

SUMMARY REPORT:

**MIFFLIN COUNTY'S HAZARDOUS MATERIALS
MANAGEMENT PROGRAM**

and

SPECIAL AUDIT REPORT:

**THE PENNSYLVANIA EMERGENCY MANAGEMENT
AGENCY'S
HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS
GRANTS TO MIFFLIN COUNTY
OCTOBER 1996 – SEPTEMBER 2000**

April 2002

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Date

The Honorable Mark S. Schweiker
Governor
Commonwealth of Pennsylvania
Room 225 Main Capitol
Harrisburg, PA 17120

Dear Governor Schweiker:

The Department of the Auditor General has completed two related inquiries involving hazardous materials management programs in the Commonwealth. One concerned the Mifflin County Hazardous Materials Management (HazMat) Program during 1997-99. The other was a special audit of Hazardous Materials Emergency Preparedness (HMEP) Grants to Mifflin County by the Pennsylvania Emergency Management Agency (PEMA) for the period October 1996 to September 2000. Both were conducted by the Department's Office of Special Investigations (OSI).

The Mifflin County inquiry was in response to a request for assistance by the Pennsylvania State Police in connection with an investigation of the County's HazMat program. The special audit was a direct result of PEMA's refusal to provide us with information concerning HMEP grants to Mifflin County unless the information was sought as part of an audit.

The special audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Fieldwork was conducted between July 2001 and December 2001. The audit objectives were to determine compliance with appropriate federal and state statutes, guidelines and procedures, assess internal controls and determine the validity of allegations of failures to follow established procedures and policies and waste and misuse of federal and state funds.

PEMA is responsible for overall management of the Commonwealth's Hazardous Materials Response Fund used to assist Mifflin County and other local governments in the development of emergency response capabilities pursuant to the Hazardous Materials Emergency Planning and Response Act (Act 165). PEMA is also responsible for the distribution of federal HMEP grant funds to counties and other local government bodies as part of a program to support HazMat planning and training.

We found evidence of substantial waste, misuse and mismanagement in Mifflin County's HazMat program and major weaknesses in PEMA's management of the HMEP grants to Mifflin County.

We found that Mifflin County paid approximately \$46,720 to its Emergency Management Services (EMS) director and to its HazMat administrator for overtime that was not properly authorized. About \$20,000 of that total was based on inflated or non-existent hourly rates for County employees. We also found about \$24,000 in questionable Mifflin County HazMat expenditures for purchases of supplies and equipment and noted deficiencies in the operations of the County's HazMat program. In part, the abuses in the Mifflin County HazMat program were the result of the County government's failure to oversee expenditures of HazMat funds under Act 165. Our investigation found that the Mifflin County official primarily responsible for the questionable overtime payments and the failure of Mifflin County to oversee the expenditures was the County's EMS director. In late 1999, the individual left Mifflin County and took a position with PEMA.

Beginning in the spring of 2000, newly-elected Mifflin County Commissioners took steps to correct the program's deficiencies. These efforts disclosed questionable activities, including the overtime payments to HazMat officials and the absence of records. Our investigation included a review of the County's HazMat receipts and expenditures and confirmed the misuse of funds. The review also raised questions about PEMA's role in Mifflin County during the period.

Our audit found that PEMA failed to manage the HMEP grant program properly in Mifflin County and that PEMA's failure contributed to the irregularities in Mifflin County's HazMat program. We found that PEMA used federal grant funds to reimburse Mifflin County approximately \$33,278 for unallowable or questionable expenses. This was more than one-half of the total amount of HMEP grant funds distributed by PEMA to Mifflin County during the period. We found that, of the 164 expenditures submitted by Mifflin County to PEMA for reimbursement during the period, 131, totaling \$43,384, did not comply with federal principles and standards required to be used to determine costs. This indicated that PEMA's staff was not applying the federal standards in its management of the federal grant program. Our interviews of PEMA employees confirmed that managers responsible for oversight of the HMEP grant program were unaware of the federal standards.

Our audit also found that PEMA failed to ensure that reports of local project match funds in HMEP grants to Mifflin County had sufficient documentation and failed to apply those match funds properly when calculating the reimbursements. In our review of PEMA's records, we also found disturbing evidence that Mifflin County HMEP grant reimbursement requests were altered after they were sent to PEMA without explanation or justification. One result of the alterations was that Mifflin County received approximately \$5,166 in reimbursement to which it was not entitled.

The audit also found that documentation related to Mifflin County HMEP funds was incomplete or unavailable at PEMA. This raised concerns about PEMA's management of the statewide HMEP program.

The former Mifflin County EMS director, who was responsible for the County's HazMat program in the years under review and who is now a PEMA employee, declined to provide information to us about his activities while he was employed as Mifflin County's EMS director.

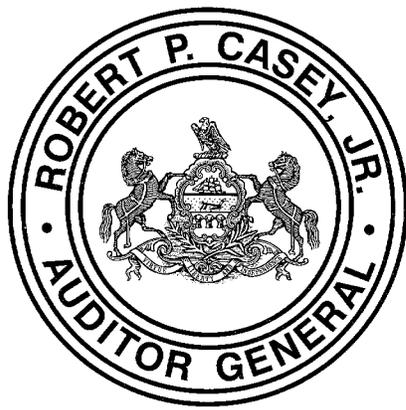
Mifflin County has acted commendably to correct deficiencies and reorganize its HazMat program. I am sending the reports to County officials and the State Police for whatever further action they determine to be appropriate.

The special audit report contains five recommendations for action by PEMA. PEMA's response to the draft report, while positive in some respects, provides no explanation for the prior failure to manage and oversee grants to Mifflin County's program properly. For that reason, we continue to have concerns about the effectiveness of PEMA's management of HMEP grants as well as its functions under Act 165.

Given PEMA's lead role in the Commonwealth's emergency management programs, I ask that appropriate steps be taken to ensure that PEMA addresses the reports' findings, works closely with Mifflin County officials to recover misspent funds and demonstrates that it can fulfill its statewide management and oversight responsibilities.

Sincerely,

Robert P. Casey, Jr.
Auditor General



SUMMARY REPORT:

**MIFFLIN COUNTY'S HAZARDOUS MATERIALS
MANAGEMENT PROGRAM**

INTRODUCTION AND BACKGROUND

The Department of the Auditor General (the Department) conducts audits of the Pennsylvania Emergency Management Agency (PEMA) and the use of state and federal funds provided to local governments through PEMA pursuant to the Department's authority under the Fiscal Code. 73 P.S. §§ 402, 403.

In 1990, the General Assembly passed the Hazardous Material Emergency Planning and Response Act.¹ The purposes of the act included:

- creating “a strong working relationship and partnership between business and industry and the Commonwealth and its municipalities . . . to protect the citizens . . . from the health hazards . . . resulting from use, storage, distribution and transportation of hazardous materials,”
- establishing emergency planning districts and local emergency planning committees in each county to act as a comprehensive hazardous material safety program in accordance with federal statutes,
- creation of a fund to assist Commonwealth agencies and counties to develop an effective response capability, and
- assigning responsibilities to Commonwealth and local agencies to ensure the development and furtherance of a comprehensive hazardous material safety program.²

Act 165 established a Hazardous Material Response Fund (the Fund) to provide financial assistance to Commonwealth agencies and counties for the purpose of developing emergency response capabilities. The Fund is a restricted account consisting of fees and fines collected under Act 165, funds appropriated by the General Assembly and accrued interest. PEMA is responsible for administration and allocation of money in the Fund.³

Act 165 also authorized the establishment, certification, training and equipping of local hazardous material response (HazMat) teams, county emergency management coordinators and local emergency planning committees.⁴ Through the counties, individual certified HazMat teams are eligible to receive Act 165 grants from the Fund.

¹ 35 P.S. § 6022.101 et seq., commonly referred to as Act 165.

² 35 P.S. § 6022.102.

³ 35 P.S. § 6022.207.

⁴ 35 P.S. § 6022.209.

PEMA is also responsible for the administration of federal grant funds to provide assistance in hazardous materials response planning and related training activities within the Commonwealth. The funds, known as Hazardous Materials Emergency Preparedness (HMEP) Planning and Training Grants, are available to counties through annual federal grants to PEMA.⁵ HMEP grants are provided on a reimbursable basis, i.e., expenditures are reimbursed after completion of the activities or on contractual obligations and require a 20 percent local match. The match may consist of county funds, money from Act 165 funds or local activities, such as in-kind contributions, which are referred to as “soft-match funds.”

During the period considered in this report, Mifflin County had a Local Emergency Planning Committee (LEPC), an Emergency Management Services (EMS) Department, headed by a director, and a certified hazardous materials emergency response (HazMat) team, known as Team 27, headed by an administrator. The EMS director reported to the LEPC and supervised the HazMat administrator.

In September 1999, the EMS director resigned and accepted a position with PEMA. The HazMat administrator was then named EMS director by the Mifflin County Commissioners. New Mifflin County Commissioners were elected in November 1999. In March 2000, the County Commissioners dismissed the EMS director. Team 27 lost its PEMA certification because it no longer had the required minimum number of qualified HazMat technicians and was disbanded. The members of the LEPC resigned. Mifflin County appointed a Public Safety Officer and a new LEPC and contracted with a private certified HazMat team to provide HazMat coverage in the county.

The county hired an outside firm, L. Robert Kimball & Associates (Kimball), to conduct a technical and operational analysis of the County’s HazMat program. The report, with 35 recommendations, was submitted in June 2000. The County sought to evaluate the use of LEPC funds through procedures conducted by an independent accounting firm. In April 2000, the accounting firm reported that it had accounted for checks written from the LEPC checking account and verified that information on the checks agreed with check registers for the years ended December 31, 1997, 1998 and 1999, but that no full audit was conducted.

In June 2000, the Pennsylvania State Police (PSP) requested that the Department’s Office of Special Investigations (OSI) assist the PSP in an investigation of alleged misuse of HazMat funds by the individuals responsible for the supervision and management of the Team 27 from 1997 through 1999.

⁵ The federal grant program is administered by the U.S. Department of Transportation, as authorized by the Federal Hazardous Material Law, 49 U.S.C. § 5101 *et seq.* The purpose of the federal program is to implement the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001, *et seq.* There is a close relationship between this federal statute, referred to as SARA or EPCRA, and Act 165. One of the purposes of Act 165 is to provide Pennsylvania counties with organizations and resources to carry out provisions of SARA.

OSI conducted an investigation which included interviews of current and former Mifflin County officials, members of Team 27, including the HazMat administrator during the period under review, and other County employees and reviews of financial records and other documents pertaining to the LEPC and Team 27. As discussed in the findings of this report, a substantial portion of the financial and other records of Team 27 activities could not be found.

In October 2000, OSI contacted PEMA seeking to obtain records of grants provided to Mifflin County between 1997 and 1999. PEMA refused to provide the information unless the Department was engaged in an audit conducted in accordance with Government Auditing Standards. The Department subsequently obtained PEMA's grant records through a special audit of the HMEP grants to Mifflin County and also conducted interviews of PEMA staff members pursuant to the audit. The former EMS director, who has been a PEMA employee since September 1999, declined to answer questions related to his activities as the Mifflin County EMS director.

The draft findings and recommendations of the investigation were provided to Mifflin County on March 8, 2002. The response has been incorporated into the final report.

The draft report of the investigation was also provided to PEMA on March 8, 2002. PEMA was given the opportunity to make comments concerning the report of the investigation as part of its response to the draft report of the special audit of the HMEP grants to Mifflin County. PEMA's response to the draft special audit report (see pp. 55-57) contained no reference to the report of the investigation.

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Payments to the EMS director and the HazMat administrator for overtime were not authorized by Act 165 or the Mifflin County Commissioners. Payments of approximately \$20,688 to the EMS director and the HazMat administrator for overtime were improper because they were based on inflated or non-existent hourly rates. A substantial portion of the overtime payments was also for questionable purposes.

The overtime payments to the EMS director were not supported by documentation that described the dates, hours and work completed. The EMS director, now an employee of PEMA, declined to provide information concerning his activities as Mifflin County's EMS director.

Questionable expenditures were made from the HazMat account for purchases totaling \$24,160. The questionable expenditures included costs for purchases of a vehicle without bids or price quotes, purchases of food, supplies, travel and attendance at regattas.

The investigation found evidence of Team 27 activities that may have been conducted in violation of environmental requirements. The records of many of Team 27's activities were also missing or incomplete.

Financial record keeping related to federal and state grants was inadequate.

Recommendations

1. The Commonwealth and/or Mifflin County should take steps to recover the \$20,688 paid to the HazMat administrator and the EMS director to which they were not entitled, including legal action if necessary. (Finding No. 1.)
2. Mifflin County should establish and enforce procedures for oversight and management of HazMat activities including:
 - payment of overtime;
 - documentation of justifications for expenditures;
 - compliance with competitive bidding and purchasing requirements;
 - compliance with federal and state requirements and policies concerning grants;
 - inventory controls and records;
 - monitoring of all removal, transportation, storage and disposal of hazardous materials by HazMat teams; and

- maintaining complete incident response files.

(Finding Nos. 1 and 2.)

TEAM 27 RECEIPTS AND EXPENDITURES 1997-1999

OSI initially attempted to determine the sources and amounts of Team 27 funds and the purposes for which the funds were spent by reviewing records maintained at Team 27's office. Unfortunately, records of Team 27's activities, including financial records, were missing, incomplete and unorganized. A checking account in the name of "Mifflin County HazMat-Materials Emergency Response Account" (the HazMat account) was maintained at the Lewistown Trust/Juniata Valley Bank. No records of account could be found. Separate accounting or individual ledger entries for each source of income could not be located for the period after July 1, 1997. Act 165 grant funds were co-mingled with HMEP grant funds, incident reimbursement funds, chemical and emergency planning assessment fees and other miscellaneous income such as interest, training fees, and contributions.

In the absence of complete financial records, OSI reconstructed income and expenditures for the years 1997 through 1999 by reviewing deposits to and cancelled checks from the HazMat account and tax withholding forms. The results are presented in Table No. 1:

Table No. 1 – Mifflin County HazMat Account

	1997	1998	1999	TOTALS
<u>Receipts</u>				
HMEP Grants (Federal)	\$19,900	\$22,722	\$10,765	\$53,387
Act 165 Grant Funds (State)	14,200	28,298	10,625	53,123
Pa. Department of Agriculture Grant ⁶	0	2,500	0	2,500
Mifflin County Contribution	30,000	0	0	30,000
Huntingdon County HazMat Contract ⁷	0	0	2,500	2,500
HazMat Incident Reimbursements	23,000	32,710	25,960	81,670
Chemical/Emergency Assessments	8,150	9,760	7,650	25,560
Miscellaneous (Interest/Training fees)	<u>2,350</u>	<u>1,560</u>	<u>2,600</u>	<u>6,510</u>
Total Receipts	<u>\$97,600</u>	<u>\$97,550</u>	<u>\$60,100</u>	<u>\$255,250</u>
<u>Expenses</u>				
Administrator's Salary/Benefits	\$28,975	\$0	\$0	\$28,975
Administrator & Director's Exp./OT	5,250	41,460	7,200	53,910
Administrator's Undocumented Exp.	0	0	3,100	3,100
Supplies & Equipment	11,660	18,800	21,900	52,360
Training/Food & Reference Materials	10,700	11,000	10,680	32,380
Vehicle & Gas Costs	9,430	3,200	3,870	16,500
Waste Disposal-other emergency services	7,370	8,390	4,125	19,885
Utilities and Telephones	7,100	7,900	7,830	22,830
Physicals	2,130	0	5,200	7,330
HazMat Escrow Account ⁸	5,000	0	0	5,000
Miscellaneous	<u>1,685</u>	<u>1,900</u>	<u>3,295</u>	<u>6,880</u>
Total Expenses	<u>\$89,300</u>	<u>\$92,650</u>	<u>\$67,200</u>	<u>\$249,150</u>

⁶ The Pennsylvania Department of Agriculture provided a grant for Team 27 training on agricultural safety and rescue activities.

⁷ This was a yearly retainer to cover HazMat incidents in Huntingdon County. At various times, the retainer was placed in the County's general fund or Team 27's checking account.

⁸ This was a reserve account to cover incident cleanup costs not paid by third parties. At the end of 1999, it had a balance of \$15,000.

A substantial portion (approximately 20 percent) of the expenditures from the account was for overtime and expenses paid to the HazMat administrator and the EMS director. The HazMat administrator and the EMS director were also paid salaries by Mifflin County during the years 1997-1999 as County employees. The payments to the administrator and director from the HazMat account are listed in Table No. 2. These expenditures are discussed in detail in Finding Nos. 1 and 2.

Table No. 2 - Payments to the HazMat administrator and the EMS director from the HazMat account, 1997-1999

	1997	1998	1999	TOTAL
<u>HazMat Administrator</u>				
County Salary	\$ 22,384 ⁹			\$ 22,384
Overtime ¹⁰	\$ 2,550	\$ 33,305	\$ 3,900	\$ 39,755
Expenses	\$ 1,465	\$ 555	\$ 3,550	\$ 5,570
HazMat Administrator's Total	<u>\$ 26,399</u>	<u>\$ 33,860</u>	<u>\$ 7,450</u>	<u>\$ 67,709</u>
<u>EMS Director</u>				
Overtime	\$ 615 ¹¹	\$ 5,150	\$ 1,200	\$ 6,965
EMS Director's Total	<u>\$ 615</u>	<u>\$ 5,150</u>	<u>\$ 1,200</u>	<u>\$ 6,965</u>

The review determined that improper and questionable expenditures were made from the HazMat account, particularly the payments for overtime. Before considering the expenditures in detail, it is necessary to describe a chronology of events concerning responsibility for the management of Mifflin County's HazMat activities.

⁹ This figure includes only payments from the HazMat account and excludes salary payments from the County.

¹⁰ These figures are based upon W-2 tax forms rather than checks from the HazMat account. The tax forms show total overtime and expenses paid to the HazMat administrator as \$38,135, approximately \$1,620 less than the total shown on checks issued from the HazMat account.

¹¹ This expense was not listed as an overtime payment but the reasons for the payment were identical to those given for overtime paid in 1998 and 1999.

FINANCIAL MANAGEMENT OF HAZMAT ACTIVITIES IN MIFFLIN COUNTY

Team 27 began providing services to Mifflin County in 1994. At that time Team 27 services were limited because it was not certified as a HazMat response team by PEMA. Mifflin County contracted with other certified HazMat teams to respond to HazMat incidents and conduct clean-up operations. The administrator of Team 27 was a part-time county employee. In April 1994, the Team 27 administrator resigned. The LEPC recommended that a township deputy fire chief be hired as a replacement and later recommended that the position be made full-time and salaried. The Mifflin County Commissioners agreed with the recommendations and the administrator became a full-time salaried employee with the title of HazMat administrator. In November 1996, Team 27 received its certification from PEMA.

Team 27 Funds were initially managed through a bank checking account (referred to in this report as the HazMat account) administered by the Mifflin County Commissioners and County Treasurer. Team 27 submitted budgets and purchase requests to the County Commissioners through the LEPC. Checks drawn on the HazMat account were prepared by the Commissioner's chief clerk, signed by the Commissioners and posted to expense accounts by the County Treasurer.

During 1997, the EMS director reported to the LEPC that he believed the HazMat administrator should be paid for overtime. According to a report by the EMS director in 1997, the HazMat administrator had earned 1680 hours in overtime.¹² LEPC members agreed and approached the County Commissioners regarding the issue.

A disagreement arose when the County Commissioners refused to approve the overtime pay. As full-time Mifflin County employees, both the HazMat administrator and the EMS director were in job positions determined by the County to be administrative, executive or professional. Under the County's policy, the County was not required to pay them for overtime. The County Commissioners preferred that management employees maintain a flexible work schedule and substitute time off for overtime during the workweek.

The LEPC passed a motion in August 1997 to transfer control of the HazMat account from the County to the LEPC. The LEPC assigned the responsibility for the account to the EMS director and the HazMat administrator.

The County Commissioners did not readily agree to the change. Two Commissioners were opposed initially, but eventually the three Commissioners agreed to it. According to two of the Commissioners, the EMS director informed the Commissioners that, under Act 165, PEMA required that the County HazMat funds be

¹² Based on a 40-hour workweek, this would have been the equivalent of 42 weeks in overtime. During the investigation, OSI found no documentation or other evidence to support the statement in the EMS director's report.

kept in an account that was separate from the County's general account funds and controlled by the LEPC.

The Act 165 requirement is that each county treasurer establish a non-lapsing, restricted Hazardous Material Emergency Response Account and that "expenditures from the account shall be authorized by the county" consistent with the needs identified in the periodic report prepared by the county in accordance with PEMA's guidelines.¹³ Act 165 does not require that the LEPC control county HazMat funds.¹⁴

The transfer of control took place during the last quarter of 1997. There is no documentation of the transfer in Mifflin County's records. After the transfer, the County Commissioners relinquished all supervision over the financial activities and management of the LEPC and Team 27. From late 1997 until March 2000, the HazMat administrator was responsible for the financial records of the HazMat account. The duties included preparation of purchase orders, maintaining financial ledgers, preparation of checks, and reporting the financial activities to the LEPC. The HazMat administrator's activities were supervised by the EMS director. Purchase orders were approved by the LEPC and checks were co-signed by three people: a designated member of the LEPC, the EMS director and the County Treasurer.

The County Treasurer told OSI that, after the change in control of the HazMat account, he signed checks drawn on the HazMat account only after the checks had been signed and approved by the EMS director and the LEPC member. The Treasurer stated that he had no input into the management of the HazMat account or the financial affairs of Team 27 after the County's 1996-1997 fiscal year other than to sign checks and other documents that required the Treasurer's signature.

¹³ 35 P.S. §§ 6022.207(b)(1) and 6022.204(a)(3), (b.1). Act 165 provides that local emergency planning committees shall utilize the account to resolve cost recovery disputes but Act 165 does not give control of the account to the LEPCs.

¹⁴ It should be noted that Act 165 does not prohibit counties and other local government bodies that receive Act 165 funds from properly delegating responsibility for management of HazMat funds with reasonable safeguards and internal controls.

Finding No. 1 – Payments to the EMS director and the HazMat administrator for overtime were not authorized by Act 165 or the Mifflin County Commissioners. Payments of approximately \$20,688 to the EMS director and the HazMat administrator for overtime were improper because they were based on inflated or non-existent hourly rates. A substantial portion of the overtime payments was also for questionable purposes.

- a. Overtime payments were not authorized by the County Commissioners or Act 165

Between 1997 and 1999, the HazMat administrator and the EMS director received approximately \$46,720 as payments for overtime. The justification for the payments was based on a policy developed in 1997 and early 1998 by the EMS director and the LEPC salary committee.

In March 1998, the LEPC adopted a Personnel Reimbursement Policy (the Policy). According to a copy of the written Policy obtained during the investigation, the Policy was based on Sections 208 and 210 of Act 165 and a PEMA document known as the “HMEP Grant Packet.” The Policy stated that the LEPC had identified the HazMat administrator and the EMS director as full-time paid employees. In fact, the two individuals were the only full-time HazMat employees and, therefore, the only persons covered by the Policy. The Policy provided for reimbursement of those employees for work on grants, including HMEP grants, that stipulated a salary reimbursement category. According to the Policy, the “work is considered to be in addition to those duties included in the normal workday.”

The Policy stated that work was to be calculated as double time for weekends, double time and a half for holidays and “Overtime Rate” after normal weekday work hours. The Policy did not contain a statement of the base overtime rate. In interviews, LEPC members told OSI that they believed the base rate for calculating overtime was the individual’s hourly pay rate as a County employee. According to County records, during the 1997-1999 period, the hourly rates ranged from \$10.75 per hour to \$15.40 per hour for the HazMat administrator and the EMS director. (See Table No. 3.)

The Policy also stated that no reimbursement would be issued unless timesheets and explanations of work were completed and that reimbursement was contingent upon payments being received from the appropriate grant program or third party.

The sections of Act 165 referred to in the Policy as the basis for it relate to emergency management grants (Section 208) and recovery of response costs from persons who cause releases of hazardous materials (Section 210).¹⁵ Section 208 lists eligible costs for grants, including costs of development of plans and capabilities, support of operations of LEPCs and reimbursement of certain response costs of supporting volunteer emergency services. Section 208 does not contain an explicit authorization of

¹⁵ 35 P.S. §§ 6022.208 and 6022.210.

overtime payments as eligible reimbursement costs. Section 210 authorizes recovery of overtime costs incurred during HazMat response activities from persons responsible for releases of hazardous materials to the environment. It does not authorize, or prohibit, the payment of overtime per se. During the special audit, OSI obtained from PEMA the list of project activities deemed eligible for reimbursement in connection with HMEP planning and training grants. The list includes activities that were among the duties and responsibilities of the HazMat administrator and the EMS director. However, the lists do not include authorization for payment of overtime for performance of those activities.

(This is not to suggest that it would never be permissible or appropriate for a county or other local government to authorize payment for overtime work in connection with HazMat activities, in accordance with established procedures and subject to review and oversight.)

As discussed previously in this report, the HazMat administrator and the EMS director were not in job positions in Mifflin County which entitled them to overtime pay. No evidence was found that the Mifflin County Commissioners approved the Policy or were informed of it. There was also no evidence that the County or the LEPC authorized a pay rate for the HazMat administrator or the EMS director other than that which was used to determine their regular pay as County employees.

During the second half of 1997, the HazMat administrator began receiving payments for overtime. In 1998, the EMS director also began receiving overtime pay. Periodically, the HazMat administrator and the EMS director sent payroll reimbursement requests to Bickel's Tax Service, McVeytown, PA, a private tax service firm hired by the LEPC to calculate gross and net salary and taxes. The payroll requests included total hours worked, the amount per hour, and identification of the incident or grant. Bickel's Tax Service calculated the salary and tax amounts and submitted a pay voucher to the HazMat administrator and/or EMS director. Team 27 issued a check from the HazMat account for the net pay and issued checks quarterly for tax withholdings.

Based on statements to OSI by the owner of Bickel's Tax Service and a review of the firm's records, it appears that the handwritten or typed payroll requests contained hourly rates for the HazMat administrator and EMS director of \$50, \$75 and \$100 per hour. On the sheets made available to OSI by Bickel's Tax Service, the rates are not listed as overtime rates.

On the printed payroll records (entitled "Mifflin Co. LEPC payroll") prepared by Bickel's Tax Service made available to OSI, the hours are listed as regular hours, not as overtime.

- b. Payments of approximately \$20,688 to the EMS director and HazMat administrator for overtime were improper because they were based on inflated hourly pay rates.

A review of the overtime paid to the HazMat administrator and the EMS director disclosed that the hourly rates used as the basis for determining the overtime payments were substantially inflated above the individuals' base hourly rates as County employees. Records of the private tax service were reviewed and are presented in Table No. 3. The overtime calculations used in the review were based upon double time (no vouchers were submitted to the private tax service for double time and a half, the holiday rate).

Table No. 3 – Improper overtime payments to the HazMat administrator and to the EMS director

HazMat Administrator	Rate per hour submitted	Rate ¹⁶	Difference	Hours Reported worked	Amount of overpayment
1998	\$ 50.00	\$ 21.50	\$ 28.50	272.25	\$ 7,759.13 ¹⁷
	\$ 50.00	\$ 25.60	\$ 24.40	150	\$ 3,660.00
	\$ 75.00	\$ 25.60	\$ 49.40	53	\$ 2,618.20
	\$ 100.00	\$ 25.60	\$ 74.40	11	\$ 818.40
1999	\$ 75.00	\$ 27.60	\$ 47.40	20	\$ 948.00
	\$ 100.00	\$ 27.60	\$ 72.40	21	\$ <u>1,520.40</u>
TOTAL					\$ <u>17,324.13</u>
EMS Director	Rate per hour submitted	Rate	Difference	Hours reported worked	Amount of overpayment
1998	\$ 50.00	\$ 28.60	\$ 21.40	35	\$ 749.00
	\$ 75.00	\$ 28.60	\$ 46.40	30	\$ 1,392.00
	\$ 100.00	\$ 28.60	\$ 71.40	5.5	\$ 392.70
1999	\$ 100.00	\$ 30.80	\$ 69.20	12	\$ 830.40
TOTAL					\$ <u>3,364.10</u>

¹⁶ The rate in this column is based on two times the individual's base hourly rate as a County employee. This would be the overtime rate for weekends based on the Policy adopted by the LEPC.

¹⁷ This payment was for hours reportedly worked in 1997 before the implementation of the Reimbursement Policy. Therefore, we have used the County's 1997 base salary rate for our calculation.

Even if it is assumed that the HazMat administrator and EMS director were entitled to overtime, the payments shown on Table No. 3 were inflated by \$17,324 and \$3,364, respectively, as a result of the use of hourly rates far in excess of any to which the individuals were entitled. We found no documentation or other record showing that a \$50, \$75 or \$100 per hour base rate for the overtime payments ever existed or was ever approved. Former County Commissioners, LEPC members and others interviewed had no knowledge of any discussion or approval of such base rates for overtime. The HazMat administrator stated to OSI that the EMS director told her to use those rates on payroll information submitted to the private tax service. The HazMat administrator could not explain how the EMS director determined those hourly rates. The EMS director declined to be interviewed in connection with this matter.

- c. A substantial portion of the overtime payments was for questionable purposes

The review of the overtime payments to the EMS director and the HazMat administrator and information in payroll requests submitted to the private tax service to generate those payments disclosed that \$6,350 (or 91 percent) of the payments to the EMS director was for overtime reportedly worked at HazMat incidents. None of the overtime payments to the EMS director were supported by documentation that described the dates, hours and work completed.

The EMS director was responsible for overall supervision and coordination of EMS activities. While this might justify his presence at some HazMat events, the need for so many overtime hours for such activities is questionable. When questioned about the need for the EMS director's presence at HazMat incidents, one member of Team 27 stated that the director showed up "to get his overtime and extra pay." In February 1997, according to a document in Team 27's correspondence files, the HazMat administrator questioned the need for the EMS director to go to every HazMat scene.

The only records showing approvals of overtime payments to the EMS director were LEPC members' approvals of purchase orders. The HazMat administrator sent a list of purchase orders to be approved via telefax to one or more LEPC members. The approval was telefaxed back to the HazMat administrator. The lists of purchase orders included check numbers, purchase order numbers, payees, and dollar amounts. Checks payable to the EMS director were included in the purchase order lists.¹⁸ In 1998, the EMS director's wife was a member of the LEPC's executive committee. There were several instances in 1998 when the EMS director's wife approved purchase orders that included overtime payments to the EMS director.

In 1997, the EMS director also received \$615 for overtime reportedly worked in 1995 or 1996, years prior to the establishment of the Policy. The Policy did not contain an effective date or a statement that it was to be applied retroactively.

¹⁸ As noted previously in this report, the checks to the EMS director were co-signed by other officials.

There was also questionable justification for a portion of the overtime payments to the HazMat administrator. About \$13,612 of the \$33,305 that she received in 1998 was for overtime reportedly worked in 1997, prior to the establishment of the Policy.

Requests submitted to PEMA for reimbursement from HMEP funds included about \$16,678 of the overtime payments to the HazMat administrator.¹⁹ These reimbursement requests were submitted to PEMA as part of Mifflin County's applications for federal HMEP grant funds.²⁰ The propriety of including overtime payments in those applications is discussed in Finding No. 1 of the Special Audit Report. (See pp. 40-44.)

¹⁹ The \$16,678 is comprised of \$3,240 and \$13,438, which, respectively, were found to be unallowable and questionable expenses in the special audit. See pp. 41-42.

²⁰ The requests were signed by the EMS director as "authorized certifying official" and as agent for the grantee and were witnessed by the HazMat administrator.

Finding No. 2 – Questionable expenditures were made from the HazMat account for purchases totaling \$24,160.

During the review of the documentation for expenses listed in Table No. 1, other questionable items paid from the HazMat account were noted. The items are summarized in Table No. 4. A discussion of the questioned expenditures follows the Table.²¹

Table No. 4 – Questionable expenditures from the HazMat account, 1997-1999

	Description of Expenditures	Number of checks	\$ Amount
1.	Used vehicle purchase	1	\$5,002
2.	Checks to the HazMat Administrator for expenses	5	\$3,520
3.	Purchase of tools	1	\$500
4.	Purchases of shoes	2	\$2,880
5.	Raystown Regatta	10	\$4,400
6.	Wal-Mart purchases	16	\$3,613
7.	Food purchases	15	\$1,550
8.	Photo Factory	13	\$1,386
9.	Leather helmet	1	\$350
10.	Brickyard Crossing	<u>1</u>	<u>\$959</u>
	TOTAL	<u>65</u>	<u>\$24,160</u>

No. 1 – Purchase of used vehicle

In October 1997 (shortly after the LEPC obtained control of the HazMat checking account), a used four-wheel drive Chevy Blazer was purchased from Granville Township for \$5,002. The HazMat administrator and a Chief on Team 27 previously worked as the assistant fire chief and chief of the Granville Township Fire Department, respectively. The purchase price exceeded the County Code requirement that any contract in excess of \$4,000 and less than \$10,000 requires at least three written or telephonic price quotations

²¹ Several of these expenditures were submitted to PEMA as eligible project activities for reimbursement through HMEP grants. According to the special audit, PEMA paid the reimbursement. However, the expenditures do not appear to meet the requirements for eligible project activities. See the Special Audit Report, pp. 40-44.

from at least three qualified and responsible bidders.²² There is no documentation or other evidence that price quotes were sought or obtained in connection with the purchase.

No. 2 – Travel and instructional expenses

Five checks were paid to the HazMat administrator for “expenses.” Three of the checks, issued in May, July and September 1999 and totaling \$2,900, were for travel expenses and travel advances. None of the checks or associated purchase orders had bills, invoices, or receipts to substantiate the expenditures. Two additional checks were paid to the HazMat administrator in 1997 for “instructional expenses”. There was no documentation of the classes or dates. There is no way to determine if the teaching services were in addition to the HazMat administrator’s regular duties as a salaried County employee. If they were not, there does not appear to be any justification for her to be paid an additional amount for them over and above her salary.

No. 3 – Purchase of tools

In October 1997, a \$500 check was issued to an individual for purchase of a socket set and a ratchet. According to the HazMat administrator, the payee was her father. The HazMat administrator cashed the check and gave him the proceeds. She said the cost of the tool set (which was substantially higher than other socket sets purchased by Team 27) was due to the fact that it was for use on tractor-trailers. OSI found no evidence that Team 27 obtained such a socket set and ratchet. No such tool set was included on any Team 27 inventory list.²³

No. 4 – Purchases of shoes

Between December 1997 and November 1998, the LEPC purchased \$2,880 in footwear from Super Shoes, a national shoe store chain, for Team 27 members. Super Shoes is not a supplier of specialty shoes for emergency personnel; the store chain carries everyday footwear. The HazMat administrator told OSI that Team 27 members received new footwear every 12 to 18 months and kept the footwear in the Team 27 locker room. Team 27 members stated that they purchased whatever type of footwear they desired and purchases were not limited to shoes intended for use on HazMat work.

No. 5 – Raystown Regatta

Team 27 had a contract with Huntingdon County to respond to HazMat incidents occurring in that county. The agreement provided that Team 27 would supply all labor, tools and materials for work done in response to incidents. The Raystown Regatta is held annually at Raystown Lake, Huntingdon County. Team 27 sent six to eight members,

²² 16 P.S. § 1801(b).

²³ Kimball, the consulting firm hired by the County in 2000, conducted an inventory of Team 27’s equipment and supplies about three weeks after Team 27 was disbanded in April 2000. A representative of the consulting firm provided OSI with a copy of the inventory list. Other inventory lists prepared by the former HazMat administrator were found in the Mifflin County HazMat files.

plus the HazMat administrator and the EMS director, to Raystown Lake for three to four days during the Regatta. The review disclosed that Team 27 incurred \$4,400 in expenses between 1997 through 1999 in connection with its attendance at the Regatta. The expenses included payments for lake cottages, clothing (including Regatta jackets), food and other items. The HazMat administrator told OSI that Team 27 was present to respond to incidents and also conducted water training exercises while there. Certain costs, such as the Regatta clothing and a portion of food charges, appear excessive and/or unnecessary. It is also questionable whether Team 27 required the presence of six to eight members, as well as the EMS director and the HazMat administrator, to serve in a standby status at Raystown Lake during the Regatta.

No. 6 – Wal-Mart purchases

Team 27 made purchases totaling \$6,264 from Wal-Mart between 1997 and 1999. While some of the items appear to be appropriate, purchases totaling \$3,613, for such items as ski vests, ice trays, boat cushions, wading pools, fishing vests and food, appear questionable. Other items included among the Wal-Mart purchases, such as cameras, television sets, and computer equipment that may have been reasonable and appropriate, could not be identified on Team 27's inventory lists.

No. 7 – Food purchases

In addition to food purchased at Wal-Mart, Team 27 spent an additional \$1,550 for pizza, donuts, and other refreshments. The HazMat administrator told OSI that the food was purchased in connection with training exercises. There was little or no supporting documentation for the purchases in the records related to the HazMat account. Food purchases were also among the items included in HMEP grant reimbursement requests sent to PEMA. According to PEMA records reviewed during the special audit, approximately \$846 was spent on food purchases that had little or no documented connection with training.²⁴

No. 8 - Photo Factory

Between 1997 and 1999, 13 checks totaling \$1,386 were written from the HazMat account to the Photo Factory for film, photo development and enlargements. No photographs were found in Team 27 records. There are no records to show what photographs were taken, what film was developed or the purpose. The HazMat administrator told OSI that Team 27 provided Huntingdon County with a number of enlarged incident photographs for the County's annual county fair. None of these photographs were found in Team 27's files.

²⁴ See the Special Audit Report, pp. 42-43.

No. 9 - Purchase of leather fire helmet

In January 1999, Team 27 purchased a \$350 leather fire helmet for the HazMat administrator. Other Team 27 members received plastic headgear that cost less than \$40 per hat. According to Team 27 members, the helmet was for show purposes only and not for use in HazMat activities. The helmet was not listed as part of Team 27's inventory.

No. 10 – Brickyard Crossing

In January 1999, a check for \$959 was issued to “Brickyard Crossing”. There were no bills attached to the purchase order or any explanation of what was purchased and why. Individuals interviewed during the investigation were not familiar with any Team 27 vendor by that name. An internet search of “Brickyard Crossing” located one listing - a hotel in Indianapolis, Indiana. No record of HazMat training in Indiana was found in the available records of Team 27. The HazMat account records contained a March 2, 1999, purchase order for “Vehicle Rental – Indianapolis”. According to the purchase order, the charge (\$284.10) was paid on March 8, 1999. However, the check listed as payment for the charge was recorded as void.

Another questionable expenditure was included within a payment for charges related to attendance of eight members of Team 27 at an International Hazardous Materials Response Teams Conference in Baltimore, MD in 1997. The total registration cost (\$1,552) included \$112 for baseball game tickets. This specific expenditure was not identified in the HazMat account's records. It was disclosed during the special audit of PEMA's HMEP grants to Mifflin County.²⁵

²⁵ See the Special Audit Report, p. 42.

Comment No. 1 - The investigation found evidence of Team 27 activities that may have been conducted in violation of environmental requirements. The records of many of Team 27's activities were also missing or incomplete.

Deficiencies in the overall management of the County's HazMat program were the subject of the June 2000 report by Kimble. Our review noted other questionable program activities involving Team 27:

a. Removal and storage of hazardous materials

In the summer of 1999, Team 27 received a call from a Lewistown, PA resident regarding hazardous materials (15 canisters of ether and five canisters of cyclopropane) found in his deceased parent's residence. Both types of material are flammable and toxic solutions. According to the HazMat administrator, she informed the EMS director that Team 27 and its personnel were not qualified to handle and transport those hazardous materials; the EMS director told her that he wanted the materials removed from the residence and brought to Team 27's warehouse located in the Mifflin County Industrial Development Corporation complex in Lewistown until they could be disposed of.

The HazMat administrator and Team 27 personnel removed the hazardous materials from the residence and transported them in a pick-up truck to the warehouse. The hazardous materials were stored in a building which also contained Team 27's oxygen and acetylene tanks, barrels of residual oil waste products and Team 27's lockers. The HazMat administrator could not find a licensed transporter or waste disposal location that would accept the hazardous materials. For about a year, from the summer of 1999 until the summer of 2000, the materials were stored at the warehouse. Eventually, Mifflin County located a U.S. Department of Transportation-licensed transporter and a disposal site. The transportation and disposal of the materials cost Mifflin County \$499. No bill was ever sent to the owner of the property from which the materials were removed.

There is no record that Mifflin County, the LEPC or Team 27 had permits to store the materials. According to the HazMat administrator, Mifflin County's insurance carrier was never notified of the incident. No incident file pertaining to the removal and storage of the hazardous materials was located in Team 27's file.

b. Disposal of waste from oil spills

During 1998 and 1999, Team 27 responded to spills and incidents involving oil-based products. In some cases, Team 27 cleaned up the spills and charged the responsible parties for disposal fees.

In interviews, Team 27 personnel stated that all supplies and materials from the cleanup of the spills (rags, booms, etc.) were placed in disposal barrels. Team 27 personnel also placed oil and contaminated water, soil, grass or gravel into the barrels.

The barrels were then sealed, transported to and stored at the Team's warehouse where they remained until March 2000. None of the barrels were ever drained or tested for leakage or leaching. In March 2000, Team 27 disposed of 2.7 tons of residual waste at the Lewistown municipal dump. No testing was done on the contents of the barrels.

Waste left over from hydrocarbon spills is classified as residual waste and can be disposed of at a municipal landfill. However, there are rules and regulations to prevent leakage and limitations on storage for more than one year. The handling of the waste by Team 27 does not appear to have been in compliance with the applicable regulations.

c. Missing Incident Response files

According to the HazMat administrator, Team 27 maintained incident files for all incidents to which the Team responded. The files pertain to such matters as personnel, costs and results of testing and analyses of materials. Among other things, the files are essential for audit, legal, billing and insurance purposes, and to document whether the HazMat team responded properly to the incidents.

Team 27 reported the total number of incidents to which it responded annually in a yearly report to PEMA. The investigation found files for only five of the 45 incidents to which Team 27 responded in 1997 and for 18 of the 35 incidents to which it responded in 1998. OSI found 20 incident files for 1999. The total number of incident responses by Team 27 in that year was undocumented. (Team 27 was disbanded prior to filing its annual report for that year with PEMA.)

Responsible parties were supposed to be billed for response costs. The review of the available incident files disclosed outstanding, i.e., apparently uncollected, bills for waste removal and cleanup activities totaling \$10,957. Fourteen of the files that were found contained no documentation that responsible parties had been billed for costs of the response.

Comment No. 2 - Financial record keeping related to federal and state grants was inadequate.

As previously mentioned, no financial ledgers were found for the HazMat account for the period when the account was controlled by the LEPC, the EMS director and the HazMat administrator. The HazMat administrator stated that she maintained computerized ledger accounts and that the accounts were lost when the computer system malfunctioned just prior to her dismissal. The EMS director stated that the accounting ledgers were maintained on paper. Neither the computerized records nor the paper records were found.

Without accurate and complete financial records, including account ledgers, it is not possible to determine from Mifflin County records if specific Act 165 and HMEP grant funds were spent properly and in accordance with Act 165 and federal requirements.

CONCLUSIONS AND RECOMMENDATIONS

Mifflin County's Hazardous Materials Management Program was not managed in accordance with Act 165. County officials, i.e., the Commissioners and the Treasurer, lost control of the HazMat program and did not provide a reasonable and appropriate level of oversight over the financial management of HazMat funds. The loss of control was the direct result of actions by the EMS director based on a misrepresentation of Act 165 requirements to the Mifflin County Commissioners and the LEPC.

As a result, funds were spent for overtime payments to the HazMat administrator and the EMS director that they were not authorized to receive as County employees. No one reviewed the justification for such payments except the persons who received the payments.

Furthermore, even under the overtime policy established by the LEPC, it appears that a portion of the overtime payments was improper because the payments were based on unauthorized and inflated base hourly rates. Because the overtime payments were not authorized, they were made in violation of Act 165.

The official responsible for the transfer of control of the HazMat program and the improper and inappropriate overtime payments was the EMS director, a County employee entrusted with a key role in the operation of the program. He is now an employee of PEMA.

Mifflin County took corrective action in 2000 by reestablishing control over HazMat activities and finances and by engaging a consulting firm to analyze the County's HazMat program and make recommendations.

It is recommended that the Commonwealth and/or Mifflin County take steps to recover the \$20,688 paid to the HazMat administrator and the EMS director to which they were not entitled, including legal action if necessary.

It is also recommended that Mifflin County establish and enforce procedures for oversight and management of HazMat activities including:

- payment of overtime;
- documentation of justifications for expenditures;
- compliance with competitive bidding and purchasing requirements;
- compliance with federal and state requirements and policies concerning grants;
- inventory controls and records;

- monitoring of all removal, transportation, storage and disposal of hazardous materials by HazMat teams; and
- maintaining complete incident response files.

MIFFLIN COUNTY'S RESPONSE

Mifflin County's response was contained in a communication from the County's current Director of the Office of Public Safety dated April 8, 2002. The response is presented on the following pages.

**Reply by Mifflin County to the Audit Report by the
PA Auditor General's Office
Office of Special Investigations**

As noted in the report by the Special Investigator, Mifflin County has reorganized how we handle Emergency Management and Hazardous Materials. The current Commissioners took office in January of 2000 and recognized that there was a significant problem in the Emergency Services Department. Immediate steps were taken in order to regain management authority over the Emergency Services Department.

The Mifflin County Commissioners undertook a multi-step process to ensure adequate oversight in the activities of the Emergency Services Department. The first step in the process was a review of the whole department with recommendations from an independent consultant. A review of the capabilities of the Hazardous Materials Response Team and the nature of the incidents that the team responded to were also examined. The third review was through the Local Emergency Planning Committee. This review included a Hazard and Vulnerability Assessment and a project for the Regional Terrorism Task Force.

The Emergency Services Department was reorganized into the Office of Public Safety. A new Director and Deputy Director were hired to provide management for all of the services within the former Emergency Services Department. The recommendations by the consultant addressed areas of staffing patterns, records and documentation. The Director and Deputy Director positions are salaried.

The review of the Hazardous Materials Response Team found that the team would not be able to operate at a incident if entry to a hazardous environment were necessary. Many of the members of the Hazardous Materials Response Team were found to be under the age of eighteen (18) years old. Under Child Labor Law Regulations, minors are not permitted to respond to hazardous materials incidents. There were not enough remaining members with documented training to support the operations requirement of a Hazardous Materials Response Team. The supplies and Personal Protective Equipment used by the Hazardous Materials Response Team was also found to be in extremely poor

condition. Use of those supplies and Personal Protective Equipment would have not only jeopardized the health and safety of responders but also the citizens of Mifflin County.

The decision was then made to extend the existing contract with Eagle Tire & Towing. Eagle Tire & Towing is an Act 165 certified Hazardous Materials Response Team that provides Response and Recovery services to our county and many of our surrounding counties. Mifflin County Office of Public Safety continues to provide initial response to incidents and assists in the initial identification of a hazard. In many cases, once a hazard has been identified, the emergency response can be minimized. Often the majority of costs are now associated with the clean-up and recovery versus the immense response costs under previous practices. In the past, Team 27 would respond to petroleum product spills and charge for the clean-up of those spills. A PEMA directive/circular specifically stated that local fire department and towing companies should be sent on those types of spills and that Act 165 certified Hazardous Materials Response Teams should not be utilized for that purpose.

The Hazard and Vulnerability Assessment and a second review of all documented incidents handled by Team 27 demonstrated that the bulk of the calls handled were either calls that the team should not have been dispatched to or were recovery operations that the team was not authorized to perform. Team 27 was only intended as a response team. The response was originally limited to defensive operations only; but as time passed, the team chose to operate as an offensive operations team. At no time had the team received any permits to dispose of any hazardous waste.

Administratively, many other changes have been made. The Commissioners are in the process of installing a new accounting system in order to be better able to track individual accounts and grants. The Commissioners now review all expenses prior to their payment. Purchase orders with a description of the item and cost are required if receipts are not available.

A tracking system for all incidents and inventory control has also been instituted. A summary of the incident is maintained on computer and a separate paper incident is maintained in the records. Items over \$200 in value are now tracked as to location and

condition. Regular inspections of the equipment are now made with mandatory calibrations/inspections documented.

Time spent on projects or incidents that are reimbursable under Act 165 or any of the other Hazardous Materials Grants are tracked internally. Reimbursement for “County” time spent on projects or incidents is made to the Mifflin County General Fund instead of the individual. In the event that an employee is eligible for overtime on a project or incident, reimbursement by the LEPC using grant funds can only be made at the standard hourly wage. For an incident, reimbursement by the responsible party is necessary in order for the LEPC to reimburse Mifflin County for overtime wages.

DEPARTMENT OF THE AUDITOR GENERAL'S COMMENTS

The response provided additional information concerning the operational weaknesses in the County's HazMat program during the years included in the report. The lack of training, inadequate staff, poor condition of supplies, lack of records and inappropriate use of Team 27 showed poor management on the part of those responsible for the County's program and reflected poorly on PEMA's overall supervision.

The changes made by Mifflin County, if fully implemented, should address the findings and recommendations in the report. In addition, Mifflin County should coordinate with PEMA to resolve questions concerning the reimbursement payments to which the County was not entitled and to obtain repayment of the unauthorized overtime payments to the former EMS director and the former HazMat administrator.

SPECIAL AUDIT REPORT:

**THE PENNSYLVANIA EMERGENCY MANAGEMENT
AGENCY'S
HAZARDOUS MATERIALS EMERGENCY
PREPAREDNESS
GRANTS TO MIFFLIN COUNTY
OCTOBER 1996 – SEPTEMBER 2000**

INTRODUCTION AND BACKGROUND

The U.S. Department of Transportation (U.S. DOT) provides planning and training grants for hazardous materials emergencies. The grants, known as the Hazardous Materials Emergency Preparedness (HMEP) grants also enhance implementation of the Emergency Planning and Community Right-to-Know Act of 1986²⁶.

The HMEP grant funds the U.S. DOT provides to Pennsylvania are administered by the Pennsylvania Emergency Management Agency (PEMA), which is responsible for the management and coordination of Pennsylvania's emergency management programs. All Pennsylvania counties are eligible to apply for HMEP grants.

The following table summarizes the HMEP grant funds PEMA provided to Mifflin County during federal fiscal years 1996-1997 through 1999-2000. The Mifflin County Emergency Management Services Department, which included HazMat Team 27, administered these funds for Mifflin County and served as the HMEP grantee under the name of "Mifflin County Emergency Services."

**Table No. 1 - Total HMEP Grant Funds
Received By Mifflin County**

Federal Fiscal Year	HMEP Training Grant Funds	HMEP Planning Grant Funds	Total HMEP Grant Funds
1996-1997	\$ 15,000	\$ 4,926	\$ 19,926
1997-1998	11,470	11,253	22,723
1998-1999	5,270	5,497	10,767
1999-2000	<u>6,500</u>	<u>1,810</u>	<u>8,310</u>
TOTAL	<u>\$ 38,240</u>	<u>\$ 23,486</u>	<u>\$ 61,726</u>

In 2000, the Office of Special Investigations (OSI), Department of the Auditor General (the Department) received a request from the Pennsylvania State Police to assist in reviewing the financial records of the Mifflin County HazMat Team. Pursuant to that review, in October 2000 OSI requested information from PEMA concerning HMEP grants to Mifflin County. In response to the request, PEMA informed OSI that PEMA would cooperate only if the Department was conducting a special audit in accordance with established Government Auditing Standards.

On June 28, 2001, the Department notified the Executive Director of PEMA that a special audit of the HMEP grants to Mifflin County from PEMA would be conducted by OSI. The audit covered the HMEP grants awarded to Mifflin County during the period

²⁶ The Emergency Planning and Community Right-To-Know Act of 1986 was designed to ensure that communities throughout the U.S. were informed of the chemical hazards facing them. (42 U.S.C. 11001, et seq.).

October 1996 through September 2000. The special audit was conducted in accordance with Government Auditing Standards²⁷.

The objectives of the audit were to determine compliance with appropriate statutes, regulations, guidelines and procedures, assess internal controls and determine the validity of allegations of failures to follow establish procedures and policies and waste and misuse of state and federal funds.

To accomplish the objectives, current and former PEMA employees involved with the HMEP grant process were interviewed. The primary sources of data were the HMEP grant files provided by PEMA. Grant regulations, program guidelines, HMEP grant files maintained by Mifflin County and financial data and meeting minutes from the Mifflin County Local Emergency Planning Committee (LEPC) were reviewed.

A copy of the draft audit report was provided to PEMA on March 8, 2002.²⁸ PEMA was offered the opportunity to have an audit exit conference but did not request one. PEMA's written response to the draft audit report was received on April 5, 2002. A copy of the response has been included in the report, together with the Department's comments.

²⁷ United States General Accounting Office (July 1999 Revision).

²⁸ PEMA was also given a copy of the draft summary report of the investigation concerning Mifflin County's Hazardous Materials Management Program.

EXECUTIVE SUMMARY AND RECOMMENDATIONS

PEMA used federal HMEP grant funds to pay Mifflin County approximately \$33,278 as reimbursement for expenses that were not allowable or were questionable as being eligible for reimbursement under grant requirements. Specifically, \$10,327 was reimbursed for unallowable expenditures, i.e., they were incurred either before or after the grant period, were not paid originally by Mifflin County or reimbursement was obtained from another source. Approximately \$22,951 of the reimbursement was questionable, i.e., the expenditures were not documented or were for purposes that did not appear to be related to the grants such as salaries, food and attendance at regattas and a baseball game.

PEMA failed to ensure compliance with applicable federal principles and standards for determining its administration of the HMEP grants to Mifflin County. Specifically, 131 expenditures, totaling \$43,384 or 72 percent of the total submitted to PEMA, did not comply with one or more of the federal standards. Members of PEMA's staff responsible for administration of the grants appeared to be unaware of the federal requirements and standards.

PEMA failed to ensure that local project match submissions made by Mifflin County in HMEP grant requests were supported by sufficient documentation and that the amounts of the local project match funds were applied properly by PEMA in determining reimbursements. One result of the improper application of local project match funds was that Mifflin County received approximately \$5,166 in reimbursement to which it was not entitled. PEMA's staff made changes in two of the grant reimbursement forms submitted on behalf of Mifflin County without justification or explanation.

PEMA failed to maintain documentation to show how Mifflin County intended to use the HMEP grant funds.

Recommendations

1. PEMA should review HMEP grants to Mifflin County and obtain repayment of all funds paid as reimbursement of non-allowable expenditures. PEMA should also determine whether there is sufficient information to determine if Mifflin County is entitled to retain funds paid as reimbursement for questionable expenditures. (Finding No. 1.)
2. PEMA should ensure that counties are provided sufficient information and training to comply with HMEP grant requirements and PEMA should also conduct monitoring of grant applications and expenditures. (Finding No. 1.)

3. PEMA should ensure that its staff complies with applicable federal requirements, including OMB Circular A-87 cost principles and standards, in the administration of HMEP grants. PEMA should also ensure that grantees are familiar with the requirements of OMB Circular A-87. (Finding No. 2.)
4. PEMA should cease reclassifying local match expenditures, especially soft-match funds, as eligible project expenditures and establish policies and procedures for review and monitoring of HMEP grant payments in accordance with federal and state requirements. The procedures should include requiring grantees to submit adequate documentation and requiring written justification for revisions or adjustments made to reimbursement requests by PEMA's staff. (Finding No. 3.)
5. PEMA should adopt a standard written grant application requiring grantees to document the intended use of the funds in both a narrative and budget form. This would also help ensure that County Commissioners and other county agencies responsible for overall financial management of HazMat activities can exercise proper oversight of the use of grant funds. (Finding No. 4.)

Finding No. 1 - PEMA used HMEP grant funds to pay Mifflin County approximately \$33,278 as reimbursement for expenses that were not allowable or were questionable as being eligible for reimbursement under HMEP grant requirements.

Federal regulations²⁹ and PEMA circulars³⁰ define the activities eligible to receive HMEP funding. For example, planning grants can be used for the development, improvement, implementation, and testing of emergency response plans and for an assessment to determine flow patterns of hazardous materials within the grantee's geographic area. Training funds can be used for the delivery of comprehensive preparedness and response training by public sector employees and for emergency response drills and exercises associated with training. The federal regulations and PEMA circulars also provide guidance on general contract administration and expense reimbursements.

As part of the special audit of the HMEP grant funds awarded to Mifflin County by PEMA, HMEP grant expenditures were reviewed for compliance with the applicable federal guidelines³¹, HMEP grant contracts and PEMA circulars. The expenditures were also compared with expenditures submitted for reimbursement under a Pennsylvania Department of Agriculture (PDA) grant to Mifflin County to determine if any expenditure was charged to both grants.

a. Expenditures that were not allowable for reimbursement

A review of the expenditures submitted by Mifflin County Emergency Services for reimbursement disclosed that \$10,327 was for unallowable expenditures, i.e., those that clearly violated a provision of the grant contract, federal regulations or PEMA circulars. Table No. 2 summarizes the unallowable expenditures reimbursed by PEMA. A narrative discussion follows the table.

²⁹ 49 Code of Federal Regulations (CFR) §110.40

³⁰ PEMA issues an annual Emergency Management Guidance and Information Circular relating to HMEP planning and training grants.

³¹ 49 CFR §110.1 et seq.

Table No. 2 - Unallowable Expenditures

	Description of the Unallowable Expenditures	Number of Expenditures	\$ Value
1.	Expenditures incurred before the grant period	5	\$991
2.	Expenditures never paid by Mifflin County	4	8,740
3.	Expenditures reimbursed by another funding source.	3	580
4.	Expenditures incurred after the grant period	<u>1</u>	<u>16</u>
	TOTAL	<u>13</u>	<u>\$10,327</u>

No. 1 – Expenditures incurred before the grant period

A federal regulation prohibits payment of expenditures incurred before the grant period.³² Five of the invoices submitted for reimbursement were dated before the effective date of the grant.

No. 2 – Expenditures never paid by Mifflin County

The HMEP grants are reimbursable grants: expenditures are reimbursed after completion of activities or contractual obligations. Mifflin County Emergency Services submitted four invoices for which Mifflin County had not incurred an expense or a contractual obligation. Three of the items were invoices totaling \$5,500 from the All-Safe Company which sells fire protection and safety products. The accounting department of All-Safe Company has no record of the invoices and there is no outstanding balance for the Mifflin County HazMat team. It appears that Mifflin County Emergency Services submitted these expenditures as a way to obtain grant funds that the County would otherwise not be entitled to receive. A representative of the All-Safe Company told OSI that he routinely provides invoices to counties at the end of the grant year for items that the counties have not purchased so that those invoices can be submitted to the grantor for reimbursement. If the buyer does not make the subsequent purchase, the invoice and order are cancelled. In this case, PEMA does not appear to have been notified that there were no such purchases. The remaining item was for salary reimbursement of 216 hours that the HazMat administrator “worked on the project”. We found no record that any such salary payment was actually made to the HazMat administrator. This salary submission totaled \$3,240.

³² 49 CFR § 11050(a).

No. 3 – Expenditures reimbursed by another funding source

Mifflin County Emergency Services submitted for reimbursement three expenditures for which Mifflin County had received reimbursement from another source, i.e., two from a PDA grant (see Observation) and one from another HMEP grant.

No. 4 – Expenditures incurred after the grant period

The contract between Mifflin County Hazardous Emergency Services and PEMA states that “funds are to be expended during the grant period.” A \$16 invoice submitted for reimbursement under the 1996-1997 HMEP planning grant to substantiate a \$46 expense to the HazMat administrator was dated after the grant period. Moreover, the invoice was dated after the date the reimbursement check was issued.

b. Expenditures that were questionable as being eligible for reimbursement

OSI reviewed the expenditures submitted by Mifflin County Emergency Services in support of eight HMEP grants to determine if the expenditures related to eligible project activities. Approximately \$22,951 of the expenditures reviewed do not appear to meet the requirements of an eligible project activity. PEMA reimbursed Mifflin County for these invoices. Table No. 3 summarizes the expenditures that may not meet the requirements. A narrative discussion of these expenditures follows the table.

Table No. 3 - Expenditures Which Were Questionable as Eligible Project Activities

	Description of the Questionable Expenditures	Number of Expenditures	\$ Amount
1.	Administrative expenditures	32	\$3,944
2.	Food purchases without documented corresponding training	11	846
3.	Wal-Mart purchases for nonspecific purposes.	9	3,827
4.	Expenditures paid for the HazMat administrator’s salary	5	13,438
5.	Raystown Regatta	3	784
6.	Baseball Tickets	<u>1</u>	<u>112</u>
	TOTAL	<u>61</u>	<u>\$22,951</u>

No. 1 – Administrative expenditures

Thirty-two invoices totaling \$3,944 were submitted as administrative expenditures such as monthly utility and gasoline bills. The HMEP grants paid the entire amount of these invoices. A portion of the costs was not allocated to other grants or to the general operational or administrative budget. It is questionable how monthly office expenditures applicable to the entire HazMat team office can be eligible project expenditures as defined by the grant contract since operational expenses are not listed as eligible project expenses.

No. 2 – Food purchases without documented corresponding training

Approximately 20 invoices for food were submitted to PEMA for reimbursement. Mifflin County Emergency Services justified these purchases as food for training exercises. A review of the PEMA records disclosed that for 11 expenditures totaling about \$846, the reported purchases included four in months without any record of training, four for events not listed as training, one for a food purchase made six weeks before a training date and two for purchases of food two to three days before the nearest scheduled training date.

No. 3 – Wal-Mart purchases for non-specific purposes

Ten invoices from Wal-Mart were submitted. (One invoice for \$519 was dated before the grant period and is classified as an unallowable expense, not as a questionable expense.) A review of the invoices disclosed that the purchases were for food (not included in the invoices listed in No. 2 above), office supplies, television sets, computers, printers, computer equipment, etc. No documentation was found to establish how these items related to the HMEP planning and training grants.

No. 4 – Expenditures paid for the HazMat administrator's salary

Five expenditures totaling \$13,438 were submitted to PEMA representing payments for time the HazMat administrator spent working on the HMEP grants.³³ A U.S. DOT representative told OSI that HMEP grants cannot be used to pay operational expenditures, including salaries. The U.S. DOT representative cited a federal regulation (49 CFR §110) that specified the expenses that are payable under the HMEP grant program. Operational expenses are not included in the list. PEMA representatives told OSI that HMEP grant funds cannot pay for the HazMat administrator's salary, but the salary can be used as part of the required 20 percent local funding match. However, PEMA reimbursed Mifflin County for all of these payments as if they were eligible for reimbursement.³⁴

³³ The overtime payments are discussed in detail in the Summary Report, pp. 16-19.

³⁴ See also the discussion of irregularities involving local match funds under Finding No. 3 of this report (pp. 48-52).

No. 5 – Raystown Regatta

During calendar years 1998 and 1999, Team 27 had a contract with Huntingdon County (which borders Mifflin County) to respond to HazMat incidents occurring within Huntingdon County. Huntingdon County paid Mifflin County \$2,500 per year for this service. Annually, a multi-day regatta is held at Raystown Lake, Huntingdon County. Team 27 attended the regatta in 1997, 1998, and 1999. Expenditures related to the attendance at the 1997 and 1998 regattas were charged to the 1996-97 and 1997-98 HMEP training grants. The expenditures, totaling approximately \$784³⁵, included lodging, clothing, food, and supplies. Representatives of Team 27 told PEMA that these were training expenditures. No records of such training or other supporting documentation related to it were found in PEMA's records. Therefore, these expenditures should not have been paid with HMEP grant funds.

No. 6 – Baseball tickets

The 1996-97 HMEP training grant contained eight reservations to the 1997 International Hazardous Materials Response Teams' Conference in Baltimore, Maryland. The conference registration fees were \$180 apiece. The conference registration form included a section for the purchase of tickets to a professional baseball game. The tickets were \$14 each. The eight members of Team 27 who attended the conference each purchased a baseball game ticket. The cost, totaling \$112, was included in the charges to the HMEP training grant.

Recommendations

PEMA should review HMEP grants to Mifflin County and obtain repayment of all funds paid as reimbursement of non-allowable expenditures. PEMA should also determine whether there is sufficient information to determine if Mifflin County is entitled to retain funds paid as reimbursement for questionable expenditures.

PEMA should ensure that counties are provided sufficient information and training to comply with HMEP grant requirements and PEMA should also conduct monitoring of grant applications and expenditures.

³⁵ This does not include food purchased at Wal-Mart.

Finding No. 2 – PEMA failed to ensure compliance with applicable federal principles and standards for determining costs in HMEP grant contracts.

Section 2.3 (Use of Program Funds) of the HMEP grant contract, states in part that “program funds shall be used only for those expenditures incurred for approved activities in accordance with the Grant Instructions, and the cost principles of OMB [Office of Management and Budget] Circular A-87, Revised.” OMB Circular A-87 establishes standards for determining costs that can be reimbursed with federal funds. For example, all expenses must be well documented, “necessary and reasonable” for the grant, and be allowed, or not prohibited, by any state, local, or federal law regulation or guideline.

Approximately 131 of the 164 expenditures that Mifflin County submitted to PEMA for reimbursement under the eight HMEP grants do not appear to comply with OMB Circular A-87. These 131 expenditures, totaling \$43,384, represent 72 percent of the total expenses submitted to PEMA. The results of the testing are documented in Table No. 4. A narrative description of the applicable OMB Circular A-87 principle or standard and the group of expenditures to which they apply follows the table.

Table No. 4 – Categories of Non-Compliance with Required Federal Cost Principles and Standards

Basis for Questioning Compliance with OMB Circular A-87	Number of Expenditures³⁶	\$ Value
1. Undocumented expenditures	47	\$12,144
2. Insufficient documentation	10	19,067
3. Unrelated to the grant	34	5,546
4. Indirect expenses	20	2,885
5. Operational equipment	9	2,340
6. Other	<u>11</u>	<u>1,402</u>
TOTAL	<u>131</u>	<u>\$43,384</u>

No. 1 – Undocumented expenditures

Forty-seven expenditures, totaling \$12,144, were documented only with a purchase order. There was no third party documentation (i.e., an invoice or receipt) to support the expense.

³⁶ The expenditures that were in noncompliance with the federal cost principles on several levels were counted under only one category.

No. 2 – Insufficient documentation

The expenditures included some third party documentation but not enough to support the entire expense, or else the documentation itself was questionable.

No. 3 – Unrelated to the grant

Those expenditures did not pertain to the grant, e.g., they were for incident expenses, open house expenses and food reportedly purchased in connection with training without documentation of the corresponding training.

No. 4 – Indirect expense

The expenditures were for indirect expense, e.g., office expenses, gasoline purchases and other purchases that related to the entire HazMat office rather than specifically to planning and/or training

No. 5 – Operational expense

The expenses were for operational equipment which cannot be charged to the grant according to federal grant guidelines.

No. 6 - Other

The expenses were miscellaneous charges that violated other provisions of OMB Circular A-87, e.g., expenses incurred outside the grant period.

A former PEMA employee responsible for administration of these grants during federal fiscal years 1996-1997 through 1998-99 told OSI that he did not test for compliance with OMB Circular A-87, stating “Let U.S. DOT worry about OMB Circular A-87.” The PEMA representatives who currently oversee PEMA’s grant section were not aware of OMB Circular A-87. One individual said that she believed it to be the same as the description of eligible HMEP projects, which it is not.

On September 6, 2001, PEMA was provided with the results of the test work done in connection with this finding and was asked for a response by October 1, 2001. PEMA did not address the questioned expenditures until it submitted its response to the draft audit report in early April 2002. According to PEMA, it wanted to determine the format of the audit report before responding.

Recommendation

PEMA should ensure that its staff complies with applicable federal requirements, including OMB Circular A-87 cost principles and standards, in the administration of HMEP grants. PEMA should also ensure that grantees are familiar with the requirements of OMB Circular A-87.

A copy of this report will given to the U.S. DOT for its review and determination of the amount of HMEP grant funds that should be repaid to the federal government as a result of the failure to ensure compliance with OMB Circular A-87.

Finding No. 3 –PEMA failed to ensure that local project match submissions for HMEP grants to Mifflin County were supported by sufficient documentation and that the amounts of the local project match funds were applied properly by PEMA in determining reimbursements. One result of the improper application of local project match funds was that Mifflin County received approximately \$5,166 in reimbursement to which it was not entitled.

To receive HMEP grant funds, federal grant regulations require that the grant recipients provide 20 percent of the cost of all activities covered under the grant award program. The 20 percent can be comprised of cash (hard-match), in-kind contributions (soft-match), or a combination of the two. The process used by PEMA to manage the Mifflin County HMEP grant program had, as the initial step, the establishment by PEMA of grant amounts which Mifflin County would be eligible to receive in annual planning and training grants. The grant payments were made to Mifflin County after Mifflin County Emergency Services submitted information concerning reimbursable costs and costs covered by the local match contributions to PEMA. The amount of the grants received by Mifflin County and the local match contributions reported to PEMA by Mifflin County Emergency Services are listed in Table No. 5.

**Table No. 5 - Mifflin County Emergency Services’
HMEP Local Match Contributions**

Grant	Grant Amount	Local Match Amount Reported	Composition of the Local Match
1996-1997 Training	\$ 15,000	\$ 5,500	Donated items
1996-1997 Planning	4,926	3,981	Volunteers’ time, donated items
1997-1998 Training	11,470	6,050	Volunteers’ time, donated items
1997-1998 Planning	11,253	4,845	Volunteers’ time, salary expense
1998-1999 Training	5,270	1,110	Not explained
1998-1999 Planning	5,497	1,488	Volunteers’ time
1999-2000 Training	6,500	1,625	Salary expense
1999-2000 Planning	1,810	452	Salary expense
TOTAL	<u>61,726</u>	<u>25,051</u>	

a. Insufficient documentary support

We reviewed the local match portion of Mifflin County’s HMEP grants for compliance with the federal and state matching grant requirements. The PEMA circular on HMEP grants requires that “narrative information supporting soft match elements must be sufficiently written/explained so as to provide the reviewer with adequate assurance that appropriate levels of effort were contributed/expended.”

The local match information provided by Mifflin County Emergency Services did not contain sufficient information to determine compliance. The eight HMEP grants OSI reviewed lacked descriptive narratives detailing the time or money provided. For example, Mifflin County reported a local match contribution of \$3,981 in the 1996-97 planning grant. The narrative reads:

4 person – 50 Hr @ \$10.00 soft match \$2,000
use of vehicles etc.

There is no explanation of who the four people were, when the hours were incurred, or what was done during those hours. The remaining soft match contribution of \$1,981 is described solely with the phrase “use of vehicles etc.” It is not known what is meant by “use of vehicles” since 1996-1997 HMEP grant funds paid separately for gasoline charged to the Mifflin County HazMat Team. Therefore, \$1,981 as a local match for use of vehicles is highly questionable. Furthermore, through interviews, OSI learned that the four people referred to were volunteers who donated their time.

The above example is representative of most of the descriptive information provided to PEMA: The 1998-99 training grant did not provide any description of the local match. One document relating to that grant reported a local match amount of \$1,110. Another document submitted simply read “ Match Grant Amount \$1,054.”

The PEMA circular requires grant recipients to sign a statement certifying that “to the best of [the “authorized certifying official”] knowledge and belief all information provided herein is correct and all outlays and match costs are in accordance with grant terms and conditions.” The lower portion of this certification form requires the grantee to document total project costs, local match and the reimbursement request amount. PEMA representatives told OSI that they rely on this signature as verification that the information provided by the grantee is accurate.

The lack of detailed narratives in the records of the eight HMEP grants made it impossible to determine if Mifflin County’s local match contributions were in compliance with federal regulations and PEMA guidelines. It is questionable how PEMA determined that Mifflin County’s local match met matching grant requirements and complied with other applicable federal regulations or PEMA guidelines in the absence of any requests for additional information. The reliance of PEMA officials on a signature from the grantee was insufficient. PEMA’s failure to ensure that there was adequate documentation further undermined the credibility of local match fund contribution data submitted on behalf of Mifflin County.

b. Improper reclassification of local project match funds to determine reimbursable expenditures

The review disclosed that PEMA officials reclassified local match contributions on two of the HMEP grant forms as eligible project costs. These revisions resulted in Mifflin County receiving reimbursement that it was not entitled to receive in accordance with federal requirements.

Mifflin County Emergency Services submitted certification forms as part of the process of receiving HMEP grants. The purpose of the forms was to document reimbursable costs and show that Mifflin County met the local match requirement for the amount of reimbursement it was to receive through the grant. Our review of PEMA's records found that two of the eight certification forms were revised after the forms were received by PEMA. As a result of these revisions, PEMA reclassified local match funds as reimbursable project costs and increased the amount of the grants, thereby reimbursing Mifflin County \$5,166 that it otherwise would not have been entitled to receive. The grants affected by the revisions are discussed in detail below:

1997-1998 Planning Grant

On the 1997-98 planning grant certification form, the reported local match funds exceeded the 20 percent local match requirement for the amount of the grant originally set by PEMA (\$6,750). After the form was submitted to PEMA, the total reimbursable project costs were altered to include the amount originally reported as local match funds. However, none of these amounts were eligible as reimbursable costs. The result of this manipulation was to reclassify local match costs as reimbursable expenses, thereby inflating the grant amount to include reimbursement for ineligible costs in the amount of \$1,984.

According to PEMA's records, a new certification form containing the revised figures was sent to Mifflin County on or about September 16, 1998. The new certification form submitted to PEMA by Mifflin County Emergency Services included the revised figures but was dated August 31, 1998, the date of the original submission. The new form contained the signature of the Mifflin County EMS director. The apparent backdating of the revised form made it appear to be the original document, when, in fact, it is not.

1997-1998 Training Grant

On the 1997-98 training grant certification form, the reported local match funds exceeded the 20 percent local match requirement for the amount of the grant originally set by PEMA (\$8,275). After the form was submitted to PEMA, the total reimbursable project costs were altered to include amounts originally reported as local match funds. As was the case with the 1997-1998 Planning Grant, none of these amounts were eligible as reimbursable costs. The result, once again, was to reclassify local match costs as reimbursable expenses, thereby inflating the grant amount to include reimbursement for ineligible costs, this time in the amount of \$3,182.

The effect of these manipulations in connection with the two grants was to provide grant funds to Mifflin County in excess of the actual reimbursable costs incurred by the County. The total amount of improperly reimbursed funds was \$5,166. (\$1,984 in the 1997-1998 Planning Grant and \$3,182 in the 1997-1998 Training Grant.)

No records were found at PEMA to explain or justify the changes made in the three grant certification forms and the resulting increased payments to Mifflin County. PEMA officials interviewed during the audit had no explanation for the specific adjustments.

A possible explanation for the actions is that they provided a means for PEMA to release to grantees all of the funds it received from U.S. DOT through the device of reclassifying local match funds as project expenses. Since this appears to be a weakness in PEMA's reimbursement process, it is possible that other grantees also have received reimbursement for ineligible expenses.

A PEMA representative told OSI that at the beginning of the grant period, PEMA allocates a certain amount of funds at a maximum level for each grantee. At the end of the year, as unused funds became available, counties that spent more than they received get the additional funds. According to this official, PEMA awarded Mifflin County Emergency Services additional grant funds because it "spent" more than it received. While Mifflin County did incur additional costs, some items were donated and should not have been considered as part of the County's costs. Therefore, PEMA's justification for awarding additional funds to Mifflin County is questionable.

Recommendations

As part of the process of obtaining repayment of all HMEP grant funds to which Mifflin County was not entitled, PEMA should take into account the extent to which such payments were the result of PEMA's own actions in revising reimbursement requests improperly and/or without proper justification.

PEMA should cease reclassifying local match expenditures, especially soft-match funds, as eligible project expenditures and establish policies and procedures for review and monitoring of HMEP grant payments in accordance with federal and state requirements. The procedures should include requiring grantees to submit adequate documentation and requiring written justification for revisions or adjustments made to reimbursement requests by PEMA's staff.

As stated in connection with Finding No. 1, the Department will provide a copy of this report to the U.S. DOT for its determination of the amount of grant funds that should be returned to the U.S. DOT by PEMA. A copy of the report will also be given to the appropriate Comptroller's Office for increased oversight of PEMA's management of the HMEP grant program.

Finding No. 4 -PEMA failed to maintain documentation to show how Mifflin County intended to use the HMEP grant funds.

During the review of PEMA's eight Mifflin County HMEP grant files, it was observed that PEMA's files did not contain applications or any other documentation describing how grant funds were to be used.

According to PEMA officials, PEMA does not use a grant application for HMEP grants. Each county submits a letter requesting the grant funds and documenting the intended use of the funds. OSI requested the letters relating to the Mifflin County HMEP grants. PEMA did not provide them. According to PEMA, the application letters could not be located. OSI did not find any such letter in the files maintained by Mifflin County. Consequently, it could not be determined whether training and planning activities paid with HMEP funds were the programs on which the grant award was based, or if all of the activities were, in fact, appropriate for HMEP grants.

It also cannot be determined whether PEMA used the letters to determine or monitor whether Mifflin County used the grant funds in a manner consistent with the basis on which the grants were awarded.

Recommendation

A standard grant application form would ensure that grantees provide sufficient information for PEMA, as well as state and federal audit agencies, to determine if the grant funds were sought for eligible project activities. It would also allow PEMA, as well as local, state and federal agencies, to determine if the funds were used in a manner consistent with their intended use.

PEMA should adopt a standard written grant application requiring grantees to document the intended use of the funds in both a narrative and budget form. This would also help ensure that County Commissioners and other county agencies responsible for overall financial management of HazMat activities can exercise proper oversight of the use of grant funds.

Observation - Mifflin County Emergency Services charged \$925 improperly to a Pennsylvania Department of Agriculture Grant

In May 1997, the Pennsylvania Department Agriculture (PDA) informed Mifflin County Emergency Services that it had been awarded a \$2,500 grant under the Farm Safety and Occupation Health Grant Program³⁷. The grant was to be used for an “Agricultural Safety Weekend” and a “Farm Rescue Weekend.” PDA sent Mifflin County a \$2,500 check in March 1998. In June 1999, the Mifflin County Emergency Services provided PDA with a narrative report and written receipts related to the grant.

OSI compared the expenditures submitted for reimbursement under the HMEP grants with the expenditures submitted for reimbursement under the PDA grant. Four expenditures, totaling \$909, were submitted to both grants.

A comparison of the payment and reimbursement dates disclosed that two of the expenditures were first paid by the PDA grant and two were first paid by the 1996-1997 HMEP planning grant. PDA was overcharged by \$460 (the amount of the two payments first paid by the HMEP grants). The two expenditures previously paid by PDA which were also reimbursed by the 1996-1997 HMEP grant are discussed in Finding No. 1.

OSI also observed that a \$465 expense representing 31 hours of the HazMat administrator’s time was submitted to PDA as a grant expenditure. However, these funds were never spent. A review of the payments from the HazMat checking account did not show a corresponding payment to either the HazMat administrator or Mifflin County for this time. Since this is a reimbursement-based grant, the \$465 should not have been charged to the PDA grant.

The total of the questionable charges to the PDA grant was \$925 (the \$460 also charged to the HMEP planning grant and the \$465 reported as the HazMat administrator’s time but never spent).

A copy of this report will be provided to PDA for its determination of the amount of grant funds, if any, that should be returned to PDA by Mifflin County.

³⁷ 3 P.S. §§ 1901-1915

PEMA'S RESPONSE



PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY
2605 Interstate Drive
Harrisburg, Pennsylvania 17110-9364



April 5, 2002

Mr. Peter J. Smith
Director
Office of Special Investigation
Department of the Auditor General
Room 327, Finance Building
Harrisburg, PA 17120

RE: Hazardous Materials Emergency Preparedness (HMEP) Grants to Mifflin County
October 1996-September 2000

Dear Mr. Smith:

As requested, below is the Pennsylvania Emergency Management Agency's (PEMA's) response to the draft final report of the special audit of the above grants together with comments regarding the draft findings and observation.

Finding No. 1: PEMA used HMEP grand funds to pay Mifflin County approximately \$33,395 as reimbursement for expenses that were not allowable or were questionable as being eligible for reimbursement under HMEP Grant requirements.

Response: PEMA staff has performed a review of Tables 1 and 2 and the accompanying narrative. PEMA is of the opinion that the information provided is generally accurate. PEMA at this time is reviewing the recommendation and has not finalized its action.

Finding No. 2: PEMA failed to ensure compliance with applicable federal principles and standards required in HMEP grant contracts.

Response: PEMA staff has performed a review of Table 4 and the accompanying narrative. PEMA is of the opinion that the information provided is generally accurate. The current staff in the Grants Management Office complies with OMB Circular A-87 Cost Principles and Standards in the administration of the HMEP grants. Therefore, PEMA is in compliance with the recommendation.

Finding No. 3: PEMA failed to ensure that local project match submissions in HMEP grants to Mifflin County were supported by sufficient documentation and that the amounts of the local project match funds were applied properly by PEMA in determining reimbursements. One result of the failure was that Mifflin County received approximately \$5,224 in reimbursement to which it was not entitled.

Mr. Peter J. Smith
April 5, 2002
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Response: PEMA staff has performed a review of Table 5 and the accompanying narrative. PEMA is of the opinion that the information provided is generally accurate. PEMA will review the extent to which such payments were the result of PEMA's own actions in revising reimbursement requests improperly and/or without proper justification. New procedures are currently in place, and these will be reviewed based on the Recommendation.

Finding No. 4: PEMA failed to maintain documentation to show how Mifflin County intended to use the HMEP Grant funds.

Response: PEMA Staff has performed a review of the narrative provided and grant files and made the following determination:
For the first three grant years, no documentation was found. However, for the 1999-2000 grant, there is a request in the grant file, which asked for planning and training funds and a narrative stating how funds would be used. A review will be conducted to develop a standard grant application requiring grantees to document the intended use of the funds in both a narrative and budget format.

Observation: Mifflin County Emergency Services Charged \$925 improperly to a Pennsylvania Department of Agricultural (PDA) Grant.

Response: PEMA will coordinate and work with PDA to address this matter.

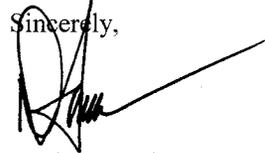
In closing, PEMA has strengthened its HMEP Grant expenditure review process as follows: Since the time of the reviewed grants, new personnel are in place. The personnel who are now working with grants have an accounting and auditing background, are detail oriented, and use Circular A-87 pertaining to grant expenditures and proper documentation of eligible expenses. This is clearly reflected in the questioned expenditures - of the 140 questioned expenditures for reimbursement, only two were for the last year of the audit, which occurred under the new personnel and PEMA review process. No reimbursements are made until proper eligible expenditures and proper documentation are reviewed. Grants recipients have been informed of what is needed to be submitted as proper documentation. Only after required items for documentation of expenses are reviewed is reimbursement approved. In addition, we will continue working with the Comptroller's Office to develop audit plans that enable PEMA to verify proper administration of grant funds by both the Grantee and Sub-Grantee.

It should be noted that PEMA, when notified that a special audit would be conducted by OSI, gave full cooperation and provided all records concerning the HMEP Grants for the period covered by this special audit. Moreover, PEMA's cooperation never wavered when the audit appeared to focus greater attention on PEMA (as opposed to Mifflin County) than was indicated at the entrance conference.

Mr. Peter J. Smith
April 5, 2002
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Thank you for the opportunity to provide our comments on this draft final report.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Smith", with a long horizontal line extending to the right.

David L. Smith
Director

DLS:jk

DEPARTMENT OF THE AUDITOR GENERAL'S COMMENTS

In regard to several of the findings, PEMA's response stated that it had not finalized its action (Finding No. 1), would review new procedures (Finding No. 2) or would conduct a review to develop a standard grant application (Finding No. 3).³⁸

We request that PEMA provide the results of those reviews to the Department of the Auditor General, the Comptroller's Office and the appropriate federal agency as soon as possible.

PEMA's response stated that PEMA has "in place" new personnel who have an accounting and auditing background and who "use Circular A-87." The response implies that the personnel changes were made during the 1999-2000 fiscal year, the last year or the audit. However, as the audit report states, PEMA staff members who oversee the agency's grant section were not aware of OMB Circular A-87 on September 6, 2001, when they were interviewed as part of our audit. It should also be noted that the fact that there were only two questioned expenditures during the 1999-2000 fiscal year does not reflect that PEMA's review process was strengthened during that period. Mifflin County only submitted six expenditures for reimbursement during that fiscal year.

The final paragraph of PEMA's response stated that PEMA gave full cooperation, provided all records and that its cooperation "never waived" when the audit appeared to focus greater attention on PEMA than on Mifflin County.

Given all of the circumstances, PEMA's cooperation was questionable. PEMA refused to provide information related to Mifflin County's grants even after alleged irregularities in the County's Emergency Management Program became a matter of concern and investigation by Mifflin County, the State Police and the Department. PEMA asked for additional time to respond to requests for information and still has not provided a complete response. Most significantly, PEMA has done nothing to resolve the appearance of impropriety resulting from the involvement of one of its employees, the former Mifflin County EMS director, in the mismanagement of Mifflin County's program during the years under review.

Overall, PEMA's response reflects its continuing inability or unwillingness to acknowledge the fact that the deficiencies in Mifflin County's HazMat program and PEMA's failure to manage the Mifflin County HMEP grant program are two aspects of the same problem, i.e., weak management, and need to be addressed accordingly.

³⁸ Finding Nos. 1 and 3 of the final report reflect minor revisions in the reimbursement amounts presented in Finding Nos. 1 and 3 of the draft report referred to in PEMA's response.

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