered by that office, number of LEPCs, type of planning subgrant process, training approach, scope of the Office of Management and Budget Circular A-133 audit, and approach to requesting reimbursement.

We recognize that the HMEP program is in transition, including the addition of new staff members, and that it is committed to making needed improvements. However, the scope of our findings and recommendations far exceeds what the HMEP program has previously identified as needing correction. We believe this is a long-term effort that will require changes in management approach, greater documentation of policies and procedures, training for both PHMSA and recipient personnel, and a different focus to the relationship with HMEP recipients.

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Chapter 1

Introduction

The Hazardous Materials Emergency Preparedness (HMEP) program is a grant program administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA), a component of the U.S. Department of Transportation (DOT). The program, which is available to the 50 States, U.S. territories, and tribes, was established in 1993 to ensure that the needed planning and training and infrastructure is in place to enable protection of the public in the event of a transportation-related hazardous materials (HazMat) incident.

Among the statutory requirements for HMEP grants are the following:

- ◆ Requirement for use of formula (and other factors) in determining funding levels for training
- ◆ Requirement for discrete funding for planning and training, with pass-through of at least 75 percent of the funds or their benefit (does not apply to tribes)
- ◆ Requirement for recipient sharing in 20 percent of the total costs of the planning and training activities
- ◆ Requirement for recipients to maintain the level of aggregate expenditures for a prior period (sometimes referred to as maintenance of a specified level of effort).

Apart from these requirements, the program offers significant flexibility in program design and administration by both PHMSA and HMEP recipients.

The nature of the program, the way it has been administered by PHMSA (including the level and type of staffing), and the manner in which it has been viewed by recipients have, in combination, resulted in

- ◆ lax oversight by PHMSA staff,
- ◆ potential and actual noncompliance by recipients with programmatic requirements and intent, and
- ◆ limited accountability for appropriate expenditure of federal funds and statutorily required matching.

PHMSA asked LMI to assess the HMEP program. Specifically, it asked us to review the HMEP experience in program year (PY) 2007–08 (which corresponds to federal fiscal year 08). PHMSA chose PY07–08 for the review because it believed that year differed from other program years in terms of recipient noncompliance. This request was subsequently modified as described in Chapter 2. This report conveys our findings, conclusions, and recommendations resulting from our assessment. PHMSA also asked us to develop a standard operating procedure for post-award monitoring, including the criteria for determining the level of oversight (e.g., through a risk assessment), a review protocol, and the type of follow-up that may be required. The standard operating procedure for post-award monitoring is a deliverable separate from this report.

OVERVIEW OF THE HMEP PROGRAM

The HMEP program is authorized under 49 United States Code (U.S.C.) § 5116 and is governed by program regulations at 49 Code of Federal Regulations (CFR) 110 and grants administration regulations at 49 CFR 18, the DOT implementation of the Office of Management and Budget (OMB) Circular A-102 common rule, which applies to States, local governments, and tribal governments.

The program is considered a discretionary grant program. PHMSA is not obligated to make an award if an applicant does not meet PHMSA’s requirements, but historically, PHMSA has provided funding to any eligible State, territorial, or tribal applicant that submits an application.

Annual obligations for all recipients are about \$22 million, while individual award amounts, which are determined by formula, range from less than \$50,000 to more than \$1 million.

Program Characteristics

The HMEP program in the aggregate may be considered small in comparison to other federal grant programs; however, it has some elements of complexity. Some of those elements are shared by other federal grant programs, and some are unique to this program:

- ◆ The HMEP program has two distinct aspects: planning and training. Amounts for each category are applied for, awarded, and required to be reported on separately.
- ◆ The HMEP program for States and territories has two separate pass-through requirements for planning and training. One is based on passing through funds to specified entities (planning), and one is based on ensuring benefit to specified constituencies of the funds used (training).

- ◆ The HMEP program has both a maintenance of aggregate expenditures requirement (maintenance of effort) and a matching requirement, which are intended to ensure recipient commitment to the program.
- ◆ The HMEP program is funded 1 year at a time based on an application showing activities and planned expenditures within a 12-month time frame.
- ◆ The HMEP program has a purpose that closely aligns with programs of other agencies, including the Department of Homeland Security's (DHS's) Federal Emergency Management Agency (FEMA) and the Environmental Protection Agency (EPA).
- ◆ The HMEP program makes grant payments by way of reimbursement.

Program Management by PHMSA

Grants management in the federal government generally is viewed as having two aspects: technical and business/financial management. The technical aspects of a grant program are carried out by individuals with backgrounds that are similar to those who carry out the programmatic purpose of the grant, e.g., researchers, environmental scientists, civil engineers, or public health analysts. The business and financial management role in grants management is to understand, interpret, and help recipients comply with accountability requirements. Generally, individuals in this latter category are considered grants managers, while the former generally serve as project officers (similar to the contracting officer's technical representative in acquisition).

In PHMSA, as in DOT generally, the same individuals manage the program from a HazMat standpoint and a business management standpoint. Due to an increase in resources made available to the program to improve its management, many of the staff members responsible for the HMEP program are relatively recent additions to PHMSA and have a significant learning curve both in the technical aspects of the program and in the business management of grants. Further, the staff is working to overcome issues caused by the way in which the program has historically been administered (as discussed throughout this report).

As it improves oversight of recipient expenditures and enhances its stewardship activities, the HMEP program staff recognizes that it also needs to address several challenges. For example, guidance to recipients needs to be consistent, the grantor-grantee relationship needs to be redefined and strengthened, and PHMSA staff members need to be able to speak authoritatively about programmatic and grants management requirements, especially when challenged by recipient personnel.

Award Management by Recipients

The governor of a State (or an equivalent position for a territory or tribe) has discretion concerning which agency he or she designates as the recipient of HMEP program funds. The designated recipient is accountable for the use of the funds provided. In some States, the HMEP award may be managed by the same agency that manages DHS/FEMA grants—disaster or non-disaster. In other States, this is not the case.

Further, responsibility for various aspects of the grant generally is split among organizational components. For example, in many cases, financial reports are prepared by an accounting or financial office, while the day-to-day administration of the program is handled by a different office. There is nothing inherently wrong with this arrangement, and it results in some measure of internal control. However, such an arrangement can make it difficult to substantiate, with valid documentation, compliance with certain grant requirements, e.g., amounts requested for reimbursement. Such an arrangement also can result in inconsistent figures from document to document, depending on which office maintains them.

Recipients are required to pass through a percentage of planning funds to Local Emergency Planning Committees (LEPCs). State practices in awarding HMEP subgrants vary. For example, an LEPC may apply for the subgrant funds, but the State makes the award to a local government. In other instances, the State may make the award to the LEPC, but a local government is responsible for the financial administration of the grant. These arrangements have not been transparent to PHMSA and raise a question as to which entity is required to comply with the PHMSA requirements that must be flowed down under the HMEP program. These arrangements also raise the question as to which entity (when other than an LEPC) is bearing the cost of complying with subgrant requirements, such as preparing reports.

The management of training funds is more complex. The purpose of the pass-through requirement for training funds is to ensure accrual of the benefit of those funds to public-sector employees, such as firefighters, law enforcement officials, and other emergency personnel. This is accomplished in a variety of ways, such as the following:

- ◆ Personnel in the same organization that receives the grant serve as instructors, supplemented, in some cases, by contracted personnel.
- ◆ Another component of the State provides training services, whether in the form of an interagency agreement, a subgrant, or a contract.
- ◆ The State contracts with, or makes a subaward(s) to, a State college or university or other State-affiliated training entity or entities to develop curricula, carry out training, or both.

ORGANIZATION OF THE REPORT

The remainder of this report is organized as follows:

- ◆ Chapter 2 describes the approach used to select the HMEP recipients for assessment and describes the specific reviews—file, on-site, and desk reviews—that we did.
- ◆ Chapter 3 presents our findings and conclusions about program design and about PHMSA and recipient administration of the program.
- ◆ Chapter 4 presents our findings and conclusions related to PHMSA and recipient understanding of grants management and the norms expected when awarding and administering federal grants.
- ◆ Chapter 5 contains our detailed recommendations to PHMSA for process improvement and program changes.

The appendixes contain supporting detail.

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Chapter 2

Assessment Approach

This chapter describes the approach LMI used to carry out its assessment. In general, as we do for any compliance review, LMI obtained copies of the governing program statute and regulations. We also reviewed program guidance and information available on the PHMSA website. We used these sources of information to identify the requirements against which compliance could be judged. Compliance was to be judged by looking at individual grant files, which, for this program, included the application narrative; application budget; Notice of Grant Award, including terms and conditions; final reports (financial and performance); requests for reimbursement submitted on Standard Form (SF) 270, “Request for Advance or Reimbursement;” and PHMSA worksheets recording requested and approved payments and balances. With PHMSA guidance, we then selected 16 HMEP recipients—14 States, 1 territory, and 1 tribe—for review. The following sections describe our approach to selecting recipients for assessment and the specific types of reviews we did.

SELECTION OF RECIPIENTS FOR REVIEW

Following award of the task order, the LMI team met with the contracting officer’s technical representative and other representatives of PHMSA with HMEP program responsibilities to discuss the background of this effort, which was to look specifically at the program year beginning October 1, 2007, and ending September 30, 2008. We were to provide a definitive determination of compliance or noncompliance on the basis of reviews of paper files, supplemented, as necessary, by on-site reviews. At the outset, PHMSA advised LMI of 9 States and 1 tribe (later dropped from the review) whose compliance was thought to be problematic due to such issues as potential misuse of funds and failure to meet programmatic requirements.

To ensure that the sample was not skewed by the PHMSA’s specification of recipients to review, we randomly selected an additional 5 recipients, including 1 territory and 1 tribe, for a total of 13: Alabama, Alaska, American Samoa, Colorado, Illinois, Kentucky, Menominee Tribe, Nebraska, Nevada, New Jersey, Oklahoma, Pennsylvania, and Wisconsin.

After an initial summary review of PY 2007–08 grant files for those 13 recipients, the LMI team determined that, due to the limited information the official files contained and flaws in the HMEP process, we would be unable to make definitive determinations of compliance or potential noncompliance based only on information in the files.

Upon reassessment of the approach, LMI concluded, and PHMSA concurred, that our review should focus on determining whether activities carried out by those recipients were considered “eligible” and whether financial information was accurate, consistent, and aligned across documents, e.g., applications and reports. In addition, PHMSA asked LMI to add California, Florida, and Texas to the sample because they are among the States receiving the largest award amounts. This brought the sample size to 16 entities (hereafter collectively referred to as “States,” or “recipients,” even though the sample included a territory and a tribe).¹

We reported our initial findings to PHMSA personnel and representatives of DOT’s Office of the Inspector General in December 2010. At that time, we noted that universal issues existed in the program year we reviewed and that all recipients likely would have findings related to eligibility of activities and integrity of financial information.

TYPES OF REVIEWS

PHMSA asked that we continue to use the sample of 16 recipients as the basis for determining whether the effect of improvements already underway in the program was evident and to identify recipients that should receive an on-site review. We were provided the following documents for each of the 16 recipients:

- ◆ Completed PY 2009 Federal Financial Report (FFR), Accountability Report, and, if separate, final narrative performance report. These covered the period October 1, 2009 through September 30, 2010.
- ◆ Application for PY 2010 for which awards were made September 29, 2010.

Ultimately, LMI did three types of reviews:

- ◆ On-site reviews of four recipients in conjunction with PHMSA staff: Nebraska, Oklahoma, Pennsylvania, and Texas
- ◆ Desk reviews of four recipients in conjunction with PHMSA staff: Alaska, Florida, Illinois, and Kentucky
- ◆ File, or “paper,” reviews of eight recipients: Alabama, American Samoa, California, Colorado, Menominee Tribe, Nevada, New Jersey, and Wisconsin.

The following subsections describe the reviews in more detail, and Chapters 3 and 4 summarize our findings and conclusions regarding PHMSA processes, the States’ knowledge of HMEP requirements, extent of compliance, and potential

¹ Tribes may have varying requirements, e.g., they are eligible only for training grants, and individual territories and tribes do not necessarily participate in the program each year.

corrective actions by recipients or PHMSA. Appendix A contains a table summarizing the results of all of the reviews.

On-Site Reviews

On the basis of our initial review of the 16 recipients, LMI recommended on-site reviews of Nebraska, Oklahoma, Pennsylvania, and Texas. The criteria for selecting these four States for on-site reviews were subjective, but were based on our observations of obvious instances of potentially ineligible activities, questionable statements in applications and reports, lack of alignment between different documents submitted by these recipients, and inability to identify how funds were to be spent based on the application budget.

The on-site review teams were led by PHMSA and included representatives of LMI with grants management and emergency preparedness expertise, as well as a representative from LMI's subcontractor for this effort, Cherry, Bekaert & Holland, with audit expertise. The reviews were each 1½ to 2 days long and included interviews on the first day, limited review of documentation on the first day and the first part of the second day, and informal feedback to the State representatives at a closeout session. From a PHMSA perspective, these were in the nature of learning and "pulse" reviews: learning on the part of PHMSA personnel about the organization and operations of these States, limited fact-finding concerning potential problem areas, and informal technical assistance. LMI (and Cherry, Bekaert & Holland) completed a more in-depth assessment of these four States using documents previously submitted to PHMSA plus documents provided during the on-site review. Even those four assessments were limited by the time spent on site and documents reviewed, but the results provide an indication of the significance of the actual and potential issues identified. Appendixes B, C, D, and E contain those assessments. (A similar template is included as part of the standard operating procedures developed by LMI for PHMSA.)

Desk Reviews

During the on-site reviews, PHMSA determined that it wanted to test the concept of a desk review as a cost-effective alternative to an on-site review. The review team—led by PHMSA and including LMI's grants management expert—conducted desk reviews of four States: Alaska, Florida, Illinois, and Kentucky. The format for the desk reviews was an advance request for certain materials (similar to what was expected to be made available in an on-site review), advance review of the material, a 2-hour conference call with State representatives, and a feedback session.

As with the on-site reviews, the desk reviews were largely an introduction of PHMSA staff members to State-specific processes. However, because of the timing, some issue-oriented discussions occurred, for example, about a pending request for reimbursement or about application materials submitted for PY 2011. Appendix F summarizes LMI's observations about the results of the desk reviews.

The depth of the conclusions varies from State-to State because not all of the States complied with the request for advance information.

For future desk reviews, LMI recommends that PHMSA use a more structured approach to the design, including a template, for recording information obtained from the advance materials and documents in hand, and documenting the reviews so that they facilitate identification of actual or potential problems and making of needed changes. These documents are part of the standard operating procedures for post-award monitoring developed for PHMSA. Calls with recipients should be limited to obtaining clarifying or omitted information.

File Reviews

File, or “paper,” reviews, consisted of a review of documents submitted by Alabama, American Samoa, California, Colorado, Menominee Tribe, Nevada, New Jersey, and Wisconsin (excluding their pending 2011-2012 applications, except in the case of California whose application was reviewed as part of training for PHMSA staff). These reviews were conducted by LMI personnel only. With the limited information available in PHMSA files, only obvious errors or discrepancies or potential problems could be identified. It should be noted that file reviews are not an alternative means for PHMSA in-depth monitoring. Rather upgrading the quantity and quality of information in those files, as a result of pre-award and post-award process improvements, can ensure that files include meaningful information on which to base decisions about performance and financial risk and the need for additional monitoring.

Chapter 3

Findings and Conclusions: Program Design and Implementation

This chapter addresses financial and other issues in HMEP program design and implementation, including their interpretation and management over the years by PHMSA and HMEP recipients, and the implications for federal stewardship and recipient compliance.

In general, some of the issues we identified may be beyond the control of PHMSA, but others may be subject to a change in approach. In discussing these elements of program design in this chapter, we assume that program regulations are potentially subject to change unless based on specific statutory language. Although we recognize that this process is time-consuming and cannot be accomplished immediately, the program regulations appear to be out of alignment with the way the program is administered and should be reviewed for currency.

Since its inception in 1993, the HMEP program has been implemented in a manner that combines both a “laissez faire” attitude, with loose interpretation or inattention to certain programmatic requirements, with selected aspects of micromanagement. The result has been misplaced emphases, inadequate guidance for and oversight of recipients, and action/inaction subjecting both PHMSA and its recipients to audit findings.

ALLOCATION FORMULA

The HMEP program uses a formula to determine what is considered a “ceiling” amount for each State’s annual funding for planning and for training. These amounts have been treated more like entitlements by both PHMSA and the States; that is, they have been awarded without adjustment. It also should be noted that the statute does not call for use of a formula in determining funding amounts for planning.

This approach has resulted in the following:

- ◆ Development of budgets that “back into” the amount to be requested and matched—rather than development of budgets based on known or planned activities
- ◆ Unobligated balances of funds for States that could not use all of the awarded funds, which, in some cases, may have been known at the outset

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- ◆ Inconsistencies between the narrative section of the application and the budget, due to proposing activities that are not in line with the budget
 - ◆ Acceptance by PHMSA of State-proposed activities and budgets without significant questioning of need or consideration of prior-year expenditure patterns
 - ◆ Arbitrary budgeting of amounts for planning and training in order to apply for the maximum allocation
 - ◆ Potential for wasteful expenditures by States in order to use all funds and not be faced with a future-year reduction.

The current approach results in less-than-optimal use of program funds. It is possible that some States could use more funding, while others cannot justify the need for or spend all of the funds awarded.

To improve performance at the State level and to minimize the possibility of waste, PHMSA might (1) reconsider the use of a formula basis for planning and (2) apply an adjustment (higher or lower) on the basis of past performance and demonstrated need in addition to awarding a base amount determined by formula (whether for training only or for both planning and training). With quarterly reporting, PHMSA also could consider the possibility of reallocating funds, consistent with known spending patterns by individual States, e.g., a State that may spend most of its training funds in the spring based on climate and would plan to spend those funds in the second and third quarters, as opposed to another State that is not making progress under the award.

RELATIONSHIP TO OTHER FEDERAL GRANT PROGRAMS AND SOURCES OF FUNDING

In many cases, the component of the State designated to receive the HMEP grant (or grants if one considers planning and training as separate grants) may administer one or more other federal grants, some of which have purposes similar to those of the HMEP grant. These other grants may include some of the DHS/FEMA non-disaster grants, in particular, the Emergency Management Performance Grant. In those cases, the HMEP grant represents a small amount when compared with the larger DHS (or other federal funding). Also, some States have sources of funding apart from federal awards that may be used by LEPCs under different rules than those pertaining to federal funds.

Among the issues we found were the following:

- ◆ Use of HMEP funds for operational expenses of subgrantees, which, while not allowed under the HMEP program, are an allowable expense under the DHS/FEMA Emergency Management Performance Grants program.

- ◆ Requests for HMEP funds for types of training not allowable under the HMEP grant, but appropriate for carrying out DHS/FEMA requirements.
- ◆ Lack of clarity in HMEP documents concerning emergency preparedness generally and use of HMEP funds in particular, which may contribute to lack of clarity as to the source of funds and applicable requirements at the LEPC level. For example, formats that PHMSA has asked the States to complete require responses that relate to activities or processes that go beyond HMEP funding, such as the following:

Provide the methods used to update the emergency plan such as: LEPC meetings; types of infrastructure update information; point of contact lists; location of vulnerable populations; updates of maps; and response capabilities. Provide the number of LEPCs that have updated or written their emergency plan in the past year to be consistent with the changing conditions of the community and the identified risks.

Special care must be exercised by PHMSA personnel to ensure appropriate expenditure of agency funds and consistency with program requirements. However, there is a lack of clarity both on the part of PHMSA personnel and HMEP grantees in terms of where the lines should be drawn with respect to what is potentially allowable under the HMEP program. Although the program has tried to provide some definitive guidance through postings at its website, it continues, even after more than 18 years in existence without a significant change in requirements, to have to address multiple questions of allowability submitted by States through the HMEP portal. This is time-consuming for all parties and does not always result in understanding whether a decision is for a single case or is setting a precedent. The need for clear guidance becomes even more important as funds are passed through to LEPCs, which receive funding from multiple sources and do not always distinguish among funding sources.

Chapter 4 presents additional findings and conclusions concerning accountability for HMEP funds.

PLANNING AND TRAINING ACTIVITIES

Separation of Planning and Training Funds

The authorizing statute for the HMEP program (49 U.S.C. § 5116) authorizes planning and training grants under separate paragraphs. Applicants generally apply for both. PHMSA requires a single application with separate narratives and budgets for planning and training, makes one award showing the funds in separate “pots” of money, and specifies that each required report and request for reimbursement separate the two. Using a single application has both advantages and disadvantages, but it introduces some artificiality and redundancy into the process as follows:

- ◆ There is a lack of clarity on how matching is being met when some portion of salaries will be charged to HMEP funds or used as a match and the applicant makes an arbitrary distinction between planning or training. According to 49 CFR § 110.60(a), the recipient must provide 20 percent of the direct and indirect costs of all activities covered under the grant award program with non-federal funds, but it does not specify that the match must be met separately for planning and training.
- ◆ The cycle for obtaining multiple subgrant (subaward) applications for planning activities, evaluating them, making subgrants, and performing the work by subgrantees may be different than the cycle of entering into an agreement with a component of the State or a university to provide training. However, under the current approach, they are required to be on the same cycle.
- ◆ Recipients may presume that planning and training funds are fungible.
- ◆ The planning portion of the application is less robust than it should be because it essentially is a mirror image of the training portion of the application.
- ◆ Although there is a single application that addresses both planning and training and a single award, everything subsequent to award requires separate treatment of those two activities. However, recipients may not be submitting reports that comply with the requirement.

The two aspects of the HMEP program, while related, are not necessarily interdependent. We found that different personnel may handle the planning and training portions of the program at the State level. In many States, different actors are involved in carrying out the planning and the training; and the flow-through activity may be on different cycles. For example, contracts for training may be awarded effective October 1, while subgrant processes may not result in awards until the following spring. Therefore, although the single application approach may

streamline the application process, it may not be the most effective approach for achieving programmatic purposes and ensuring accountability.

Other Programmatic Considerations

We found some disparities between stated HMEP requirements for planning and training and use of funds by some States for execution of planning projects and training programs. Examples of these disparities follow.

TRAINING GUIDELINES

We found instances of recipients not following HMEP guidelines for training. Instead, they were following FEMA or other guidelines for selecting training curricula and defining the types of personnel to be trained.

The HazMat definitions of the levels of training were sometimes mixed between Occupational Safety and Health Administration (OSHA) definitions found in 29 CFR § 1910.120—hazardous waste operations and emergency response (HAZWOPER)—and those found in National Fire Protection Association (NFPA) 472, “Standard for Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents” (2008 edition), and in 49 CFR § 110.40(b)(1). The OSHA regulations require annual refresher courses for all categories of HAZWOPER personnel. The HMEP and FEMA categories of HazMat personnel are not required by regulation to attend refresher courses. Although many States offer refresher training for operations- and technician-trained personnel, there is no consistency between the State practice and the HMEP guidelines on refresher training.

USE OF REGIONAL RESPONSE TEAMS

A number of States use regional response teams (usually with all personnel trained at the technician level or higher) to provide for a highly trained rapid response for incidents beyond the capabilities of the local LEPCs. Regional response teams generally have a direct relationship with LEPCs in their respective regions for purposes of training or exercise of emergency plans. In many cases, however, there was no coordinated regional planning for the use of the teams or the integration of these teams for training or response drills with their respective region’s LEPCs.

Most of the regional response teams are controlled by those in the State responsible for administration of FEMA emergency management planning funds rather than the State Emergency Response Commission (SERC) and, thus, coordinated planning for response actions is, at best, difficult. If regional plans existed, they were usually based on the FEMA model and excluded the LEPCs as an active resource base.

COURSES ON CONFINED SPACE ENTRY

We noted many and varied short courses on confined space entry. During HazMat incidents, confined space entry sometimes is required to either control the incident or perform emergency rescue and evacuation of personnel on scene. These actions can be extremely hazardous and may result in injury, subsequent illness, and even loss of life. We believe that, without ensuring that the training meets the OSHA provisions for confined space entry, it is highly probable that HazMat personnel relying on the training afforded by these short introductory training programs would be placed in peril by attempting to perform any actions that required such entry. Only personnel who are properly equipped and trained should even attempt these types of entry.

According to the training curriculum for responders found in NFPA 472, the first level at which one might see the need for confined space entry is in rescue operations performed by operations-level trained personnel. Given the lack of specific chemical, radiological, biological, and weapons of mass destruction training at the operations level, we believe that PHMSA should not endorse confined space entry for this class of responders. The only classes of responder personnel who have adequate training in the recognition, identification, and assessment of the hazards prior to confined space entry are those trained at the technician level and specialist levels A and B.

DETERMINATION OF TRAINING REQUIREMENTS

Many States have no well-defined method to ascertain who requires initial training, what level of training is required, and how often personnel should receive refresher training. Also, few States maintain rosters to determine the trained or untrained status of LEPCs or regional response teams within their jurisdictions. This lack of training accountability also reflects negatively on the capability of a State's emergency response capability and completeness of its emergency response program.

AGGREGATE EXPENDITURES

In authorizing a grant program, Congress sometimes includes language in the authorizing statute that requires a recipient to use the grant funds to augment or supplement funds that the entity has previously devoted to the purposes for which grant funds may now be provided. These requirements, depending on their phrasing, may be cited as maintenance of a specified level of expenditures or as a "supplement not supplant" requirement.

The HMEP program has “aggregate expenditure” requirements, specified in 49 CFR § 110.30 as grant application requirements. These equate to a “maintenance of effort” requirement with a rolling baseline as follows:

Under 49 CFR § 110.30(b)(2) for planning:

(2) A written statement specifying the aggregate expenditure of funds of the State, exclusive of Federal funds, for each of its last five fiscal years for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-to-Know Act of 1986, including an explanation specifying the sources of these funds. A written certification that the State’s aggregate expenditures, as defined by the State, of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last five fiscal years. The applicant may not claim any of these expenditures for cost-sharing.

Under paragraph 49 CFR § 110.30(c)(2) for training:

(2) A written statement specifying the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for each of its last five fiscal years for training public sector employees to respond to accidents and incidents involving hazardous materials, including an explanation specifying the sources of these funds. A written certification that the applicant’s aggregate expenditure, as defined by the State or tribe, of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last five fiscal years. The applicant may not claim any of these expenditures for cost-sharing purposes.

These requirements have been misstated in the grant application guidance and in the training certification. The guidance refers only to a 2-year “look-back,” which was the original requirement before the authorizing statute was amended in 2005. Regardless, applicants certify to what is included on a certification form. In some cases, they provide an actual dollar amount (with or without further explanation and without updating from year-to-year as would be required for compliance); in other cases, they provide no dollar amount as a baseline; in still other cases, they have unilaterally changed the language of the certification. PHMSA has not used this information in any way, whether as part of the application review or during post-award administration. Further, in the on-site reviews, when queried about compliance with this requirement, State representatives seemed to be unfamiliar with the requirement and its intent, although a certification found to be false could lead to legal consequences.

PASS-THROUGH OF FUNDS AND BENEFITS

By statute (49 U.S.C. §§ 5116 (a)(2)(B) and (b)(2)(C)), States (but not tribes) must “pass through” HMEP funds as follows:

At least 75 percent of the Federal funds awarded must be made available to LEPCs and at least 75 percent of the Federal funds awarded must be made available for the purpose of training public sector employees employed or used by political subdivisions.¹

The program regulations, in 49 CFR § 110.30(c)(3), provide that a State applicant may elect to pass all or some portion of the grant on to political subdivisions for purposes of carrying out the training. Neither the governing statute nor 49 CFR 110 provides a similar authority in relation to planning funds. As a result, the application guidance indicates that planning funds are to be made available to LEPCs and requires States to certify to that effect.

We found instances in which planning funds go to a local government as the fiscal agent of an LEPC, sometimes at the request or mandate of the State. Although there is nothing inherently wrong in this arrangement and accountability may actually be improved given the volunteer nature of most LEPCs, these arrangements are not generally made known to PHMSA and may be inconsistent with the statute and regulations. Similarly, we were made aware of instances in which the LEPCs “grant back” the authority to use funds on its behalf to the State agency. These arrangements raise the following issues:

- ◆ Questionable legality of the arrangement
- ◆ Possible need to use additional resources to administer those funds at the State level
- ◆ Lack of transparency to PHMSA of where the money is being spent because those funds are shown in the budget as subgrant amounts.

PHMSA needs to understand who is spending the funds that are passed through by States and ensure that arrangements are consistent with the governing statute and regulations. The following subsections address the recipients’ use of subawards, acquisition contracts, and other contractual instruments.

¹ A political subdivision, as defined in 49 CFR 110, means a county, municipality, city, town, township, or local public authority, including any public and Indian housing agency under the United States Housing Act of 1937 (42 U.S.C. § 1401 *et seq.*), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Types of Instruments

States are permitted to use their own systems to select subgrantees and contractors under the grant, whether those entities carry out substantive programmatic activities or provide commercial-type goods and services necessary to carry out the grant. The States may use whatever process and terminology they normally use to characterize a relationship. For example, they may call an instrument under which part of the programmatic activity is carried out by another party a “subgrant” or a “contract,” although usually it is a subgrant that may be labeled a “contract” rather than *vice versa*. However, it is the nature of the relationship rather than a label that establishes the expectations and applicable requirements. These distinctions in relationship are becoming increasingly important at the federal level. They have implications for audit requirements, reporting requirements (e.g., under the Federal Funding Accountability and Transparency Act), and other requirements that are required to be flowed down.

The pass-through of funds under the planning portion of the HMEP program is fairly straightforward. In other words, passing through a portion of the planning program to LEPCs is considered a transfer of part of the substantive programmatic activities and requires flow-down of grants management requirements, such as those in 49 CFR 18, to the LEPCs. Training presents a different picture in that the statute allows discretion in how the training is carried out. We found the following, part of which would be expected given the differences in procurement and subaward processes among the States:

- ◆ Some States issue subgrants to other parts of the State government or State universities to conduct training.
- ◆ Some States have a form of interagency agreement that transfers funds to another part of the State government or State universities to develop or conduct training.
- ◆ Some States have contracts with State universities or State university-affiliated organizations to develop or conduct training.
- ◆ Some States contract with individuals to serve as instructors.
- ◆ Some States subgrant the training funds to LEPCs and allow them to arrange for instructors.
- ◆ Some of these arrangements include having the travel expenses for trainees administered by the training entity; others have the trainee reimbursement for travel handled at the State level.
- ◆ Arrangements may be fixed-price or cost-reimbursement, and payments may be made in advance, monthly, quarterly, or on some other basis.

These transactions do not appear problematic from the standpoint of not using a competitive selection process because States generally exempt these types of transactions from the formal competitive process. However, such transactions may raise issues in accountability and, until recently, have been largely unknown to PHMSA. For example, some of the documents reviewed do not contain specified courses, delivery schedules, or cost information. Rather, they are written more like “best efforts” documents. Such a loose agreement would not be acceptable if the State were acquiring training services from a commercial vendor. The agreement with another State agency or university should state the requirements and expectations, including not paying if classes are not delivered as required. Further, PHMSA should have visibility into what entity is actually spending the funds, whether appropriate requirements are included in agreements, and whether the arrangements will contribute to successful programmatic outcomes.

Oversight

In addition to the considerations mentioned above, the type of agreement has implications for the level and type of oversight required to be performed by State personnel. State oversight required for an award to a university for \$400,000 to conduct training is vastly different than the oversight required for a subgrant to an LEPC for \$10,000 to conduct a tabletop exercise.

Generally, a contractual instrument requires frequent contact with the contractor to ensure that activities are on schedule and within budget. The failure of a contractor to deliver can have significant implications for the program’s success. Subgrants also require monitoring, but small subgrants to LEPCs can be monitored through periodic reports and occasional telephonic or other contacts. Considering the written agreements alone, it is not clear whether some States are adequately overseeing the training activities.

MATCHING

The HMEP planning and training funds are required to be matched as follows, pursuant to 49 CFR § 110.60:

(a) The recipient agency must provide 20 percent of the direct and indirect costs of all activities covered under the grant award program with non-Federal funds. Recipients may either use cash (hard-match), in-kind (soft-match) contributions, or a combination of in-kind plus hard-match to meet this requirement. In-kind (soft-match) contributions are in addition to the maintenance of effort required of recipients of grant awards. The types of contributions allowed are as follows:

(1) Any funds from a State, local, or other non-Federal source used for an eligible activity as defined in §110.40 in this part.

(2) The dollar equivalent value of an eligible activity as defined in §110.40 of this part provided by a State, local, or other non-Federal source.

(3) The value of participants' salary while attending a planning or training activity contained in the approved grant application provided by a State, local, or other non-Federal source.

Other than showing an amount for matching in the application (in response to Question 18 on the SF 424, Application for Federal Assistance) and in the Notice of Grant Award as an aggregate amount to match the combined amount of HMEP planning and training funds awarded, it is not clear whether PHMSA and the HMEP recipients understand that matching is an integral part of the program and must meet the same tests of allowability that pertain to expenditure of HMEP funds, including the requirement that they be fully documented.

Among the issues we found related to matching are the following:

- ◆ The 20 percent matching requirement under the HMEP program is calculated based on total costs (direct and indirect) for the funding period. Because the total costs are not determined based on a zero-based budget, States “back in” to the matching amount to ensure that they propose to the full allocated amount.
- ◆ States use the terms “soft” and “hard” match inappropriately. These terms (which are informal and not recognized in government-wide grants management regulations and guidance) are intended to distinguish the types of costs or contributions constituting the match and related documentation. When a portion of the salary of a State employee is used as a match, it is considered a “hard” match and must be supported by the same level of documentation as is required by OMB Circular A-87 (2 CFR 225) for direct charges to federal funds.
- ◆ Because PHMSA has not provided guidance on documenting matches, the level and quality of recipients' documentation varies.
- ◆ Recipients do not understand that to be considered eligible as matching, costs or contributions must meet all of the tests of allowability that apply to the expenditure of HMEP funds: reasonableness, allocability, and allowability. It is likely that, when LEPCs are required to provide a 20 percent match, the in-kind contribution of services is for operational activities benefiting LEPCs generally, making them unallowable as matching for the HMEP award.
- ◆ Matching is treated as if it is something beyond what recipients may be accountable for under the grant.

These issues are reflected in official documentation. For example, PHMSA designed an Accountability Report for use in reporting on PY2009. That report called for reporting on the use of funds, but addressed federal funds only.

Because of the lack of guidance on what constitutes allowable types of matching under the HMEP program and how matching needs to be documented, a major part of the program is not being addressed adequately.

Chapter 4 addresses the process aspects of how to treat matching throughout the grant life cycle.

FUNDING PERIOD

The authorizing statute for the HMEP program refers to funding of grants for planning or training “in a fiscal year.” PHMSA employs a 12-month performance period, presumably based on this language. Although the statute may envision that recipients can receive funds under an award each year, particularly as training pertains to current needs, it is not clear that Congress intended that the funds be “for a fiscal year.” The origin of PHMSA’s guidance may be based on interpretations of federal appropriations law current when the program was initially implemented. However, the Government Accountability Office has since determined that grants are not subject to the bona fide needs rule that applies to contracts. Therefore, a single year’s appropriation could fund an entire multiyear period of performance without violating federal appropriations law.

The current PHMSA approach—which does not appear to be dictated by either the program statute or the implementing regulations (in fact, the latter indicates, in 49 CFR 110.30(a)(6), that the proposed grant project and budget periods may be one or more years)—results in the following:

- ◆ Repetition of the same information from year to year because many things do not change in that time frame
- ◆ Additional work for applicants in submitting an application each year that could be devoted to programmatic activity
- ◆ Inability to allow planning projects that may take more than 8–10 months (due to the States’ award process and need for cutoff in order to meet PHMSA report due dates) and potential for underspending due to lead-times required.

Although the regulations appear to permit extensions, granting an extension would be problematic given the way the program is administered because the next year’s award would be made and a State would, therefore, have two active awards for the same purpose for part of the year. PHMSA also has characterized these as “continuation grants,” a term used by some agencies to refer to a subsequent year’s funding within a previously approved project period exceeding 1 year, fur-

ther adding to confusion concerning what must be updated from year to year. We believe that the current approach to funding as it relates to planning may result in less-than-optimal results.

PAYMENT AND FINANCIAL REPORTING

PHMSA—for this grant program and others—uses the reimbursement payment method. Although not explicit, a reading of 49 CFR §§ 110.50(b) and 110.70(c) indicates that projects are reimbursed and advances are an exception. In general, grants, and especially grants to States, are paid by way of advances. The use of the reimbursement payment method is generally recipient-specific and is not used program-wide. Regardless, if the intent of using reimbursement under the HMEP program is a greater level of control and insight into State expenditures, the theory is not borne out by the practice.

The program regulations specify that financial reporting is to occur quarterly using the SF 270, Request for Advance or Reimbursement. Because these grants are paid by way of reimbursement, the SF 270 can serve as the financial report. However, according to government-wide policy, reimbursement requests may be submitted more frequently than quarterly. Moreover, the States are erratic in how they submit their requests for reimbursement. Some submit them quarterly, some only once or twice a year, and some as needed. Therefore, the SF 270 is not an adequate financial report for PHMSA, and the program regulations run counter to government-wide practice (we recognize that program regulations take precedence over 49 CFR 18, for example). In practice, PHMSA also specifies, in the terms and conditions of award, the requirement for submission of the SF 425, Federal Financial Report (FFR), a government-wide form that superseded the SF 269, Financial Status Report. This is one example of an inconsistency with the regulations. Chapter 4 discusses how PHMSA uses the FFR.

The reimbursement payment process as implemented by PHMSA causes consternation for both PHMSA and recipients because of the effort to manage funds to the penny. Recipients are sometimes asked to provide receipts for even minor expenditures, and they are allowed to submit reimbursement requests at will. We saw no instance in which reimbursement was tied to completion of a project, a milestone, or other programmatic activity. Rather, the reimbursement process has turned into a time-consuming, resource-intensive activity without commensurate stewardship benefit.

Further, the programmatic benefit to PHMSA of continued use of the reimbursement payment method is questionable. In particular, requiring States or LEPCs to “front” funds for planning, especially in a period of tight budgets, has a potential negative effect on their planning activities. As a result, PHMSA may not be getting the type of planning efforts it would like to see; rather, small amounts of money are being used by LEPCs to man booths at county fairs, print brochures, and other types of activities (some potentially unallowable) that use the funds

provided, but not necessarily in a way that best contributes to HazMat emergency preparedness.

Many of the areas discussed in this chapter are intertwined. As an example, before PHMSA redesigns any aspects of the HMEP planning grant program, within statutory constraints, it needs to consider the interrelationships among areas such the best approach to apply for planning; the potential roles of the recipient, LEPCs, and others in planning; the duration of planning projects; and the payment method.

Chapter 4

Findings and Conclusions: The HMEP Program and the Grants Management Life Cycle

In this chapter, we follow the grants management life cycle—from pre-award activity through closeout—to show what may be considered a federal norm and whether and how the administration of the HMEP program varies from that norm. This is appropriate because general grants management policies and processes, for example, budget preparation and reporting of expenditures, should be the same regardless of the federal program. However, specifics may differ; for instance, DHS uses advance funding while the HMEP program uses reimbursement.

APPLICATION AND BUDGET PREPARATION AND REVIEW

Application

One HMEP requirement is that a State's applications be reviewed by the SERC; however, States have established processes for preparing and reviewing applications internally. Even with such reviews, assuming that they take place, the quality of applications submitted to PHMSA is generally subpar. For instance, statements are incomplete and inconsistent, and budgets do not align with the narrative description of the program. In addition, the level of detail does not give PHMSA insight into how the recipient operates the program and what it plans to accomplish with the HMEP funding.

The deficiencies in the applications are due, in part, to inadequate program guidance, which is not updated each year, and to the lack of attention by States and PHMSA to the information in applications. PHMSA has made adjustments in the current application cycle to address some of these issues, but more work needs to be done.

In addition to the need for increased clarity of guidance and requirements for application preparation, PHMSA does not have a process for assessing applications qualitatively, a deficiency that is not generally found in other agencies' grant programs. Even though the HMEP program is not considered a competitive grant program in the traditional sense of head-to-head competition, applications still should be reviewed for the consistency of the proposed activities with program goals and objectives (as articulated in program guidance), the relationship of the budget to those activities, and the adequacy of the narrative supporting the budget. As indicated earlier in this report, those types of reviews generally are conducted by individuals with technical expertise and business and financial management expertise, respectively (see the Financial Assistance Guidance Manual issued by

the Office of the Assistant Secretary for Administration, DOT (http://www.dot.gov/ost/m60/Financial_Assistance_Management_Home/index.html) Until recent years, PHMSA personnel often did not read the applications, but now, the staff members responsible for the program use a checklist to review applications and have tried a method that assigned points based on inclusion of certain information in the application. Neither a checklist approach nor use of points against that checklist result in a qualitative review of applications that may result in better uses of funds program-wide or the needed level of insight into what is being proposed and approved.

The general proposition reflected in government-wide requirements, such as the OMB cost principles, is that if an activity is included in an application and a grantor makes an award based on that application without taking exception, then the activity is approved. Implicitly, the HMEP program has approved activities based on very generic statements and, in many cases, has been unaware of what was done with its funds until the final report (and even then there appears to be selective reporting).

These approaches vary from a norm requiring knowledge of what is being funded to

- ◆ ensure the use of funds consistent with governing programmatic and administrative requirements, and
- ◆ serve as a baseline against which changes, including change in scope, can be evaluated.

Budget

States are assumed to have systems and processes that can be relied on to properly account for federal grant funds and to adhere to the nuances of different grant programs. However, we have not found that to be the case within the State offices responsible for HMEP. Until the current cycle, States provided no budget narrative, and PHMSA did not request any breakdown of large unidentified budgeted amounts or question proposed costs. But when, as a result of the LMI review, PHMSA requested additional budget detail and narrative, most States were able to do so. Presumably, States have done an inadequate job of budgeting because they assumed it would go unquestioned by HMEP program personnel.

We found the following the practices that are noncompliant or potentially problematic:

- ◆ *No clear explanation of how the recipient planned to meet the matching requirement*, although it could be assumed that, for the planning funds, a matching requirement was being passed through to LEPCs and that, for the training funds, the matching requirement was being met by trainee travel. Without such an explanation, the costs or contributions counted

toward matching may not meet the requirements of 49 CFR § 18.24 and the cost principles.

- ◆ *No salary amounts were shown in budgets* even though it appeared that portions of salaries were being used as matching. All costs and contributions should be accounted for in the budget because the matching is a percentage of total project costs.
- ◆ *Inappropriate allocation of salaries to HMEP* when employees were spending only a small portion of their time on the HMEP grant.
- ◆ *Large amounts budgeted as “other” for which no explanation was provided.* The “other” category is not intended as a catch-all. Certain types of costs, such as leases, should be shown in this category, as well as sub-grants. However, in some cases, almost the entire amount of the grant, other than a minimal amount for salaries or travel, is reported as “other.” This does not allow PHMSA to determine the composition of costs or contributions or assess their reasonableness, allocability, or allowability.
- ◆ *Budget requests for equipment when no need for acquired equipment was explained* in the narrative portion of the application or *discussion of equipment without an amount requested in the budget.* Although recipients are given flexibility, within defined limits, to change budget plans after award, they should be as specific as possible in their applications about their plans. Contingent statements cannot be evaluated. Also, for purposes of applying federal accountability requirements, “equipment” is a defined term meaning an article of tangible, nonexpendable personal property with an acquisition cost of \$5,000 or more and a useful life of more than 1 year. Although items like laptop computers and global positioning systems may commonly be thought of as “equipment,” they should not be treated as equipment for federal grant purposes. States may have a lower capitalization threshold dictating how they handle property, including designation of property as sensitive; however, those types of property are considered “supplies” for purposes of budgeting and accountability under federal grants.
- ◆ *Unsubstantiated requests for indirect costs.* Contrary to government-wide requirements, PHMSA has paid indirect costs that are not substantiated by a current indirect cost rate agreement negotiated with a recipient’s cognizant federal agency, generally DHS for States (it is unlikely, but not documented, that PHMSA is cognizant for any of the State agencies with responsibility for the HMEP grant).
- ◆ *Lack of clarity on how the required pass-through for both planning and training is proposed to be accomplished,* e.g., whether funds would be subgranted or contracted, or whether functions would be carried out by

State employees directly. This aspect of the HMEP program is discussed at length in Chapter 3.

These practices not only have a negative effect on PHMSA's ability to determine the reasonableness of costs and the adequacy of the applicants' plans for carrying out the HMEP award, but also put both PHMSA and recipients at risk in the event of an audit.

AWARD

In virtually all cases, the Notice of Grant Award makes the planning and training awards in the amount determined using the formula. Historically, individual costs have not been questioned or disallowed during the pre-award review process. However, even if certain costs or third-party in-kind contributions were determined to not be allowable or were approved in a reduced amount, they could not be tracked through the award to ensure that the recipient was on notice, whether using a revised budget or a special award term or condition.

For PY 2007, the HMEP program used an award notice form that included object class categories, but awarded everything under "other." This eliminated any visibility into the actual budget to which a recipient was to adhere, because, in essence, this practice overrode the object class budget submitted with the application and eliminated a baseline against which rebudgeting could be determined for purposes of 49 CFR § 18.30(c)(1).

The form currently in use shows only the federal award amount and matching amount in the aggregate. It does not include or incorporate by reference

- ◆ the separate amounts for HMEP and matching funds for planning and training, which are presumably enforceable, but are included in a separate letter, or
- ◆ an object class budget, which would serve as the basis for determining rebudgeting activity (see "Postaward Changes" below).

This is an improvement over the earlier practice, but it still lacks clarity for recipients because it appears as if the award does not distinguish between amounts for planning and training. Also, there is an award term indicating that the application and project plan are incorporated by reference, which could be interpreted to include the budget, but the language is not explicit.

POSTAWARD ADMINISTRATION

Postaward Changes

Rebudgeting is a concept that is integral to the management of grants. The application budget is considered an expenditure plan, with the recognition that in carrying out a project or program, the recipient needs to be able to address unforeseen circumstances or make other appropriate adjustments. However, the approved budget, even though it is a plan, serves as the baseline against transfers of funds for other purposes; aggregate changes are assessed to determine whether a recipient may (or has) changed the scope of the approved effort.

PHMSA has not recognized the flexibility afforded by 49 CFR 18. Rather, due to the inadequate budgeting done by applicants and uncertainty about the allowability of certain planning and training activities (and associated costs), PHMSA encourages States to request guidance before undertaking unplanned activities or incurring unplanned costs. This practice, while it may be informative to PHMSA, removes some element of management responsibility from a recipient and also may result in acceptable delays in carrying out the program. It also results in PHMSA establishing prior-approval requirements for recipients that go beyond what is permitted by 49 CFR 18.

By having a more stringent application preparation and review process, along with greater clarity on the types of activities that may be allowable under an HMEP grant and a possible decoupling of the planning and training budgets, PHMSA should allow recipients to use the rebudgeting authorities afforded by 49 CFR 18. If the planning and training budgets are not decoupled, then recipients need to be clearly advised on whether postaward transfers of funds between the planning and training budgets are allowable with or without prior approval. In either case, recipients should be advised that they must track changes to the budget by object class and, if appropriate, by activity (planning and training) in order to be in compliance with government-wide and HMEP requirements.

Postaward Monitoring

Postaward monitoring can be done in a variety of ways. The most frequent means is through telephone contact and review of required reports. Given the magnitude of federal grant funds and increased emphasis on accountability, many federal agencies and programs have undertaken more intensive postaward monitoring programs, including defining routine and risk-based monitoring.

Historically, PHMSA has not had an organized approach to postaward monitoring of HMEP grants. PHMSA has engaged in very limited postaward monitoring to ensure the appropriate expenditure of its grant funds. Until recently, it required only annual financial reports for the HMEP grants and reviewed requests for reimbursement on whatever basis they were submitted by recipients. Although

final performance reports were required, PHMSA generally did not review them in detail. PHMSA plans to enhance its postaward monitoring and has begun to do so through site visits and desk reviews. Currently, these visits are designed more to introduce PHMSA personnel to their recipient counterparts and to gain familiarity with recipient processes—a necessary first step. In the future, those reviews should be more focused on determining compliance and providing technical assistance. They would supplement required audits under OMB Circular A-133 and provide a source of information not currently available to PHMSA. This is important because the HMEP grants generally are not major programs within the States and, therefore, are not sampled under an OMB Circular A-133 audit for program-specific compliance.

FINANCIAL REPORTING

As discussed in Chapter 3, PHMSA requires recipients to submit FFRs (SF 425) quarterly—one for planning and one for training. The SF 425 is a relatively new form, which supersedes two previous forms (SF 269 and SF 272). Use of the FFR gives PHMSA another tool to monitor expenditures. However, some PHMSA staff members have not used the form in that way. Rather, they may try to make the figures on the SF 425 align with the amounts requested for reimbursement. This use of the form is inappropriate and has caused confusion when a recipient rightfully understands that it is to report actual expenditures on the SF 425, regardless of whether it has yet requested reimbursement of those expenditures from PHMSA. It also results in an unnecessary reporting requirement because PHMSA staff members are essentially using both forms for the same purpose.

In addition, the form is not being completed accurately or consistently by recipients. HMEP grants involve no cash advances, but some recipients are reporting information as if cash is being advanced. Matching must be reported and, in some cases, is not. Use of the FFR to review actual matching costs and contributions during the reporting period (rather than a proportional 20 percent of federal expenditures) would provide additional information to PHMSA for use in monitoring. Both PHMSA personnel and HMEP recipients should receive some instruction on how to fill out the SF 425 and on the intent and use of the form.

OTHER REPORTING

Under 49 U.S.C. § 5116(k), PHMSA has an annual requirement to report to Congress and the public on the allocation and uses of the HMEP planning grants and training grants, among other things. The report must identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by recipients, the number of people trained under the grant programs, and an evaluation of the efficacy of training programs carried out.

PHMSA has fulfilled this requirement by requiring recipients to complete forms that ask for the information needed to prepare the report. The forms are confusing and have little, if any, instruction. The information reported by recipients does not

align with that in other reports they prepare for the HMEP program. At best, the information being provided to Congress and the public is questionable and, in many cases, is incomplete or wrong.

Payment

The primary means by which PHMSA has monitored recipient activity has until recently been the SF 270, Request for Advance or Reimbursement. Reimbursement requests can be submitted at the recipient's discretion, but generally they are expected to be submitted monthly, particularly when salaries of grantee personnel are being paid with federal grant funds. Under the HMEP program, because of the large sums that are passed through and the differing arrangements under the States' grants, States have a variety of practices related to requesting reimbursement. Some draw down in a "lump sum" after the end of the performance period, while others request funds quarterly. Although no particular practice is wrong, PHMSA has not questioned States that request reimbursement for the entire grant amount well before the end of the performance period or months after the end of the performance period. PHMSA needs to understand the practices used by individual recipients. The appropriate use of the SF 425 in conjunction with the SF 270 can help PHMSA understand such things as how and when matching is applied.

Closeout

Closeout consists of ensuring that all required reports are submitted and accepted and that the effort under the award has been completed. Given PHMSA's 1-year awards, a closeout must be accomplished each year. To ensure timely closeout under federal grants, recipients are allowed up to 90 days to submit their final reports, and agencies generally allow themselves an additional 3 months for closing out an award, particularly for multiyear awards. The HMEP award closeout should be much simpler, but awards cannot be closed out by PHMSA without the needed input from recipients.

Some PHMSA recipients submit their reports late, without explanations or requests for extension. This puts both PHMSA and the recipient at risk because PHMSA cannot liquidate the obligation of grant funds until the final request for reimbursement is made and approved. Also, PHMSA may be under pressure to deobligate those funds from grants. PHMSA should require recipients to submit the final request for reimbursement no later than the date of submission of the final FFR.

Chapter 5

Recommendations

Considering our findings and conclusions about the design of the HMEP program, PHMSA implementation and management of the program, and recipient management of HMEP grant funds, LMI believes that PHMSA could take a number of important steps to increase the potential for program success, make better use of its limited resources, and increase the potential for recipient compliance with programmatic objectives and accountability requirements. This chapter presents our recommendations. They are grouped into four categories:

- ◆ PHMSA management approach and processes
- ◆ Regulations, guidance, and award terms and conditions
- ◆ Training and technical assistance
- ◆ Management information.

PHMSA MANAGEMENT APPROACH AND PROCESSES

Because the HMEP grant program is relatively small, we do not believe it is necessary to have separate grants management and technical staffs. However, we recommend that designated personnel become a “center of grants management excellence,” while others become experts in HMEP programmatic aspects, such as best practices in planning and commodity flow studies, and that each grant be administered by a pair of HMEP program employees—one with grants management expertise and the other with technical expertise. Although PHMSA may need to hire several additional personnel, the recommended approach would add some dimensions that are not possessed by the current staff. Such an approach would

- ◆ increase the credibility of PHMSA staff members with their counterparts in the States and other recipients who have planning backgrounds,
- ◆ allow PHMSA personnel to gain in-depth knowledge of individual recipients and share best practices as a team,
- ◆ result in a “bigger picture” approach to the management of HMEP grants, and
- ◆ allow greater PHMSA presence for on-site review and monitoring, and provision of technical assistance.

PHMSA should ensure that it balances successful programmatic outcomes against appropriate expenditure of grant funds. To accomplish this, PHMSA, working with the DOT Office of the General Counsel (OGC), should reconsider certain of its processes, including the possible use of

- ◆ a formula basis for funding only as required by statute (i.e., for training) and, then, only as a basis for determining part of the funding, complemented by awards of additional amounts based on past performance, demonstrated need, and other factors;
- ◆ a means other than a formula to determine funding amounts for planning;
- ◆ separate applications for planning and training, submitted at different points in the year;
- ◆ a reallocation process for funds that will not be obligated by recipients; and
- ◆ advances for planning activities by LEPCs.

Working with the OGC, PHMSA should explore the potential for—and advantages and disadvantages of—approving awards for planning that cover multiple years, while still providing funding each year (i.e., continuation funding).

PHMSA should implement a qualitative application review process and should delay or impose conditions on awards if an application is deficient.

PHMSA should partner with FEMA to better understand the potential for overlap, duplication, or gaps; ensure appropriate allocation of funds by recipients; and stretch its oversight resources.

PHMSA, in concert with FEMA, should

- ◆ determine and enforce a schedule of mandatory refresher training for all classifications of trained HazMat workers within their jurisdictions, and
- ◆ develop clear guidelines as to the use and function of regional response teams, their training requirements, and need for operational planning that includes LEPCs within the sphere of responsibility of the regional response teams. This planning should include commonality of training and coordinated use of the LEPCs in incidents that may require deployment of the regional response teams.

PHMSA should review courses being charged to HMEP funds for confined space entry training to ensure that the training meets the minimum requirements for confined space entry as defined by OSHA.

PHMSA should consider requiring SERCs and LEPCs to

- ◆ maintain training logs that clearly state who (by classification, name, and location) requires training and for what reason;
- ◆ match training rosters for those needing training with those trained; and
- ◆ provide refresher training at each classification level of HazMat training.

PHMSA should continue to improve post-award monitoring, reviewing for program performance and aspects of compliance other than making certain that the numbers match, including

- ◆ performing risk assessments that may warrant closer monitoring, including site visits;
- ◆ ensuring that terms and conditions are enforced, e.g., timely and accurate reporting, and considering taking appropriate enforcement actions;
- ◆ ensuring that any templates provided are clear and can provide useful information for management of the program rather than being used only to fulfill the congressional reporting requirement;
- ◆ performing a qualitative review of required reports; and
- ◆ reviewing OMB Circular A-133 audit reports for systemic problems that may affect HMEP awards.

As the HMEP program undergoes its transition, PHMSA should ensure that recipients understand the seriousness of the deficiencies in their processes, while maintaining credibility and consistency for HMEP program personnel, many of whom still are in a learning mode, in their interactions with recipients. This may require in-depth training for PHMSA personnel, enhanced communication within PHMSA, training on HMEP requirements for recipient personnel, and providing technical assistance to recipients.

REGULATIONS, GUIDANCE, AND AWARD TERMS AND CONDITIONS

PHMSA should work with OGC to revisit or, at a minimum, clarify certain requirements that are being ignored, are adhered to in the breach, are open to multiple interpretations, or do not reflect current programmatic emphases.

PHMSA should modify its program regulations to reflect the current administrative approach of the program. In that process, PHMSA should consider removing administrative requirements, such as financial reporting, from the regulations and

rely on terms and conditions of award. This would avoid regulations that become out of date and also represents a federal norm.

PHMSA should redo its application package and programmatic reporting templates to facilitate tracking of performance measures or quantitative information, e.g., number of trainees, from application through closeout. Any automated grants management system being contemplated by PHMSA should allow for this.

PHMSA should ensure that the Notice of Grant Award constitutes the full legal agreement with recipients by

- ◆ redesigning it (consistent with any other changes made in the program) to include or refer to the approved object class budget(s), show the matching amounts, and show the indirect cost rate (if applicable), and
- ◆ revising the HMEP general award terms and conditions to include only relevant requirements, specify clear reporting requirements, and provide requirements that are accurate and current. PHMSA should review the award terms and conditions annually to ensure that they include any changed government-wide requirements, e.g., current requirements with relation to subaward reporting under the Federal Funding Accountability and Transparency Act.

TRAINING AND TECHNICAL ASSISTANCE

PHMSA staff members should receive training on

- ◆ federal grants management, including how to specifically relate grants management requirements to the HMEP program and how to review application budgets and financial reports, and
- ◆ requirements of the HMEP regulations, including how they relate to the requirements in 49 CFR 18 and the OMB cost principles.

Recipients should receive training that addresses particular issues, such as required quality of documentation, matching, subgrant and vendor relationships, rebudgeting, and completion of the FFR.

PHMSA should consider using contractor personnel who are familiar with recipient operations generally and who can provide on-site technical assistance to recipients. A recipient's need for assistance may be identified by recipient request or by PHMSA in its post-award monitoring.

MANAGEMENT INFORMATION

PHMSA should analyze the questions submitted to the portal and the responses to determine how best to organize and use that information in the program, whether as an annual synopsis, for staff and recipient training, or otherwise.

PHMSA should develop and maintain a database that includes, for each State, territory, and tribe, relevant characteristics, such as the individuals responsible for administering the HMEP grant, organizational location, other federal awards administered by that office, number of LEPCs (as applicable), details of planning subgrant process, training approach, scope of the OMB Circular A-133 audit, and approach to requesting reimbursement. PHMSA can use this information to assess changes that may trigger the need for an on-site or desk review.

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Appendix A

Summary of Review Results

This appendix summarizes the results of our review of the 16 recipients. The summary, presented in Table A-1, identifies the type of review and the types of problems commonly found. If an issue was not identified, the cell is marked “NA” (for “not applicable”) or “CBD” (for “cannot be determined based on the information available”). If an issue was found in an on-site or desk review, the cell has a checkmark, with the details provided in the relevant appendix. If an issue was identified through a file review, the document in which the issue was identified or other explanatory information is included in the cell.

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Table A-1. Summary of Review Results

State	Type of review	Allocability of salaries	Planning pass-through	Training approach	Potentially ineligible activities/costs	Potential issues with matching	Unsubstantiated indirect costs	Budgeting, reporting, and other
Alaska	Desk	NA	√ Benefit is to LEPCs rather than funding going to LEPCs.	NA	√	√	NA	√
Alabama	File	CBD However, State-level resources devoted to grant may be insufficient.	√ 2010–11 application indicates 6 subgrants to be awarded (out of 57 active LEPCs); does not describe selection process.	NA State uses centralized approach; however, some statements on application are of concern. 2010–11 application indicates awards to Alabama Fire College and Jefferson State Community College; no means to determine number needing training; HMEP training grant funds are used to supplement FEMA’s CERCLA grant funds; courses compliant with National Curriculum guidelines; no HazMat training assessment ever conducted.	√ 2010–11 application indicates there may be issues in separation of planning and training activities.	CBD 2010–11 application shows all matching coming from State; however, it also indicates that matching is required at local level for planning; source of matching for training cannot be determined.	√	√ 2010–11 application’s pricing basis for training is not clear; states that requirement for aggregate expenditures is “Not Applicable” and has identical budget amounts for all categories other than “Contractual.” 2009–10 FFR shows an unobligated balance, does not include information on indirect costs, and incorrectly addresses matching. No evidence of a final 2009–10 narrative performance report.
American Samoa	File	CBD	√ 2010–11 application says planning funds passed to the American Samoa Homeland Security Advisory Council (HSAC), which comprises 15 departments and agencies of the American Samoa government. It provides governance in the administration of DHS/FEMA grant funds and programs (but does not receive funds from them); HSAC apparently serves as SERC.	NA	√ 2010–11 application.	NA No matching required based on a statutory provision that allows waiver for territories under specified circumstances.	√ 2010–11 application refers to rate agreement, but copy not provided.	√ 2010–11 application budget \$3,200 for a projector and a laptop. FFR not available.
California	File	CBD However, given magnitude of dollars passed to LEPCs, it appears greater resources should be devoted to planning oversight at State level.	CBD	√ Training conducted through a State organization (California Specialized Training Institute). This was unclear from 2010–11 application, which refers to certain training costs as “administrative costs.” This was clarified subsequently.	√ 2010–11 application states the goal for 2010–11 planning is to work with local governments to establish area plans that will include the new California Senate Bill 391 Pesticide Drift. Pesticide drift-exposure incidents are unintended airborne transport of a pesticide to nontarget areas. 2010–11 application shows \$100,000 for 3,000 individuals to attend training programs, workshops, drills, and exercises. Some may be more appropriately considered planning.	CBD 2010–11 application shows all matching as “other,” but has no indication on planning side of whether matching requirement is passed through.	CBD 2009–10 shows a base and a federal share for indirect cost; no further information provided. (PHMSA is following up with FEMA based on the information submitted in California’s 2011–12 application, which also differs significantly from the 2009–10 report.)	√ 2009–10 FFR shows overmatch. California was requested as part of the review of the 2010–11 application to remove reference to a WMD Technician Specialist Terrorism course. They substituted another course of different duration but for the same cost.

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Table A-1. Summary of Review Results

State	Type of review	Allocability of salaries	Planning pass-through	Training approach	Potentially ineligible activities/costs	Potential issues with matching	Unsubstantiated indirect costs	Budgeting, reporting, and other
Colorado	File	CBD Small amount shown in 2010–11 application budget is for planning only.	√ 2010–11 application states the Colorado Emergency Planning Commission (the SERC) directly uses HMEP funds to support planning activities, HazMat exercises, HazMat data report distribution, the annual LEPC conference and management, and coordination and review of all grant funds. It also indicates the LEPCs do not have the ability or experience to manage grants funds; however, LEPCs prepare and submit grant applications. Application budget does not align with this arrangement.	NA	CBD	√ 2010–11 application shows matching as coming from State and local sources, but no further description provided.	NA	√ 2010–11 application has misstatement regarding the aggregate expenditures requirement: “Colorado’s expenditures have met the required 20% match for each of the previous 2 years, and will continue to do so for future approved grant funding.” No State grantee resources (federal or matching) are shown in budget to oversee contracts for training. 2009–10 FFR, unobligated balances; for training, presumably based on explanation of inability to reach rural communities.
Florida	Desk	√	√	√	√	√	NA	√
Kentucky	Desk	√	√	NA	√	√	NA	√
Illinois	Desk	√	√	NA	√	√	NA	√
Menominee Tribe (does not have an award)	File	CBD	NA 2007–08 award made for training only.	NA	CBD	CBD	√ 2007–08 application, FFR, and indirect cost rate agreement.	√
Nebraska	On-site	√	√	√	√	√	NA	√
New Jersey	File	CBD	√ 2010–11 application indicates 8 planning subgrants to 7 out of 566 (or 587) LEPCs.	√ 2010–11 application makes reference to a local training academy (Middlesex County Fire Academy) and also indicates that (1) training funds are passed to LEPCs in the form of 12 training subgrants @\$282,820, (2) the New Jersey State Police- Hazardous Materials Response Unit (the HMEP grantee) uses field instructors throughout the State to teach courses and administer corresponding tests, and (3) all training statistics are tracked by the University of Medicine and Dentistry of New Jersey.	√ 2010–11 application includes the following classes: Emergency Medical Operations, Emergency Department Operations Hazmat Hospital Provider, and Hospital Emergency Department Operations Level 2.	CBD 2010–11 applications shows all matching coming from the State.	√	√ 2010–11 application says that State salaries are used to meet the aggregate expenditure requirement for planning and that HMEP funding provides monies necessary to support an essential staff position within the HMRU to administer and properly manage the grant. These statements appear to be in conflict. 2009–10 FFR shows a large unobligated balance (25 to 30% of the federal award) and was submitted more than a month late. There is a limited explanation under Item 12 in the training portion of the Accountability Report. 2009–10 Accountability Report shows expenditures not borne out by FFR; other inconsistencies exist in reported information.

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Table A-1. Summary of Review Results

State	Type of review	Allocability of salaries	Planning pass-through	Training approach	Potentially ineligible activities/costs	Potential issues with matching	Unsubstantiated indirect costs	Budgeting, reporting, and other
Nevada	File	NA No salaries were requested in application; however, this raises question of State (rather than SERC) responsibilities for oversight and accountability.	√ 2009–10 Accountability Report lacks clarity between amounts to LEPCs funded by HMEP and by State grants and the number of LEPCs actually receiving HMEP funding.	NA	√ 2010–11 application says eligible LEPCs have the opportunity annually to apply for funds through the SERC Planning, Training, Equipment, and Operations Grant, which is funded by the State from Tier II fees and generally awarded to meet operational supplies and equipment needs.	√ 2010–11 application shows all matching coming from State; presumed to be the State grant, but not explicit. Allowable costs/activities under State grant may not meet federal requirements that pertain to matching.	NA	√ 2009–10 FFR shows about 25% unobligated balance; matching is not recalculated.
Oklahoma	On-site	√	√	√	√	√	NA	√
Pennsylvania	On-site	NA	√	√	√	√	NA	√
Texas	On-site	NA	√	NA	√	√	√	√
Wisconsin	File	CBD Questionable statements exist regarding activities of project manager that may be funded by HMEP or counted toward matching.	CBD	√ 2010–11 application shows several counties were awarded >\$350,000 (inclusive of matching); refers to county “special projects” for training and refers to planning, training, and development courses; follows “Guidelines for Public Sector Hazardous Materials Training,” FEMA guidelines, and “National Fire Academy Catalog”	√ 2010–11 application specifies a “Domestic Preparedness” training course; mentions multiple State and federal sources of funding as potential funders of training.	CBD	√	√ 2010–11 application indicates small amount in salaries/benefits likely not adequate to oversee use of HMEP funds. 2010–11 applications shows funds under contractual and “other,” but statements indicate in each case the funding is going to LEPCs; reason for distinction unclear.

Appendix B

On-Site Review: Nebraska

This appendix contains the in-depth assessment resulting from the on-site review of the Nebraska HMEP program.

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HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF NEBRASKA, MARCH 29–30, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Organization and Control Environment				
<p>Understand how the agency is organized and staffed to manage the HMEP program.</p>	<p>Obtain an organization chart. Briefly describe the agency and its mission:</p> <ul style="list-style-type: none"> • Document types of programs administered (direct federal, federal funds subgranted by others, other non-federally funded programs) • Document HMEP as a percentage of dollars of total agency responsibility • Describe how agency ensures that all personnel are properly trained, including training in HMEP-specific program requirements and grants administration. 	<p>State office responsible for the HMEP grant is the Nebraska Emergency Management Agency (NEMA). The Agency is headed by Director/Adjutant General. NEMA has 36 FTEs.</p> <p>The office with day-to-day responsibility for the HMEP grant is Grants and Preparedness. The office has responsibility for the HMEP grant and the FEMA/DHS non-disaster grants (as the State administering agency), as well as disaster grants. Funding is about \$160M/year for FEMA non-disaster grants and about \$700M in open disaster grants. The HMEP grant for FFY 2011 is \$310,372, which is about 2 percent of the FEMA non-disaster funding.</p> <p>Several of the individuals responsible for the HMEP grant have received grants management training and, therefore, have familiarity with federal grants management requirements. Familiarity with HMEP-specific requirements, while not necessarily problematic, appears to be an afterthought.</p>	<p>Organization chart Interview</p>	<p>While staff members appear to understand FEMA requirements (although this knowledge was not tested in depth), they were surprised to hear that the HMEP program would be held to the same standards.</p> <p><i>Follow-up:</i> Judge improvement in application content for 2011/2012, including description of oversight and resources devoted to oversight.</p>
	<p>Determine who has overall responsibility for the HMEP grant program</p> <ul style="list-style-type: none"> • What percentage of time is spent on the HMEP grant? • Is the HMEP director's salary (or a portion thereof) charged to the HMEP grant as a direct cost? • How is this reflected in 	<p>Grants and Preparedness has overall responsibility for the HMEP grant. The organization chart shows 14 positions under Grants and Preparedness; however, it appears that most of these staff have little, if any, HMEP-related responsibilities. About six NEMA/State staff</p>	<p>2011 application budget Interview Organization chart Letters from the State Fire Marshal's Office (January 2011), the Nebraska State Patrol (February 2011), and NEMA (from 2007)</p>	<p>NEMA's approach has multiple flaws:</p> <ul style="list-style-type: none"> • The salaries are characterized as soft match; however, they are not third-party in-kind contributions. They are actual salaries paid by the State, a portion of

HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF NEBRASKA, MARCH 29–30, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	<p>timekeeping?</p> <ul style="list-style-type: none"> • How are allocations made between planning and training? • What other duties does the HMEP coordinator have? 	<p>members have responsibilities related to the HMEP award. These include a full-time SERC/LEPC coordinator (reporting to the Technological Hazards Supervisor), a business manager (with effort spread across FEMA and PHMSA grants), the Grants and Preparedness supervisor, and the State fire marshal (the organization chart shows this individual as an employee of Grants and Preparedness.)</p> <p>The salary/benefits shown in the application budget are only \$11,000 for planning and \$12,000 for training. These amounts presumably represent some portion of the salaries of people who do perform HMEP-related duties. It is impossible to relate this information to the application narrative, which states that:</p> <p>“The current level of Emergency Management staff support for the HMEP program is about 1.5 staff year. The State will allow some additional staff time devoted exclusively to management of the grant and LEPC planning support.”</p> <p>In addition \$77,594 is shown as applicant match, all of which represents salaries. Twenty-five (25) percent of the salary of the adjutant general as an SERC member, 25 percent of the salary of superintendent of the Nebraska state patrol, and 100 percent of the State fire marshal ‘s salary, are charged to the HMEP grant.</p>		<p>which the State is claiming as match (although the letter from the State Fire Marshal does not state this explicitly).</p> <ul style="list-style-type: none"> • These salaries are not allocable to the HMEP grant—even as match. These individuals are not providing direct services for the HMEP grant that could approximate those percentages of time. • The salary/benefits shown in the application are only \$11,000 for planning and \$12,000 for training. These amounts presumably represent some portion of the salaries of people who do perform HMEP-related duties, and therefore, are inadequate for administration of the program. This is especially so in light of the circumstance discussed below under subawards, where LEPCs may “delegate” to NEMA the authority to spend funds on their behalf. NEMA must oversee LEPC’s and its interagency agreements/contracts, which requires the application of resources beyond those indicated in the budget.

HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF NEBRASKA, MARCH 29–30, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>The services that these individuals provide to the HMEP grant and the basis for the allocation are unclear.</p> <p>Further, the basis for allocation of any of these amounts between planning and training is arbitrary.</p>		<p><i>Follow-up:</i> Nebraska needs to be formally advised that charging salaries, even as match, for individuals not providing services to the grant and not having a defensible method of allocating permissible charges represents a material non-compliance.</p> <p>Nebraska's application for 2001/2012 should be reviewed in detail to determine whether additional, appropriate personnel resources are being proposed for the HMEP award.</p>
	<p>Describe the financial administration of the program:</p> <ul style="list-style-type: none"> • Identify who is responsible for financial administration of the program (e.g., tracking expenditures, preparing requests for reimbursement, preparing financial reports) • Determine the full scope of this person's duties • Note any other key participants in the program at the State level and their respective duties • Determine the basis, if any, of the compensation of individuals charged to the HMEP grant (e.g., direct or indirect cost). 	<p>Responsibilities are split among multiple people. The Grants and Preparedness supervisor is responsible for preparing the application and budget and approving payments; the business manager checks reports.</p>	<p>Interview</p>	<p>Financial administration of the grants needs to be strengthened from budgeting through reporting. While administration of this grant is not a full-time job, it should be more than an auxiliary duty. Given that systems and procedures presumably are in place for the large FEMA awards, NEMA ought to use these, modified as necessary for the HMEP award.</p> <p><i>Follow-up:</i> NEMA should be closely monitored for the next few program years, including, as appropriate, a desk review, to ensure improvement.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF NEBRASKA, MARCH 29–30, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
				<p><i>Conclusion:</i> Grantee does not devote the necessary resources (amount, quality) to manage the program as those responsible are more focused on the larger FEMA grants. In addition, the grantee is failing to meet its match by not using proper allocation method for charging of salary. Those interviewed did not appear to understand the “tests” that pertain to matching.</p>
Grant Application and Award				
<p>Determine how the program narrative and statement of work (SOW) and the application budget are developed.</p>	<p>Determine how application narrative and SOW are developed. Determine how application budget is developed and related to SOW. Determine internal review process for application before submission to SERC/PHMSA.</p>	<p>The application is essentially a repeat of the prior year with minimal updating. No process was described that attempts to align the budget with the SOW Most of the grant funds are spent at the State level—either by NEMA employees or through interagency agreements or “subawards” to other State entities. While NEMA does have a mini-grant process that provides funds to LEPCs (or agents acting on their behalf), the individual awards (and aggregate amounts) are small (under the 2009–10 award, NEMA made 10 awards to LEPCs out of a total of 79 active LEPCs) for a total of about \$10,000. As a result, NEMA’s development of the grant budget is not dependent on estimates or a funding process for those entities. Training amounts are established</p>	<p>2011 application/ budget Interagency agreement (State Fire Marshal) Subgrant agreements (University of Nebraska-Lincoln) Interview</p>	<p>The State needs to develop an SOW consistent with the funding available from PHMSA, build the budget up from the bottom to align with the proposed SOW, and clearly indicate who is spending the money. <i>Follow-up:</i> PHMSA should work with Nebraska (following consultation with PHMSA Counsel on the legality of the Nebraska approach to planning) to make certain that the application clearly shows (1) who is spending the money, (2) what the funding is for, and (3) the requirements are appropriately handled as subawards or acquisition of services, with appropriate requirements applied. (See below regarding the payment arrangements for</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF NEBRASKA, MARCH 29–30, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>in interagency agreements, which NEMA also variously characterizes as subawards. The director of administration (who also is the deputy director of NEMA) reviews the application, along with the SERC/LEPC coordinator before it is submitted to the SERC for review. At the interview, it was stated that the Grants and preparedness supervisor both prepares and reviews the application).</p>		<p>the research agreement, (which is inappropriately characterized as a fixed-price subaward rather than an acquisition of services.)</p>
<p>Determine relationship between the grantee and the State Emergency Response Commission (SERC).</p>	<p>Identify any evidence of SERC application review. Determine if SERC has a continuing role in the HMEP program. Determine if HMEP funds are used to fund SERC expenses and, if so, the nature of the funding arrangement.</p>	<p>The State Adjutant General is a member of the SERC. The SERC reviews grant applications. HMEP funds are used to fund SERC operations through a “research agreement” with the University of Nebraska-Lincoln. Among other things, HMEP funds are used to develop SERC agendas, take notes, and perform follow-up; develop SERC promotional materials; and develop SERC brochures.</p>	<p>Interview 2010–11 application Research agreement with University of Nebraska-Lincoln</p>	<p>It is noted that the primary effort under the research agreement is for a research director at \$102/hr. The reasonableness of this for some of the services provided is questionable. Under this arrangement, HMEP also is paying the University’s facilities and administrative (indirect costs), which are capped at 26 percent. <i>Follow-up:</i> PHMSA should determine whether this is an appropriate use of its funds and, consistent with that determination, advise NEMA on the propriety of this arrangement.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF NEBRASKA, MARCH 29–30, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Determine if the award and its terms and conditions are reviewed to identify governing requirements.	Determine process for recording award requirements and funded amounts once received.	There is no evidence that there is a process for reviewing the award document once received from PHMSA or that it is done informally.	Interview	Upon receipt, the award document must be reviewed to ensure that any changes made by PHMSA in the budget are known and any new or special conditions identified, e.g., quarterly financial reporting.
				<i>Conclusion:</i> Grantee does not have an adequate process for developing the HMEP application/budget and does not fully understand its obligations to PHMSA.
Program Administration				
Verify that at least 75% of HMEP planning funds are made available to LEPCs and 75% of training funds are spent for the training of public-sector employees employed or used by political subdivisions (49 CFR 110.70(a)(1), (b)(3), and (c)(3)).	Determine how compliance is traced to ensure <ul style="list-style-type: none"> • 75% of planning funds passed-through to LEPCs • 75% of training funds for the benefit of public-sector employees. 	Language in Nebraska's application states the following: "Nebraska is currently planning to pass approximately 75% of federal funds awarded to the LEPCs. Since the Nebraska Attorney General's Opinion concludes that 'The LEPCs' are boards or commissions of the state' and 'that LEPC members are employees of the state' when functioning as an LEPC, then it is appropriate for the Emergency Management Agency to directly pay the costs of the LEPC operations. A procedure has been established to reimburse the LEPCs for legitimate expenses incurred by the LEPCs and the SERC. In addition, a mini-grant program was established in 1994, which allowed LEPCs to request funds for special projects that fall within the allowable activities of the HMEP Grant, as well as their	2010–11 application/ budget University of Nebraska-Lincoln agreements Letters of Understanding with the State Fire Marshal's Office and the Nebraska Law Enforcement Training Center February 11, 2011 letter to NEMA from Nemaha County Emergency Management Agency Interview	While NEMA may be getting some "bang for the buck" through the CFS award to the University (year 3 of a 4-year project at \$75,000/yr) and has developed a useful tool in "LEPC 101," it is not clear that HMEP planning funds in the aggregate are enhancing planning as envisioned by the program. Also, it is questionable whether NEMA can claim that (1) 75 percent of the planning funds are being passed through to LEPCs, or (2) 75 percent of training funds are being used for the intended beneficiaries. <i>Follow-up:</i> PHMSA should work its legal counsel to review the specific aspects of the Nebraska "opinion" and the arrangements it has

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>regular operating expenses (i.e., public meeting ads, mailings, stamps).”</p> <p><i>Planning:</i> Planning funds are distributed primarily to the University of Nebraska-Lincoln (at \$87,000 out of \$135,000 [inclusive of matching]), which raises questions about Nebraska’s compliance with the requirement to pass-through 75 percent of the funds to LEPCs. Only \$25,000 is potentially available for direct award to LEPCs.</p> <p>\$75,000 was provided to the University of Nebraska-Lincoln as a “subaward” for the third phase of a commodity flow study. The basis for this amount, which is exactly one-quarter of a 4-year award with the same amount provided each year, was not provided.</p> <p>NEMA also passed through funds to the University of Nebraska-Lincoln in the form of a “research agreement” for \$12,871.</p> <p>NEMA also indicated that LEPCs can delegate to NEMA the authority to spend their planning money. No methodology was indicated that specifies what that funding might be for a given county.</p> <p><i>Training:</i> NEMA has “letters of understanding” with the following:</p> <ul style="list-style-type: none"> • State fire marshal’s office that allows for the transfer of up to \$45,000 for conducting hazardous materials training. 		<p>with other State components in order to determine compliance</p> <p><i>Follow-up:</i> NEMA should be required to provide a detailed breakdown of the “Contractual” category in its 2010–11 application as the numbers are not consistent with the information provided on site.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>Of that amount, \$33,750 (or 75 percent) is required to go toward training. The remainder is for administrative expenses associated with the training, including acquisition of training materials.</p> <ul style="list-style-type: none"> • Nebraska Law Enforcement Training Center that allows for the transfer of up to \$10,000 for conducting hazardous materials training. Of that amount, \$7,500 (or 75 percent) is required to go toward training. <p>Beyond these agreements, the State does not appear to have an organized training program. Some funds may go directly to a fire district, while others are used to reimburse employees for travel to a training conference or course delivery site.</p> <p>It is not possible to determine conclusively whether the 75 percent requirement for training is met.</p>		
<p>Determine if expenditures for planning are in accordance with HMEP requirements and guidance (49 CFR 110.40(a), website, other).</p>	<p>Determine process used to assess consistency of planning activities with HMEP requirements, including the following:</p> <ul style="list-style-type: none"> • SERC or HMEP manager approval • LEPC activity alignment and implementation, including funding basis (e.g., project-type and/or operational expenditures). 	<p>The planning expenditures may not be in accordance with HMEP programmatic regulatory requirements and guidance. No process is used to determine consistency with HMEP requirements.</p> <p>Areas of potential non-compliance include the following:</p> <ul style="list-style-type: none"> • Payment of operational expenses of the SERC (The SOW for the research agreement with the University of Nebraska-Lincoln primarily 	<p>2010–11 application LEPC Guide University of Nebraska-Lincoln agreements Interview</p>	<p><i>Follow-up:</i> The legal propriety of the NEMA arrangements for expenditure of planning funds needs to be addressed by PHMSA. While it appears that necessary planning and exercises do occur (using other sources of funding), PHMSA still must be concerned with how grantees use HMEP funds, including whether they meet the intent of the pass-</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>included administrative services in support of the SERC (e.g., serving as the secretariat for the SERC. The characterization of this as a research agreement is at best questionable and the SOW raises questions of programmatic allowability.)</p> <ul style="list-style-type: none"> • Payment of operational expenses of LEPCs. • Questionable activities, e.g., customer litter bags; mileage of members to attend LEPC meetings; paying the University of Nebraska to find ways to get money to LEPCs other than through reimbursement). • Payment in advance of performance, i.e., the research agreement calls for a 25 percent payment upon signing and equal quarterly installments thereafter (although in this case, it is unclear when those payments are being billed to PHMSA). 		<p>through requirement. It also is noted that NEMA had a significant unobligated balance for the program year ending 9/30/10.</p> <p>The State needs (1) a more robust subgrant process and (2) to devote more than \$25,000 to subgrants. In that regard, NEMA should be prepared to devote resources to the review of subgrant applications, ranking for award based on proposed projects, and postaward oversight.</p>
<p>Determine if expenditures for training are in accordance with HMEP requirements and guidance (49 CFR 110.40(b), website, NFPA 472, 2008 version).</p>	<p>Determine standards used to determine allowability of types of training:</p> <ul style="list-style-type: none"> • Does training fit the transportation hazard assessments and commodity flow studies of the locale or State? • For CBRNE, DOT recommends a strong rationale for taking such courses (e.g., active hazards or threat-based analysis). Was the need documented for any such training? 	<p>The current agreement with the State fire marshal's office and the Nebraska Law Enforcement Training Center indicate that the program is required to operate under the guidance provided in April 2003 FEMA Guidelines for HazMat WMD Response, Planning and Prevention Training Manual. No mention is made of NFPA-472 nor does the agreement specify the courses to be provided, although it appears that a separate vendor may be</p>	<p>2009–11 final report 2010–11 application Interview Letters of Understanding with the State Fire Marshal's Office and the Nebraska Law Enforcement Training Center</p>	<p>NEMA's final report indicates that 859 people were trained using HMEP funds in the program year ending 9/30/10. It is unclear who trained these individuals and at what cost.</p> <p><i>Follow-up:</i> Require NEMA to provide the actual list of courses conducted by the State Fire Marshal's and the Nebraska Law Enforcement Training</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		responsible for delivery of a Hazmat Technician course. Two employees of the State Department of Environmental Quality attended a 5-day Highway Emergency Response Specialist class at the Transportation Technology Center in Baltimore, MD. Unless those employees are part of a regional response team or are part of the train-the-trainer cadre, this likely is an unallowable expense.		Center under the current award and how the pricing is derived. <i>Follow-up:</i> Require NEMA to explain how 859 people were trained between 10/1/09 and 9/30/10.
Determine if the grantee maintained an aggregate of expenditures for the last 5 fiscal years from non-federal sources for planning and for training, separately; such expenditures cannot be used for matching (49 CFR 110.30(b)(2) and (c)(2)).	Assess understanding of the aggregate expenditure (maintenance of effort (MOE) requirement). Determine how maintenance effort is calculated and tracked, including separation from costs/ contributions claimed as matching. Review documentation for the prior periods serving as base.		Interview	<i>Follow-up:</i> PMSA should determine continued need to get an assurance for this requirement and, if so, correct the application kit and advise grantees on how to develop a baseline.
Verify that the grantee has provided 20% of the actual, allowable direct and indirect costs and meets the requirements of 49 CFR 18 that apply to matching (49 CFR 110.60).	Determine the process for assessing the sources and amounts needed to meet the matching requirement and whether the determination is made as a part of the application process. Determine whether the grantee understands the difference between cash and third-party in-kind contributions. Determine the process for tracking the matching requirement. At what level are amounts tracked: <ul style="list-style-type: none"> • Planning/training levels? • Award level? • Subaward level (if any matching required at that level)? Verify that matching requirement has been met and documented.	NEMA's match is intended to be met totally by portions of direct State salaries as specified above. While there would be no issue regarding documenting salaries, as discussed above, these matching amounts are not allocable to the program. No matching is required by the LEPCs or through the other "subawards"/agreements entered into by NEMA.	Interview Letters of intent regarding matching 2010–11 application budget	<i>Follow-up:</i> PHMSA should address with NEMA appropriate means of meeting/documenting the required match.

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	What expenditures or contributions were used to match allowable costs: direct vs. indirect, and payments vs. in-kind? If in-kind, review valuation documentation.			
				<i>Conclusion:</i> Grantee does not have processes in place that allow it to fully meet programmatic requirements. The design of the subgrant process for planning results in an expenditure of funds that is neither effective nor compliant.
Grant Administration				
Determine if grant expenditures are made in accordance with the approved budget and requirements that pertain to changes in that budget or project.	Determine whether the budget used is the one provided in the application, or based on the HMEP award. Determine whether grantee understands prior approval and rebudgeting requirements of 49 CFR 18 Describe budget monitoring process: <ul style="list-style-type: none"> • At what level is budget activity monitored (planning vs. training, by subaward, contract, or budget category)? • Verify that any budget amendments or other changes requiring prior approval were submitted to PHMSA for approval when required by 49 CFR 18 or other terms and conditions of award. 	The budget is tracked at an activity level as defined by NEMA rather than at the budget-category level. The under-run that accounts for the unobligated balance runs throughout.	Interview	It is not possible to determine whether there would be a need for any budget amendments given the way the funds are tracked and the aggregation of activities under "Contractual." <i>Follow-up:</i> Have NEMA provide a breakdown of the "Contractual" category under both Planning and Training, try to align it with reported activities, and question activities that look like use of training funds for planning, activities planned but not accomplished, etc.

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Determine if indirect costs are properly charged to the program.	If the grantee claims indirect costs, determine whether the agency has a current federally approved indirect cost rate. If yes, verify that rate charged to HMEP is in accordance with approved rate. If no, determine the basis on which indirect costs are charged and conformity with OMB Circular A-87.	NEMA is not charging indirect costs to the HMEP grant.	2010–11 application budget	No exceptions noted.
Verify that equipment purchased with HMEP funds is recorded and tracked in accordance with federal and grantee requirements.	Determine State’s capitalization threshold and any policies related to “sensitive” property (e.g., cameras, laptops, GPSs). Inquire about property records for items purchased with HMEP funds. Determine if HMEP property is properly accounted for.	No equipment funds are requested in the NEMA application. Supplies in the amount of \$5,000 for planning and \$10,000 for training were requested in the application budget. The NEMA mini grant guidance states that “grant funds shall be used as specified in 49 CFR 110.40(a) for planning activities excluding procurement of operational equipment to be used in response actions (for example, no radios or computers).” However, laptops can be purchased if a subsequent report demonstrates that it is being used with CAMEO and Tier II information.	2010–11 application budget	Laptops and GPSs are potentially purchased without any accountability or controls on their use. <i>Follow-up:</i> Determine Nebraska’s capitalization threshold and whether it treats laptops and GPS’s as “sensitive” property and what type of accountability requirements it places on this property when purchased with HMEP funds. <i>Follow-up:</i> Require NEMA to describe the approval process for purchase of laptops.
Assess whether direct costs are allowable under OMB Circular A-87 (2 CFR 225) and grantee’s own policies.	Verify that processes are in place to ensure that expenditures were not made for: <ul style="list-style-type: none"> • expenditures already reimbursed through another program, or • entertainment or other unallowable costs under A-87. Determine how travel is reimbursed and whether training-related travel is included within contract price when training effort is contracted	Funds are requested in limited budget categories for both planning and training.	2010–11 application/ application budget	Unable to make an assessment of the training grant budget without a further breakdown of the “Other” category (see follow-up action above). <i>Follow-up:</i> PHMSA should make a determination of cost allowability (as well as programmatic allowability) based on additional detail provided.

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>Determine if grantee appropriately distinguishes between subawards and contracts for services.</p>	<p>Assess grantee's understanding of differences in process and effect on oversight. Determine process for distinguishing between types of lower-tier awards.</p>	<p>While none of the non-LEPC agreements reviewed is with a commercial entity, they should be written as an acquisition of services not subawards. The prime example is the "research agreement" with the University of Nebraska-Lincoln.</p>	<p>Interview 2010–11 application/ application budget</p>	<p>The intra-State agreements are problematic. Cannot make a more definitive determination regarding the grantee's level of understanding without greater detail on the "Contractual" category of the budget. <i>Follow-up:</i> See above regarding obtaining budget breakdowns.</p>
<p>Assess process leading to subawards.</p>	<p>Describe process for soliciting applications for subawards and timing in relation to application submitted to PHMSA:</p> <ul style="list-style-type: none"> • Review solicitation materials and method of distribution • Determine means of reviewing subaward applications, including budget, and relation to HMEP application/award budget. <p>Review subgrant award process:</p> <ul style="list-style-type: none"> • Review sample of subgrant agreements • Determine whether required HMEP grant conditions are included • Review budget breakdown • Review reporting requirements • Review payment provisions. 	<p>Nebraska has 79 active LEPCs. It is unclear why only 10 received "min-grants" or why only \$25,000 is devoted to that process (and even that amount was not awarded in the program year ending 9/30/10.) No itemized budget is required based on the nature of the activities and the small amount of the award. Further, LEPCs are advised that they can spend up to \$150 with prior approval for "administrative fees, such as newspaper ads." These expenses are presumably apart from the mini-grant process that requires an "application"; however, administrative fees also as shown as a possible use of a mini grant.) We did not see any terms and conditions associated with the mini grants, including any financial reporting requirements. Rather, once the project is completed, the LEPC is required to submit the original application, the request for reimbursement, and invoices.</p>	<p>Interview Final Accountability Report 2009–10 2010–11 application</p>	<p>The current process of subgrant application/ budget review and reporting is inadequate even at the current funding of LEPCs. Under a more robust subgrant process, NEMA will need to determine allowability of costs in the budget, align with proposed activities, and authorize payment based on activities completed/costs incurred. NEMA was advised that allowing any expenditure without "prior approval" is problematic. The primary reason is the potential for abuse by making multiple expenditures under the threshold. <i>Follow-up:</i> As part of a revised subgrant process, NEMA should require a budget (in the same categories as its submission to PHMSA) that aligns proposed costs activities. NEMA's</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>It also is noted that a “best practices” sheet for the mini-grant program specifies that LEPCs can join with other LEPCs and have the local public health district serve as their fiscal agent; an LEPC can have its local city or county serve as its fiscal agent; an LEPC can serve its own account. This raises the question of who is actually accountable to NEMA for the proper expenditure and accounting for funds.</p>		<p>subawards should include the overall amount of the subaward, the approved budget breakdown, and the amount of the required match, if any, and applicable terms and conditions.</p>
<p>Assess approach to subrecipient monitoring.</p>	<p>Describe monitoring process:</p> <ul style="list-style-type: none"> • Is it risk-based or is it another approach to monitoring? • Does it include obtaining and reviewing required financial and progress reports? • Does it include verification of specific program requirements as reflected in subaward agreement, e.g., review and acceptance of updated plans, evidence of completion of exercises? <p>Note whether grantee determines if subrecipients are subject to A-133 audit requirements.</p> <p>If required, document whether a review of reports is conducted</p> <p>If not required, describe additional steps taken to ensure compliance</p> <p>Review sample of subgrant agreements for evidence of monitoring</p> <p>Describe follow-up and remediation process if deficiencies are identified and review for adequacy.</p> <p>Determine if subawards are closed out before submission of final reports to PHMSA.</p>	<p>There is essentially no subgrant monitoring either for the amounts going to the LEPCs or to others (that should be contracts).</p>	<p>Interview</p>	<p>As indicated above, the whole subgrant process needs to be overhauled. NEMA should appropriately distinguish between subgrants and acquisition of services. Subgrants should then be properly overseen consistent with the State’s responsibilities to PHMSA.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>Determine whether procurements are conducted and administered consistent with State requirements.</p>	<p>Determine procurement process used to acquire services, including pricing arrangement.</p> <p>Review training contract (if applicable) for compliance with HMEP requirements.</p> <p>Determine if contracts are monitored for costs incurred and timely completion of deliverables.</p>	<p>No "procurements" were provided for review.</p>		<p>Regardless of the instrument used, NEMA should have a more commercial-like agreement with the State Fire Marshal's Office and the Nebraska Law Enforcement Training Center with a pricing basis per course.</p> <p><i>Follow-up:</i> In addition to obtaining information on classes being taught and pricing, NEMA should explain its role in making certain that available training is utilized and the basis on which classes are offered.</p> <p>NEMA also should be requested to document why the State Fire Marshal's office underspent by almost a third of its budget in the program year ending 9/30/10.</p>
<p>Understand basis for payment requests in relation to effort.</p>	<p>Understand basis for submission of SF-270s to PHMSA.</p> <p>Is request for reimbursement aligned with incurred costs/payments to subrecipients and contractors?</p>	<p>While NEMA appears to be requesting funds on a reimbursement basis, it is not clear how they are financing certain activities such as the funding of the research agreement with the University of Nebraska-Lincoln.</p>	<p>Research Agreement</p> <p>Mini-grant process description</p> <p>Vouchers</p> <p>Accounting system printouts</p>	<p>Both the research agreement and the CFS payment terms call for amounts/payments unrelated to performance. It is unclear whether NEMA is financing those payments and at what point reimbursement is actually requested from PHMSA for those activities.</p> <p><i>Follow-up:</i> Modify payment process for certain acquisitions/subawards.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
				<p><i>Conclusion:</i> Grantee does not have processes in place to properly manage the administrative aspects of the grant.</p>
Reporting				
<p>Determine whether financial and performance reporting on program activity is conducted in accordance with program requirements.</p>	<p><i>Financial:</i> Determine how expenditure reports are generated, including how HMEP expenditures are identified and tracked and if amounts reported, including matching, can be traced back to supporting documentation.</p> <p><i>Performance (including final program narrative and report of accomplishments):</i> Determine how metric data are accumulated and accuracy of data is ensured (number of first responders trained, number of emergency response plans completed, number of LEPCs supported, and number of exercises conducted).</p> <p>Determine if performance reports are reviewed for consistency with application and with each other.</p> <p><i>Report on authorized expenditures:</i> Determine how expenditure information is derived for this report.</p>	<p><i>Financial:</i> The basis for generating the Federal Financial Report was not addressed; however, several discrepancies were noted in the reports submitted to PHMSA:</p> <ul style="list-style-type: none"> • The report was submitted late and the FFR is unsigned and is dated 1/26/10 (should be 1/26/11). • It shows the reporting period as ending 12/31/10. • Part of the recipient share is shown on the "yet to be provided" line, but would not be required based on the fact that federal funds were not obligated in full. • FFR was not broken down to show planning and training separately. <p><i>Performance:</i> The information provided in the final report—submitted in the template format provided by PHMSA—makes it difficult to understand what was actually done with the HMEP funds/matching.</p> <p><i>Report on authorized expenditures:</i> The training expenditures reported do not bear any relationship to the application budget or the activity tracking maintained by NEMA.</p> <p>The planning numbers also are</p>	<p>Reports submitted to PHMSA for period ending September 30, 2010</p>	<p><i>Follow-up:</i> PHMSA should consider the need for training grantees on the use of the SF 425.</p> <p><i>Follow-up:</i> As a result of a PHMSA change in application requirements, e.g., including planned performance outcomes, progress reports should track to achievement of what was specified in the approved application.</p> <p><i>Follow-up:</i> PHMSA should reconsider use of the report on authorized expenditures. Recipients do not budget or track expenditures in accordance with the categories of activity specified in the regulations. As a result, the reported numbers are arbitrary and will not be reported consistently across all HMEP grantees.</p> <p><i>Follow-up:</i> PHMSA should ensure through review of the funds in NEMA's "Contractual" category for planning and training, and separate planning and training FFRs, that funds were appropriately spent for planning and training,</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		problematic, but a little easier to track.		respectively.
				<i>Conclusion:</i> Grantee does not have processes in place to ensure accurate and timely reporting.

Appendix C

On-Site Review: Oklahoma

This appendix contains the in-depth assessment resulting from the on-site review of the Oklahoma HMEP program.

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HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF OKLAHOMA, MARCH 3–4, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Organization and Control Environment				
Understand how the agency is organized and staffed to manage the HMEP program.	Obtain an organization chart. Briefly describe the agency and its mission. <ul style="list-style-type: none"> • Document types of programs administered (direct federal, federal funds subgranted by others, other non-federally funded programs) • Document HMEP as a percentage of dollars of total agency responsibility • Describe how agency ensures that all personnel are properly trained, including training in HMEP -specific program requirements and grants administration. 	State office responsible for the HMEP grant is the Oklahoma Department of Emergency Management (ODEM)/ Preparedness Division. There are two vacancies in this division, one being the Plans Officer, and there currently is a hiring freeze. The office has responsibility for the HMEP grant and the FEMA/DHS Emergency Management Partnership Grant (EMPG), and several smaller FEMA grants. The \$4.6M EMPG award provides operational funds for ODEM. The individuals responsible for the HMEP grant in ODEM have not received grants management training. Familiarity with HMEP-specific requirements is limited, including that planning and training funds are not fungible.	Organization chart Interview Job description/list of activities	<i>Follow-up:</i> The responsible individuals should receive grants administration training. This is especially important given the expectations for subrecipient oversight. These individuals also should be much more familiar with HMEP programmatic requirements than they are currently.
	Determine who has overall responsibility for the HMEP grant program: <ul style="list-style-type: none"> • What percentage of time is spent on the HMEP grant? • Is the HMEP director's salary (or a portion thereof) charged to the HMEP grant as a direct cost? • How is this reflected in timekeeping? • How are allocations made between planning and training? • What other duties does the HMEP coordinator have? 	The interview revealed that two staff members primarily handle the HMEP award—the chief of preparedness and the procurement officer/chief accountant (who is located in the Operations Support Division). Both of these individuals also have responsibility for the other grants administered by this office. It was indicated that these individuals receive assistance in grant administration from others (unspecified). The salary of the chief of preparedness is charged 100 percent to the HMEP grant (\$59,000 + \$8,000 in fringe benefits); the accountant is not	2011 application budget Interview	Charging 100 percent of the salary of the chief of preparedness to the HMEP grant is contrary to the requirements of OMB Circular A-87 (2 CFR 225). The HMEP grant currently consumes a very minor portion of her time. <i>Follow-up:</i> The chief of preparedness needs to properly allocate her time to different federal grant programs and other activities that make up her workload and must be able to substantiate

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		charged to the HMEP grant. Oklahoma does not claim indirect cost reimbursement from PHMSA.		the allocation to HMEP.
	Describe the financial administration of the program: Identify who is responsible for financial administration of the program (e.g., tracking expenditures, preparing requests for reimbursement, preparing financial reports) Determine the full scope of this person's duties Note any other key participants in the program at the State level and their respective duties Determine the basis, if any, of the compensation of individual(s) charged to the HMEP grant (e.g., direct or indirect cost).	The procurement officer/chief accountant is primarily responsible for the financial activities under the grant, i.e., completing the Federal Financial Report (SF-425), preparing the SF-270 (request for reimbursement) that is submitted to PHMSA, and tracking expenditures even though this is clearly an auxiliary duty to "help out."	Interview	Financial administration of the grants needs to be strengthened from budgeting through reporting and, in particular, having a basis for reimbursement requests (see discussion of subawards below). While administration of this grant is not a full-time job, it should be more than an auxiliary duty. <i>Follow-up:</i> Oklahoma should be closely monitored for the next few program years, including, as appropriate, another site visit, to ensure improvement.
				<i>Conclusion:</i> Grantee does not devote the necessary resources (amount, quality) to manage the program as those responsible are more focused on the larger FEMA grant. In addition, the grantee is overcharging the HMEP program by not using proper allocation method for charging of salary. Those interviewed did not appear to understand the concept of allocability.
Grant Application and Award				
Determine how the program	Determine how application narrative	Approaches are essentially based	2011 application/budget	The State needs to know

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>narrative and statement of work (SOW) and the application budget are developed.</p>	<p>and SOW are developed. Determine how application budget is developed and related to SOW. Determine internal review process for application before submission to SERC/PHMSA.</p>	<p>on what the incumbent's predecessor did without understanding what actually is required. No process was described that attempts to align the budget with the SOW ODEM uses about \$100,000 per year for planning subawards (25 LEPCs X \$4,000 each) but activities are not specifically described in the application. This approach is based on what was done in years past and no alternatives have been considered. ODEM provides \$100,000 per year to Oklahoma State University (OSU) under a training agreement (classified by ODEM as a grant, but using contract terminology). Note that the application states: "OSU Fire Service Training will have 182 offerings of varied hazardous materials response and LEPC training for FY 2011 with the number of students trained projected to be over 1,500." The training agreement shows the potential for more than 3,000 trained. The actual number reported for 2010 was 1,233. The application states that remainder of the training budget pays for local responder/State personnel attendance at conference such as HOTZONE, NASSTPO and LEPC Conferences and selected teams to training such as the HAZMAT Challenge. Some of these activities may more appropriately be considered planning.</p>	<p>Generic subgrant agreement Interview</p>	<p>what is in the application that it is signing, not just continue what a predecessor did. The State needs to develop an SOW consistent with the funding available from PHMSA and build the budget up from the bottom to align with the proposed SOW. Providing \$4,000 per LEPC is not an effective use of funds (even if the other problems described below did not exist). Pricing of the training under the OSU agreement appears to be based on number of sessions versus number trained. The capacity of OSU appears to be much higher as specified in the agreement. A more concentrated effort should be made to have those needing training attend and complete training. <i>Follow-up:</i> Work with the State to ensure a more effective and compliant subgrant process and efficient use of training funds.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF OKLAHOMA, MARCH 3–4, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>It is also noted that, while most of the numbers are round numbers, the amount shown under the “Other” category for planning, which presumably is the amount for the subawards, does not equal either \$4, 000 X 25 or \$3,000 X 25, but is an exact number.</p>		
<p>Determine relationship between the grantee and the State Emergency Response Commission (SERC).</p>	<p>Identify evidence of SERC application review. Determine if Does SERC has a continuing role in the HMEP program. Determine if HMEP funds are used to fund SERC expenses and, if so, the nature of the funding arrangement.</p>	<p>The Oklahoma Hazardous Materials Emergency Response Committee (OHMERC) does not appear to be an independent player. The chief of preparedness serves on the SERC and her involvement and provision of a summary of applications is deemed to satisfy SERC review requirements.</p> <p>She advised the OHMERC approve HMEP expenditures and receive reports of those expenditures; however, no documentation of that was provided.</p> <p>No HMEP funds are used to fund SERC operations except as any SERC-related responsibilities of the chief of preparedness are being charged as part of her salary.</p>	<p>Interview 2010–11 application</p>	<p>The SERC should review all LEPC applications (under an improved process for developing subgrant applications and budgets).</p> <p>The chief of preparedness should serve as an ex officio member rather a voting member.</p> <p><i>Follow-up:</i> Request further documentation of OHMERC charter, membership, and operating procedures, including evidence of approval of HMEP expenditures.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Determine if the award and its terms and conditions are reviewed to identify governing requirements.	Determine process for recording award requirements and funded amounts once received.	There is no evidence that there is a process for reviewing the award document once received from PHMSA or that it is done informally.	Interview	Upon receipt, the award document must be reviewed to ensure that any changes made by PHMSA in the budget are known and any new or special conditions identified, e.g., quarterly financial reporting.
				CONCLUSION: <i>Grantee has not historically had an adequate process for developing the HMEP application/budget and does not fully understand its obligations to PHMSA.</i>
Program Administration				
Verify that at least 75% of HMEP planning funds are made available to LEPCs and 75% of training funds are spent for the training of public-sector employees employed or used by political subdivisions ((49 CFR 110.70(a)(1), (b)(3), and (c)(3)).	Determine how compliance is traced to ensure <ul style="list-style-type: none"> • 75% of planning funds passed-through to LEPCs and • 75% of training funds for the benefit of public-sector employees. 	\$4,000 is provided to each of 25 LEPCs for planning activities, which satisfies the letter of the 75 percent requirement. Whether Oklahoma meets the requirement for training funds is not as clear. For instance, the 2010–11 application indicates that a portion of the training funds will be used to send State personnel to conferences. In addition to the \$100,000 attributable to the training agreement with OSU, there is about another \$125,353 budgeted under “Other” for training. The makeup of that amount cannot be determined based on the information provided.	2011 application/ budget OSU agreement	The budget request needs to be aligned with planned activities and HMEP requirements related to planning and training. <i>Follow-up:</i> Oklahoma should be requested to provide a breakdown of the large amount shown under “Other” for both training). <i>Follow-up:</i> PHMSA should work with Oklahoma to clarify what types of activities should be charged to planning and to training, respectively.
Determine if expenditures for planning are in accordance with HMEP requirements and guidance	Determine process used to assess consistency of planning activities with HMEP requirements, including the following:	The planning expenditures are not in accordance with HMEP regulatory requirements and guidance.	FY09 LEPC Assistance Grant Agreement (provided by ODEM in part—pages 4-11 of 18)	The State needs a more robust subgrant process and should be prepared to devote resources to

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>(49 CFR 110.40(a), website, other).</p>	<ul style="list-style-type: none"> • SERC or HMEP manager approval • LEPC activity alignment and implementation, including funding basis (e.g., project grant and/or operational expenditures). 	<p>The grant agreement enumerates nine activities, including participating in a hazmat exercise annually and updating the LEPC emergency response plan annually, conducting meetings, and sponsoring/co-sponsoring an outreach activity. However, it is unclear how this can be done for \$4,000 (it also is unclear whether this is inclusive or exclusive of the required \$1,000 match since the agreement indicates that a payment of \$3,000 [2 X \$1,500] will be made at the specified times) and no documentation of a budget or planned activities was provided. The agreement also indicates that (1) up to \$2,000 can be used to purchase a laptop with no advance approval, only a demonstration that it is being used with CAMEO and Tier II information and (2) up to \$1,000 may be used to purchase a GPS.</p> <p>Areas of noncompliance include:</p> <ul style="list-style-type: none"> • Payment of operational expenses • Payment of food costs for “meetings held for or in the interest of the general public” (based on a State decision that this is allowable rather than federal cost principles and HMEP guidance that this is not an allowable planning cost) • Questionable activities, e.g., production of Halloween bags • In many cases, lack of documented outputs of the planning process, e.g., exercises documented 	<p>2010–11 application Interview</p>	<p>the review of subgrant applications, ranking for award based on proposed projects, and postaward oversight rather than treating the \$4,000 as an entitlement payment for operating. It also is noted that the generic subgrant agreement requires LEPCs to establish a budget account with a political subdivision (county or city) prior to grant application in order to receive and disburse funds.</p> <p>As in other States, it appears that the recipients of the funds are not the LEPCs and, whether, although this may be a good idea, it meets programmatic requirements. At present, since there is virtually no accountability for the funds provided, the question of who is accountable to PHMSA may be moot.</p> <p><i>Follow-up:</i> Require the State to send explicit guidance to LEPCs/ their agents that food costs are not allowable under HMEP grants.</p> <p><i>Follow-up:</i> Require the State to submit for review a revised subgrant process for 2011–12</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<ul style="list-style-type: none"> • Payment in advance of performance (\$3,000 is paid by February based on the initial application and submission of an interim report even though the agreement specifies that all tasks must be completed by September 1). 		<p>(understanding that the next program year is when major changes would be expected). Included in that would be a requirement for ODEM approval before a laptop or GPS is purchased.</p> <p><i>Follow-up:</i> Require an explanation of the relationship between an LEPC, a county or city acting on the LEPC's behalf, and ODEM.</p>
<p>Determine if expenditures for training are in accordance with HMEP requirements and guidance (49 CFR 110.40(b), website, NFPA 472, 2008 version).</p>	<p>Determine standards used to determine allowability of types of training:</p> <ul style="list-style-type: none"> • Does training fit the transportation hazard assessments and commodity flow studies of the locale or State? • For CBRNE, DOT recommends a strong rationale for taking such courses (e.g., active hazards or threat-based analysis). Was the need documented for any such training? 	<p>The training specified in the training agreement with OSU does not match the information provided in the grant application or final report that ODEM submitted to PHMSA nor does it meet NFPA-472 and regulatory requirements. No technician refresher courses are shown, including training for their regional response teams (probably all trained to technician level).</p> <p>Further, there is no evidence that the State assessed its training needs and then developed training agreements to meet those needs. Each of the classifications in NFPA 472 states that the course will also include appropriate OSHA training to meet regulatory requirements. Accordingly, 29 CFR 1910.120 (e)(8) requires an 8-hour refresher course in each discipline.</p>	<p>2010–11 application Interview Training agreement with OSU</p>	<p>There are a number of inconsistencies between ODEM's 2010–11 application and the training agreement with OSU.</p> <p><i>Follow-up:</i> Require ODEM to provide the actual list of courses to be offered by OSU under the current award and how the pricing is derived.</p>
<p>Determine if the grantee maintained an aggregate of expenditures for the last 5 fiscal years from non-federal</p>	<p>Assess understanding of the aggregate expenditure (maintenance of effort [MOE]) requirement Determine how maintenance effort is</p>	<p>State staff did not appear to be familiar with the aggregate expenditure requirement although the application did include an</p>	<p>Interview</p>	<p><i>Follow-up:</i> Require PHMSA to determine continued need to get an assurance for this</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
sources for planning and for training, separately; such expenditures cannot be used for matching (49 CFR 110.30(b)(2) and (c)(2))	calculated and tracked, including separation from costs/contributions claimed as matching. Review documentation for the prior periods serving as base.	amount (\$15,196 for planning and \$35,000 for training for each of the 2 prior fiscal years).		requirement and, if so, correct the application kit and advise grantees on how to develop a baseline.
Verify that the grantee has provided 20% of the actual, allowable direct and indirect costs and meets the requirements of 49 CFR 18 that apply to matching (49 CFR 110.60)	<p>Determine the process for assessing the sources and amounts needed to meet the matching requirement and whether the determination is made as a part of the application process.</p> <p>Determine whether the grantee understands the difference between cash and third-party in-kind contributions.</p> <p>Determine the process for tracking the matching requirement.</p> <p>At what level are amounts tracked:</p> <ul style="list-style-type: none"> • Planning/training levels? • Award level? • Subaward level (if any matching required at that level)? <p>Verify that matching requirement has been met and documented.</p> <p>What expenditures or contributions were used to match allowable costs, direct vs. indirect, payments vs. in-kind?</p> <p>If in-kind, review valuation documentation.</p>	<p>State has a methodology for determining matching costs for the planning funds, i.e., they advise subgrantees to report personnel hours expended multiplied by the minimum wage (they indicated this as \$7.25) to equal \$1,000. (NOTE: The Oklahoma application indicates that, for purposes of maintaining aggregate expenditures, they use a national volunteer rate of \$17.50/hr. It is not clear whether they are distinguishing between this requirement and matching. It is unclear what methodology is used to determine matching for training and whether/how documented.</p>	Interview FY09 LEPC Assistance Grant Agreement	<p>The State did not have the level of matching documentation that it would need to present in case of an independent audit.</p> <p><i>Follow-up:</i> PHMSA should address for all HMEP grantees' type of matching documentation necessary and the difference between matching and maintenance of aggregate expenditures.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
				<p><i>Conclusion:</i> Grantee does not have processes in place that allow it to fully meet programmatic requirements. The design of the subgrant process for planning results in an expenditure of funds that is neither effective nor compliant. Further, there is a lack of documentation to support claimed LEPC costs/matching and to demonstrate aggregate expenditures.</p>
Grant Administration				
<p>Determine if grant expenditures are made in accordance with the approved budget and requirements that pertain to changes in that budget or project.</p>	<p>Determine whether the budget used is the one provided in the application, or based on the HMEP award. Determine whether grantee understands prior approval and rebudgeting requirements of 49 CFR 18. Describe budget monitoring process: At what level is budget activity monitored (planning vs. training, by subaward, contract, or budget category)? Verify that any budget amendments or other changes requiring prior approval were submitted to PHMSA for approval when required by 49 CFR 18 or other terms and conditions of award.</p>	<p>The accountant indicated that the application budget is used for tracking. It does not appear that the chief of preparedness or the accountant have a detailed knowledge of 49 CFR part 18. The budget is presumably tracked at the budget category level; however, ODEM uses only a limited number of categories: salaries, fringe benefits, travel, contractual, and other.</p>	<p>Interview</p>	<p>With the lack of specificity in the training budget, it is not possible to determine whether there would be a need for any budget amendments. <i>Follow-up:</i> Review the breakdown of the "Other" category under Training (see above), try to align it with reported activities, and question activities that look like use of training funds for planning, activities planned but not accomplished, etc.</p>
<p>Determine if indirect costs are properly charged to the program.</p>	<p>If the grantee claims indirect costs, determine whether it has a current federally approved indirect cost rate. If yes, verify that rate charged HMEP is in accordance with approved rate. If no, determine the basis on which</p>	<p>ODEM is not charging indirect costs to the HMEP grant.</p>	<p>2010–11 application budget</p>	<p>No exceptions noted.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	indirect costs are charged and conformity with OMB Circular A-87.			
Verify that equipment purchased with HMEP funds is recorded and tracked in accordance with federal and grantee requirements.	<p>Determine State’s capitalization threshold and any policies related to “sensitive” property (e.g., cameras, laptops, GPSs).</p> <p>Inquire about property records for items purchased with HMEP funds.</p> <p>Determine if HMEP property is properly accounted for.</p>	<p>No equipment or supply funds are requested in the ODEM application. Any supplies, laptops, or GPS’s are part of subawards.</p> <p>The ODEM LEPC Assistance Grant Agreement states that “grant funds shall be used as specified in 49 CFR 110.40(a) for planning activities excluding procurement of operational equipment to be used in response actions (for example, no radios or computers).” However, laptops can be purchased if a subsequent report demonstrates that it is being used with CAMEO and Tier II information.</p>	Interview FY09 LEPC Assistance Grant Agreement 2010–11 application budget	<p>Laptops and GPSs are potentially purchased without any accountability or controls on their use.</p> <p><i>Follow-up:</i> Determine Oklahoma’s capitalization threshold and whether it treats laptops and GPS’s as “sensitive” property and what type of accountability requirements it places on this property when purchased with HMEP funds.</p> <p><i>Follow-up:</i> Require ODEM to report the number of lap tops/ GPS’s purchased in FY09 and FY 10, and once known, the number for FY11.</p>
Assess whether direct costs are allowable under OMB Circular A-87 (2 CFR 225) and grantee’s own policies	<p>Verify that processes are in place to ensure that expenditures were not made for</p> <ul style="list-style-type: none"> • expenditures already reimbursed through another program, or • entertainment or other unallowable costs under A-87. <p>Determine how travel is reimbursed and whether training-related travel is included within contract price when training effort is contracted.</p>	<p>Funds are requested in limited budget categories for both planning and training.</p> <p>Team Did not review any documentation related to determination of OSU price (again a round number without any breakdown of cost per class, duration of classes, etc.) although it likely is based on history rather than a determination of reasonableness.</p> <p>It is noted that the 2010–11 application indicates that some classes are “e-learning” classes. This is not consistent with the training agreement; however, if</p>	2010–11 application/ application budget OSU training agreement	<p>Unable to make an assessment of the training grant budget without a further breakdown of the “Other” category (see follow-up action above).</p> <p><i>Follow-up:</i> Require PHMSA to make a determination of cost allowability (as well as programmatic allowability) based on additional detail provided.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		they are e-learning classes, pricing is even less clear.		
Determine if grantee appropriately distinguishes between subawards and contracts for services.	Assess grantee's understanding of differences in process and effect on oversight. Determine process for distinguishing between types of lower-tier awards.	State appears to understand that the awards to LEPCs on the planning side are considered subgrants and budgets for them under the "Other" category. However, as indicated above, a pre-determined amount is provided on the basis of an LEPC agreeing to complete nine tasks. There is no specific application/budget. Also ODEM indicated that these awards are "contracts." Also, as noted above, the agreement with OSU states that it is a grant, but the boilerplate reads like a contract. The chief of preparedness is responsible for the oversight of all of these subawards/contracts.	Interview 2010–11 application/ application budget	Cannot make a more definitive determination regarding the grantee's level of understanding without greater detail on the "Other" category in the training budget. <i>Follow-up:</i> See above regarding the training budget.

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>Assess process leading to subawards.</p>	<p>Describe process for soliciting applications for subawards and timing in relation to application submitted to PHMSA:</p> <ul style="list-style-type: none"> • Review solicitation materials and method of distribution • Determine means of reviewing subaward applications, including budget, and relation to HMEP application/award budget. <p>Review subgrant award process:</p> <ul style="list-style-type: none"> • Review sample of subgrant agreements • Determine whether required HMEP grant conditions are included • Review budget breakdown • Review reporting requirements • Review payment provisions 	<p>Oklahoma has 50 active LEPCs. All are sent an e-mail indicating the availability of funds.</p> <p>Since Oklahoma makes a predetermined amount available, which funds up to 25 LEPCs, it is not clear how it makes decisions if a greater number of LEPCs/counties express an interest.</p> <p>No itemized budget is required based on the nature of the activities and the small amount of the award.</p> <p>The “assistance agreement” going to the LEPC/county appends terms and conditions that are in the HMEP award to ODEM, modified to include references to ODEM. Some of the modifications bear review, e.g., Requests for Payment.</p> <p>The language related to reporting and payment indicates the following:</p> <ul style="list-style-type: none"> • Applications (due September 1) must be submitted with an initial LEPC report • Subsequent reports are due on February 1 and September 1 of the following year. Reports are required to “receive grant payments of at least \$1,500 for the initial and February reports.” • There is no separate financial reporting. The reporting is a several sentence summary related to the nine tasks. <p>NOTE: The subgrant instructions/conditions state that two equal payments will be made.</p>	<p>Interview</p> <p>Final Accountability Report 2009–10</p> <p>2010–11 application</p>	<p>Generally, the same counties request funds from year to year. This likely is the result of the funds not being adequate to undertake projects of value.</p> <p>The current process of subgrant application/ budget review and reporting is inadequate even at the current funding of LEPCs. Once ODEM goes to a project-based—rather than expense-based—way of addressing subgrants, ODEM will need to determine allowability of costs in the budget, align with proposed activities, and authorize payment based on activities completed/ costs incurred.</p> <p>Reporting requirements are somewhat confusing. Also, the reports rather than costs incurred trigger payment.</p> <p><i>Follow-up:</i> As part of a revised subgrant process, ODEM should require a budget (in the same categories as its submission to PHMSA) that aligns proposed costs activities. The ODEM award should include the overall amount of the subaward, the approved budget</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
				breakdown , and the amount of the required match.
Assess approach to subrecipient monitoring.	<p>Describe monitoring process: Is it risk-based or is it another approach to monitoring? Does it include obtaining and reviewing required financial and progress reports? Does it include verification of specific program requirements as reflected in subaward agreement, e.g., review and acceptance of updated plans, evidence of completion of exercises? Note whether grantee determines if subrecipients are subject to A-133 audit requirements. If required, document whether a review of reports is conducted If not required, describe additional steps taken to ensure compliance. Review sample of subgrant agreements for evidence of monitoring. Describe follow-up and remediation process if deficiencies are identified and review for adequacy. Determine if subawards are closed out before submission of final reports to PHMSA.</p>	<p>There is essentially no subgrant monitoring. Any documents that are required to be provided are based on the nine enumerated tasks, e.g., provide a list of LEPC members, provide a copy of meeting minutes, provide a copy of by-laws, etc. Award terms include outdated reference to OMB Circular A-128 for audit, with no indication of audit threshold. If the recipient is the LEPC, then expenditures likely will not reach the current audit threshold; however, if the recipient is a city or county, they would generally reach the A-133 threshold. Final reports for planning are required before the end of the HMEP performance period, i.e., September 1 for the HMEP grant period ending September 30. There is less clarity with respect to training, where it was indicated the “deliverable” is required by September 30. The agreement with OSU goes through September 30.</p>	<p>Interview FY09 LEPC Assistance Grant Agreement Federal Fiscal Year (FFY) 2010 Training Grant Agreement (NOTE: The agreement actually covers FFY 2011)</p>	<p>As indicated above, the whole subgrant process needs to be overhauled. Subgrants should then be properly overseen consistent with the State’s responsibilities to PHMSA.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>Determine whether procurements are conducted and administered consistent with State requirements.</p>	<p>Determine procurement process used to acquire services, including pricing arrangement.</p> <p>Review training contract (if applicable) for compliance with HMEP requirements.</p> <p>Determine if contracts are monitored for costs incurred and timely completion of deliverables.</p>	<p>The only known procurement is that for the training services to be provided by OSU; however, this is termed a grant agreement. The process used to obtain such services from another component of the State government was not discussed.</p> <p>The training agreement does not have a cost per class breakdown so that the basis for payment is unclear. It simply requires that an invoice is to be provided no later than the end of the month following the month in which a class(es) was delivered. The invoice is to include a variety of information including social security numbers (the purpose of which is unclear). In the same paragraph, it says all documents must be submitted no later than the 25th of the following month in which expenses are incurred.</p> <p>While the agreement indicates that OSU is responsible for notifying entities that might send individuals to training, the ordering process is unclear.</p> <p>ODEM indicates more work needs to be done in promoting available training and in conducting a needs assessment, which makes it appear that available training is not being fully utilized.</p>	<p>Interview FY 2010 Training Grant Agreement Final reported submitted in 12/10</p>	<p>Regardless of the instrument used, ODEM should have a more commercial-like agreement with OSU with a pricing basis per course.</p> <p><i>Follow-up:</i> In addition to obtaining information on classes being taught and pricing, ODEM should explain its role in making certain that available training is utilized and the basis on which classes are offered.</p> <p>ODEM also should be requested to document OSU's actual costs (especially since no funds remained unobligated under this award).</p>
<p>Understand basis for payment requests in relation to effort.</p>	<p>Understand basis for submission of SF-270s to PHMSA.</p> <p>Is request for reimbursement aligned with incurred costs/payments to subrecipients and contractors?</p>	<p>At least for the subgrant portion of the HMEP award, ODEM appears to be requesting funds in advance rather than by way of reimbursement for actual costs incurred.</p>	<p>Interview FY09 LEPC Assistance Grant Agreement</p>	<p>Grantee is essentially providing advances to its subgrantees and billing those to PHMSA as reimbursement. While ODEM has disbursed</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
				funds and this technically qualifies as a reimbursement, this is contrary to the intent of the HMEP requirements, i.e., ODEM has no evidence of performance before it pays a subgrantee. <i>Follow-up:</i> Modify payment process for subawards.
				<i>Conclusion:</i> Grantee does not have processes in place to properly manage the administrative aspects of the grant.
Reporting				
Determine whether financial and performance reporting on program activity is conducted in accordance with program requirements.	<p><i>Financial:</i> Determine how expenditure reports are generated, including how HMEP expenditures are identified and tracked and if amounts reported, including matching, can be traced back to supporting documentation.</p> <p><i>Performance (including final program narrative and report of accomplishments):</i> Determine how metric data are accumulated and accuracy of data is ensured (number of first responders trained, number of emergency response plans completed, number of LEPCs supported, and number of exercises conducted).</p> <p>Determine if performance reports are reviewed for consistency with application and with each other.</p> <p><i>Report on authorized expenditures:</i> Determine how expenditure</p>	<p><i>Financial:</i> The basis for generating the Federal Financial Report was not addressed; however, several errors were noted in the report submitted to PHMSA.</p> <p>The reporting period shows that it goes through 12/23/10 rather than 9/30/10; the recipient share is shown on the “yet to be provided” line. The amount shown also is an “overmatch” (although it is not clear where the number comes from based on the lack of documentation), which the form’s instructions indicate should not be provided.</p> <p>FFR was not broken down to show planning and training separately.</p> <p><i>Performance:</i> The final report—submitted in the template format provided by PHMSA—indicates that OSU and the Oklahoma Office</p>	Reports submitted to PHMSA for period ending September 30, 2010	<p><i>Follow-up:</i> PHMSA should consider the need for training grantees on the use of the SF425.</p> <p><i>Follow-up:</i> As a result of a PHMSA change in application requirements, e.g., including planned performance outcomes, progress reports should track to achievement of what was specified in the approved application.</p> <p><i>Follow-up:</i> PHMSA should reconsider use of the report on authorized expenditures. Recipients do not budget or track expenditures in accordance with the categories of activity specified in the</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	information is derived for this report.	<p>of Homeland Security is assisting LEPCs with development of exercises. There was no evidence of this arrangement, including its financial aspects, in any of the documentation provided. Other aspects of the “lean” final report do not align with the limited information provided in the application.</p> <p><i>Report on authorized expenditures:</i> The numbers reported are the opposite of what they should be, e.g., the training amount should be far more than the planning amount not vice versa (planning reported as \$211,755; training reported as \$110,000).</p>		<p>regulations. As a result, the reported numbers are arbitrary and will not be reported consistently across all HMEP grantees.</p> <p><i>Follow-up:</i> PHMSA should ensure thorough review of the funds in ODEM’s “Other” category for training, and any additional documentation requested, including a separate planning and training FFRs, that funds were appropriately spent for planning and training, respectively.</p>
				<p><i>Conclusion:</i> Grantee does not have processes in place to ensure accurate and timely reporting.</p>

Appendix D

On-Site Review: Pennsylvania

This appendix contains the in-depth assessment resulting from the on-site review of the Pennsylvania HMEP program.

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HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Organization and Control Environment				
<p>Understand how the agency is organized and staffed to manage the HMEP program.</p>	<p>Obtain an organization chart. Briefly describe the agency and its mission:</p> <ul style="list-style-type: none"> • Document types of programs administered (direct federal, federal funds subgranted by others, other non-federally funded programs) • Document HMEP as a percentage of dollars of total agency responsibility • Describe how agency ensures that all personnel are properly trained, including training in HMEP-specific program requirements and grants administration. 	<p>State offices responsible for the HMEP grant are part of the Pennsylvania Emergency Management Agency (PEMA). The office has responsibility for the HMEP grant and other federal grants, such as Homeland Security grants. It also awards State grants in the amount of \$1.6M that go to LEPCs. These funds are part of a larger Hazardous Materials Response Fund. The grants to counties, (which are based on the number of planning facilities in a locale and population) in a locale, can be used for training, public education and administrative costs, such as advertising public meetings, refreshments, and postage.</p> <p>It is not possible to show HMEP funding as a percentage of total PEMA responsibility, given the organization's wide-ranging mission; however, less than 2 FTEs out of 140 positions are associated with the HMEP grant.</p> <p>PEMA's organization is very much akin to a federal operation. Within PEMA, there is a separation of responsibilities that equates to "programmatic," "grants management," and "financial management." They appear to operate in a more integrated manner than some of the other States reviewed.</p> <p>Pennsylvania also has Area Offices, which are staffed by State employees and work directly with</p>	<p>Organization chart Interview</p>	<p>The PEMA structure should contribute to a successful and compliant program; however, the program is highly decentralized (as indicated below) and the one individual that is responsible for management of the business aspects of the HMEP grant does not have formal grants management training and is overwhelmed by review of receipts, e.g., for lodging and meals.</p> <p><i>Follow-up:</i> The individual responsible for the grants management (non-technical) aspects of the HMEP grant should receive formal grants management training. This is especially important given the expectations for subrecipient financial oversight.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>LEPCs. PEMA also receives administrative support from the Office of the State Fire Commissioner.</p>		
	<p>Determine who has overall responsibility for the HMEP grant program</p> <ul style="list-style-type: none"> • What percentage of time is spent on the HMEP grant? • Is the HMEP director's salary (or a portion thereof) charged to the HMEP grant as a direct cost? • How is this reflected in timekeeping? • How are allocations made between planning and training? • What other duties does the HMEP coordinator have? 	<p>Given the organization of the PEMA, the following work on the HMEP grant:</p> <ul style="list-style-type: none"> • One FTE funded by HMEP on the "technical" side that monitors LEPC progress, oversees TRANSCAER, reviews subgrant applications, is responsible for subgrant performance monitoring, etc. This position is known as the planning coordinator. While PEMA indicated that 100 percent of his time is spent on the HMEP grant, his job description does not bear this out. • The supervisor of the technical staff member (not charged to HMEP funds or match). • 70 percent of a grants management staff member (she also manages the State grant program), whose time is funded in part as HMEP match (presumably 50 percent of that 70 percent is used as match, and the rest of her salary/benefits by general State appropriations. The breakdown (if any) between planning and training is unclear. • A budget analyst that works with the "grants team" to help prepare the application budget, requests for reimbursement, and the Federal Financial Report (not charged to HMEP funds or matching). 	<p>2010–11 application budget Interview</p>	<p>If PEMA continues with a decentralized planning and training approach, more staff resources should be used for the HMEP grant. Further, the amounts shown in the application budget do not appear to align with the information indicated in the interview. <i>Follow-up:</i> Ensure that the salaries/benefits of individuals charged to the grant are shown in the application budget.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	<p>Describe the financial administration of the program:</p> <ul style="list-style-type: none"> • Identify who is responsible for financial administration of the program (e.g., tracking expenditures, preparing requests for reimbursement, preparing financial reports) • Determine the full scope of this person's duties • Note any other key participants in the program at the State level and their respective duties • Determine the basis, if any, of the compensation of individuals charged to the HMEP grant (e.g., direct or indirect cost). 	<ul style="list-style-type: none"> • Area Office staff (not charged to HMEP funds or matching). <p>As indicated above, responsibilities are split among several offices within PEMA.</p> <p>The individual in grants management is designated as the HMEP program manager.</p> <p>The individual in grants management maintains an Excel spreadsheet that shows by county (which for Pennsylvania is the recipient of the subgrant; LEPCs are a subset of the county) the amount of the subaward, amount expended, required match (which is required 20 percent of the amount awarded for planning and 20 percent of the amount awarded for training).</p> <p>The budget analyst helps prepare reports. The time of the budget analyst is not charged to the grant (either as HMEP-funded or matching) is presumably paid by State funds as PEMA does not claim indirect costs on the HMEP award.</p>	<p>2010–11 application Interview</p>	<p>The split in responsibilities is appropriate, as long as there is ultimate accountability for the proper expenditure of funds. Because these individuals both work for the Deputy for Administration, there would not be an issue of accountability. However, the individual designated as the program manager does not appear to have the necessarily organizational placement or credentials to serve in that role.</p> <p><i>Follow-up:</i> Clarify with PEMA its understanding of the role of the HMEP coordinator</p>
				<p><i>Conclusion:</i> Grantee needs to devote more and better informed resources to manage the HMEP grant as the program is currently implemented. Those responsible appear to understand what is required for effective grants management.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Grant Application and Award				
<p>Determine how the program narrative and statement of work (SOW) and the application budget are developed.</p>	<p>Determine how application narrative and SOW are developed. Determine how application budget is developed and related to SOW. Determine internal review process for application before submission to SERC/PHMSA.</p>	<p>Because most of the funds are subgranted, PEMA might be expected to depend on those requests to develop a budget. However, it does not work that way in reality. The timing is such that actual subgrant amounts are not determined until sometime later than the application/award cycle. It appears that after allocating an amount for salaries/benefits and travel, the remainder of the allocation is simply shown under contractual.</p> <p>Because Pennsylvania is a Commonwealth, PEMA serves as the State Emergency Response Committee.</p>	<p>Interview</p>	<p>The State needs to develop an SOW consistent with the funding available from PHMSA and build the budget up from the bottom to align with the proposed SOW. The current approach does not provide sufficient visibility to PHMSA as to how the funds will be spent, either for planning or training.</p>
<p>Determine relationship between the grantee and the State Emergency Response Commission (SERC).</p>	<p>Identify any evidence of SERC application review. Determine if SERC has a continuing role in the HMEP program. Determine if HMEP funds are used to fund SERC expenses and, if so, the nature of the funding arrangement.</p>	<p>The application states that “PEMA is the primary agent for the SERC and solicits applications from the counties...The purpose, scope and types of projects of the HMEP Grant Program are reviewed and approved by PEMA, as the primary agent of the SERC...” Since PEMA is the SERC, it does have a continuing, but not independent, role. No HMEP funds are used to fund SERC operations.</p>	<p>2010–11 application Interview</p>	<p>The fact that the SERC is not independent of PEMA may call into question whether there is an independent SERC review. <i>Follow-up:</i> Determine if the PEMA arrangement meets the HMEP statutory and regulatory requirements or whether State statute takes precedence.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Determine if the award and its terms and conditions are reviewed to identify governing requirements.	Determine process for recording award requirements and funded amounts once received.	No evidence was provided that there is a process for reviewing the award document once received from PHMSA or that it is done.	Interview	The award must be reviewed to ensure that changes in the budget are known and any special conditions identified.
				<i>Conclusion:</i> The process used to develop the application/budget does not result in documentation that aligns with the way in which the funds are ultimately spent. The application is not independently reviewed by an organization other than the one preparing the application.
Program Administration				
Verify that at least 75% of HMEP planning funds are made available to LEPCs and 75% of training funds are spent for the training of public-sector employees employed or used by political subdivisions (49 CFR 110.70(a)(1), (b)(3), and (c)(3)).	Determine how compliance is traced to ensure <ul style="list-style-type: none"> • 75% of planning funds passed-through to LEPCs and • 75% of training funds for the benefit of public-sector employees. 	PEMA operates a highly decentralized HMEP program. This may be politically driven, given the nature of a “commonwealth.” however, it appears that they believe they have leeway in this regard, as long as all affected parties are “on board.” The guidance provided to counties/LEPCs is very broad. In fact, it mirrors the guidance that PHMSA gives the State for use in preparing the overall State application. While essentially consistent with HMEP requirements, it provides no direction in terms of what might be considered priority projects or any guidance on “scope,” i.e., maximum dollar amounts. The scope of a proposal is most	2011 application budget PEMA-maintained spreadsheet PEMA Circular, HMEP Planning and Training Grant Guidance (2009 and 2010 cycles)	<i>Follow-up:</i> PEMA should be requested to provide a breakdown of the large amounts shown under “Contractual” for both planning and training. <i>Follow-up:</i> PHMSA should work with PEMA to assess more effective ways to carry out its HMEP program, particularly training.

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>likely the result of the magnitude of the funds made available to the counties/LEPCs by the separate State funding stream since those funds can be used to meet the 20 percent match that the State has passed through (see section of Grants Administration and matching for a potential issue).</p> <p>As noted above, the county is the actual subaward recipient.</p> <p>The Excel spreadsheet shows about 45 subgrants—most with planning and training funds, some with only one or the other. The average planning award is about \$4,500. The average training award is about \$12,000 (including match). Because the training is locally arranged, travel costs are minimized; however, it is not apparent how many individuals are actually trained with that small amount of funding. Some of the training funds are used to send individuals to conferences, e.g., attendance at an EPA conference.</p> <p>The amounts budgeted as “contractual,” presumably represent the pass-through amounts so that it can be assumed that the pass-through requirements are being met; however, there is limited visibility into the component costs in that category. For example, the amounts shown on the spreadsheet provided by PEMA are significantly less than the amounts budgeted in the “contractual” category.</p>		

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>Determine if expenditures for planning are in accordance with HMEP requirements and guidance (49 CFR 110.40(a), website, other)</p>	<p>Determine process used to assess consistency of planning activities with HMEP requirements, including the following:</p> <ul style="list-style-type: none"> • SERC or HMEP manager approval • LEPC activity alignment and implementation, including funding basis (e.g., project grant and/or operational expenditures). 	<p>Because the State grant supports activities that are not generally allowable uses of HMEP funds, e.g., there is a potential issue when those funds are used as match. PEMA uses a subaward evaluation process as a means of allocating funds at the front end of the process. At that time, they use the high-level PHMSA allowability criteria. When funds are reallocated, there is no equivalent process.</p> <p>There currently is no alignment against an overall set of goals and objectives. Further, because PEMA makes subawards that provide planning amounts and training amounts in the same subaward, there is a significant potential for funds to be used for activities that do not meet HMEP requirements, e.g., use of training funds to attend an EPA conference (this same observation pertains to training below). The open-ended reallocation process (see below) provides an even greater opportunity for PEMA to fund unallowable or inappropriate activities.</p>	<p>Interview PEMA Circular, HMEP Planning and Training Grant Guidance (2009 and 2010 cycles) Selected subgrant files for the subgrants awarded under the FY10 HMEP award</p>	<p><i>Follow-up:</i> PHMSA should determine the types of costs being used by counties to meet the planning matching requirements. <i>Follow-up:</i> PHMSA should work with PEMA to better understand the need for and operation of a reallocation process, but, as indicated below, the entire subgrant process needs to be rethought (program design, e.g., project basis of subawards; different approach to training; timing, etc.)</p>
<p>Determine if expenditures for training are in accordance with HMEP requirements and guidance (49 CFR 110.40(b), website, NFPA 472, 2008 version)</p>	<p>Determine standards used to determine allowability of types of training:</p> <ul style="list-style-type: none"> • Does training fit the transportation hazard assessments and commodity flow studies of the locale or State? • For CBRNE, DOT recommends a strong rationale for taking such courses (e.g., active hazards or 	<p>The guidance does not provide any insight to counties as to specific types of training; rather it repeats the generic language of PHMSA's program regulations and application guidance.</p> <p>Although the State maintains an approved vendor list, there is a significant lack of information about the training that is being funded with</p>	<p>Interview PEMA Circular, HMEP Planning and Training Grant Guidance (2009 and 2010 cycles) Selected subgrant files for the subgrants awarded under the FY 10 HMEP award</p>	<p><i>Follow-up:</i> Ensure that PEMA actively reconsiders its approach to HMEP training.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	threat-based analysis). Was the need documented for any such training?	HMEP funds/ matching as it all is arranged and paid for at the local level.		
Determine if the grantee maintained an aggregate of expenditures for the last 5 fiscal years from non-federal sources for planning and for training, separately; such expenditures cannot be used for matching(49 CFR 110.30(b)(2) and (c)(2)).	Assess understanding of the aggregate expenditure (maintenance of effort [MOE]) requirement. Determine how maintenance effort is calculated and tracked, including separation from costs/contributions claimed as matching. Review documentation for the prior periods serving as base.	This may be a problem for Pennsylvania to the extent that the State funds granted to counties are part of that amount. The same funds cannot be counted toward this requirement and as match.	Interview	<i>Follow-up:</i> Clarify with PEMA the sources/ amounts of funds used to meet its “aggregate expenditure” requirements for both planning and training.
Verify that the grantee has provided 20% of the actual, allowable direct and indirect costs and meets the requirements of 49 CFR 18 that apply to matching (49 CFR 110.60).	Determine the process for assessing the sources and amounts needed to meet the matching requirement and whether the determination is made as a part of the application process. Determine whether the grantee understands the difference between cash and third-party in-kind contributions. Determine the process for tracking the matching requirement. At what level are amounts tracked: <ul style="list-style-type: none"> • Planning/training levels? • Award level? • Subaward level (if any matching required at that level)? Verify that matching requirement has been met and documented. What expenditures or contributions were used to match allowable costs, direct vs. indirect, and payments vs. in-kind? If in-kind, review valuation documentation.	For both planning and training, PEMA passes down 20 percent match requirement to each county that receives a subgrant. PEMA’s grant circular appropriately describes soft match and gives some good examples (primarily based on the guidance on the HMEP website under frequently asked questions). However, even the State funding stream is characterized as “soft match.” This is cash from a State source that the State allows to be used as match (although, as indicated, some of the costs may not be allowable under the HMEP program). Because the State presumably does not know the amount of that funding that will be used to match, which is discretionary on the part of the county, the match should be attributed to local (rather than State source) on the SF 424 (for the 2010–11 program year it is shown as “Other.” The must be supported by documented expenditures (not valued as third-party in-kind contributions).	PEMA Circular, HMEP Planning and Training Grant Guidance (2009 and 2010 cycles) Selected subgrant files for the subgrants awarded under the FY 10 HMEP award Grant agreement with Adams County PEMA-maintained Excel spreadsheet Interview	<i>Follow-up:</i> PEMA should be required to more clearly identify in its application the source of matching funds. <i>Follow-up:</i> PEMA should be required to amend its guidance with respect to the nature of the State grant when used by counties as match and should provide guidance as to the allowability of costs to the HMEP grant using those funds.

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>The Excel spreadsheet shows the amount that equates to 80 percent, i.e., the ceiling amount available to be reimbursed to a county. The subgrant agreement boilerplate indicates that documentation of the match must be submitted to PEMA by 8/31 and must be certified by the chief fiscal officer of the subgrantee. With the reallocation process described below, it is not clear whether those amounts are recalculated or whether PEMA requires evidence of matching for costs already incurred before it adds funds to a subgrant. No documentation of matching at the State level was made available for review.</p>		
				<p><i>Conclusion:</i> Grantee does not have sufficient processes in place to allow it to ensure compliance with programmatic requirements.</p>
Grant Administration				
<p>Determine if grant expenditures are made in accordance with the approved budget and requirements that pertain to changes in that budget or project.</p>	<p>Determine whether the budget used is the one provided in the application, or based on the HMEP award.</p> <p>Determine whether grantee understands prior approval and rebudgeting requirements of 49 CFR 18.</p> <p>Describe budget monitoring process:</p> <ul style="list-style-type: none"> • At what level is budget activity monitored (planning vs. training, by subaward, contract, or budget category)? • Verify that any budget amendments or other changes 	<p>The grantee tracks planning and training separately, similarly to how PHMSA awards and administers funds.</p> <p>The large amounts for “contractual” costs essentially mean that PEMA can rebudget from the “approved” HMEP budget without constraint. They manage their own internal transfer of funds from recipient to recipient through a reallocation process, which is something that other States visited did not have. However, it has a number of</p>	<p>Interview PEMA Circular, HMEP Planning and Training Grant Guidance (2009 and 2010 cycles) Excel spreadsheet Federal Financial Report for the period ending 9/30/10.</p>	<p><i>Follow-up:</i> PHMSA should work with PEMA to improve its subgrant process generally (see above).</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	<p>requiring prior approval were submitted to PHMSA for approval when required by 49 CFR 18 or other terms and conditions of award.</p>	<p>problematic aspects.</p> <p>PEMA awards its subgrants very late in the year because of other priority workload, e.g., an award can be made as late as March or April.</p> <p>Subgrant award terms indicate that the county must “encumber” the funds no later than June 1 and that any funding not encumbered by that date shall be reallocated.</p> <p>When funds are reallocated, they are essentially being used to fund activities that were initially not given a high enough priority for funding or that were not even originally proposed to PEMA or PHMSA.</p> <p>Until this visit, this reallocation process was transparent to PHMSA.</p> <p>Among other things, it</p> <ul style="list-style-type: none"> • shows some weakness in how the original funding amount was derived (e.g., funding reallocations that exceed the amount originally awarded to a county which raises questions concerning the scope of an activity); • creates an additional work for an overtaxed staff; • “ratifies” expenditures already made and may result in funding unneeded or unallowable expenses; and • may or may not be appropriately matched. <p>Even with this process, PEMA still reported a sizeable unobligated balance for the 200–10 program year.</p>		

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Determine if indirect costs are properly charged to the program.	If the grantee claims indirect costs, determine whether the agency has a current federally approved indirect cost rate. If yes, verify that rate charged HMEP is in accordance with approved rate. If no, determine the basis on which indirect costs are charged and conformity with OMB A-87.	No indirect costs are claimed	2010–11 application 2009–10 Federal Financial Report	None.
Verify that equipment purchased with HMEP funds is recorded and tracked in accordance with federal and grantee requirements.	Determine State’s capitalization threshold and any policies related to “sensitive” property (e.g., cameras, laptops, GPSs). Inquire about property records for items purchased with HMEP funds. Determine if HMEP property is properly accounted for.	PEMA did not include any amounts for State purchase of equipment in its application budget. The Circular that provides guidance to counties on use of funds does not specifically mention equipment; however, PEMA appends PHMSA grant conditions (which address equipment) to its “grant agreement” with the counties. In the several subgrant files reviewed, there was no evidence of purchase of equipment.	2010–11 application PEMA Circular, HMEP Planning and Training Grant Guidance (2009 and 2010 cycles) Selected subgrant files for the subgrants awarded under the FY10 HMEP award	None.
Assess whether direct costs are allowable under OMB Circular A-87 (2 CFR 225) and grantee’s own policies.	Verify that processes are in place to ensure that expenditures were not made for: <ul style="list-style-type: none"> • expenditures already reimbursed through another program, or • entertainment or other unallowable costs under A-87. Determine how travel is reimbursed and whether training-related travel is included within contract price when training effort is contracted.	Because of the way that the budget is constructed, one would have to look at every subaward in detail. We believe that travel was reimbursed appropriately; however, the purpose of the trips may have been questionable, e.g., use of training funds for an EPA conference.	2010–11 application Selected subgrant files for the subgrants awarded under the FY 10 HMEP award	Unable to make a more complete assessment without a further breakdown of the “Other” category and even that would give limited visibility.

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>Determine if grantee appropriately distinguishes between subawards and contracts for services.</p>	<p>Assess grantee’s understanding of differences in process and effect on oversight. Determine process for distinguishing between types of lower-tier awards.</p>	<p>All pass-through monies are budgeted under “contractual.” All funds that are made available to counties are in the form of a “grant agreement.” However, the agreement incorporates the “Commonwealth’s Standard Contract Terms and Conditions.” It is unclear whether PEMA has other agreements for acquisition of services.</p>	<p>2010–11 application Grant agreement with Adams County</p>	<p><i>Follow-up:</i> PHMSA should assess whether the 2011–12 application shows any greater degree of visibility into whether all of the pass-through funds are going to counties.</p>
<p>Assess process leading to subawards.</p>	<p>Describe process for soliciting applications for subawards and timing in relation to application submitted to PHMSA:</p> <ul style="list-style-type: none"> • Review solicitation materials and method of distribution • Determine means of reviewing subaward applications, including budget, and relation to HMEP application/award budget. <p>Review subgrant award process:</p> <ul style="list-style-type: none"> • Review sample of subgrant agreements • Determine whether required HMEP grant conditions are included • Review budget breakdown • Review reporting requirements • Review payment provisions. 	<p>PEMA has a good process for obtaining subgrant applications. It distributes its “circular,” which essentially is the annual invitation to apply to all 67 counties in the State. Based on the 2009–10 number of about 45 subgrants (resulting from 50 applications), PEMA is getting about 70 percent participation. The process for selecting awardees was described as separating them into three categories” Approve,” “Conditional-Questionable,” and “Ineligible.” This review is presumably performed at the proposal, rather than the line-item level. PEMA has no assurance that it will not subsequently fund some of the activities in the second category through its reallocation process. However, with the amount of funds passed through and the range of activities pursued, the impact of those dollars on HMEP objectives may be questioned. This is especially so since it appears that the grant agreement is essentially a transfer of funds “to conduct a commodity flow project, hazardous</p>		<p><i>Follow-up:</i> PHMSA should work with PEMA to ensure that subgrant materials that result in project-based funding for planning and a strategic approach to training. This should include a subgrant agreement that specifies the object class categories for which funds are approved and include a full description of the project to be completed.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>materials planning, and/or hazardous materials training.” There is no scope of work or reference to the application that served as the basis for the award. Grant agreements append a variety of terms and conditions, including those attached to the HMEP grant to the State, and some State requirements. One of the attachments, which presumably is self-deleting, is confusing because it indicates EPA requirements. Budgets are broken down by “planning” and “training.” There is no object class breakdown in the award.</p> <p>PEMA requires that all requests for reimbursement and matching documentation be submitted by August 31 (it is not clear if that also includes requests related to reallocated funds). This constitutes the final report.</p> <p>An interim obligation report is due by June 1, which serves as the basis for reallocation. No interim performance report is required.</p>		
<p>Assess approach to subrecipient monitoring.</p>	<p>Describe monitoring process:</p> <ul style="list-style-type: none"> • Is it risk-based or is it another approach to monitoring? • Does it include obtaining and reviewing required financial and progress reports? • Does it include verification of specific program requirements as reflected in subaward agreement, e.g., review and acceptance of updated plans, evidence of completion of exercises? <p>Note whether grantee determines if</p>	<p>While the technical person is responsible for progress monitoring and there appears to be some involvement of area office personnel, the only financial monitoring is through submission of detailed requests for reimbursement. There are no requirements for interim financial or performance reporting, other than a report of obligations (see below). Even the voucher review process is ministerial. We identified a potential</p>	<p>Interview Selected subgrant files for the subgrants awarded under the FY10 HMEP award Grant agreement with Adams County</p>	<p><i>Follow-up:</i> Dollar values of subawards are relatively small; however, monitoring does need to occur to ensure the outcome (once defined) is achieved.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	<p>subrecipients are subject to A-133 audit requirements</p> <p>If required, document whether a review of reports is conducted.</p> <p>If not required, describe additional steps taken to ensure compliance.</p> <p>Review sample of subgrant agreements for evidence of monitoring.</p> <p>Describe follow-up and remediation process if deficiencies are identified and review for adequacy.</p> <p>Determine if subawards are closed out before submission of final reports to PHMSA.</p>	<p>conflict of interest that should have been flagged if a more substantive review were performed.</p> <p>Not all subaward files reviewed included evidence of what was accomplished with the funds.</p> <p>Since funds go to counties, their aggregate expenditures may subject them to an A-133 audit (and the grant agreement includes an audit clause). PEMA did not indicate any process to determine whether counties complied or to review of county-level audit reports.</p>		
<p>Determine whether procurements are conducted and administered consistent with State requirements.</p>	<p>Determine procurement process used to acquire services, including pricing arrangement.</p> <p>Review training contract (if applicable) for compliance with HMEP requirements.</p> <p>Determine if contracts are monitored for costs incurred and timely completion of deliverables.</p>	<p>Assumed to be “not applicable.”</p>	<p>Interview 2010–11 application</p>	<p>None.</p>
<p>Understand basis for payment requests in relation to effort.</p>	<p>Understand basis for submission of SF-270s to PHMSA.</p> <p>Is request for reimbursement aligned with incurred costs/ payments to subrecipients and contractors?</p>	<p>Requests for reimbursement to PHMSA are submitted only after counties submitted documented requests for reimbursement.</p> <p>While the grants management person presumably reviews these piles of paper, we were not shown how the results of that review translate to the request to PHMSA.</p> <p>PEMA submits only one request for reimbursement, concurrent with its final Federal Financial Report.</p> <p>Counties can, however, use the State funding stream to pay for activities that subsequently are reimbursed by PHMSA/PEMA.</p>	<p>Grant agreement Reimbursement documentation SF-270</p>	<p><i>Follow-up:</i> None based on this set of facts alone. Some changes might be appropriate if PEMA changes its approach to providing funding for training.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		This again raises the possibility that something already paid for may be allowable under HMEP requirements.		
				<i>Conclusion:</i> Grantee does not have processes in place to properly manage the administrative aspects of the grant.
Reporting				
Determine whether financial and performance reporting on program activity is conducted in accordance with program requirements.	<p><i>Financial:</i> Determine how expenditure reports are generated, including how HMEP expenditures are identified and tracked and if amounts reported, including matching, can be traced back to supporting documentation.</p> <p><i>Performance (including final program narrative and report of accomplishments):</i> Determine how metric data are accumulated and accuracy of data is ensured (number of first responders trained, number of emergency response plans completed, number of LEPCs supported, and number of exercises conducted).</p> <p>Determine if performance reports are reviewed for consistency with application and with each other.</p> <p><i>Report on authorized expenditures:</i> Determine how expenditure information is derived for this report.</p>	<p><i>Financial:</i> The basis for generating the Federal Financial Report was addressed with accounting staff and there was adequate explanation of how the report is generated.</p> <p><i>Performance:</i> The basis for developing State-wide a narrative performance report is unclear. The SERC gets an annual report from each county, but it is not apparent that it would be considered an HMEP performance report.</p> <p><i>Report on authorized expenditures:</i> There were many inconsistencies in the information that PEMA has provided to PHMSA. Clearly, there is no process to ensure such alignment.</p> <p>PEMA derived from county submissions since it flowed down the requirement for completion to each county as a condition of the subgrant.</p>	Reports for 2009–10	<p><i>Follow-up:</i> As a result of a PHMSA change in application requirements, e.g., including planned performance outcomes, progress reports should track to achievement of what was specified in the approved application. PEMA should not rely solely on inputs from counties to develop its report.</p> <p><i>Follow-up:</i> PHMSA should reconsider use of the report on authorized expenditures. The arbitrariness of completing this report is intensified when, was done in Pennsylvania, over 40 entities are interpreting it.</p>

HMEP GRANT PROGRAM ON-SITE REVIEW: COMMONWEALTH OF PENNSYLVANIA, APRIL 13–14, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
				<p><i>Conclusion:</i> Grantee has an adequate process for financial reporting; however, because it aggregates performance information from the individual counties, the information is disjointed and results in inconsistencies in information reported to PHMSA.</p>

Appendix E

On-Site Review: Texas

This appendix contains the in-depth assessment resulting from the on-site review of the Texas HMEP program.

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HMEP GRANT PROGRAM ON-SITE REVIEW: STATE OF TEXAS, FEBRUARY 28–MARCH 2, 2011

Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Organization and Control Environment				
<p>Understand how the agency is organized and staffed to manage the HMEP program.</p>	<p>Obtain an organization chart. Briefly describe the agency and its mission:</p> <ul style="list-style-type: none"> • Document types of programs administered (direct federal, federal funds subgranted by others, other non-federally funded programs) • Document HMEP as a percentage of dollars of total agency responsibility • Describe how agency ensures that all personnel are properly trained, including training in HMEP-specific program requirements and grants administration. 	<p>State office responsible for the HMEP grant is located in the Texas Division of Emergency Management (TDEM). The office has responsibility for the HMEP grant and two subgrants from the State Energy Office under the State's Energy Conservation Grant from the U.S. Department of Energy.</p> <p>The subgrants in total are significantly less than the HMEP grant.</p> <p>The interview revealed that the office relies on an individual outside of the immediate office for grant expertise, a position that is currently vacant, and that the office was planning on converting an accountant position to a program specialist.</p> <p>The head of the office (supervisor) also plans to use the accountant position for another purpose.</p>	<p>Organization chart Interview</p>	<p>Because HMEP represents the main workload for this office, these individuals are appropriately focused on HMEP.</p> <p><i>Follow-up:</i> The responsible individuals should receive grants administration training and not just rely on an individual in another part of the organization. This is especially important given the expectations on subrecipient oversight.</p> <p>While the State must determine how best to use its available resources, it needs to determine where its greatest weaknesses and vulnerabilities, which appear to be administrative and financial, and staff and train accordingly.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	<p>Determine who has overall responsibility for the HMEP grant program:</p> <ul style="list-style-type: none"> • What percentage of time is spent on the HMEP grant? • Is the HMEP director's salary (or a portion thereof) charged to the HMEP grant as a direct cost? • How is this reflected in timekeeping? • How are allocations made between planning and training? • What other duties does the HMEP coordinator have? 	<p>There is a full-time manager for the HMEP grant (charged 20 planning/80 training) based on the dollars in the grant budget.</p> <p>The administrative assistant who works with the training contractor also is charged 100 percent under the grant.</p> <p>The supervisor and others appear to be charged indirectly (see discussion of indirect cost rate below).</p>	<p>2011 application budget 2008 indirect cost rate agreement Interview</p>	<p><i>Follow-up:</i> The allocation is artificial and the program manager should be spending more time on the planning side in relation to the subgrants. This is an issue to be addressed in completing the budget and is likely not unique to Texas.</p> <p>Also, it is unclear from the budget request if any of the administrative assistant's time is allocated to planning (e.g., the budget shows \$20,400 and \$84,000, respectively for salaries for planning and training).</p>
	<p>Describe the financial administration of the program:</p> <ul style="list-style-type: none"> • Identify who is responsible for financial administration of the program (e.g., tracking expenditures, preparing requests for reimbursement, preparing financial reports) • Determine the full scope of this person's duties • Note any other key participants in the program at the State level and their respective duties • Determine the basis, if any, of the compensation of individuals charged to the HMEP grant (e.g., direct or indirect cost). 	<p>Responsibilities are split among several individuals and offices outside of the immediate office responsible for the HMEP grant. Their support is presumably part of the indirect costs charged to the HMEP grant.</p>	<p>Notebook supporting reimbursement requests Interview</p>	<p>Split in responsibilities does not result in full knowledge or ability to comply with grant-related requirements.</p> <p><i>Follow-up:</i> Financial administration of subgrants needs to be strengthened. Office plans to look at monthly obligations by subgrantees (LEPCs).</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
				<p><i>Conclusion:</i> Grantee has not historically devoted the necessary resources (amount, quality) to manage the program and can improve how it allocates available resources to the HMEP program. Those currently responsible appear to understand what is required and are working to move in that direction.</p>
Grant Application and Award				
<p>Determine how the program narrative and statement of work (SOW) and the application budget are developed.</p>	<p>Determine how application narrative and SOW are developed. Determine how application budget is developed and related to SOW. Determine internal review process for application before submission to SERC/PHMSA.</p>	<p>The process was transparent to the supervisor (who has been in the job for about 2 years). A new program manager has been in place only since late CY 2010. The supervisor and the program manager are doing a complete review of the prior year's application in an effort to improve the submission for FY12 award. No process was described that attempts to align the budget with the SOW. The supervisor signed prior-year applications based on the assurance of now-retired program manager. The grantee developed an amount that was available for subgrants and the subgrant applications were reviewed and reduced in funding to stay within that target. The basis for the target was not provided.</p>	<p>Ranking and approval list for this year's subgrant awards Files for the subgrants awarded under the FY10 HMEP award Interview</p>	<p>The State needs to know what is in the application that it is signing. The State needs to develop an SOW consistent with the funding available from PHMSA and build the budget up from the bottom to align with the proposed SOW. If justified by need, the State could request more for planning as long as the 75% pass-through to LEPCs is observed.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Determine relationship between the grantee and the State Emergency Response Commission (SERC).	Identify any evidence of SERC application review. Determine if SERC has a continuing role in the HMEP program. Determine if HMEP funds are used to fund SERC expenses and, if so, the nature of the funding arrangement.	The SERC was an integral part of the subgrant review process; however, we did not see evidence of the SERC review of the application to PHMSA. No HMEP funds are used to fund SERC operations.	Interview	No exceptions noted.
Determine if the award and its terms and conditions are reviewed to identify governing requirements.	Determine process for recording award requirements and funded amounts once received.	The program manager indicated that the application budget as submitted to PHMSA is used for tracking. We found no evidence that there is a process for reviewing the award document once received from PHMSA or that it is done.	Interview	The award must be reviewed to ensure that changes in the budget are known and any special conditions identified.
				<i>Conclusion:</i> Grantee has not historically had an adequate process for developing the HMEP application/budget and understanding its obligations to PHMSA.
Program Administration				
Verify that at least 75% of HMEP planning funds are made available to LEPCs and 75% of training funds are spent for the training of public-sector employees employed or used by political subdivisions (49 CFR 110.70(a)(1), (b)(3), and (c)(3)).	Determine how compliance is traced to ensure <ul style="list-style-type: none"> • 75% of planning funds passed through to LEPCs and • 75% of training funds for the benefit of public-sector employees. 	Subgrant amounts @\$260,000 (inclusive of 20% match). Central training contract (interagency cooperation contract) with Texas Engineering Extension Service/Emergency Training Services Institute (TEEX) is for \$650,000 (federal funds) (rather than \$625,000 in application budget) (actual amount may not have been known at time of application to PHMSA). With the contractual arrangement for training, there should be no issue concerning the amounts for training, as long as the contract amount is calculated on the basis	2011 application budget TEEX contract HMEP planning grant guide and application for LEPCs for FY11	<i>Follow-up:</i> Texas should be requested to provide a breakdown of the large amount shown under "Other" for both planning and training). <i>Follow-up:</i> PHMSA should <ul style="list-style-type: none"> • verify the basis for determining the base against which pass-through amounts are to be determined and • seek legal advice on whether the arrangements with TTI and subawards to cities/counties are

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>of the federal funding. Even within that amount, however, it is not clear if TDEM counts the administrative overhead of Texas A&M as part of the 75% flow-through.</p> <p>On the planning side, for the current program year, the State has awarded a contract (State cooperation agreement) to the Texas Transportation Institute (part of the University) in the amount of about \$220,000 in addition to funds awarded directly to LEPCs (@\$40,000) for three outreach projects. First, it is unclear whether this financial arrangement is consistent with PHMSA's statutory/regulatory requirements. We did not obtain a copy of the TTI award.</p> <p>The budget for those that will benefit from the CFS contract includes the amounts directly awarded to TTI. The accountability for those funds should be with TTI not the LEPC. Further, TTI not the LEPC is shown as contributing part of the match for the CFS by foregoing its full entitlement to indirect costs.</p> <p>Further, the State makes the subawards to the county/city, making them rather than the LEPC the subrecipient.</p> <p>In addition to this \$260,000, there is about another \$90,000 budgeted under "Other" for planning. The makeup of that amount cannot be determined based on the information provided.</p>		<p>permitted under governing programmatic requirements.</p> <p><i>Follow-up:</i> If PHMSA determines that these types of arrangement can continue, the flow of dollars and accountability requirements should be appropriately allocated between TTI and LEPCs and between the State, LEPCs, and counties/cities. Also, Texas should have, for its files, the basis on which the TTI matching is calculated.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>Determine if expenditures for planning are in accordance with HMEP requirements and guidance (49 CFR 110.40(a), website, other).</p>	<p>Determine process used to assess consistency of planning activities with HMEP requirements, including the following:</p> <ul style="list-style-type: none"> • SERC or HMEP manager approval • LEPC activity alignment and implementation, including funding basis (e.g., project grant and/or operational expenditures). 	<p>Texas does not appear to pay for operational expenses of LEPCs. There is only one funding stream to LEPCs (whether direct or indirect benefit through TTI). The funds go to LEPCs for identified projects. The guide includes seven categories of effort as examples and none mention operational expenses.</p> <p>The planning grant guidance appears to be in line with programmatic and accountability requirements, but it is unclear whether the specific guidance is observed, e.g., documentation of match (see below).</p> <p>This year, there are 8—3 for outreach and 5 for commodity flow studies.</p>	<p>HMEP planning grant guide and application for LEPCs for FY11</p>	<p>The types of activities engaged in by LEPCs appear to be allowable under HMEP requirements.</p>
<p>Determine if expenditures for training are in accordance with HMEP requirements and guidance (49 CFR 110.40(b), website, NFPA 472, 2008 version).</p>	<p>Determine standards used to determine allowability of types of training:</p> <ul style="list-style-type: none"> • Does training fit the transportation hazard assessments and commodity flow studies of the locale or State? • For CBRNE, DOT recommends a strong rationale for taking such courses (e.g., active hazards or threat-based analysis). Was the need documented for any such training? 	<p>Current training was based on 2003 edition of a training guide that is superseded by information and training guidance on USDOT website. This may mean Texas could have performed more applicable training than it actually executed.</p>	<p>Interview Program report</p>	<p>Texas must use applicable USDOT training guidance for HMEP funding.</p>
<p>Determine if the grantee maintained an aggregate of expenditures for the last 5 fiscal years from non-federal sources for planning and for training, separately; such expenditures cannot be used for matching</p>	<p>Assess understanding of the aggregate expenditure (maintenance of effort [MOE]) requirement.</p> <p>Determine how maintenance effort is calculated and tracked, including separation from costs/contributions claimed as matching.</p> <p>Review documentation for the prior</p>	<p>State staff did not appear to be familiar with the aggregate expenditure requirement and had no baseline against which this could be judged.</p> <p>However, individual LEPCs are asked to include a 2-year “look-back” when proposing a planning</p>	<p>Interview HMEP planning grant guide and application for LEPCs for FY11 Successful 2011 subgrant applications</p>	<p><i>Follow-up:</i> PHMSA should determine continued need to get an assurance for this requirement and, if so, correct the application kit and advise grantees on how to develop a baseline.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
(49 CFR 110.30(b)(2) and (c)(2)).	periods serving as base.	project. While the State gets this information, it is not clear what it does with it. In at least one case, the amounts looked like they included the federally funded subaward amounts.		
Verify that the grantee has provided 20% of the actual, allowable direct and indirect costs and meets the requirements of 49 CFR 18 that apply to matching (49 CFR 110.60).	<p>Determine the process for assessing the sources and amounts needed to meet the matching requirement and whether the determination is made as a part of the application process.</p> <p>Determine whether the grantee understands the difference between cash and third-party in-kind contributions.</p> <p>Determine the process for tracking the matching requirement. At what level are amounts tracked:</p> <ul style="list-style-type: none"> • Planning/training levels? • Award level? • Subaward level (if any matching required at that level)? <p>Verify that matching requirement has been met and documented. What expenditures or contributions were used to match allowable costs, direct vs. indirect, and payments vs. in-kind? If in-kind, review valuation documentation.</p>	<p>State has a method for determining matching costs used on the training side; however, no formal documentation is submitted/maintained.</p> <p>State also indicated that the effort of TDEM employees is used as matching (see above). It is not clear if these employees directly support HMEP or are charged indirectly.</p> <p>On the planning side, State passes down 20% match requirement to each LEPC that receives a subgrant. The subgrant award to the County of Parker includes language that adequately describes the required documentation for matching.</p> <p>No documentation of matching at the State level was made available for review.</p>	<p>HMEP planning grant guide and application for LEPCs for FY11</p> <p>Files for the subgrants awarded under the FY10 HMEP award</p> <p>Subgrant award to the County of Parker as a fiscal agent for the Parker County LEPC</p> <p>Interview</p>	<p>The State did not have the level of matching documentation that it would need to present in the case of an independent audit.</p> <p>State's personnel who were interviewed do not fully understand the difference between cash and in-kind contributions (soft and hard match) and what types of expenditures or contributions qualify and the type of documentation required to support them.</p> <p><i>Follow-up:</i> PHMSA should address the type of matching documentation needed and differences in types of match.</p>
				<p><i>Conclusion:</i> Grantee has processes in place that allow it to meet programmatic requirements; however, it is lacking in documentation to support claimed LEPC costs/matching and to demonstrate aggregate expenditures.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Grant Administration				
<p>Determine if grant expenditures are made in accordance with the approved budget and requirements that pertain to changes in that budget or project.</p>	<p>Determine whether the budget used is the one provided in the application, or based on the HMEP award.</p> <p>Determine whether grantee understands prior approval and rebudgeting requirements of 49 CFR 18.</p> <p>Describe budget monitoring process:</p> <ul style="list-style-type: none"> • At what level is budget activity monitored (planning vs. training, by subaward, contract, or budget category)? • Verify that any budget amendments or other changes requiring prior approval were submitted to PHMSA for approval when required by 49 CFR 18 or other terms and conditions of award. 	<p>The program manager indicated that the application budget is used for tracking.</p> <p>It does not appear that the program manager and supervisor have a detailed knowledge of 49 CFR 18.</p> <p>The grantee tracks planning and training separately and it plans to monitor rates of obligation under subgrants, which is not currently being done. It is unclear what the State would do if a subrecipient is under-running its budget.</p>	<p>Interview</p>	<p>Did not review any documentation on which conclusion concerning budget amendments could be based.</p>
<p>Determine if indirect costs are properly charged to the program.</p>	<p>If the grantee claims indirect costs, determine whether the agency has a current federally approved indirect cost rate. If yes, verify that rate charged HMEP is in accordance with approved rate. If no, determine the basis on which indirect costs are charged and conformity with OMB A-87.</p>	<p>The supervisor and others are charged indirectly using an outdated indirect cost rate agreement.</p>	<p>2008 indirect cost rate agreement</p>	<p><i>Follow-up:</i> Texas cannot claim indirect costs until it negotiates a current indirect cost rate with cognizant agency and appropriately applies the result to the applicable base</p>
<p>Verify that equipment purchased with HMEP funds is recorded and tracked in accordance with federal and grantee requirements.</p>	<p>Determine State's capitalization threshold and any policies related to "sensitive" property (e.g., cameras, laptops, GPSs).</p> <p>Inquire about property records for items purchased with HMEP funds.</p> <p>Determine if HMEP property is properly accounted for.</p>	<p>Area not addressed in detail.</p> <p>No equipment funds were requested under "planning." The "Equipment" category does not appear in the subgrant application although it does say equipment can be purchased with TDEM approval.</p> <p>The HMEP application budget includes \$3,060 for equipment. This is well below the threshold of</p>	<p>HMEP planning grant guide and application for LEPCs for FY11</p> <p>Successful 2011 subgrant applications</p> <p>Subgrant award to the County of Parker</p>	<p><i>Follow-up:</i> Obtain information on Texas's capitalization threshold.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		<p>\$5,000 per unit and useful life exceeding 1 year under federal policy so State capitalization criterion likely is lower.</p> <p>The subgrant award to the County of Parker states “the Grantee shall furnish all equipment, materials, and supplies required to perform the project, which is the subject of this grant.”</p>		
<p>Assess whether direct costs are allowable under OMB Circular A-87 (2 CFR 225) and grantee’s own policies.</p>	<p>Verify that processes are in place to ensure that expenditures were not made for</p> <ul style="list-style-type: none"> • expenditures already reimbursed through another program, or • entertainment or other unallowable costs under A-87. <p>Determine how travel is reimbursed and whether training-related travel is included within contract price when training effort is contracted.</p>	<p>Funds are requested in limited budget categories.</p> <p>Did not review any documentation related to determination of TEEX and TTI prices although the former is likely based on history, and the latter appears reasonable.</p>	<p>None</p>	<p>Unable to make an assessment of the training grant budget without a further breakdown of the “Other” category.</p> <p>Travel costs are administered apart from the TEEX contract. Travel appears to be appropriately budgeted under “Travel” and requests for training-related travel are approved by the grantee. It is unclear if any travel related to planning is paid, e.g., for site visits to LEPCs.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
<p>Determine if grantee appropriately distinguishes between subawards and contracts for services.</p>	<p>Assess grantee's understanding of differences in process and effect on oversight. Determine process for distinguishing between types of lower-tier awards.</p>	<p>State appears to understand that the awards to LEPCs are considered subgrants and budgets for them under "Other" in the budget. However, the award document reviewed (County of Parker) is called a contract and uses a mix of contract and grant requirements/terminology, e.g., a unilateral termination clause for "other than cause." The transfer to TTI is specified as a contract. Even though it is with a university and conducted as a transfer within the State, it should be treated as a contract for administration purposes; however, it is budgeted under "Other," while the effort with TEEEX is budgeted under "Contractual." The TEEEX contract looks very much like the subaward document.</p>	<p>TEEX contract HMEP planning grant guide and application for LEPCs for FY11 Successful 2011 subgrant applications File for 2010 subawards Agreement with County of Parker</p>	<p>In part, this confusion may have less to do with the form of agreement (and accountability requirements) than with</p> <ul style="list-style-type: none"> • the way in which the CFS' were addressed, • the use of fiscal agents, and • the fact that the "contracts" are with other State agencies. <p>In addition, need to understand the "other" categories in the budget to make a more definitive determination regarding the grantee's level of understanding.</p>
<p>Assess process leading to subawards.</p>	<p>Describe process for soliciting applications for subawards and timing in relation to application submitted to PHMSA:</p> <ul style="list-style-type: none"> • Review solicitation materials and method of distribution • Determine means of reviewing subaward applications, including budget, and relation to HMEP application/award budget. <p>Review subgrant award process:</p> <ul style="list-style-type: none"> • Review sample of subgrant agreements • Determine whether required HMEP grant conditions are included • Review budget breakdown • Review reporting requirements • Review payment provisions. 	<p>State has a good process for obtaining subgrant applications; however, it is funding only 8 of 271 at this time. The solicitation document is put on the Texas Public Register. It may be that LEPCs do not read this. The review process appears to represent a best practice in that there are stated evaluation criteria and scoring; however, it is not clear what standards are applied to review of the budget and the knowledge base of those conducting that part of the review. It is not clear how any costs of a local jurisdiction serving as an LEPC's fiscal agent are charged. The agreement with the County of</p>	<p>HMEP planning grant guide and application for LEPCs for FY11 Successful 2011 subgrant applications</p>	<p><i>Follow-up:</i> Texas should e-mail its subgrant application guidance to all LEPCs. <i>Follow-up:</i> State should document its review of the subgrant budgets (generally provided in round numbers, may or may not indicate basis for contract price, or travel).</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
		Parker does not appear to incorporate the approved application or budget by reference. It simply includes ceiling amount.		
Assess approach to subrecipient monitoring.	<p>Describe monitoring process:</p> <ul style="list-style-type: none"> • Is it risk based or is it another approach to monitoring? • Does it include obtaining and reviewing required financial and progress reports? • Does it include verification of specific program requirements as reflected in subaward agreement, e.g., review and acceptance of updated plans, evidence of completion of exercises? <p>Note whether grantee determines if subrecipients are subject to A-133 audit requirements. If required, document whether a review of reports is conducted. If not required, describe additional steps taken to ensure compliance.</p> <p>Review sample of subgrant agreements for evidence of monitoring.</p> <p>Describe follow-up and remediation process if deficiencies are identified and review for adequacy.</p> <p>Determine if subawards are closed out before submission of final reports to PHMSA.</p>	<p>Monitoring is conducted on the basis of reports submitted by subrecipients (does not include TEEX contract). The subrecipients are actually local jurisdictions, not the LEPCs.</p> <p>Not all subaward files included evidence of project completion (e.g., a copy of brochure or where to find it).</p> <p>Files were not documented to indicate a review of any reports was performed and the contents found to be acceptable (or unacceptable).</p> <p>Not aware of who oversees the TTI contract or level/type of oversight.</p> <p>LEPCs would not rise to this level of expenditure; however, Texas requires that a city or county serve as the fiscal agent for an LEPC that receives an HMEP subgrant. It appears that the subgrant is actually made to the city or county (referred to by the State as “grantee”) and, therefore, Texas needs to be concerned with A-133 audits.</p> <p>Subgrants files were referred to as “closeout” files; however, a closeout process was not evident from them.</p>	Interview 2010 subgrant files 2011 subgrant to County of Parker	<p><i>Follow-up:</i> There is a split between the subgrantee of record, who is fiscally accountable, and who actually performs the project. The legal relationships between and among the State, the LEPC, and the city/county should be reviewed.</p> <p>Dollar values of subawards are relatively small; however, monitoring does need to occur to ensure outcome is achieved. Based on the Texas arrangement, programmatic and fiscal monitoring may be split between the LEPC (programmatic) and the actual subrecipient (financial).</p> <p>Monitoring is needed to ensure that reimbursement requested from PHMSA is based on actual costs incurred by subrecipients.</p>

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
Determine whether procurements are conducted and administered consistent with State requirements.	Determine procurement process used to acquire services, including pricing arrangement. Review training contract (if applicable) for compliance with HMEP requirements. Determine if contracts are monitored for costs incurred and timely completion of deliverables.	Assume procurements follow State of Texas requirements. Since the procurements are not with commercial vendors, but with other agencies of the State, assume there are competitive and other exceptions. TEEX contract lists approved courses, course descriptions, costs per course, maximum number of students.	Interview TEEX contract	State appears to have followed its own procurement requirements.
Understand basis for payment requests in relation to effort.	Understand basis for submission of SF-270s to PHMSA. Is request for reimbursement aligned with incurred costs/payments to subrecipients and contractors?	The SF-270s submitted to PHMSA could not be tied back to supporting records showing the costs incurred for which Texas was requesting reimbursement.	Request for payment log	<i>Follow-up:</i> Each payment request should be supported by documentation of costs incurred and required to be paid/paid.
				<i>Conclusion:</i> Grantee does not have processes in place to properly manage the administrative aspects of the grant.
Reporting				
Determine whether financial and performance reporting on program activity is conducted in accordance with program requirements.	<i>Financial:</i> Determine how expenditure reports are generated, including how HMEP expenditures are identified and tracked and if amounts reported, including matching, can be traced back to supporting documentation. <i>Performance (including final program narrative and report of accomplishments):</i> Determine how metric data are accumulated and accuracy of data is ensured (number of first responders trained, number of emergency response plans completed, number of LEPCs supported, and number of exercises conducted).	<i>Financial:</i> The basis for generating the Federal Financial Report was not addressed; however, several errors were noted in the report submitted to PHMSA. <i>Performance:</i> The subgrant process is supposed to conclude by August 31 so that deliverables will be received and evaluated to allow for timely reporting by the State to PHMSA. <i>Report on authorized expenditures:</i> This report was not planned for. The requirement was brought to the supervisor's attention only after the retirement of the former program manager.	Reports submitted to PHMSA for period ending 9/30/10	<i>Follow-up:</i> PHMSA should consider the need for training grantees on the use of the SF425. <i>Follow-up:</i> As a result of a PHMSA change in application requirements, e.g., including planned performance outcomes, progress reports should track to achievement of what was specified in the approved application. <i>Follow-up:</i> PHMSA should reconsider use of the report on authorized expenditures. Recipients

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Objective	Review steps	Observations/results	Documents reviewed	Conclusion/follow-up
	Determine if performance reports are reviewed for consistency with application and with each other. <i>Report on authorized expenditures:</i> Determine how expenditure information is derived for this report.	Therefore, the grantee was not closely questioned on discrepancies. However, it would appear that the report was prepared manually as there is no systemic means of capturing the required information.		do not budget or track expenditures in accordance with the categories of activity specified in the regulations. As a result, the reported numbers are arbitrary and will not be reported consistently across all HMEP grantees.
				<i>Conclusion:</i> Grantee does not have processes in place to ensure accurate and timely reporting.

Additional Comments on State of Texas Site Visit

The following comment concerns information provided during the Texas visit:

1. *Comment.* There is a regional planning initiative for emergency management and HazMat activities (i.e., response teams).

Recommendation. The regional planning initiative should require regional Integrated Emergency Management Plans (IEMPs) to ensure that all HazMat teams and response actions are performed within a coordinated framework. Further, this will require coordinated planning, training, communications capability, and equipment to ensure the HazMat teams can perform their designated functions in accordance with the regional IEMP. The region must have the capability of obtaining and tracking at least the following funding sources: (1) DHS/FEMA; (2) DOT HMEP; and (3) State appropriations.

2. *Comment.* Texas discussed developing a computer application to track all facets of HMEP funding and expenditure of those funds as well as developing program metrics to evaluate the capabilities and needs of the LEPCs and regional response teams.

Recommendation. LMI researched the availability of such program applications that might already have been developed by FEMA, the National Incident Management System (NIMS), or other computer-based applications from DHS. We found that no such applications exist at the federal level. Some States may have developed such applications, but if these programs are not coordinated, there is a strong likelihood that the program's data objectives and outputs will vary widely and diminish the capability of DOT from gaining any useful information from this type of expenditure. It is recommended that the DOT consider developing its own computer application

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that will allow for application of the HMEP funding, track HMEP expenditures, and perform meaningful gap analysis of program needs and resultant capabilities of the SERC and LEPCs within a State.

Appendix F

Summary of Results of Desk Reviews

The appendix summarizes the results of the desk reviews of Alaska, Florida, Illinois, and Kentucky. Our overall assessments and recommendations are as follows:

- ◆ Alaska

- ▶ *Assessment.* Alaska's grant is relatively small compared with other States reviewed and it operates on different model. Alaska uses an integrated approach to handling planning. It also has a separate business office function (similar to what we found in Pennsylvania). Although much of the funding is spent at the State level, there still is the potential for improper use of the HMEP award, particularly in how the match is met. Some of the staff members were adversarial, citing the effort involved in this small grant and in federal grant requirements generally, particularly in light of its integrated approach. Table F-1 contains our specific observations.
- ▶ *Recommendation.* PHMSA should consult with FEMA to determine whether FEMA has any issues with Alaska's management of FEMA's funding, and PHMSA should review Alaska's most recent OMB Circular A-133 audit. If PHMSA finds no issues and perceives improvements in Alaska's 2011–12 application, it should schedule another desk review for 2013. Otherwise, it should schedule a desk review for 2012, with an emphasis on the need for the HMEP grant and how the matching requirement is being met.

- ◆ Florida

- ▶ *Assessment.* Florida staff members have a good understanding of some aspects of the program, but the full scope of planning activities that Florida has been allowing and the way in which the training is carried out should be reviewed in greater depth. Florida staff members also believe that they have extensive knowledge of grants management, even though they have not taken formal federal grants management training, and some of their statements were challenged during the review. There may be overlap or, at a minimum, a lack of clarity in use of HMEP funds in relation to the other two funding sources administered by the Florida office responsible for the State's HMEP funds. Florida's processes for completing and submitting the FFR and for

tracking matching need further scrutiny. Table F-2 contains our specific observations.

- *Recommendation.* PHMSA should schedule an on-site review before making the 2011–12 award or, if that is not possible, early in the next performance year. If a review cannot be done before award and matching is not adequately addressed in the 2011–12 application, PHMSA should ensure that special conditions requiring explanations of how the matching is met are documented.

- ◆ Illinois

- *Assessment.* Illinois appears to have robust planning and training programs. The training model may be a best practice. The planning subgrant process is well developed; however, it needs to be modified to ensure that only those activities/costs that the HMEP program can support are applied for and awarded, and are appropriately used within the performance period. Staff members understand the latter and will be working toward that end. Illinois also made a concerted effort to improve its 2011–12 application. Table F-3 contains our specific observations.
- *Recommendation.* PHMSA should schedule an on-site review during the 2011–12 performance period to view how changes are being implemented and review HMEP-related documentation.

- ◆ Kentucky

- *Assessment.* Kentucky has a reasonable organizational setup, but has seen some personnel changes within the past year. The new HazMat program coordinator understands the need for improvement and has begun to document processes and improve the subgrant process. He also appeared to understand the feedback provided as part of the review. Areas of vulnerability include salary allocation to HMEP, the subgrant process, matching costs and contributions, documentation for both planning and training, and appropriate characterization of planning and training. In reviewing the 2011–12 application and the 2010–11 payment requests and final reports, PHMSA should pay particular attention to consistency among the State’s documents. It also should review the classification of planning versus training, the calculation of the pass-through (in the application), the pricing arrangement for the Kentucky Community College and Technical Center (application or separate request), and the nature of payments to or on behalf of the SERC and how they are charged to HMEP award and matching. Also of concern are clarity on the type of expenditures allowable under the State grant to the LEPCs and the types of costs and contributions being used as matching (application and separate request), as well as the timing

and rate of payment requests (which may indicate a delay in the sub-grant process). Table F-4 contains our specific observations.

- *Recommendation.* PHMSA should give Kentucky time to improve its processes and should schedule an on-site review for 2013.

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Table F-1. LMI Observations about Desk Reviews: Alaska

Staff effort and allocability to HMEP	Responsibility for other federal and State awards	Performance indicators	Regional response teams	Subgrant purposes and cycle	Training approach	Financial reporting	Other issues
<p>HMEP project manager (PM) spends 25–30% of the time on HMEP award. PM works with SERC, LEPCs, and Statewide Hazmat Working Group to coordinate all planning and training activities, not just HMEP. PM is assisted by an individual on the business side (program support) who prepares the HMEP grant application and required financial reports (this individual spends 1% of time on HMEP grant)</p>	<p>Responsibilities include FEMA's Emergency Management Performance Grant and the State's LEPC grant.</p>	<p>Statewide Hazmat Working Group provides input on planning and training needs.</p>	<p>Alaska has four Level A HazMat teams.</p>	<p>Alaska has created a number of utilities for its subgrantees, including a website and a Grants Management Handbook that explain the State processes.</p> <p>The State grant to LEPCs can pay for rental space, staff, all-hazards preparedness and outreach, commodity flow studies, and maps.</p> <p>Ideas for local planning projects are vetted before applications are submitted.</p> <p>LEPCs are required to provide a 20% match.</p> <p>An LEPC can enter into an MOU with the State to have the State spend HMEP funds on its behalf. The State has solicited a State-wide contract to help communities develop tabletop exercises and are engaged in an interagency agreement for a multiyear State-wide commodity flow study</p>	<p>Alaska has only a small amount available for training (less than \$75,000). Training is managed at the State level by the HMEP PM.</p>	<p>No exceptions noted.</p>	<p>Issues exists with allowability of expenditures from the State LEPC grant when used as match for the HMEP grant.</p> <p>Integration of planning activities and multiple funding streams to LEPCs require close monitoring by PHMSA to ensure allowability under the HMEP program.</p> <p>Subgrant documents were not provided as requested.</p> <p>Issues exist with the budgeting approach in 2010–11 application.</p>

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Table F-2. LMI Observations about Desk Reviews: Florida

Staff effort and allocability to HMEP	Responsibility for other federal and State awards	Performance indicators	Regional response teams	Subgrant purposes and cycle	Training approach	Financial reporting	Other issues
<p>Responsibility for the HMEP award is in the Bureau of Preparedness. The HMEP program coordinator is in a planning section under “technological hazards” and is assisted by contract managers in his division and individuals in the Office of Policy and Management, e.g., in application preparation, and the Accounting Office, e.g., for the SF 425.</p> <p>Allocations are based on artificial distinction among three grant programs: HMEP (@ \$1M including matching), State LEPC contracts (\$450,000/yr), and hazards analysis update (\$440,000/year). Each requires one-third of the effort (possible noncompliance with OMB Circular A-87).</p>	<p>Division of Emergency Management lists a variety of FEMA non-disaster grants in addition to those specifically under the cognizance of the Bureau of Preparedness.</p>	<p>Not addressed.</p>	<p>Not addressed.</p>	<p>Florida awards LEPC “contracts” to the LEPCS @ \$450,000/year.</p> <p>Each regional planning council (equates to an LEPC) receives an equal amount of State funds (\$40,909) for administrative activities, including professional staff support. These activities may include training.</p> <p>Florida has an organized approach to planning, by specifying a number of activities (with examples) for which funds may be used (allowability and emphases of some of the activities currently being discussed by PHMSA and Florida).</p> <p>Amounts flowed through for planning are based on an equal share of the funds Florida makes available for subgrants rather than the projects selected; additional amounts are based on population.</p> <p>Florida did not provide requested copies of subgrant awards.</p>	<p>Florida does not have a central training contract. Funds are administered at the State level. The RPCs select the training vendors and make their requests through DEM for reimbursement (@ 10/year).</p>	<p>Florida submitted its FFR for 2008–10 late (February 2010). The dates for the 2009–10 reporting period end date are incorrect .</p> <p>Florida does not show matching and indirect costs on the FFR.</p>	<p>Florida provided, as evidence of matching, a document showing the wrong performance period (9/30/08-2/15/10) and showed just an aggregate amount to be applied to match. This is inadequate support whether for a “hard” or “soft” match.</p> <p>The distinction between the hazards analysis update grant and possible uses of HMEP planning funds is unclear.</p> <p>Florida said that, because of the need to close out based on the state fiscal year (ending 6/30), it planned to divide the HMEP performance period into two periods—October through June and July through September. This has a variety of implications, including workload at both the State and RPC level, potential delays in getting paperwork in place, etc.</p>

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Table F-3. LMI Observations about Desk Reviews: Illinois

Staff effort and allocability to HMEP	Responsibility for other federal and State awards	Performance indicators	Regional response teams	Subgrant purposes and cycle	Training approach	Financial reporting	Other issues
<p>One individual serves as overall HMEP and training program coordinator, including overseeing curriculum, scheduling, and train-the-trainer. This person also reviews vouchers for payment (for contract instructors and their travel) (100% used as match). A second individual oversees the planning portion of the program, including soliciting and reviewing subgrant applications, tracking progress, and visiting LEPCs (40%). An executive assistant has planning job responsibilities that include activities not directly relevant to HMEP, but 83% of salary is used as match. A project coordinator assembles the planning and training portions of the application and reports. Individuals in Finance also assist with completing the SF 425 and the SF 270.</p>	<p>The Bureau of Operations, the component of IEMA administering the HMEP grant, is not responsible for any other federal grant.</p>	<p>At subgrant level, performance indicators are required of LEPCs receiving \$25,000 or more.</p>	<p>Illinois has regional teams and a State-wide Terrorism Task Force that can respond anywhere in the State.</p>	<p>Illinois has 98 LEPCs; close to 55 participate in subgrants. Word and Excel templates are provided for LEPC completion. Applications are evaluated on past performance, annual reporting, and proposed activities. Planning coordinator applies criteria fairly subjectively. Funding is divided into basic and special projects. Distinction not entirely clear (e.g., exercise expenses are part of "basic"). However, both types of funds may be used for operational and other activities not appropriate for HMEP funding (maintenance of LEPC records and Tier II reports, LEPC letterhead, business cards, \$3,000 to a college intern for "creating a grant proposal," etc.). Professional looking package; requires an object class budget. Funds may be "accepted" by another entity on behalf of the LEPC. Quarterly claim form is used; advance payment may be requested. Documentation was provided for several subgrants (called "grants" by IEMA). Illinois has no matching requirement. The State allows budget changes and award of supplemental funds. Detailed oversight is done by IEMA.</p>	<p>Some training funds are passed through to the Illinois State Fire Institute at the University of Illinois-Champaign (\$335,000 primarily for training firefighters, but also police and other first responders), the Office of State Fire Marshal (which sets training guidance), and the Illinois Law Enforcement Training Institute. All firefighters need to be trained at operations level; no formal refresher training is offered. An amount is retained by IEMA to obtain contract instructors.</p>	<p>For 2009-10, IEMA had a significant unobligated balance. IEMA discovered a reporting error after submission. It is not clear how advances to LEPCs are reflected in payment requests to PHMSA.</p>	<p>Issues exist in deriving matching amount in budget (appear to back in to percentages of staff time to arrive at required match).</p>

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Table F-4. LMI Observations about Desk Reviews: Kentucky

Staff effort and allocability to HMEP	Responsibility for other federal and State awards	Performance indicators	Regional response teams	Subgrant purposes and cycle	Training approach	Financial reporting	Other issues
<p>Hazmat project coordinator is covered 100% by HMEP funds. Others include an administration branch manager, an LEPC coordinator and training coordinator (in planning organization), and an accounting staff member.</p>	<p>Responsibilities include FEMA's Emergency Management Performance Grant and State grant of a few thousand dollars/year to LEPCs.</p>	<p>County scorecard has an LEPC component.</p>	<p>Kentucky has 14 teams, but no sustainment funding. Teams outside of major metropolitan areas are not able to be operational due to funding constraints.</p>	<p>Subgrants are used for commodity flow studies, exercises, and improvement and awareness activities. Subgrants for planning activities may not be made until late in the grant funding period. The State's 2009–10 final report and clarifications indicate that there are 118 LEPCs and subgrants are being made to less than 10% of them (may be the result of their having a separate funding source through the State grant). Subgrants require a 20% match, which may be met from State grant. State grants may be serving as "advances" to be "replaced" when HMEP reimbursement is received. When a State uses both HMEP funds and the State grant (as matching), need to be certain only allowable costs are ascribed to the HMEP award.</p>	<p>The State has an agreement with the Kentucky Community College and Technical Center. Basis for pricing is unclear (agreement was not available for review).</p>	<p>Project coordinator may not understand distinction between SF 425 and SF 270. Requests for reimbursement are not timely.</p>	<p>Not all of the requested information was provided (HMEP coordinator was on vacation when information was due). Staff members have no formal grants management training. Lack of clarity exists between planning and training activities. Lack of clarity exists concerning payment/use as match of SERC-related expenditures. Expenditures for "LEPC libraries" are questionable; not clear if this represents materials produced by the SERC, which the state says are counted as part of the 75% planning pass-through.</p>

Appendix G

Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
DOT	Department of Transportation
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FFR	Federal Financial Report
HazMat	hazardous materials
HAZWOPER	hazardous waste operations and emergency response
HMEP	Hazardous Materials Emergency Preparedness
LEPC	Local Emergency Planning Committee
NFPA	National Fire Protection Association
OGC	Office of the General Counsel
OMB	Office of Management and Budget
OSHA	Occupational Safety and Health Administration
PHMSA	Pipeline and Hazardous Materials Safety Administration
PY	program year
SERC	State Emergency Response Commission
SF	Standard Form
U.S.C.	United States Code