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TO: Elizabeth M. Duke, Ph.D.
Administrator
Health Resources and Services Administration

FROM: Daniel R. Levinson *Daniel R. Levinson*
Inspector General

SUBJECT: Emergency Response to Hurricanes Katrina and Rita: Audit of Health Resources and Services Administration's Award Process for a Contract With Collaborative Fusion, Inc. (A-03-06-00546)

This report provides the results of our audit of the Health Resources and Services Administration's (HRSA) award process for a contract with Collaborative Fusion, Inc. (Collaborative Fusion), of Pittsburgh, Pennsylvania. The audit is one of several reviews of procurements by HRSA and other components of the Department of Health and Human Services (HHS) in response to Hurricanes Katrina and Rita in 2005.

BACKGROUND

Hurricane Relief Efforts

In the aftermath of Hurricane Katrina, hundreds of thousands of individuals were evacuated from the Mississippi and Louisiana coastal areas. States needed volunteer health professionals to provide health care services to these individuals. To support the States in providing these services, HRSA awarded a time-and-materials contract to Collaborative Fusion. The contract obligated Collaborative Fusion to provide assistance to HRSA and the States in setting up a temporary health professional volunteer registry. The contract, effective September 13, 2005, provided \$222,260 for this purpose.

HRSA's Division of Procurement Management was responsible for soliciting, negotiating, awarding, and administering the contract.

Federal Acquisition Regulations

The Federal Acquisition Regulation (FAR) defines a contract as a mutually binding legal relationship obligating the seller to furnish the supplies or services and the buyer to pay for them. It includes all types of commitments that obligate a Government expenditure of appropriated

funds, including awards, job orders, letter contracts, orders, and bilateral contract modifications (FAR 2.101).

The FAR establishes the basic requirements for acquisitions by Federal agencies. The Health and Human Services Acquisition Regulation (HHSAR) implements and supplements the FAR and provides requirements that specifically govern the HHS contract process.

The FAR and the HHSAR provide, among other things, that HHS agencies award each contract to a responsible party (FAR 9.103(a)) and document compliance with requirements for full and open competition and the determination that the price was fair and reasonable (FAR 6.101(b) and 15.402(a)). Agencies also must develop a statement or description of the goods or services being requested (FAR 16.504(a)(4)(iii)).

A time-and-materials contract provides for acquiring supplies or services on the basis of (1) direct labor hours at specified, fixed hourly rates that include wages, overhead, general and administrative expenses, and profit and (2) materials at cost, including, if appropriate, material-handling costs. A time-and-materials contract may be used only when it is not possible at the time of placing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence. In addition, a time-and-materials contract may be used only after the contracting officer executes a determination and findings that no other contract type is suitable and only if the contract includes a ceiling price that the contractor exceeds at its own risk (FAR 16.601). A “determination and findings” is a special form of written approval by an authorized official as a prerequisite to taking certain contract actions (FAR 1.701). The “determination” is a conclusion or decision supported by the “findings” (Id.). The findings are statements of fact or rationale essential to support the determination and must cover each requirement of the statute or regulation (Id.).

Letter contracts may be used only for urgent needs. Unpriced orders, which must contain price ceilings, may be used only when it is impractical to obtain pricing. In addition, agencies must consider the appropriate contract type pursuant to guidance in FAR part 16. In certain situations, consideration must be given to small and minority businesses and local firms.

On September 8, 2005, recognizing the unusual and compelling circumstances created by Hurricane Katrina, the HHS Office of Acquisition Management and Policy issued a “Class Justification for Other Than Full and Open Competition and Waiver of Synopsis Requirements” (waiver). The waiver, which was effective until October 27, 2005, allowed HHS agencies to temporarily limit the actions taken to ensure full and open competition during the procurement of urgently needed items and services. For example, the extent of market research and other competitive procedures could be limited as considered necessary in the circumstances. For procurements valued at more than \$100,000, the waiver required HHS agencies to ensure that their procurement records included a copy of the waiver, a note indicating compliance with the applicable limitations, and a signed statement that the award was made in response to the hurricane.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our audit was to determine whether HRSA complied with FAR and HHSAR requirements during the award process involving Collaborative Fusion.

Scope

We limited our audit to the award process for HRSA's contract HSH234200537008C, effective September 13, 2005, with Collaborative Fusion. We did not assess HRSA's overall internal control environment. We also did not review contract performance or the acceptance and inspection of goods and services received.

We performed fieldwork at HRSA's Division of Procurement Management in Rockville, Maryland, in May 2006.

Methodology

To accomplish our objective, we:

- reviewed FAR and HHSAR requirements,
- met with HRSA officials to ensure an adequate understanding of HRSA's actions during the award process and the basis for those actions, and
- examined the records of negotiation and other documentation related to the award of the contract to determine whether HRSA followed FAR and HHSAR requirements.

We performed our audit in accordance with generally accepted government auditing standards.

RESULTS OF AUDIT

HRSA complied with FAR and HHSAR requirements during the award process for contract HSH234200537008C with Collaborative Fusion. HRSA awarded this contract under the waiver that limited actions necessary to ensure full and open competition. According to the procurement records, HRSA had determined that an unusual and compelling urgency existed sufficient to solicit from a single source and that Collaborative Fusion's previous experience developing a volunteer registration system, as well as its ability to quickly verify health care professionals' credentials, qualified it to provide the emergency services. Furthermore, the procurement records contained all documentation required by the waiver, as well as the determination and findings required for time-and-materials contracts.

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This audit was conducted in conjunction with the President's Council on Integrity and Efficiency (PCIE) as part of its examination of relief efforts provided by the Federal Government in the aftermath of Hurricanes Katrina and Rita. As such, a copy of the report has been forwarded to the PCIE Homeland Security Working Group, which is coordinating Inspectors General reviews of this important subject.

If you have any questions about this report, please do not hesitate to call me, or your staff may contact Joseph J. Green, Assistant Inspector General for Grants, Internal Activities, and Information Technology Audits, at (202) 619-1175 or through e-mail at Joe.Green@oig.hhs.gov. Please refer to report number A-03-06-00546.