



Issue Date April 25, 2008

Audit Report Number: 2008-AO-1003

TO: Nelson Bregon, General Deputy Assistant Secretary, D

FROM: *Rose Capalungan*
Rose Capalungan, Regional Inspector General for Audit, GAH

SUBJECT: The Mississippi Development Authority, Jackson, Mississippi, Homeowners Assistance Program Contract Included Ineligible Provisions

HIGHLIGHTS

What We Audited and Why

We audited the State of Mississippi's Development Authority's (Authority) Homeowners Assistance Program (Program), managed by Reznick Group and Reznick Mississippi, LLC (contractor). We initiated the audit in conjunction with the Office of Inspector General (OIG) Gulf Coast Region's audit plan and examination of relief efforts provided by the federal government in the aftermath of Hurricanes Katrina and Rita. During a separate review of the Authority's administration of its Program, we found that the Authority paid its contractor for contingency amounts. We initiated this audit to determine whether the Authority ensured that the contingency amounts were eligible and supported.

What We Found

The Authority executed a contract, which included an ineligible provision that allowed its contractor to bill and receive payment for ineligible and unsupported contingency amounts. The Authority paid these amounts to its contractor because it was unaware of federal prohibitions. As a result, the Authority paid its contractor more than \$3.9 million for ineligible and unsupported contingency amounts during the period May 10, 2006, to August 29, 2007. In addition, \$243,210 in contingency amounts in the contract remained unpaid and could be put to better use.

What We Recommend

We recommend that the U.S. Department of Housing and Urban Development's (HUD) General Deputy Assistant Secretary for Community Planning and Development require the Authority to repay the Program from nonfederal funds more than \$3.9 million, which it disbursed for ineligible and unsupported contingency amounts; cease from making further contract payments for \$243,210 in contingency amounts, which could be put to better use; and develop and implement a process to ensure that all future contracts and amendments involving State of Mississippi Community Development Block Grant disaster recovery funds do not include such ineligible provisions and amounts.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

During the audit, we provided the results of our review to the Authority's management. We also provided our draft audit report to HUD's staff during the audit. We conducted an exit conference with the Authority's management on April 7, 2008.

We asked the Authority's executive director to provide written comments to our discussion draft audit report by April 11, 2008. However, we agreed to a request to extend that date to April 18, 2008. The executive director provided written comments to the discussion draft audit report, dated April 18, 2008. The Authority generally agreed with our finding and has begun to take action to resolve the issue. Based on Authority's verbal comments, we made adjustments to the tone of the first significant weakness cited under the Internal Controls section of this report. The complete text of the written response, along with our evaluation of that response, can be found in appendix B of this report.

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BACKGROUND AND OBJECTIVE

The State of Mississippi (State) received more than \$5 billion in Community Development Block Grant (CDBG) disaster recovery funds for hurricane recovery efforts. The Mississippi Development Authority (Authority) is responsible for administering the recovery efforts.

On January 13, 2006, the Authority distributed a request for proposal to nine firms to provide professional accounting services for the Homeowners Assistance Program (Program). It also posted the request for proposal on the Web sites of the Authority, the governor’s office, the Mississippi Bankers’ Association, and the Mississippi Society of Certified Public Accountants. The Authority received four responses and considered all of the responses before choosing Reznick Group, P.C. (contractor), on January 27, 2006. The contractor was hired to develop and provide phase I and mobilization services for the Authority’s Program and immediately began working on the project. Due to emergency conditions, the contractor submitted an initial task order for \$250,000 on February 2, 2006. The Authority approved this contract on February 3, 2006, with a term of February 1 to April 1, 2006.

On February 21, 2006, the Authority executed an emergency procurement of a fixed compensation professional services contract with the contractor for an estimated \$280,000, which covered the period January 30 to April 1, 2006. Contract amendments were prepared. On March 15, 2006, amendment #1 increased the scope of services and contract amount to \$1.1 million. Amendment #2, dated April 14, 2006, increased the scope of services and the contract amount to more than \$48.8 million. This second amendment also included a compensation budget that contained a 5 percent contingency. Amendment #3 did not have any monetary effect, but it and amendment #4 were signed by Reznick Mississippi, LLC (contractor). Amendment #4, dated February 14, 2007, increased the scope of services and the total estimated contract amount to more than \$88.2 million. The following table details the contract and contingency amounts.

Date	Original/ amendment #	Total contract amount (including contingency)	Total contingency amount
Feb. 21, 2006	Original	\$280,000	None
Mar. 15, 2006	1	\$1,100,000	None
Apr. 14, 2006	2	\$48,852,282	\$2,272,918
Dec. 28, 2006	3	No change	No change
Feb. 14, 2007	4	\$88,262,352	\$4,150,588

As of August 29, 2007, the Authority had disbursed more than \$82 million to pay its contractor’s costs for the Program, of which more than \$3.9 million was for contingency amounts.

During a separate review of the Authority’s administration of its Program, we found that the Authority paid its contractor for contingency amounts. We initiated this audit to determine whether the Authority ensured that the contingency amounts were eligible and supported.

RESULTS OF AUDIT

Finding 1: The Authority's Homeowners Assistance Program Contract Included Ineligible Provisions

The Authority executed a fixed compensation contract, which included an ineligible provision allowing its contractor to bill and receive payment for ineligible and unsupported contingency amounts. The Authority paid these amounts to its contractor because it was unaware of federal prohibitions. As a result, it paid its contractor more than \$3.9 million in ineligible contingency amounts during the period May 10, 2006, to August 29, 2007. In addition, \$243,210 in contingency amounts in the contract remained unpaid and could be put to better use. Since the Authority allowed the prohibited provision and payments, it had fewer funds available for homeowner grants and oversight of the Program.

The Contractor's Proposal Included Contingency Amounts

The contractor's proposal included "an overall contingency amount of 5% of project cost to cover unforeseen events that may occur." The Authority accepted the request for proposal, which allowed contingency amounts to be included in the contract. While a contingency amount was a part of contractor's proposal, the Authority and contractor did not include it in the initial contract. Instead, a "Contingency 5%" was included in the compensation budget of amendment #2, and the contractor began billing for it beginning April 6, 2006, which was before amendment #2 was executed. Further, except for the heading in amendment #2's compensation budget entitled "Contingency 5%," the contract did not explain the amounts which were calculated as 5 percent of the estimated costs.

Federal Cost Principles Prohibit Contingency Provisions

Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," clearly states: "Contingency provisions. Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable." The Authority was required to follow OMB Circular A-87 because HUD's funding approval documentation for the Program required the Authority to comply with

OMB circulars. Further, HUD required the Authority “to pay particular attention to...OMB Circular A-87 pertaining to cost principles.” Since the contractor’s proposal indicated that the contingency amount was for unforeseen events, and OMB Circular A-87 states that such provisions are unallowable, the amounts paid for the “Contingency 5%” to the contractor are ineligible.

A Fixed Compensation Contract Was Procured

The Authority declared that its initial contract with the contractor was an emergency procurement of a fixed compensation professional services contract. As described in the Mississippi Personal Services Contract Procurement Regulations (Procurement Regulations), a firm fixed-price contract¹ provides a price that is not subject to adjustment because of the variations in the contractor’s cost of performing the work specified in the contract. Since the contingency amount was calculated as a percentage of the contractor’s accrued billable hours per functional category plus other expenses, it violated the State’s definition of firm fixed-price contract. The Authority’s request for proposal states: “Hourly rates shall include all overhead, direct, indirect, fringe and other miscellaneous expenses.” Although the Authority declared the initial contract a fixed compensation contract, by including “Contingency 5%” in amendment #2, the terms of the contract were changed to reflect a cost-plus-a-percentage-of-cost contract.

A Cost-Plus-a-Percentage-of-Cost Contract Shall Not Be Used

HUD’s State CDBG regulations state that a cost-plus-a-percentage-of-cost contract shall not be used. In addition, the State’s Procurement Regulations state that the use of any type of contract is permissible except for a cost-plus-a-percentage-of-cost contract, which agencies are urged to avoid. A cost-plus-a-percentage-of-cost contract is one in which, before beginning the work, the parties agree that the fee will be a predetermined percentage of the total cost of the work. Since amendment #2 included the contingency amount, which was calculated as a percentage of billable hours, and cost-plus-a-percentage-of-costs contracts are prohibited, the contingency amounts paid are ineligible.

¹ The State’s Procurement Regulations do not include fixed compensation contract as a contract type. They list five contract types: firm fixed-price contract, fixed-price contract with price adjustment, definite quantity contract, indefinite quantity contract, and requirements contract.

The Authority Paid for Contingency Amounts

Beginning with the invoice period April 6 to April 30, 2006, the Authority paid its contractor a contingency amount equal to 5 percent of the total amount billed. The contractor billed and the Authority paid more than \$3.9 million² of the contingency amounts on invoices from May 10, 2006, through August 29, 2007. Another \$243,210 in contingency amounts remained under the contract and had not been invoiced as of August 29, 2007.

Contingency Amounts Paid Were Unsupported

The contractor also did not provide support for the contingency amounts. For costs to be allowable, OMB Circular A-87 requires that they be adequately documented. The Authority did not require the contractor to provide supporting documentation for unforeseen events, nor did the invoices include support for the contingency amounts. As a result, the Authority could not support the more than \$3.9 million it paid.

The Authority Was Unaware of Federal Regulations

The Authority included ineligible contingency amounts and paid them without support because it was unaware of federal requirements. Normally, State CDBG requirements allow the Authority to select whether it will follow its own administrative requirements or federal requirements. The Authority chose to follow its own requirements for the State CDBG program, and its requirements did not include references to OMB circulars. However, HUD's funding approval documentation for the State CDBG disaster recovery funds, dated April 11, 2006, required the Authority to comply with OMB Circular A-87. Confusion occurred because the initial contract was executed on February 21, 2006, which was before the funding approval. The funding approval documentation was received and signed by the Authority before amendment #2 was executed on April 14, 2006. In addition, the contractor billed for the contingency amounts beginning April 6, 2006, with invoices 373461 and 373461A before amendment #2 was approved. The Authority should have been aware of the requirements and removed the contingency amount from the contract before the execution of amendment #2 and the payment of invoices.

² See appendix C for a table of the invoices and ineligible contingency amounts.

Authority monitoring staff were also unaware that OMB Circular A-87 applied. In addition, a monitoring staff member claimed to have questioned the purpose and necessity of the contingency amount after it was established but was told by Authority management that it was a part of the contract and would not be removed.

Conclusion

The Authority entered into a contract, which contained an ineligible provision that allowed its contractor to bill for more than \$3.9 million in ineligible and unsupported contingency amounts. The Authority paid these amounts to its contractor because it was unaware of federal prohibitions. In addition, \$243,210 in contingency amounts in the contract remained unpaid and could be put to better use. Since the Authority allowed the prohibited contract provision and paid the ineligible and unsupported amounts, it had fewer funds available for homeowner grants and oversight of the Program.

Recommendations

We recommend that HUD's General Deputy Assistant Secretary for Community Planning and Development require the Authority to

- 1A. Repay the \$3,907,378 disbursed for ineligible contingency amounts to its Homeowners Assistance Program from nonfederal funds.
- 1B. Cease any future payments to its contractor for \$243,210 in contingency amounts.
- 1C. Develop and implement a process to ensure that all future contracts and amendments involving State CDBG disaster recovery funds do not include ineligible contingency amounts.

SCOPE AND METHODOLOGY

We performed our audit work between December 2006 and December 2007 at the Authority's and contractor's offices in Jackson, Mississippi, and HUD's New Orleans, Louisiana, and Jackson, Mississippi, field offices.

To achieve our objective, we

- Selected all fiscal year 2006 invoices that the contractor submitted to the Authority.
- Obtained a complete listing of disbursement transactions for the fund dedicated to the Authority's management of the Program.
- Examined the invoices, analyzed the supporting documents for expenses, and reviewed relevant files.
- Reviewed applicable criteria including OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments"; contracts (and amendments) executed between the Authority and the contractor; the Authority's and contractor's travel policies and procedures; and the Authority's HUD-approved action plan and amendments.
- Held discussions with Authority staff regarding their methods of reviewing and paying invoices and accounting for payments made to the contractor.
- Interviewed the appropriate contractor staff regarding their preparation and submission of invoices to the Authority.
- Held discussions with headquarters officials from the Office of Community Planning and Development.

The audit covered the period May 10, 2006, through August 29, 2007. We conducted the audit in accordance with generally accepted government auditing standards.

INTERNAL CONTROLS

Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting,
- Compliance with applicable laws and regulations, and
- Safeguarding resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined the following internal controls were relevant to our audit objective:

- Program operations - Policies and procedures that management has implemented to reasonably ensure that persons are eligible to participate in the additional compensation grant program.
- Validity and reliability of data - Policies and procedures that management has implemented to reasonably ensure that valid and reliable data within the management information system are obtained, maintained, and fairly disclosed in reports.
- Compliance with laws and regulations - Policies and procedures that management has implemented to reasonably ensure that CDBG disaster fund use is consistent with HUD's laws and regulations.
- Safeguarding resources - Policies and procedures that management has implemented to reasonably ensure that CDBG disaster funds are safeguarded against waste, loss, and misuse.

We assessed the relevant controls identified above.

A significant weakness exists if internal controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

Significant Weakness

Based on our review, we believe the following items are significant weaknesses:

- The Authority's procurement controls did not ensure that its contract did not include ineligible contingency provisions (finding 1).
- The Authority lacked adequate controls to ensure that monitoring staff were aware of federal regulations to ensure that the Authority did not pay for ineligible provisions (finding 1).

APPENDIXES

Appendix A

SCHEDULE OF QUESTIONED COSTS AND FUNDS TO BE PUT TO BETTER USE

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A	\$3,907,378	
1B		\$243,210

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or federal, state, or local policies or regulations.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. This includes reductions in outlays, deobligation of funds, withdrawal of interest subsidy costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings which are specifically identified. In this instance, if the Authority implements our recommendation, it will not expend funds for contingency amounts, an ineligible cost.


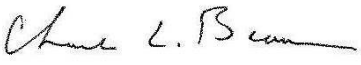
Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation

Auditee Comments

Comment 1

 STATE OF MISSISSIPPI HALEY BARBOUR, GOVERNOR MISSISSIPPI DEVELOPMENT AUTHORITY GRAY SWOOPE EXECUTIVE DIRECTOR
April 18, 2008
Ms. Rose Capalungan U.S. Department of Housing and Urban Development 500 Poydras Street, 11 th Floor New Orleans, LA 70130
Re: MDA's Response to HUD OIG Draft Audit Report 2008-AO-1003
Dear Ms. Capalungan:
Enclosed is our response to the Office of Inspector General's ("HUD OIG") Draft Audit Report No. 2008-AO-1003, which we received on or about March 28, 2008. The objective of this audit was to determine whether the State ensured that certain contingency amounts paid to its contractor, Renzick Group, P.C., were eligible and supported.
As you well know, the Mississippi Development Authority ("MDA") has persistently worked to provide relief to the residents of the Mississippi Gulf Coast who were devastated by Hurricane Katrina. MDA acknowledges its significant responsibilities in managing the more than \$5 billion in Community Development Block Grant funds provided by the federal government. In this regard, MDA would like to thank HUD OIG staff for their valuable advice and assistance.
If you have any questions regarding this response, please feel free to contact me at (601)359-9345 or Jon Mabry, Director of the Disaster Recovery Division, at (601)359-2379.
Sincerely yours,  Charles L. Bearman Chief Compliance Officer
dr:CLB Enclosure cc: Theresa A. Carroll, CPA Warren Lee Wood, MS Ace, MS CIS
<small>POST OFFICE BOX 849 · JACKSON, MISSISSIPPI 39205-0849 TELEPHONE (601) 359-3449 · FAX (601) 359-2832 · www.mississippi.org</small>

**Office of Inspector General Audit Report:
Mississippi Development Authority Response**

**Community Development Block Grant
State of Mississippi
2008-AO-1003**

The Mississippi Development Authority (hereafter “MDA”) offers the following responses to the findings and recommendations as a result of the draft audit report which was received by MDA on or about March 28, 2008.

Comment 2

Results of the Review: MDA executed a contract which included a provision that allowed its contractor to bill and receive payment for certain potentially ineligible and unsupported contingency amounts. MDA paid these amounts to its contractor because it was unaware of federal prohibitions which, significantly, became applicable to the contract only after its execution. As a result, the Authority paid its contractor more than \$3.9 million for potentially ineligible and unsupported contingency amounts during the period May 10, 2006, to August 29, 2007.

Comment 1

Response: Reznick Group, P.C. (hereafter “Reznick”), at page 2 of its RFP response, represented itself as a “national full service CPA firm, licensed in Mississippi, and specializing in real estate and government regulatory compliance and related services.” The attached resumes, responses and Project Advisory Group set forth a level of substantial HUD expertise. At the time of the RFP response, the State of Mississippi was dealing with all aspects of the horrific emergency situation caused by the worst national disaster in American history.

Comment 3

As set forth in the audit report, Reznick included in its “Cost Data” section of its RFP response “an estimated not to exceed amount by functional project area” with an additional “overall contingency amount of 5% of project cost to cover unforeseen events that may occur.” Following this prefatory statement, Reznick provided an estimated number of hours for each functional area of its work proposal, then gave an “Estimated Amount” for those hours, followed by a “Contingency 5%” amount, which resulted in a final “Amount Not To Exceed By Function.” This sheet – termed a “Compensation Budget” in Amendment #2 to the Contract (Exhibit “C-1”) – seems to provide Reznick with a cushion between its best estimated cost per functional category and its final “not to exceed” cost and thus appears to be a price adjustment clause as opposed to a contribution to a “contingency reserve.” (Notably, even factoring in the 5% contingency, Reznick was by far the low cost bidder for the contract.) A price adjustment feature in a fixed cost contract is clearly permissible under the state procurement law and regulations but normally requires more detail and information on how an adjustment is made and documented. The contract, then, by its specific terms, established a fixed cost amount and, therefore, is not illegal under state procurement law and regulations.

Ref to OIG Evaluation

Auditee Comments

Comment 3

However, as indicated by the audit, this was not the way in which the contract was implemented – Reznick added a 5% contingency *fee* on top of every invoice which was paid by MDA until January 24, 2008. The ambiguity created by the lack of detail in the contract resulted in unsupported additional costs being billed by the contractor and paid by MDA.

Comment 2

MDA concurs in the fact that OMB Circular A-87, which provides the regulatory basis for the findings in the audit, was not imposed upon it or the CDBG grant funds when the Reznick contract was first entered into. Not only was MDA confused by this shift in policy, but it appears that HUD was as well. This is reflected in the fact that the first time that HUD disallowed reimbursement for the 5% contingency fee was in January of 2008. All prior invoices not disallowed by HUD had no supported detail on unforeseen costs and itemized amounts. It is also reflected in some comments made by several HUD monitoring officials in which they stated that the 5% fee was a legitimate charge as long as it was in Reznick’s RFP response and was included in the final contract terms. Again, MDA acknowledges that during this emergency period in 2006 it was confused by the federal regulatory cost principles in effect covering the CDBG funds. The rush to put programs in place and deliver funds immediately to the devastated victims of Hurricane Katrina was the focal point for MDA and Reznick in 2006. MDA and Reznick during this period maintained constant contact with HUD and the other federal agencies involved in the Katrina Relief efforts to assure adherence to governmental directives. MDA and Reznick also participated in various different reviews of their records and protocols by Federal and Mississippi monitoring agencies and were not advised of any issues with this contract until late August 2007, fully more than one year after the contract was executed. Furthermore, the creation by HUD of a new regulatory framework to deal with this CDBG fund – including specifically the imposition of OMB Circular A-87 – greatly contributed to the confusion, which was apparent in the actions of federal, state and Reznick officials. A more detailed timeline of this period is attached hereto and incorporated herein as Exhibit “A.”

Comment 1

Having said this, any cloud of doubt has now been removed. MDA fully understands the rules which are in place regarding this issue. Indeed, when notified by HUD for the first time in January 2008 that this fee would no longer be allowed and would no longer be reimbursed, MDA immediately notified Reznick of the same and stopped any further payment for it. Reznick promptly agreed to no longer charge a 5% contingency fee.

Comment 1

MDA agrees to resolve any issue with regard to the “5% contingency fee” charges which were paid by it. In this regard, MDA will demand specific invoices from Reznick to document any allowable costs that were purportedly incurred by it with regard to the program and which currently fall under the 5% contingency charge. Of course, such charges cannot be reflected on any other invoice from Reznick. Reznick has agreed to refund the entire contingency charge – and MDA is holding Reznick funds sufficient to cover the contingency charges – subject to Reznick’s ability to demonstrate that those charges were allowable costs. MDA will pursue these contingency fee charges from Reznick, and reimburse the program for all amounts – or any part not covered by the aforesaid documentation process – paid under this charge, as directed by HUD.

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Auditee Comments

Comment 3

Recommendations: HUD is recommending that MDA be required to

- 1A. Repay the \$3,907,378 disbursed for ineligible contingency amounts to its Homeowners Assistance Program from nonfederal funds.
- 1B. Cease any future payments to its contractor for contingency amounts.
- 1C. Develop and implement a process to ensure that all future contracts and amendments involving State CDBG disaster recovery funds do not include ineligible contingency amounts.

Response:

- 1A. MDA will follow the course of conduct outlined above to either document charges from Reznick or recover and reimburse the program.
- 1B. Payments have ceased as of January 24, 2008, and will no longer be invoiced by Reznick.
- 1C. MDA has a process to ensure that no contingency fee is included in its fixed price contracts. Furthermore, MDA has developed a thorough review process as part of its new decentralized financial system which will ensure that no future invoices will be paid which have an ineligible contingency fee charge. Finally, new monitoring procedures implemented by MDA will check for compliance in this regard.

INTERNAL CONTROLS

Recommendations: HUD has asserted that the following items are significant weaknesses:

- MDA lacked procurement controls to ensure that its contract did not include ineligible contingency provisions (finding 1).
- MDA lacked adequate controls to ensure that monitoring staff were aware of federal regulations to ensure that MDA did not pay for ineligible provisions (finding 1).

Response:

Comment 3

- MDA would assert that state procurement controls do ensure that its fixed price contracts do not include ineligible contingency provisions which violate state and federal laws. Indeed, the contract provisions at issue do facially

Ref to OIG Evaluation

Auditee Comments

Comment 4

meet those laws. Thus, the procurement function and its controls were and are adequate.

- MDA acknowledges that at the time the contract was entered into and at the time of the billing of the 5% contingency fee, its monitoring staff was not properly advised of the application of OMB Circular A-87. Again, this confusion was apparently a problem for both MDA and HUD staff advising on implementation of the programs during the emergency caused by Hurricane Katrina and the imposition of new federal regulations imposed by HUD in the spring of 2006. Despite not knowing of Circular A-87's applicability, MDA's monitoring staff did in fact recognize a potential problem with the 5% contingency charge and began to raise questions about it in the summer of 2007, as indicated by the audit report. MDA recently completely retooled its monitoring staff, empowering it in a manner consistent with its federal responsibilities and has ensured that all appropriate staff are fully and adequately trained on regulatory compliance measures. This training will continue to ensure that MDA monitoring staff can fully address any issue. Equally importantly, MDA monitoring staff has been empowered by the internal restructuring that has taken place with a new level of independence which will allow it to fully prosecute any findings that it may make.

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Auditee Comments

TIMELINE			
Date	HUD Technical Approvals	Contract Events	Contract
1/13/06		RFP issued.	
1/23/06		Reznick submits Proposal.	
1/27/06		Reznick notified of Award.	
1/30/06		Reznick acknowledges Notice of Award.	
2/1/06	HUD Meeting with MDA/Reznick to Review Draft Action Plan	Reznick mobilizes Management Team and participates in HUD meeting to review Draft Action Plan submitted by MDA to HUD.	
2/13/06	HUD Federal Register	HUD posts Federal Register Notice of \$11.5 Billion, creating an opportunity to submit Action Plans and Waivers.	
2/21/06		Initial Contract designed to allow the parties to negotiate a full contract within the parameters of the RFP, as permitted by state procurement law and regulations, is entered into. Total Contract Amount -- \$280,000.	Original
3/15/06		Amendment 1 is executed and Reznick's Scope of Services is increased within the parameters of the RFP to assist MDA with policy, enter into subcontracts, and establish core processes and staffing model. Total Contract Amount not to exceed \$1.1 million.	Amendment 1
3/31/06	Final Homeowner Assistance Program Action Plan Submitted to HUD by MDA	MDA requests Reznick to finalize costs and to complete full project Scope and Budget immediately – contract scope negotiations based upon draft Final Action Plan and RFP response are conducted with goal to conclude agreement as Amendment 2.	
4/7/06		The parties agree to the format and Scope for Amendment 2, which incorporates Reznick's RFP Response, as authorized by state procurement law and regulations.	Amendment 2
4/13/06	HUD Funding Approval Documentation	MDA signs HUD funding approval on April 13, 2006. It must be emphasized that this occurs after the conclusion of the Reznick contract negotiation over scope, terms and conditions for Amendment 2. Those contract terms are not modified and the Contract retains its fixed cost contract language.	
4/13&14/06		Amendment 2 is executed by the respective parties.	Amendment 2
12/28/06 to 3/31/08		Amendments 3 to 7, dealing with funding, scope and time extensions, are entered into by the parties.	Amendment 3 - 7

Comment 2

OIG Evaluation of Auditee Comments

- Comment 1** We acknowledge the Authority’s efforts to provide relief to the Mississippi Gulf Coast after the devastation of Hurricane Katrina. We thank the Authority for its positive response and agreement with the finding. We understand the initial urgency of the circumstances and the confusion that prevailed. We recognize that the Authority took prompt action to cease payments for the contingency amount, obtained reimbursement for contingency amounts paid to Reznick, and agreed to resolve any issues with the “5% contingency fee.”
- Comment 2** The Authority agrees that it was unaware of federal prohibitions against contingency fees, which became applicable after the contract execution. We agree that the HUD funding approval document was signed after the contract was executed; however, the funding approval document was signed on April 13, 2006, a day before amendment #2 was executed, and its conditions apply to all expenditures of disaster recovery funds. Since the Authority should have been aware of the requirements of OMB Circular A-87 when the funding approval document was signed, the contract terms of amendment #2 should have been modified to remove any ineligible provisions.
- Comment 3** We are pleased that the Authority has implemented new monitoring controls and processes to ensure that contingency amounts are not included in fixed-price contracts, ensured that no future invoices containing ineligible contingency amount charges will be paid, and taken steps to ensure that compliance is verified through monitoring efforts. However, these monitoring controls and processes have not been verified by HUD OIG. Although, the Authority asserts that the “Contingency 5% amount” appears to be a price adjustment clause, the Authority acknowledges that the contract was not implemented as a price adjustment and contingency amounts were billed. Therefore, we disagree that the Authority had sufficient procurement controls to prevent an ineligible contingency provision from being included in its contract. Additionally, we do not assert that the contract is illegal. We only state that the contract, which the Authority has previously informed HUD OIG is a “firm fixed-price contract”, violates (or doesn’t agree with) the State’s *definition* of a firm fixed-price contract. To prevent similar problems from occurring on future emergency procurements, we reiterate our recommendation concerning the Authority’s procurement controls.
- Comment 4** We acknowledge that the Authority’s monitoring staff recognized a potential problem with the 5 percent contingency charge despite its lack of knowledge of federal regulations; however, when the matter was presented to Authority management, the finding was overridden, and nothing was done to remove the contingency amount or renegotiate the contract with Reznick. We recognize that the Authority took action to adequately train its monitoring staff on regulatory compliance measures and provided the monitoring team with independence, which is necessary for the team to perform its function and responsibilities.

Appendix C

BILLED CONTINGENCY AMOUNTS

Contingency amount				
Maximum amount per contract	Ineligible amount paid			Amount remaining per contract
	Invoice date	Invoice number	5 percent	
	Not dated	373461A	\$ 5,001	
	May 10, 2006	373461	150,020	
	June 6, 2006	374967	122,162	
	June 20, 2006	375763	146,171	
	July 10, 2006	377310	106,948	
	July 21, 2006	377987	118,013	
	July 31, 2006	378964	130,585	
	Aug. 10, 2006	379840	142,693	
	Aug. 15, 2006	380151	56,673	
	Sept. 12, 2006	382785	150,467	
	Oct. 6, 2006	386578	102,347	
	Nov. 6, 2006	387685	260,406	
	Nov. 17, 2006	388356	143,231	
	Nov. 30, 2006	389095	128,419	
	Jan. 12, 2007	391408	112,721	
	Jan. 31, 2007	392735	202,636	
	Feb. 16, 2007	394181	186,610	
	Mar. 14, 2007	3996687	140,171	
	Mar. 26, 2007	398606	211,473	
	Apr. 10, 2007	400414	143,502	
	May 15, 2007	410425	110,190	
	May 22, 2007	410843	201,375	
	June 14, 2007	411755	102,098	
	June 27, 2007	412827	132,060	
	July 17, 2007	414311	212,605	
	July 27, 2007	415371	180,709	
	Aug. 29, 2007	417898	<u>208,091</u>	
\$4,150,588	<u>\$3,907,378</u>			\$243,210