



**SPECIAL INVESTIGATION OF HOMELAND SECURITY GRANT FUNDS
PROVIDED TO THE NORTHWEST CENTRAL PENNSYLVANIA
EMERGENCY RESPONSE GROUP**

March 16, 2006

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Dear Board Members of the Northwest Central Pennsylvania Emergency Group:

Enclosed is a copy of the *Special Investigation of Homeland Security Grant Funds Provided to the Northwest Central Pennsylvania Emergency Response Group*, conducted by the Department of the Auditor General's Office of Special Investigations. This investigation was conducted under our authority set forth in Sections 402 and 403 of The Fiscal Code, and its scope was limited to the non-equipment purchases made by NCPERG during the period January 1, 2004, through March 31, 2005.

This report discusses how the Program Administrator of the Northwest Central Pennsylvania Emergency Response Group ("NCPERG") benefited financially when he failed to make proper disposition of \$2,250 in NCPERG funds deposited into his personal bank account. The report also discusses NCPERG's failure to submit required progress reports to the Pennsylvania Emergency Management Agency ("PEMA"), as well as its failure to follow procurement policies when spending the homeland security grant funds.

Copies of the draft report were provided to both NCPERG and PEMA. Their comments are included as an appendix to this report, followed by our response.

This report is a public document and its distribution is not limited. Additional copies can be obtained through the Department's website, www.auditor.gen.state.pa.us.

Sincerely,

JACK WAGNER
Auditor General

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BACKGROUND AND INTRODUCTION

Pursuant to its authority and responsibility under The Fiscal Code,¹ the Department of the Auditor General (“Department”) conducts audits and investigations of the affairs of Commonwealth departments and agencies as well as those of other entities that receive state funds.

The Pennsylvania Emergency Management Agency (“PEMA”) has applied for and received funding from the U.S. Department of Homeland Security’s Office of Domestic Preparedness (“ODP”) for the purpose of purchasing specialized emergency response equipment and providing grant funds to local task forces for conducting counter-terrorism training exercises throughout the Commonwealth.

To distribute the homeland security grant funds to each region of the Commonwealth, neighboring counties were formed into nine local task forces. Each task force is responsible for assessing the needs of its geographical area, setting priorities, and spending the grant money in accordance with the various grant agreements. Each task force is governed by a board of directors, which is usually comprised of the emergency management administrator of each member county.

One county in each task force is designated as the “lead county” and acts as the fiscal agent for the task force. As the fiscal agents, these counties provide accounting services to the task forces. Because the grant program operates on a reimbursement basis, lead counties must use their own funds to purchase non-equipment items desired by the local task force and request reimbursement from PEMA.

Equipment purchases are made directly by PEMA based on a list prepared by each task force. After reviewing the list for appropriateness and compliance with the grant guidelines, PEMA uses its own staff procurement officers to purchase the equipment for shipment directly to the requesting county. To verify that the equipment was received, PEMA has directed the requesting counties to provide the shipping receipts obtained when the equipment is delivered.

The Northwest Central Pennsylvania Emergency Response Group (“NCPERG”) is one of the nine established task forces. The member counties are Cameron, Clarion, Clearfield, Elk, Jefferson, and McKean Counties, with Elk County serving as the lead county. NCPERG’s board of directors is comprised of the emergency management coordinators of each member county.

The NCPERG’s board of directors meets at least monthly and has established subcommittees focused on specific areas such as law enforcement, fire, and public health. In September 2003, NCPERG hired a Program Administrator to run the day-to-day activities of the

¹ Act of April 9, 1929, P.L. 343, No. 176, §§ 402 and 403, *as amended*, 72 P.S. §§ 402 and 403 (The Fiscal Code).

task force. The Program Administrator is an independent contractor, not an employee of the task force or Elk County. He attends meetings of NCPERG’s board of directors, but is not a voting member of the board.

In October 2004, NCPERG engaged a training coordinator to oversee the training needs of the task force. The training coordinator operates as an independent contractor, not as an employee of NCPERG.

From January 1, 2004, through March 31, 2005, NCPERG entered into three agreements with PEMA that provided NCPERG with more than \$3 million in State Homeland Security and Law Enforcement Terrorism Prevention grant funds. The grant agreements are the following:

Table 1
Summary of Grants Received by NCPERG

Expenditure	PEMA 2003- OJPE-07 ²	PEMA 2003II- ODP-07 ³	PEMA 2004- ODP-10 ⁴	Total
Equipment	\$200,000	\$767,340	\$1,497,251	\$2,464,591
Planning/training/exercises	\$135,356	\$150,654	\$ 483,595	\$ 769,605
Administrative costs	0	\$ 28,391	\$ 40,466	\$ 68,857
Total	\$335,356	\$946,385	\$2,021,312	\$3,303,053

The Department of the Auditor General’s Office of Special Investigations (“OSI”) investigated the non-equipment purchases made by NCPERG during the period January 1, 2004, through March 31, 2005. The investigation included interviews of PEMA officials, the Program Administrator, and employees of Elk County. The investigation also included reviews of the various grant agreements and regulations, expenditure documentation, and financial records maintained by Elk County.

Copies of the draft report were provided to PEMA and NCPERG on December 30, 2005. According to the chairperson of the NCPERG Board of Directors, NCPERG provided its response to PEMA for inclusion in PEMA’s response. PEMA’s response is included as an appendix to this report, followed by our comments on the response.

² The contract for PEMA 2003-OJPE-07 is dated January 14, 2004, and initially covered the time period April 4, 2003, through March 31, 2005. The contract was subsequently extended to March 31, 2006.

³ The contract for PEMA 2003II-ODP-07 is dated March 23, 2004, and initially covered the time period May 1, 2003, through April 30, 2005. The contract was subsequently extended to March 31, 2006.

⁴ The contract for PEMA 2004-ODP-10 is dated January 20, 2005, and initially covered the time period December 1, 2003, through November 30, 2005. The contract was subsequently extended to March 31, 2006.

FINDINGS AND RECOMMENDATIONS

Finding 1: The Program Administrator of the Northwest Central Pennsylvania Emergency Response Group benefited financially when he failed to make proper disposition of \$2,250 in NCPERG funds deposited into his personal bank account.

NCPERG desired office space, which was eventually found in DuBois, Clearfield County, Pennsylvania. NCPERG's Board of Directors authorized its Program Administrator to enter into the lease agreement as an individual because NCPERG could not enter into contracts itself as it is not a legal entity. Lease payments and other related expenses are paid by NCPERG through Elk County directly to the Program Administrator. The Program Administrator is then responsible for paying the landlord and others.

On Monday, November 8, 2004, the Program Administrator sent an e-mail to the Chief Clerk of Elk County with the subject line, "Pre-payment for Lease." In this e-mail, the Program Administrator requested payment of \$8,000, comprised of \$7,500 for rent in accordance with Section 16 of the lease agreement and \$500 for insurance in accordance with Section 12 of the agreement. On December 3, 2004, Elk County issued a check on behalf of NCPERG for \$8,000 payable to the Program Administrator. The landlord's financial records reflect receipt of \$7,500 on December 16, 2004.

The Program Administrator retained the remaining \$500 that he had received for insurance coverage for nine months. It was not remitted to the insurance agent until September 2005, after OSI requested documents supporting the expenditure.

On Monday, December 27, 2004, the Program Administrator sent an e-mail to the Chief Clerk of Elk County with the subject line, "Office Lease," requesting a \$1,750 rent payment. The e-mail states: "I need this as quickly as it can be sent. I just found out [the landlord] will be ready for me to move in after the January 1st holiday." On January 3, 2005, Elk County issued a check for \$1,750 on behalf of NCPERG made payable to the Program Administrator.

According to a representative of the landlord's company, the Program Administrator did not begin occupying the office space until February 2005. There is no indication that the Program Administrator informed NCPERG or Elk County about the delay in taking possession of the office space. The January rent check sent to the Program Administrator by Elk County/NCPERG was never returned to Elk County, nor was it used to pay February's rent, as Elk County/NCPERG issued a second rental payment to the Program Administrator on or about February 4, 2005, for February's rent.

A review of the landlord's accounting records indicates that six rental payments were received from the Program Administrator. During the same period of time, Elk

County/NCPERG had sent the Program Administrator seven rental payments. All seven checks were cashed or deposited.

Table 2 below compares the payments made by Elk County/NCPERG to the Program Administrator with the payments made by the Program Administrator to the landlord and to the insurance company. The table clearly demonstrates that the Program Administrator received \$2,250 more than he paid out. As previously stated, the Program Administrator eventually transmitted the \$500 he received for insurance coverage to the insurance company, but only after OSI began this investigation into the use of the funds.

Table 2
Summary of Payments Relating to the Office Space

Date	Elk County/NCPERG Payment to Program Administrator	Program Administrator Payment to Landlord and/or Insurance Agent	Difference
December 2004	\$8,000	\$7,500	\$ 500
January 2005	\$1,750	0	\$1,750
February 2005	\$1,750	0	\$1,750
March 2005	\$1,750	\$1,750* \$1,750	(\$1,750)
April 2005	\$1,750	\$1,750	0
May 2005	\$1,750	\$1,750	0
	\$1,750	\$1,750	0
June 2005	\$1,750	\$1,750	0
Totals	\$20,250	\$18,000	\$2,250

**This represents rent for February 2005. Elk County mailed the check to the Program Administrator on or about February 4, 2005. Approximately 46 days elapsed between the date on the check from Elk County/NCPERG and when the landlord recorded payment.*

Conclusions and Recommendations

NCPERG failed to establish any controls over the payments associated with the rental of office space. NCPERG/Elk County relied upon the Program Administrator's assertions about the payment terms of the lease because NCPERG did not require the Program Administrator to provide a copy of the lease. NCPERG directed Elk County to make payments directly to the Program Administrator rather than making payments directly to the landlord or insurance company. NCPERG did not require the Program Administrator to document that he remitted the money for its intended purpose. The lack of controls created the means by which the Program Administrator could receive funds from NCPERG without having to document that the funds were remitted. Consequently, the Program Administrator was able to receive and retain \$2,250 in homeland security funds to which he was not entitled. Unless he can demonstrate his entitlement to the funds, they should be returned to NCPERG immediately.

We recommend that NCPERG no longer make any payments directly to its Program Administrator other than payments for his services and expense reimbursements. All other payments, including office-related payments, should be made payable to and mailed directly to the landlord or other vendor.

We also recommend that NCPERG require proper documentation for all future expenditures of NCPERG money.

This report will be referred to PEMA, the federal Office of Disaster Preparedness, the Office of Attorney General, and the Office of the District Attorney of Elk County for their review and whatever further action they may deem appropriate.

Finding 2: NCPERG failed to complete the required reports documenting the status of its terrorism prevention program and how the homeland security grant funds were spent.

Section 6 of each of the three grant agreements NCPERG entered into with PEMA requires NCPERG to submit semi-annual “interim performance reports” and a “final performance report” for each grant.⁵ The NCPERG Program Administrator told OSI that he was not familiar with any such reports, he did not know who would be responsible for such reports, and no reports had been prepared and/or submitted to PEMA as required.

According to the contract between NCPERG and the Program Administrator, the Program Administrator is to “assist the [NCPERG] chairperson in preparing and submitting documentation to PEMA that provides proof of compliance with all task force contracts.” At the time of the interview, NCPERG should have submitted a total of six interim performance reports to PEMA. The interim reports provide a basis for NCPERG officials, the Program Administrator, PEMA, the state homeland security director, and the federal government to track the progress of NCPERG in obtaining the training and equipment needed to address the potential security risks in NCPERG’s six-county region.

Conclusions and Recommendations

NCPERG has failed to comply with the provisions of the grants regarding the submission of performance reports. It is doubtful that PEMA requested such reports from NCPERG because the Program Administrator informed OSI that he was unfamiliar with the reports. Had PEMA requested the reports, the Program Administrator, based upon his job description, presumably would have assisted in the preparation of the reports.

We recommend that NCPERG complete all outstanding reports and submit them to PEMA within the next 60 days. We further recommend that PEMA ensure that grant recipients are providing the required semi-annual and final performance reports. PEMA should review the reports submitted on a timely basis to ascertain if the funds spent are in compliance with the grant agreement and the needs assessment completed for each task force.⁶

⁵ Grant Agreement Section #6 provides in pertinent part:

(h) The Northwest Central Pennsylvania Emergency Response Group agrees to submit interim performance reports to PEMA on or before June 1 and December 1 of each year to document the status of the Northwest Central Emergency Response Group’s terrorism planning, training, program administration and exercise activities.

(i) The Northwest Central Pennsylvania Emergency Response Group agrees to submit a final performance report to PEMA on or before [date varies per agreement] and will account for final expenditure of all advanced funds by submitting

1. Copies of invoices not previously submitted for reimbursement.
2. Any and all other documents related to the expenditures of the grant.
3. Advanced funds in excess of actual allowable expenditures must be returned within 30 days.

⁶ PEMA completed a “Strategic Assessment” in 2004 for the entire Commonwealth in which the specific needs of each regional task force were determined.

Finding 3: NCPERG does not follow any federal, state, or local procurement policies when spending homeland security grant funds.

The three grant agreements NCPERG entered into with PEMA each contain a specific provision that states, “The Northwest Central Pennsylvania Emergency Response Group agrees to comply with all federal, state, and local procurement laws, regulations or directives.”⁷ Although this language is present in the grant agreements, the specific laws, regulations, or procedures to be used are not defined.

When asked about the specific purchasing guidelines followed by NCPERG, the Program Administrator told OSI that neither he nor NCPERG’s board of directors follow any federal, state or local procurement policies.

A review of NCPERG disclosed several questionable expenditures:

Training Coordinator

NCPERG spent over \$700,000 for training programs during the 15-month period under investigation. According to the Program Administrator, the basic procedure for training involves a local agency or a subcommittee of the NCPERG Board of Directors requesting that the NCPERG Board of Directors provide the training. The Board of Directors discusses the request and decides to either approve or disapprove the training request. If the training is acceptable under the guidelines set by ODP and approved by the NCPERG’s Board of Directors, a vendor is secured to hold the training exercise. There is no “competitive process” to seek bids or proposals from multiple vendors for the training or to select the lowest responsible bidder or proposal. Vendors are proposed by those seeking the training.

NCPERG’s failure to follow any specific procurement policies prevents us from verifying that it complied with such policies when it hired the training vendors. In the absence of its own policies, NCPERG should adhere to standard government practices of competitively bidding purchases above a certain dollar value.

NCPERG hired a local vendor, Agosti Fire & Safety,⁸ to secure training vendors, arrange for training, and assist in the actual running of the classes. Beginning in October 2004, NCPERG’s Board of Directors agreed to pay \$69,152 for Agosti Fire & Safety to act as the training consultant for training activities and exercises for the remainder of 2004 and all of 2005. OSI observed that some checks are made payable directly to the owner of Agosti Fire & Safety, while others are made payable to “Agosti Fire & Safety.” While it is acceptable under the grant agreements to hire a training consultant, there is no evidence that the NCPERG solicited proposals from other vendors.

NCPERG entered into an arrangement with the North American SWAT Training Association (“NASTA”) for two basic Special Weapons and Tactics (“SWAT”) classes in

⁷ Section 6(k) of the grant agreements.

⁸ Agosti Fire & Safety operated as a sole proprietorship until December 2004 when it incorporated.

August and September 2004, and one advanced SWAT class for May 2005. Elk County wrote a check in the amount of \$64,500 to NASTA on August 20, 2004, as payment for all three training classes. Prepayment of \$21,500 for the class scheduled in May 2005 might have locked in the price of the training class; however, it allowed the vendor to have use of NCPERG's \$21,500 for eight months. The decision to prepay for training is questionable because there was no specific idea of how many people would attend, and there were no apparent provisions for NCPERG to be reimbursed if training needs were to change or the class were to be cancelled.

Cell Phones

On average, NCPERG paid \$650 per month for two cellular telephones. This amount is extremely high considering the monthly plan, per phone, was \$34.99 for 300 minutes with additional minutes billed at \$0.45 per minute. This amount could be reduced if NCPERG would change to a plan providing unlimited usage for a set fee.

Alcohol Purchases

The NCPERG used grant funds to reimburse two individuals a total of \$151.42 for "appetizers" at a state sponsored symposium in State College, Pennsylvania, in June 2004. The receipt for one of the individuals indicates that the "appetizers" were actually alcoholic beverages purchased at 10:50 p.m. While the receipt for the second individual does not provide the detail of the other receipt, PEMA has confirmed that these "appetizers" were, in fact, alcoholic beverages.

Conclusions and Recommendations

NCPERG's failure to follow any procurement policies shows a serious disregard for the proper use of grant funds. We recommend that NCPERG should follow the purchasing policies specific to the grants. In particular, NCPERG should use a competitive process to seek bids or proposals from multiple vendors and select the lowest responsible bidder or proposal.

PEMA should assist local task forces in determining the specific procurement policies to be followed. If purchases are exempt from standard procurement policies, such exemption should be discussed in the grant agreement along with the appropriate citation to the exemption.

APPENDIX—NCPERG/PEMA’S RESPONSE

NCPERG provided its comments directly to PEMA for inclusion in PEMA’s response, a complete copy of which is reproduced on the following pages. It is followed by the Department of the Auditor General’s response.



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



January 27, 2006

The Honorable Jack Wagner
Auditor General
Department of the Auditor General
Commonwealth of Pennsylvania
Harrisburg, PA 17120-0018

*Rec'd
JAN 31 P.M.
Administration*

RE: Special Investigation of Homeland Security Grant Funds Provided to the Northwest Central Pennsylvania Emergency Response Group

Dear General Wagner:

This letter is in response to the draft report of the Department of the Auditor General's Special Investigation of Homeland Security Grant Funds provided to the Northwest Central Pennsylvania Emergency Response Group that was received by the Pennsylvania Emergency Management Agency (PEMA) on January 3, 2006. Although your letter stated that a response was due no later than January 13, 2006, your office granted PEMA an extension to reply until Friday, January 27, 2006.

Initially, PEMA still maintains that the Department of the Auditor General (AG) does not have legal authority nor responsibility under the Fiscal Code to conduct an investigation of Federal Department of Homeland Security Grant Program funding that is given to the Commonwealth through PEMA as the State Administrative Agency. PEMA reasserts its position stated in the letter dated July 18, 2005 from former PEMA Director Adrian R. King, Jr. to General Wagner.

PEMA also corrects time periods referenced in footnotes 2, 3 and 4 at the bottom of page 2 of the Special Investigation. The contract for PEMA 2003-OJPE dated January 14, 2004, has been extended to March 31, 2006. The contract for PEMA 2003II-ODP-07 has been extended to April 30, 2006. The contract for PEMA 2004-ODP-10 has been extended to May 31, 2006.

- PEMA Response to Finding 1

The Special Investigation states that the, "NCPERG could not enter into contracts itself as it is not a legal entity." This is a factually and legally incorrect statement. The Counterterrorism, Planning, Preparedness and Response Act, 35 P.S. §§ 2140.101 – 2140.303, commonly referred to as Act 227 of 2002, at § 202(a) authorized PEMA to establish "regional counterterrorism task forces" throughout the Commonwealth. PEMA has done this by establishing nine counterterrorism task forces across the state. Indeed, the grants provided by PEMA to the task forces are executed by the task force chairperson. The task forces, if they so wish, may enter into legally binding contracts to conduct their duties as mandated by Act 227.

Paragraph 2 on page 3 of the Special Investigation refers to a check in the amount of \$8,000.00 paid to the program administrator for an office lease. The program administrator has a cancelled check made out on December 6th, 2004. The back of the cancelled check shows a deposit by the landlord (Cataldo) on December 20th, 2004. PEMA asserts that 10 business days is a normal time span between the check being written by the program administrator and it being deposited by the landlord. In any circumstance the maker of the negotiable instrument has no control as to when the payee cashes or deposits the check.

In response to paragraph 3 on page 3 of the Special Investigation PEMA explains as follows. The program administrator had sent a check to F. P. Troha Insurance on February 7, 2004 for \$500. The check was made payable to Lebanon Insurance. Upon having to investigate further, because of the ongoing Special Investigation, it was discovered the check had never been cashed. At that point the program administrator put a stop payment on the check and issued a new check for payment for the insurance. The policy effective date was August 22, 2005. The billing statement shows the incorrect mailing address for F. P. Troha Insurance at the top left of the billing statement.

Table 2 on page 4 of the Special Investigation correctly concludes that as of June 2005 the program administrator had received seven checks for the leased office space and only six checks had been received by the landlord. At the present time, PEMA is investigating the status of the seventh check. According to the program administrator, he is stating that twelve checks were deposited into his account for the rental payments. Lastly, the \$500.00 shown on Table 2 was paid to the insurance agent. See explanation in prior paragraph.

In response to the Special Investigation's Conclusion and recommendations, PEMA concurs that the \$1,750.00 should be reimbursed to the task force by the program administrator if indeed it is shown that it was never paid out to the landlord. PEMA also agrees that task force expenditures should be paid directly to vendors who provide services to the task force.

- PEMA Response to Finding 2

PEMA is in the process of making recommendations to all the task forces to assist them in complying with all Homeland Security Grant Program guidelines such as the submittal of interim reports as outlined in this finding. PEMA is developing a template for the task forces to utilize in submitting their reports so uniformity exists between the task forces in all reports that are submitted to the Department of Homeland Security as required by their specific grant program guidelines. Regarding the Special Investigation's Conclusion and Recommendations that PEMA should review the reports submitted on a timely basis for fund expenditure compliance with grant agreements and needs assessments, PEMA constantly monitors equipment purchases (all equipment purchases are made by PEMA) and reviews all invoices submitted by the task forces prior to submission by PEMA to the Comptroller's Office for payment. All of the Homeland Security Grant Programs are based on reimbursement as per federal guidelines and State procedures.

- PEMA Response to Finding 3

PEMA strongly disagrees with the finding that, "NCPERG does not follow any federal, state, or local procurement policies when spending homeland security grant funds." Emphasis mine. The duties of the task force are statutorily intertwined with PEMA's responsibilities in carrying out the mission of the task forces. Shortly after the enactment of Act 227, it was decided by PEMA, the Governor's Office and DGS that all equipment purchased for the task forces were to be made by PEMA. Except for a few specialty items procured by individual task forces, all equipment purchases are made by PEMA for the task forces. PEMA follows Commonwealth procurement procedures and laws.

Training

As pertains to purchases made by the NCPERG for services and other items to conduct their business, the NCPERG has stated to PEMA that they follow the procedures in effect in Elk County, who is their "agent" county for payment of their expenditures. PEMA believes this is in compliance with the requirements of not only the grant agreement, but Commonwealth procedures and federal guidelines. NCPERG has also stated to PEMA that they receive multiple quotes when seeking services, compare them and select the proposal that meets the requirements they are seeking by considering the price and other factors. PEMA believes this manner of procurement for personal services complies with procurement procedures.

PEMA agrees that advance payment to a vendor is not sound practice. However, the NCPERG is stating that the grant period was close to expiring and they wanted to make sure that the vendor who was to provide the training was secured and training accomplished before the grant period expired.

Cell Phone

As involves the cell phone account being used by the program administrator, PEMA also agrees with the opinion of the Special Investigation and identified and addressed this issue prior to the Special Investigation that the monthly charges were excessive. The NCPERG has rectified this problem.

Alcohol Purchases

The purchasing of alcoholic beverages with federal or state funds is strictly prohibited. The program administrator has reimbursed the NCPERG for the expenditures outlined in the Special Investigation. PEMA does wish to clarify that the alcohol bill was submitted in error by the program administrator. After he was made aware of the improper submittal he then submitted the actual eligible subsistence expenditure that was an eligible expense.

Conclusion and Recommendations

PEMA strongly objects to the Special Investigation's conclusion that NCPERG failed to follow "any" procurement policies based on the response included in the preceding paragraphs herein.

PEMA also strongly objects to the use of the word "blatant" in alleging that the NCPERG disregarded the proper use of grant funds.

The Honorable Jack Wagner
January 27, 2006
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Indeed, PEMA is not in disagreement with some of the facts uncovered by the Special Investigation. PEMA also agrees that it can better assist local task forces in determining the policies and guidelines to be followed in carrying out the mission of the task forces. However, PEMA makes clear that the three homeland security grants awarded to the NCPERG total \$3,305,054.00. Although PEMA does not condone improper expenditure of federal or state funds, the total amount of improper expenditures uncovered by the Special Investigation pale in comparison to the amount of money the task force is managing with the assistance of Elk County. Moreover, the host county did their job by auditing the NCPERG which discovered the aforementioned practices. This was accomplished prior to the Special Investigation being initiated.

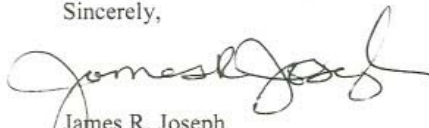
Lastly, it should be noted as outlined in the referenced letter from Adrian R. King, Jr. to General Wagner that all parties involved have fully cooperated with the Special Investigation.

NCPERG and the other eight task forces were given a monumental task in the mission they are to carry out. PEMA, the task forces, and all other entities that make up the task forces have accomplished their main mission of protecting the citizens of the Commonwealth and are striving to enhance that goal.

PEMA reserves the right to supplement this response should any new information come to light related to the Special Investigation's findings.

Thank you for allowing me to respond to this Special Investigation.

Sincerely,



James R. Joseph
Director

THE DEPARTMENT OF THE AUDITOR GENERAL'S COMMENTS ON NCPERG/PEMA'S RESPONSE

We acknowledge receipt of PEMA's written response of January 27, 2006, on behalf of both PEMA and NCPERG, regarding the draft report of our investigation. As discussed below, we agree with some of the points raised by PEMA and we have modified our report accordingly. Otherwise, our report remains as originally stated.

The specific observations and objections in the response are addressed below in the order raised in the response.

Introduction of Letter

We emphatically disagree with PEMA's challenge to the authority of the Department of the Auditor General to conduct an investigation of a program that is funded by federal grant money. This Department clearly has the authority to ensure that any funds payable out of the State Treasury are being properly spent,⁹ even when the original source of the funds is the federal government. This was made clear by the enactment of Act 117 of 1976,¹⁰ which explicitly requires that all federal funds be deposited into the Commonwealth's General Fund and then be expressly appropriated out of the General Fund by the General Assembly.¹¹ It is irrelevant that these federal grant programs may also be subject to oversight by federal agencies. The Commonwealth's authority is concurrent with that of the federal government in this regard, and, in recognition of that fact, this report is being forwarded to the federal Office of Domestic preparedness for whatever further action it may deem appropriate.

The mission of the Department of the Auditor General, as the Commonwealth's independent fiscal watchdog, is to monitor and improve the departments, agencies, and instrumentalities of state and local government on behalf of the 12 million citizens of Pennsylvania. This clearly includes PEMA and the regional emergency response groups. It is our hope that PEMA would view our audits and special investigations as constructive encounters to improve the performance by PEMA, and the agencies under its jurisdiction, in carrying out their own public safety mission.

Finding 1

The draft report stated that "NCPERG could not enter into contracts itself as it is not a legal entity," to which PEMA responded, "This is a factually and legally incorrect statement." We made the statement because two separate PEMA employees that oversee the grant program made this statement to us on different occasions. It was also the explanation provided as to why

⁹ See 72 P.S. § 403.

¹⁰ Act of June 29, 1976, P.L. 469, No. 117, *codified at* 72 P.S. §§ 4611-4617.

¹¹ The Pennsylvania Supreme Court rejected a challenge to the constitutionality of this act in the case of *Shapp v. Sloan*, 480 Pa. 449, 391 A.2d 595 (1978).

the task forces had to designate a “lead county” and as to why, when NCPERG’s lead county refused to be a party of the lease agreement for NCPERG’s office space, the contract was signed not by NCPERG but by its Program Administrator in his individual capacity. Also consistent with this explanation is the fact that several NCPERG contracts that we reviewed were signed by a representative of Elk County *as the sponsoring agency of NCPERG*, implying that if NCPERG could enter into legally binding contracts, there would be no reason for the contracts to be signed by a representative of Elk County.

Regardless, whether the statement is “factually and legally incorrect” is not relevant. The salient point is that NCPERG was under the impression that it could not enter into contracts itself and conducted its affairs consistent with this belief, contributing to many of the problems discussed in this report.

We agree with PEMA that ten business days is a normal time span between a check being written and it being deposited by the payee. It was not our intention to question the length of time for the deposit, so the report has been reworded.

The Program Administrator’s explanation for the delay in making the \$500 insurance payment is suspect. The Program Administrator did not, as the response implies, write out a replacement check at the time he “discovered that the check had never been cashed.” The insurance policy ended in April 2005 for lack of payment. According to the insurance company, the Program Administrator contacted the agency around the end of July 2005 or the beginning of August 2005, after we began our inquiry. The stop payment on the “initial check” was dated August 10, 2005, yet the insurance company did not receive the application and payment until September 15, 2005.

We are pleased that PEMA is investigating the rental payment that was never made to the landlord, and ask that we be provided with a copy of the results of PEMA’s investigation.

Finding 2

We commend PEMA for taking steps to have all the task forces submit the semi-annual “interim performance reports” required by the grant agreements. However, we do not agree with PEMA’s response insofar as it implies that reviewing purchases and invoices prior to payment by the Comptroller’s Office serves the same purpose as the performance reports. Reviewing purchases and invoices prior to payment does not monitor how effective the task force is addressing its high risk areas and meeting the items identified in the needs assessment, nor does it determine if the services or items being purchased are necessary for the task force to meet its objectives.

Finding 3

As stated in the background and introduction section of our report, we reviewed only non-equipment purchases made by NCPERG. Accordingly, our statement that NCPERG “does not follow any federal, state, or local procurement policies” relates only to non-equipment purchases, not to the equipment purchased by PEMA on behalf of the task forces. We removed the word “blatant,” to which PEMA objected, but we emphasize that although NCPERG’s failure

to follow any procurement policies may not have been an act of commission, it certainly was an act of omission.

Training

Our test work contradicts NCPERG's statement to PEMA that it follows the procurement procedures in effect in Elk County. When we asked NCPERG's Program Administrator to identify the procurement policies NCPERG follows, he stated that the task force does not follow any procurement policy. The Elk County employee who processes the payments on behalf of NCPERG stated that she wished that NCPERG *would* follow the county's procurement policies. For these reasons, we stand by our statement that NCPERG did not follow any procurement policies during the time period of our investigation, as well as our recommendation that NCPERG follow procurement policies for future purchases.

Our test work also does not support NCPERG's statement to PEMA that NCPERG receives multiple quotes when seeking services, because we were shown no evidence that this was done. Until definitive proof is provided, we must stand by our statement.

Compliance with the county's procurement policy does not address compliance with the procurement policies unique to the homeland security grant program. We reiterate our recommendation that PEMA assist local task forces in determining the specific procurement policies to be followed.

Cell Phone

We are pleased to learn that this problem has been rectified. However, the finding will remain as stated in the draft report, as we are reporting on problems as they existed during the time period of our investigation and proof was not provided to substantiate that the problem was corrected.

Alcohol Purchases

PEMA's statement that the Program Administrator has repaid NCPERG for the alcoholic beverages he submitted for reimbursement is encouraging. However, again, documentation was not provided to support the statement. Additionally, PEMA's response does not mention whether the other individual also repaid NCPERG for the alcoholic beverages that he submitted on his expense report.

Conclusions and Recommendations

We cannot disagree with the observation that the total dollar amount of improper expenditures uncovered by the investigation is small in comparison to the total \$3.3 million of the three grants awarded. As stated previously, we did not review equipment purchases, on which a majority of the \$3.3 million was spent, nor did we evaluate the training as we were not privy to the needs assessment. This left approximately \$69,000 in expenditures eligible to be reviewed for appropriateness. While the dollar value may have been small, the problems identified may be indicative of systemic problems.

We must disagree with PEMA's statement that "all parties involved have fully cooperated with the Special Investigation." Although cooperation was forthcoming in the early stages of the investigation, it ceased when we began asking for documents relating to the lease for office space, which is the subject of Finding 1. From that point forward, telephone calls were not returned, requests for documents went unanswered, and all communication – with any party – had to be funneled through PEMA. In fact, the former chairman of NCPERG told OSI that NCPERG was instructed not to cooperate with this office. When asked who told NCPERG not to cooperate, he replied, "PEMA." We were forced to negotiate with PEMA in order to obtain necessary documents and information, which caused considerable delays in conducting and completing this investigation.

Finally, PEMA states that "NCPERG and the other eight task forces were given a monumental task in the mission they are to carry out." We agree that protecting the citizens of the Commonwealth is paramount, and we commend PEMA, the task forces, and all other entities that comprise the task forces for their efforts in this regard. However, the homeland security grants have been in effect for several years, and now that the initial priorities have been accomplished (i.e., identifying high risk areas), PEMA should focus on establishing better fiscal control of the grant funds by providing the task forces with the specific funding requirements to be followed, by requiring that required reports be completed, and by becoming more aware of how the task forces are operating on a local level.

Again, we encourage both PEMA and NCPERG to implement the recommendations provided in this report in order to improve both their stewardship over public funds and, more crucially, their ability to protect the citizens of this Commonwealth. We will follow-up at the appropriate time to determine whether the problems identified in this report have been corrected.

DISTRIBUTION LIST

This report was distributed initially to the board members of the Northwest Central Pennsylvania Emergency Response Group, PEMA, U.S. Department of Homeland Security's Office of Domestic Preparedness, and to the following:

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The Honorable Robert P. Casey, Jr.
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