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Audit Report Number	2011-AO-1005

TO: Yolanda Chavez, Deputy Assistant Secretary for Grant Programs, Community Planning and Development, DG

//signed//

FROM: Nikita N. Irons, Regional Inspector General for Audit, Gulf Coast Region, 11AGA

SUBJECT: The State of Mississippi, Jackson, Generally Ensured That Disbursements to Program Participants Were Eligible and Supported

## **HIGHLIGHTS**

### **What We Audited and Why**

We conducted a review of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Supplemental Disaster Recovery program funds, administered by the State of Mississippi (State), a \$5.5 billion CDBG Supplemental Disaster Recovery program grantee. Our objective was to determine whether the State ensured that disbursements made under the Homeowner Assistance Elevation Grant Program (Program) were eligible and supported. The audit was initiated as part of the Office of Inspector General's (OIG) strategic plan to review activities related to Gulf Coast hurricane disaster relief efforts.

### **What We Found**

Overall, the State generally ensured that disbursements to Program participants were eligible and supported. However, it disbursed funds to participants who (1) were initially eligible, but later defaulted, making the disbursements ineligible and (2) received duplicate assistance. This condition occurred because (1) the State had not implemented policies and procedures to assess whether there was a need

for elevation construction before disbursing grant funds, (2) participants did not fully comply with the terms of the elevation grant agreement, (3) participants received duplicate assistance without reimbursing the State, and (4) the State had not identified other participants who received duplicate assistance. As a result, the State paid \$90,000 in ineligible costs.

### **What We Recommend**

We recommend that HUD's Deputy Assistant Secretary for Grant Programs require the State to (1) repay to its Program the \$90,000 in ineligible costs; (2) reallocate \$75,000 in unreimbursed funds, thereby ensuring that these funds are put to better use; and (3) develop and implement written policies to assess the need for elevation construction before disbursing funds to Program participants.

We also recommend that HUD require the State to consider amending its Program policy to require staff performing file reviews to document its review and verification of required documentation; requiring land surveyors, engineers, and architects to submit photographs of properties with the elevation certificate; conducting periodic site visits of properties to ensure that homes were elevated in accordance with the Program elevation requirements; and conducting eligibility reviews across its disaster recovery programs to ensure different participants did not receive assistance for the same damaged property.

### **Auditee's Response**

We provided a copy of the draft report to the State on February 25, 2011. We held an exit conference with the State on March 9, 2011. We asked the State to provide the written comments to the draft report by March 12, 2011, and it provided written comments on March 10, 2011. The State generally did not agree with our finding and recommendations. The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.

## TABLE OF CONTENTS

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Background and Objective	4
Results of Audit	
Finding : The State Generally Ensured That Disbursements to Program Participants Were Eligible and Supported	5
Scope and Methodology	10
Internal Controls	11
Appendixes	
A. Schedule of Questioned Costs and Funds To Be Put to Better Use	12
B. Auditee Comments and OIG's Evaluation	13

## BACKGROUND AND OBJECTIVES

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Soon after Hurricane Katrina, the U.S. Department of Housing and Urban Development (HUD) awarded the State of Mississippi (State) more than \$5.5 billion in Community Development Block Grant (CDBG) funds to assist with the State's disaster recovery efforts. The State tasked the Mississippi Development Authority with administering this recovery package at the State level. Of the \$5.5 billion, the State set aside \$70.5 million for the Homeowner Assistance Elevation Grant Program (Program).

The purpose of the Program is to provide up to \$30,000 in grant funds to eligible homeowners to defray the costs of elevating their homes. To be eligible for the Program, participants must (1) have been awarded a phase I or phase II Homeowner Assistance Program grant, (2) own and occupy a damaged residence that requires elevation, (3) reconstruct their primary dwelling on the same parcel for which they were awarded a Homeowner Assistance Program grant, and (4) ensure that the property site passes an environmental review. Program participants who (1) maintained flood insurance backed by the National Flood Insurance Program and/or (2) were eligible for the increased cost of compliance grant, did not qualify for the Program.

The State disbursed the grant in one of two ways: one payment of \$30,000 or two payments of \$15,000. If participants completed elevation and provided a certificate of occupancy and an elevation certificate indicating that elevation construction was complete, the State disbursed one payment of \$30,000. For the two payments, the State disbursed (1) \$15,000 after the Program participant provided a valid building permit and elevation certificate and (2) \$15,000 after the Program participant provided a certificate of occupancy and a final elevation certificate. After the closing date and disbursement of the initial \$15,000, the State required Program participants to complete the elevation of their homes within 2 years.

As of October 25, 2010, the State had disbursed more than \$29 million to 1,095<sup>1</sup> Program participants. Our objective was to determine whether the State ensured that disbursements made under the Program complied with Federal regulations and program policies and procedures. Specifically, we wanted to determine whether elevation grant disbursements to Program participants were eligible and supported.

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<sup>1</sup> Of the 1,095 Program participants, 213 received only the initial disbursement of \$15,000, totaling just under \$3.2 million. The remaining 882 program participants received the full disbursement of \$30,000, totaling more than \$26.4 million.

## RESULTS OF AUDIT

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### Finding: The State Generally Ensured That Disbursements to Program Participants Were Eligible and Supported

The State generally ensured that disbursements to Program participants were eligible but disbursed funds to five participants who were initially eligible, but later defaulted, making the disbursements ineligible and one participant who received duplicate assistance. This condition occurred because (1) the State had not implemented policies and procedures to assess whether there was a need for elevation construction before disbursing funds to one participant; (2) three participants, who received the initial \$15,000 payment, did not fully comply with the terms of the elevation grant agreement; (3) one participant received duplicate assistance without reimbursing the State; and (4) the State had not identified one participant who received duplicate assistance. As a result, the State paid \$90,000 in ineligible costs.

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#### **Five Participants Were Deemed Ineligible After Receiving Disbursements**

Although five participants were initially eligible, but later defaulted, making the disbursements ineligible, the State generally ensured that disbursements to Program participants were eligible and supported. The State disbursed grant funds in one of two ways: one payment of \$30,000 or two payments of \$15,000. After meeting the eligibility requirements, to receive grant funds, the State required Program participants to execute an elevation grant agreement (grant agreement), which stated that the participants understood and agreed to

- Elevate the primary residence at or above the Federal Emergency Management Agency advisory base flood elevation or the base flood elevation contained in the Digital Flood Insurance Rate Map, issued on November 15, 2007, and
- Complete elevation within 2 years of the date of the agreement.

In addition to the eligibility determination and execution of the grant agreement, before disbursing grant funds, the State's Program process guide and procedures manual required it to ensure that the file included

- A building permit,
- An elevation certificate, and
- A certificate of occupancy.

Further, the Robert T. Stafford Disaster Assistance and Emergency Relief Act - Title III, Section 312, or 42 U.S.C. (United States Code) 5155, prohibited the State from

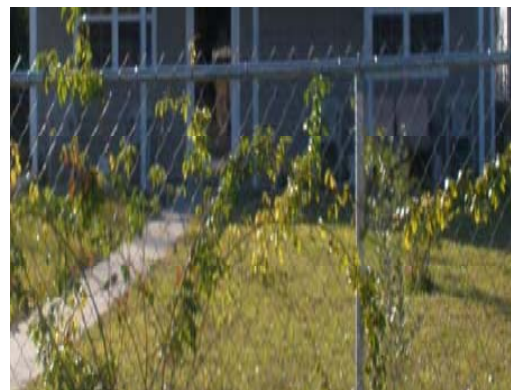
providing financial assistance to persons who received financial assistance under any other program or from insurance or any other source for the same purpose. Funds were also to be disbursed based upon need.

A file review of 22 participants who received disbursements totaling \$510,000 determined that

- One participant did not need elevation funds. Although this participant provided a valid elevation certificate and met other Program requirements, the property was located in an area above sea level and did not require additional elevation (see picture on the right below). Therefore, the property did not undergo construction to elevate it, and the participant did not need the elevation grant funds. This condition occurred because the State had not implemented policies and procedures to examine the home's current height, which would have assisted it in assessing whether there was a need for elevation construction. Before our review, the State identified this ineligible participant, who received \$30,000, and had taken action. However, the State must implement policies and procedures to assess the need for elevation construction.



As a comparison, this home underwent elevation construction.



This home (discussed above) did not undergo elevation construction.

Although the State generally ensured that disbursements to the remaining 21 participants were eligible and supported,

- One participant did not elevate her home to the required height. Before our review, the State deemed this participant, who received \$15,000, ineligible. The State received full reimbursement from this participant on June 3, 2009.
- One participant received assistance under the Mississippi Emergency Management Agency (MEMA) elevation program and, therefore, received a duplication of benefits. However, before our review, the State identified the issue during its management review and had taken action on this grant. The State stated that it had placed the participant on a repayment plan to recoup the \$15,000 but had not provided us with documentation to support this claim. The State also stated that the MEMA program began after the elevation grant

program and it had implemented controls to prevent a duplication of benefits between the two programs.

- Two participants, who received \$15,000 each, did not elevate their homes before the required completion deadline. These two participants' time expired during the course of our review. For example, one participant had until January 5, 2011, to submit an appeal for an extension of time to elevate but did not submit the appeal as required. As related to tracking participants who reach the 2-year deadline, the State had a system in place to monitor the expiration of the 2-year deadline period. The State was aware of this issue and stated that it had deemed these participants ineligible and they would not receive the final disbursement. The State also asserted that it would begin the collection process to recapture the \$30,000<sup>2</sup> disbursed to these two participants.

The State must repay to its Program the \$75,000 in ineligible costs. It must also ensure that it reallocates the \$60,000 in unreimbursed funds for the four Program participants who were later deemed ineligible, thereby ensuring that these funds are put to better use.

The remaining 17 Program participants received disbursements totaling \$420,000 that were eligible and supported. However, we believe that the State could implement additional measures to further prevent ineligible disbursements.

### **Additional Review Was Conducted**

We extended our review to identify other participants who received benefits under both the MEMA and State programs. As a result, we identified 16 Program participants who received assistance under both programs. Of the 16, the State had identified 10 and had taken action to recoup the funds disbursed to these participants. However, it had not identified the remaining six. Upon request, the State reviewed those six participants and provided additional documentation to support its review. Based upon the State's review of the six,

- One participant received assistance under both the MEMA and State programs. The State asserted that it has placed the participant in collections to recapture the \$15,000 disbursed; and
- Five participants did not receive duplicate assistance because although the damaged addresses used under both programs were the same, the MEMA participants' names were different from the State's participants' names.

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<sup>2</sup> Each applicant received the initial \$15,000 grant. A total of \$30,000 was disbursed to the two applicants.

We reviewed the additional documentation and agreed with the State's assessment. As such, the State must repay its Program the \$15,000 in ineligible costs. In addition, it must also ensure that it reallocates the \$15,000 in unreimbursed funds for this participant, thereby ensuring that these funds are put to better use. Further, since the MEMA damaged addresses were the same as the State's damaged addresses, the State should consider conducting eligibility reviews across its disaster recovery programs to ensure different participants did not receive assistance for the same damaged property.

## Conclusion

The State generally ensured that disbursements to Program participants were eligible but disbursed funds to participants who (1) were initially eligible, but later defaulted, making the disbursements ineligible and (2) received duplicate assistance. This condition occurred because (1) the State had not implemented policies and procedures to assess whether there was a need for elevation construction before disbursing grant funds, (2) participants did not fully comply with the terms of the elevation grant agreement, (3) participants received duplicate assistance without reimbursing the State, and (4) the State had not identified other participants who received duplicate assistance. As a result, the State disbursed \$90,000 in questioned costs.

## Recommendations

We recommend that the HUD's Deputy Assistant Secretary for Grant Programs

- 1A. Ensure that the State repays to its Program the \$90,000 in ineligible costs for the six participants who did not comply with the Program requirements and/or received assistance under the MEMA program.
- 1B. Ensure that the State reallocates the \$75,000 in unreimbursed funds for the five program participants who were later deemed ineligible, thereby ensuring that these funds are put to better use and used for eligible activities.
- 1C. Require the State to develop and implement additional written policies, which include procedures for verifying the need for elevation construction, before disbursing final payment to ensure that funds are properly spent.

We also recommend that the Deputy Assistant Secretary require the State to consider



- 1D. Amending its Program policy to include a requirement that staff performing file reviews document its review and verification of required documents needed to support eligibility prior to the disbursement of funds.
- 1E. Requiring land surveyors, engineers, and architects to submit, in addition to elevation certificates, photographs of properties that they certify as having been elevated. The photographs should clearly show the property address.
- 1F. Conduct site visits of all properties for which Program participants have received the full \$30,000 disbursement to ensure that homes have been elevated in accordance with the Program elevation requirements. The State's administrative procedures should indicate the frequency of those site visits.
- 1G. Conducting eligibility reviews across its disaster recovery programs to ensure different participants did not receive assistance for the same damaged property.

## SCOPE AND METHODOLOGY

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We conducted our audit at the State's office and the HUD Office of Inspector General (OIG) office in Jackson, MS. We performed our audit work between October 2010 and January 2011.

To accomplish our objective, we used disbursement data from Program inception to October 25, 2010, which consisted of 1,095<sup>3</sup> program participants, totaling more than \$29 million. Through file reviews, we determined that the disbursement data were generally reliable. We used a stratified sampling approach to statistically select 22<sup>4</sup> of the 1,095 program participants, totaling \$510,000, for review. We chose this method because it allowed selections to be made without bias from the audit population and allowed conclusions to be reached about the population or activity being tested, based on mathematically defensible projections from the sample. We reviewed files for the 22 Program participants who received disbursements to determine whether the disbursements were eligible and supported. For our expanded review, we obtained disbursement data from MEMA and compared MEMA's data to the State's disbursement data for its Program participants. We did not assess the reliability of the data or conduct file reviews.

In addition to the file and expanded reviews, we

- Interviewed pertinent HUD, MEMA, State, and contractor staff.
- Obtained and reviewed relevant laws, regulations, and other applicable legal authorities relevant to the CDBG Supplemental Disaster Recovery program grants.
- Obtained and reviewed the grant agreements executed between HUD and the State.
- Reviewed the State's written Program policies and procedures.
- Analyzed and reviewed contracts and amendments executed between the State and its contractors.
- Obtained and reviewed the State's monitoring report.
- Obtained HUD's review of the State's Program.
- Conducted site visits to homes of participants who received the full \$30,000 disbursement to ensure that the properties had been elevated.

Our audit period covered March 2008 through October 2010. We expanded our audit period as necessary. We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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<sup>3</sup> Of the 1,095 program participants, 213 received only the initial disbursement of \$15,000, totaling just under \$3.2 million. The remaining 882 program participants received the full disbursement of \$30,000, totaling more than \$26.4 million.

<sup>4</sup> Of the 22, 10 program participants received the initial disbursement of \$15,000, and 12 received the full disbursement of \$30,000.

# INTERNAL CONTROLS

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Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

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

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

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## Relevant Internal Controls

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

Policies and procedures implemented and/or followed by the State and its contractors to ensure compliance with applicable laws and regulations when making disbursements under the Program.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

## Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- The State had not implemented written policies and procedures to assess the need for elevation construction before disbursing funds (see finding).

## APPENDIXES

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### Appendix A

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

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Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A	\$90,000	
1B		\$75,000
<b>Totals</b>	<b>\$90,000</b>	<b>\$75,000</b>

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 OIG recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified.

## Appendix B

### AUDITEE COMMENTS AND OIG'S EVALUATION

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#### Ref to OIG Evaluation

#### Auditee Comments

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

**Community Development Block Grant  
State of Mississippi  
2011-AO-10XX**

The Mississippi Development Authority ("MDA") offers the following response to the findings and recommendations of the draft audit report issued by U.S. Department of Housing and Urban Development's Office of Inspector General for Audit, Gulf Coast Region ("OIG"), which was received by MDA on or about February 25, 2011.

**Scope and Results of Review:** On October 25, 2011, OIG initiated its audit of the Homeowner Assistance Grant Program's ("HAP") Elevation Grant Program ("EGP") to determine whether MDA ensured that disbursements made under it "were eligible and supported." In the draft report, it determined that overall MDA "generally ensured that disbursements to [EGP] participants were eligible and supported." Draft at 1. Despite this conclusion, OIG went on to find that funds were disbursed to "participants who (1) were deemed ineligible and (2) received duplicate assistance." Id. It then proceeded to construe that these events occurred because "(1) the State had not implemented policies and procedures to assess whether there was a need for elevation construction before disbursing grant funds, (2) participants did not fully comply with the terms of the elevation grant agreement, (3) participants received duplicate assistance without reimbursing the State, and (4) the State had not identified other participants who received duplicate assistance." Id. at 1-2. MDA takes issue with these unsupported findings.

**MDA's Response:** As an initial matter, MDA objects to the draft report on grounds that there are no material findings sufficient to merit the conclusions reached in it. Indeed, as will be outlined further, the draft report supports the position that adequate controls were and are in place for EGP and that those controls functioned as designed. Every issue raised by OIG was previously discovered and acted on by MDA. In addition, MDA must note at the outset that everything reported by OIG were not failures of the program but failures by applicants within the program. This is important because no governmental program is 100% successful. Realizing this, what is vital for any program is to have sufficient controls – those essential policies and procedures – to make sure when applicant failure occurs it is discovered in a timely manner and effectively acted on. MDA would assert that this is exactly what the draft report shows. Indeed, as will be clearly shown, OIG's testing revealed in every instance that MDA internal controls were adequate in every regard.

Moving beyond this, MDA would respond to the specific findings as follows:

(1) *MDA disbursed funds to ineligible participants.* OIG has boldly declared that MDA disbursed CDBG funds to "ineligible" EGP applicants, citing some 5 cases from its initial review of 22 files. However, except for one case of suspected fraud, those cited applicants were in fact legally eligible to participate in the program.

**Comment 1**

**Comment 2**

The HAP Action Plan, finalized on or about September 11, 2006, created EGP and provided that it would be available to homeowners who met the following eligibility criteria:

- The homeowner owned and occupied the home as of August 29, 2005.
- The home was located in Harrison, Hancock, Jackson or Pearl River Counties, Mississippi.
- The home was the homeowner's primary residence on August 29, 2005, was located outside the pre-Katrina designated flood zone as of that date, and was flooded as a result of Hurricane Katrina.
- Homeowner's insurance was maintained on the home.
- The home would be elevated in accordance with the post-Katrina FEMA flood maps and in accordance with the International Residential Code of 2003.
- The homeowner had attached required covenants to their land.<sup>1</sup>

**Comment 2**

Four of the five EGP applicants determined by OIG to be "ineligible" met these basic requirements and were, in fact, legally "eligible." The problem with these four had nothing to do with eligibility. Instead, three of them did not meet the terms of their grant agreement, and one received assistance from another disaster recovery program after receiving benefits from MDA's program. These events may render an applicant to be non-compliant or in default, but they do not render a person to be "ineligible" under the strict terms of the governing action plan, as amended and clarified.

It must be again stressed here that EGP's controls, policies and procedures worked as designed in these four cases. As noted by OIG in the draft, MDA detected the defaults in each case and acted in accordance with governing regulations to recoup any funds provided to the applicants. A close examination of the facts verifies this:

**Comment 3**

- An eligible homeowner applied for the grant, submitted a proper building permit and Preliminary Construction Drawings-based Elevation Certificate and received an initial \$15,000. Unfortunately, this person produced a final "Construction Elevation Certificate" indicating that they were short of the required FEMA level for height and thus were determined to be in default of their Grant Agreement. Pursuant to program rules, a demand for repayment of the \$15,000 was made and a full repayment occurred prior to the OIG beginning its review.

**Comment 4**

- Two applicants had their completion deadlines – as established by program rules and their grant agreements – come up during the OIG review. One of these applicants has now been determined to be in default and collection efforts have been initiated to recoup the initial \$15,000 payment. However, the other applicant submitted documentation to MDA showing that construction has begun on his home and requesting an extension of the deadline. This request has been granted by MDA in accordance with established

<sup>1</sup> EGP was subsequently extended to HAP Phase II applicants. A program clarification was issued on June 18, 2007 (HAP Program I Technical Modification Number 7), which provided that the grant would be divided into 2 separate payments – the first for 50% of the grant upon the producing a valid building permit from the local permit office and the remaining 50% upon receipt of a letter of compliance/elevation certificate from the local permit/inspection office.

EGP policies and a new deadline has been set. Therefore, there is no basis at this time to recapture this applicant's initial \$15,000 payment.

**Comment 5**

Again, OIG uncovered nothing with regard to these applicants; instead, MDA provided the files and information to OIG, files on which MDA had already taken action against the defaulting parties in accordance with applicable policies and procedures. Given this, there is no basis for OIG's ultimate conclusion that MDA's written policies and controls are "inadequate." In fact, what OIG's testing demonstrates is that the EGP's controls were functioning properly and adequately.

**Comment 6**

Only one of the applicants identified as such was truly "ineligible." However, this individual apparently attempted to defraud the state. She submitted a "Finished Construction Elevation Certificate" and a "Certificate of Occupancy" indicating that her structure had been elevated to the required FEMA height. However, in the fall of 2009, MDA received information that led it to suspect that she had attempted to defraud the program. MDA immediately referred the matter to the Office of State Auditor's Katrina Fraud Task Force under its established procedure. At this point, because there is an ongoing criminal investigation and potential prosecution, MDA cannot take further action to recoup the grant amount but must, under governing legal principals, defer to the criminal proceedings. Just as with the other four cases, MDA's set EGP controls – its policies and procedures – worked exactly as designed by detecting the suspected fraud and initiating the appropriate, legally required process – again well before the OIG initiated its review.

**Comment 7**

(2) *MDA failed to prevent a duplication of benefits from occurring.* This OIG finding focuses on two specific applicants who both received a duplication in disaster assistance in the same way. However, in the strictest sense, MDA was not responsible for these situations.

In this regard, a brief review of the history of disaster assistance is needed. As has been set forth previously, EGP was provided for in the initial HAP Action Plan in September of 2006. FEMA funded the Alternative Housing Pilot Program through the Homeland Security Act of 2002, H. R. 5005-8, P.L.107-296. In a competitively bid process amongst the states impacted by Hurricanes Katrina and Rita, FEMA awarded the State of Mississippi, through its agency the Mississippi Emergency Management Agency ("MEMA"), approximately \$281 million for the purpose of (a) providing alternatives to the FEMA trailer for temporary placement of disaster victims and (b) addressing permanent housing solutions to disaster victims. Although, the initial performance period for temporary placement began on April 1, 2007, permanent placement was not implemented until September, 2009. The purpose of the Mississippi Alternative Housing Pilot Program ("MAHP") was to provide a temporary and viable alternative to the FEMA trailer and ultimately to permanently install and transfer ownership of Mississippi cottages (manufactured housing designed as a better alternative to trailers and mobile homes) to individual disaster victims.

In both cases cited by OIG, the EGP applicants came in with plans for reconstruction of their homes with appropriate measures for elevation. After applying and receiving their initial \$15,000 EGP payments, these applicants applied for MAHP assistance, which was ultimately

approved. MEMA provided a Mississippi cottage to these individuals and paid for the elevation of those structures with FEMA funds.

**Comment 7**

In each case, the EGP initial disbursement was made first, prior to the applicant receiving any assistance from MEMA. The entity administering a federal grant which pays first does not violate the “Robert T. Stafford Disaster Assistance and Emergency Relief Act” because, at the time of that initial disbursement, no duplication exists. MDA cannot be held responsible for what another agency does with its federal grant funds.

**OIG’s Recommendations with MDA’s Responses:**

**Comment 8**

1A. *Ensure that the State repays to its Program the \$90,000 in ineligible costs for the six participants who did not comply with the Program requirements and/or received assistance under the MEMA program.* MDA objects to the term “ineligible” in this recommendation. In addition, according to the OIG draft report, it only has five cases to consider, not six as stated here. Furthermore, without waiving the foregoing objections, MDA would affirmatively assert that it does not have \$90,000 in funds to recoup. As set forth above, the one applicant deemed to have been in default by OIG is not; instead, that applicant was granted an extension of the completion deadline under EGP policies. Therefore, MDA does not have to recoup this initial \$15,000 payment. Second, MDA should not be required to recoup two \$15,000 payments made to the two applicants due to a duplication of benefits problem. Those EGP distributions took place prior to these applicants receiving MEMA assistance. However, it should be noted that MDA is attempting to collect those federal dollars as a cooperative measure with MEMA. Therefore, the total amount in question is \$45,000 for which MDA has initiated proper legal measures to recoup.

**Comment 9**

1B. *Ensure that the State reallocates the \$75,000 in unreimbursed funds for the five program participants who were deemed ineligible, thereby ensuring that these funds are put to better use.* MDA objects to the term “ineligible” in this recommendation. Without waiving the forgoing, MDA has reallocated these dollars back to program use.

**Comment 10**

1C. *Require the State to develop and implement adequate written policies, which include procedures for verifying the need for elevation construction, before disbursing final payment to ensure that funds are properly spent.* MDA objects to this recommendation and asserts that adequate written policies, procedures and controls exist in this regard for EGP. Indeed, the OIG review verifies this and clearly demonstrates that those controls have acted adequately and properly. Process Manual and Guide amendments have been issued internally documenting both Duplication of Benefits, and Damage Assessment checks. The Environmental Review which has been in place since the onset of the program is another layer of control to assess Floodway and Floodplain determinations.

**Comment 11**

1D. *Amending its Program policy to include a requirement that staff performing file reviews document its review and verification of required documentation needed to support eligibility.* MDA objects to this recommendation and would affirmatively assert that it presently has – and has had since EGP’s inception – such a documented check off.



EGP utilizes OnBase and the EGP Database Systems to house documentation and evidence of all checklists. The OIG audit team should be aware of this from its file reviews.

**Comment 12**

1E. *Requiring land surveyors, engineers, and architects to submit, in addition to elevation certificates, photographs of properties that they certify as having been elevated. The photographs should clearly show the property address.* An elevation certificate issued by a professional – providing specific pre- and post- construction elevation for a property, along with the specific location of the property – is, both legally and factually, the best proof of elevation. Indeed, a photograph of the property – subject to the beholder’s eye as to what is going on – is simply inadequate and far less reliable when compared to a document essentially issued under oath by a professional with authority to give it.

1F. *Conducting periodic site visits of properties for which Program participants have received the full \$30,000 disbursement to ensure that homes were elevated in accordance with the Program elevation requirements.* MDA accepts this recommendation, noting that it is conducting monitoring of EGP.

**Comment 13**

1G. *Conducting eligibility reviews across its disaster recovery programs to ensure different participants did not receive assistance for the same damaged property.* MDA would assert that the state is conducting sufficient duplication of benefits checks between MEMA and itself.

## OIG Evaluation of Auditee Comments

- Comment 1** We disagree. The State asserted that there was no material findings sufficient to merit the conclusions reached. However, we identified issues with 5 of the 22 files reviewed. Of which, one instance involved an applicant who met the Program requirements and provided the appropriate documentation, thus received \$30,000. However, the applicant's property did not undergo any elevation construction and the applicant did not need the elevation grant funds. We also disagree with the State's assertion that our testing revealed that the State's internal controls were adequate in every regards. In fact, the results of our review determined that the State did not implement adequate controls to assess the need for elevation construction prior to disbursing funds.
- Comment 2** The State believed that OIG has boldly declared that the State disbursed CDBG funds to "ineligible" EGP applicants, citing some 5 cases from its initial review of 22 files. The State asserted that, except for one case of suspected fraud, those cited applicants were in fact legally eligible to participate in the program. We agreed at the exit conference to revise the report language and have done so. We revised the report to clarify that these applicants were initially eligible for the Program, but later defaulted on their grant agreements, thus making the disbursements ineligible.
- Comment 3** We acknowledge the State for taking action to recover the funds disbursed.
- Comment 4** The State explained that two applicants had their completion deadlines - as established by program rules and their grant agreements - come up during the OIG review. The State maintained that one of these applicants has been determined to be in default and collection efforts have been initiated to recoup the initial \$15,000 payment. However, the State maintained that the other applicant submitted documentation showing that construction had begun on his home and requested an extension of the deadline. The State explained that the request was granted in accordance with established EGP policies and a new deadline was set. Therefore, the State asserted that there is no basis at this time to recapture this applicant's initial \$15,000 payment.

The State provided documentation to show the granted extension. We reviewed the documentation and determined that the applicant's deadline to file an appeal for an extension had past, in violation of the State's policy. The State's policy required the applicant to file an appeal for an extension by February 15, 2011. However, the applicant did not file an appeal until February 23, 2011, missing the deadline by 8 days and therefore in default of the signed grant agreement. In addition, other than a statement from the applicant, the State did not provide documentation supporting the applicant's claim that construction had begun. Therefore, we stand by our conclusion.

- Comment 5** We disagree. The State asserted that our report uncovered nothing and interpreted that our ultimate conclusion was that the State's written policies and controls were inadequate. However, the audit report accurately reflects the issues identified and our conclusions which determined that the State had not implemented adequate controls to assess the need for elevation construction prior to disbursing funds.
- Comment 6** We acknowledge the State for taking action on this applicant. However, the State asserted that its Program controls worked exactly as designed by detecting the suspected fraud and the applicant met the Program requirements and provided the appropriate documentation, thus received \$30,000. The only reason the State identified the issue was because of a hotline complaint, which prompted the State to review the applicant's file. At the exit conference, the State asserted that the hotline is used to detect noncompliance. The State did not discuss or provide documentation to support any other methods for detecting noncompliance. In addition, had the State implemented policies and procedures to assess the need for elevation construction, it could have prevented these funds from being disbursed. Therefore, we stand by our original conclusion.
- Comment 7** The State believed that it was not responsible for the two applicants who received duplicate disaster assistance. The State provided documentation to support that its disbursements to the two applicants occurred prior to the applicants applying for MEMA assistance. We reviewed the additional documentation and determined that in one instance the applicant was deemed eligible for the MEMA program prior to receiving a disbursement under the State's program. In the other instance, the applicant received a disbursement under the State's program prior to receiving assistance under the MEMA program. Despite these determinations, the State should have been aware of and coordinated with MEMA, at the initiation of MEMA's program, to ensure that no duplication of benefits occurred, instead of after the fact. In addition, the State made the determination that both of these applicants received a duplication of benefits, and had taken action to recover the funds disbursed. Therefore, we stand by our conclusion and once the State recovers the funds, it should pay those funds back to its Program.
- Comment 8** As discussed in comment 2, we revised the report as agreed. As discussed in comments 4 and 7 above, we stand by our conclusions and recommendation for all six applicants.
- Comment 9** As discussed in comment 2, we revised the report as agreed. We acknowledge the State for taking action on this recommendation. The State should provide supporting documentation to HUD's staff, which will assist the Authority with resolving recommendation 1B.
- Comment 10** The State objected to this recommendation, asserting that adequate written policies, procedures and controls existed in this regard for the Program. We disagree. As discussed in the report and in comment 1, the State did not have

adequate controls in place to assess the need for elevation construction. Therefore, we stand by this recommendation.

**Comment 11** We agree that State has a system in place to maintain Program documentation and during the review, we reviewed several checklists. The checklists included verifications that the State obtained the required documentation from the applicants. However, the checklists did not confirm the accuracy of the documentation. In addition, we could not always identify the staff responsible for completing the checklists. Further, as reflected in the report, we only asked the State to consider implementing this additional measure.

**Comment 12** The State asserted that a photograph of the property is simply inadequate and far less reliable when compared to a document essentially issued under oath by a professional with authority to give it. We agree that the elevation certificate is a reliable document. However, coupled with a photograph, we believe that the State could have immediately recognized that the property, for the applicant who did not need elevation funds, did not undergo any elevation construction. In addition, as reflected in the report, we only asked the State to consider implementing this additional measure.

**Comment 13** We acknowledged that the State has implemented procedures to check for duplication of benefits between the State's and MEMA's elevation programs. This recommendation was related to the State conducting eligibility reviews across all of its disaster recovery programs to ensure that different participants did not receive assistance for the same damaged property. Again, as reflected in the report, we only asked the State to consider implementing this recommendation.