



Why This Matters

Following Hurricanes Katrina and Rita in 2005, and other declared disasters up to December 31, 2010, the Federal Emergency Management Agency (FEMA) disbursed more than \$8 billion in individual assistance payments, some of which were later determined to have been improperly paid to individuals who were ineligible, or received duplicate payments. In 2006, FEMA began recoupment efforts in an attempt to recover the misspent public funds. In 2007, a group of Hurricane Katrina applicants facing recoupment filed a class action lawsuit against FEMA, citing unfair recoupment practices, stopping FEMA from continuing its recoupment activities. In 2008, in light of the injunction and revised Department of Homeland Security debt collection regulations, FEMA terminated its recoupment process. In 2011, FEMA revised its recoupment process, mailing nearly 90,000 Notices of Debt from March through December 2011 and also considered thousands of appeals and requests for payment plans and compromise.

FEMA Response

FEMA disagrees with our conclusion that a number of sampled DARFA cases lacked adequate support to be waived. According to FEMA, this is a result of FEMA and OIG having different interpretations of DARFA's legal requirements. This difference in interpretation led to contrary views about waiver requirements.

For Further Information:

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

FEMA's Efforts to Recoup Improper Payments With DARFA

What we Determined

The Disaster Assistance Recoupment Fairness Act of 2011 (DARFA) provides a limited time, discretionary authority for the FEMA Administrator to waive a debt arising from improper payments provided for disasters declared between August 28, 2005, and December 31, 2010, if the excessive payment was based on FEMA error; there was no fault by the debtor; collection of the debt is against equity and good conscience; and the debt does not involve fraud, a false claim, or misrepresentation by the debtor or others with an interest in the claim. FEMA is authorized to grant a waiver to eligible debtors with a 2010 adjusted gross income (AGI) of up to \$90,000 and, subject to certain conditions, only a partial waiver to those with an AGI greater than \$90,000.

FEMA did not always properly grant waivers for DARFA cases it adjudicated. Specifically, about 30 percent of the cases we reviewed in our statistically validated sample did not have adequate support to grant waivers. Conversely, we determined that approximately 70 percent of the cases we reviewed had sufficient evidence to support an applicant's waiver request. For cases that lacked adequate support, we are not categorically stating that FEMA should have denied the applicant's request; rather, our review of FEMA's decisions did not find sufficient information in these case files to meet the criteria set forth in either DARFA or FEMA's implementing regulations to justify the waiver.

If a recipient of an improper payment met the conditions outlined in the DARFA legislation, FEMA may grant a full or partial waiver. As of December 10, 2012, FEMA adjudicated 20,369 cases totaling \$112,692,663 that were initially identified for recoupment. Of that amount, FEMA has granted waivers for applicants in approximately 86 percent of the cases it has reviewed. Specifically, FEMA has granted 17,517 waivers and denied 2,852 waivers totaling \$97,664,769 and \$15,027,894, respectively. FEMA has recouped from denied waivers \$2,774,295. Additionally, FEMA has expended an estimated \$9,569,776 on related activities including staffing, contracting, and applicant refunds.

This is the fourth in a series of six Congressional mandated reports that are to be issued every 3 months through June 2013. This report does not contain any recommendations. FEMA continues to process DARFA cases; therefore, it is too early to determine the cost effectiveness of this project. This issue will be addressed in future reports as information becomes available.