

**DEC - 8 2008**

TO: RADM W. Craig Vanderwagen, M.D.
Assistant Secretary for Preparedness and Response

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

FROM: 
Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Allowability of Costs Claimed for Reimbursement Under Alabama's Bioterrorism Hospital Preparedness Program for the Period September 1, 2004, Through August 31, 2006 (A-04-07-01049)

Attached is an advance copy of our final report on the allowability of costs claimed for reimbursement under Alabama's Bioterrorism Hospital Preparedness Program (the program) for the period September 1, 2004, through August 31, 2006. We will issue this report to the Alabama Department of Public Health (the State agency) within 5 business days.

Under section 319 of the Public Health Service Act, the program provides funds to State, territorial, and municipal governments or health departments to upgrade the preparedness of hospitals and collaborating entities to respond to bioterrorism and other public health emergencies. From April 2002 to March 2007, the Health Resources and Services Administration administered the program. In March 2007, responsibility for the program was transferred to the Assistant Secretary for Preparedness and Response.

Our objective was to determine whether selected costs that the State agency claimed for reimbursement under the program for the period September 1, 2004, through August 31, 2006, were allowable, allocable, and reasonable.

Of the \$12,142,128 in selected costs that the State agency claimed for reimbursement for the period September 1, 2004, through August 31, 2006, \$6,430,983 was allowable. However, \$5,711,145 was unallowable because the State agency advanced funds to a subrecipient that did not obligate and disburse the funds within the specified program period. In addition, the subrecipient earned interest totaling \$215,783 on program funds that it did not remit to the Federal Government as required. These deficiencies occurred because the State agency (1) did not have sufficient procedures to ensure that subrecipients obligated and expended funds within

the period specified in the grant awards and (2) was not aware of the requirement to remit interest to the Federal Government.

We recommend that the State agency refund \$5,711,145 in unallowable costs; remit \$215,533 in interest earned on program funds (\$215,783 less \$250 allowed to be retained pursuant to Federal regulations); remit any additional interest earned after the completion of our fieldwork, less the amount allowed to be retained pursuant to Federal regulations; and institute procedures to ensure that subrecipients obligate and expend funds within the periods specified in the grant awards.

In written comments on our draft report, the State agency agreed to refund all interest earned on advances to a subrecipient except for \$37,039 that the State agency said the subrecipient used for hospital preparedness. The State agency did not agree with our finding that a subrecipient did not expend \$5,711,145 in grant funds within the appropriate period. However, nothing in the State agency's comments caused us to change our finding or recommendations.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Lori S. Pilcher, Assistant Inspector General for Grants, Internal Activities, and Information Technology Audits, at (202) 619-1175 or through e-mail at Lori.Pilcher@oig.hhs.gov or Peter J. Barbera, Regional Inspector General for Audit Services, Region IV, at (404) 562-7800 or through e-mail at Peter.Barbera@oig.hhs.gov. Please refer to report number A-04-07-01049.

Attachment

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General
Office of Audit Services



REGION IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, Georgia 30303

DEC 11 2008

Report Number: A-04-07-01049

Donald E. Williamson, M.D.
State Health Officer
Alabama Department of Public Health
RSA Tower, Suite 1552, Monroe Street
Montgomery, Alabama 36130-3017

Dear Dr. Williamson:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Allowability of Costs Claimed for Reimbursement Under Alabama's Bioterrorism Hospital Preparedness Program for the Period September 1, 2004, Through August 31, 2006." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, this report will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact John Drake, Audit Manager, at (404) 562-7755 or through e-mail at John.Drake@oig.hhs.gov. Please refer to report number A-04-07-01049 in all correspondence.

Sincerely,

A handwritten signature in cursive script that reads "Peter J. Barbera".

Peter J. Barbera
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Mr. Jay Petillo
Director of Resource Planning and Evaluation
Assistant Secretary for Preparedness and Response
200 Independence Avenue SW., Room 624D
Washington, DC 20201

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**ALLOWABILITY OF COSTS
CLAIMED FOR REIMBURSEMENT
UNDER ALABAMA'S
BIOTERRORISM HOSPITAL
PREPAREDNESS PROGRAM FOR
THE PERIOD SEPTEMBER 1,
2004, THROUGH AUGUST 31,
2006**



Daniel R. Levinson
Inspector General

December 2008
A-04-07-01049

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, Office of Inspector General reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5).

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Under section 319 of the Public Health Service Act, the Bioterrorism Hospital Preparedness Program (the program) provides funds to State, territorial, and municipal governments or health departments to upgrade the preparedness of hospitals and collaborating entities to respond to bioterrorism and other public health emergencies. From April 2002 to March 2007, the Health Resources and Services Administration (HRSA) administered the program. In March 2007, the Pandemic and All-Hazards Preparedness Act (P.L. No. 109-417, December 19, 2006) transferred responsibility for the program from HRSA to the Assistant Secretary for Preparedness and Response.

In Alabama, the Department of Public Health (the State agency) administers the program. For the period September 1, 2004, through August 31, 2006, the State agency claimed program reimbursement totaling \$18.1 million. We reviewed \$12.1 million of this reimbursement.

OBJECTIVE

Our objective was to determine whether selected costs that the State agency claimed for reimbursement under the program for the period September 1, 2004, through August 31, 2006, were allowable, allocable, and reasonable.

SUMMARY OF FINDINGS

Of the \$12,142,128 in selected costs that the State agency claimed for reimbursement for the period September 1, 2004, through August 31, 2006, \$6,430,983 was allowable. However, \$5,711,145 was unallowable because the State agency advanced funds to a subrecipient that did not obligate and disburse the funds within the specified program period. In addition, the subrecipient earned interest totaling \$215,783 on program funds that it did not remit to the Federal Government as required. These deficiencies occurred because the State agency (1) did not have sufficient procedures to ensure that subrecipients obligated and expended funds within the period specified in the grant awards and (2) was not aware of the requirement to remit interest to the Federal Government.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$5,711,145 in unallowable costs;
- remit \$215,533 in interest earned on program funds (\$215,783 less \$250 allowed to be retained pursuant to Federal regulations);

- remit any additional interest earned after the completion of our fieldwork, less the amount allowed to be retained pursuant to Federal regulations; and
- institute procedures to ensure that subrecipients obligate and expend funds within the periods specified in the grant awards.

**STATE AGENCY COMMENTS AND
OFFICE OF INSPECTOR GENERAL RESPONSE**

In written comments on our draft report, the State agency agreed to refund all interest earned on advances to a subrecipient except for \$37,039 that the State agency said the subrecipient used for hospital preparedness. The State agency did not agree with our finding that a subrecipient did not expend \$5,711,145 in grant funds within the appropriate period. However, nothing in the State agency's comments caused us to change our findings or recommendations. The State agency's comments, except for personally identifiable information, are included as Appendix B.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Bioterrorism Hospital Preparedness Program.....	1
Alabama Program Funding	1
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective	2
Scope.....	2
Methodology	3
FINDINGS AND RECOMMENDATIONS	4
UNALLOWABLE PROGRAM COSTS	4
Federal Regulations	4
Program Funds Not Spent Within Program Period and Unearned Performance Fees	5
INTEREST EARNED ON PROGRAM FUNDS	6
RECOMMENDATIONS	6
STATE AGENCY COMMENTS	7
OFFICE OF INSPECTOR GENERAL RESPONSE	7
Interest Earned on Advances to the Alabama Hospital Association.....	7
Grant Funds Expended Appropriately	7
Expenditures Claimed Pursuant to Guidance	8
Time Between Advancing and Spending Funds.....	9

APPENDIXES

A – AWARDS TO THE ALABAMA HOSPITAL ASSOCIATION

B – STATE AGENCY COMMENTS

INTRODUCTION

BACKGROUND

Bioterrorism Hospital Preparedness Program

The Bioterrorism Hospital Preparedness Program (the program) provides funds to State, territorial, and municipal governments or health departments to upgrade the preparedness of hospitals and collaborating entities to respond to bioterrorism and other public health emergencies.¹ From April 2002 to March 2007, the Health Resources and Services Administration (HRSA) administered the program. In March 2007, the Pandemic and All-Hazards Preparedness Act (P.L. No. 109-417, December 19, 2006) transferred responsibility for the program from HRSA to the Assistant Secretary for Preparedness and Response (ASPR).

HRSA elected to establish 12-month program years for 2003 through 2005 and then extended the years for up to 24 additional months for certain costs if a grantee requested a time extension to spend the funds.² HRSA issued a notice of award to each grantee to set forth the approved budget as well as the terms and conditions of the individual cooperative agreement.

To monitor the expenditure of these funds, HRSA required grantees to submit financial status reports (FSR) showing the amounts expended, obligated, and unobligated. Financial reporting requirements (45 CFR § 92.41(b)(3)) for Department of Health and Human Services (HHS) grants to State and local governments state: “If the Federal agency does not specify the frequency of the report, it will be submitted annually.” Because program guidance for 2003 was silent on the frequency of submission, annual FSRs were required for that year. Program guidance for 2004 and 2005 required quarterly interim FSRs and a final FSR 90 days after the end of the budget period, which we refer to in this report as a “program year.”

Alabama Program Funding

In Alabama, the Department of Public Health (the State agency) administers the program and distributes funds to subrecipients to carry out program objectives. During our audit period (September 1, 2004, through August 31, 2006), HRSA awarded program funds totaling \$15.3 million to the State agency: \$8 million for the period September 1, 2004, through February 28, 2006, and \$7.3 million for the period September 1, 2005, through August 31, 2007. In addition, during our audit period, as part of a no-cost extension, HRSA permitted the State

¹Congress initially authorized funding for this program under the Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response to Terrorist Attacks on the United States Act, 2002, P.L. No. 107-117, through the Public Health and Social Services Emergency Fund at section 319 of the Public Health Service Act (42 U.S.C. § 247d). In June 2002, Congress enacted section 319C-1 of the Public Health Service Act (42 U.S.C. § 247d-3a) to support efforts to counter potential terrorist threats and other public health emergencies.

²For Alabama, program year 2003 was September 1, 2003, through August 31, 2004, which was extended to August 31, 2005, for certain costs; program year 2004 was September 1, 2004, through August 31, 2005, which was extended to February 28, 2006, for certain costs; and program year 2005 was September 1, 2005, through August 31, 2006, which was extended to August 31, 2007, for certain costs.

agency to spend \$4.9 million that had been awarded prior to September 1, 2004. Consequently, the State agency had a total of \$20.2 million in program funds available during our audit period. During that period, the State agency reported total expenditures of \$18.1 million. The State agency awarded \$12.3 million of this amount to subrecipients and reported expending \$5.8 million at the State level.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether selected costs that the State agency claimed for reimbursement under the program for the period September 1, 2004, through August 31, 2006, were allowable, allocable, and reasonable.

Scope

Our audit covered \$12.1 million in direct and indirect costs that the State agency claimed for program activities during the 2-year period September 1, 2004, through August 31, 2006, regardless of the program year to which the expenditures were related. The \$12.1 million consisted of \$6.3 million in reported subrecipient expenditures and \$5.8 million in reported State expenditures. We limited our review of State agency and subrecipient expenses to payroll, travel, supplies, and services.

To test subrecipient expenses, we first selected two subrecipient awards for review: one award to the Alabama Hospital Association (AHA), a nonprofit organization located in Montgomery, Alabama, and one award to the University of South Alabama, located in Mobile, Alabama. We were unable to test any expenses for the award to AHA because, at the time we began our fieldwork, AHA had not spent any of this award, even though the State agency had reported the award as an expenditure. Because AHA had not spent the funds for the award that we selected, we expanded our review to include the nine other awards to AHA during our audit period. (See Appendix A.)

We did not review approximately \$5.9 million that the State agency awarded to subrecipients other than AHA and the University of South Alabama. Consequently, we offer no conclusions concerning the allowability of costs associated with these awards.

We did not review the overall internal control structure of the State agency or its subrecipients. We limited our review of internal controls to obtaining an understanding of (1) the procedures that the State agency and two subrecipients, AHA and the University of South Alabama, used to account for program funds and (2) the State agency's subrecipient monitoring procedures.

We performed fieldwork at the State agency in Montgomery, Alabama, from November 2006 to October 2007.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, program guidance, and notices of award for 2004 and 2005;
- identified awarded and expended funds in the State agency's accounting records as of August 31, 2006;
- reviewed \$6.2 million that the State agency reported as AHA expenditures;
- reviewed \$5.8 million in reported expenditures at the State agency level to determine whether the State agency expended program funds for allowable, allocable, and reasonable costs;
- reviewed \$200,038 of expenditures claimed by the University of South Alabama to determine whether the university expended program funds for allowable, allocable, and reasonable costs;
- verified that the State agency claimed indirect costs using the rate and base in its "State and Local Rate Agreement" approved by the HHS Division of Cost Allocation;³
- tested FSRs for completeness and accuracy and reconciled the amounts reported on FSRs to the accounting records and notices of award;
- reviewed the State agency and subrecipients' accounting procedures for recording and reporting funds;
- reviewed documentation from the University of South Alabama that supported its program expenditures;
- reviewed positions funded by the program during 2005 for evidence of supplanting;⁴
- obtained a list of the State agency's drawdowns from the Payment Management System and compared them with the amounts expended to ensure that drawdowns did not exceed expenditures;

³The Office of Management and Budget has designated the Division of Cost Allocation as the cognizant Federal agency for reviewing and negotiating facility and administrative (indirect) cost rates that grantee institutions use to charge indirect costs associated with conducting Federal programs.

⁴Section 319C-1(j)(2) of the Public Health Service Act (42 U.S.C. § 247d-3a(j)(2)) states that program funds are meant to augment current funding and not to replace or supplant any other State and local funds provided for these activities. This provision was deleted in December 2006 by P.L. No. 109-417 and replaced with a requirement for State matching funds.

- obtained information from AHA concerning the awards received from the State agency, the amounts that AHA spent from these awards, the periods in which the funds were spent, and the interest earned on these awards as of the completion of our fieldwork;
- quantified the administrative costs (referred to as “performance fees” in the agreements between the State agency and AHA) that AHA claimed; and
- evaluated the State agency’s procedures for monitoring subrecipients.

We conducted this performance 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

FINDINGS AND RECOMMENDATIONS

Of the \$12,142,128 of selected costs that the State agency claimed for reimbursement for the period September 1, 2004, through August 31, 2006, \$6,430,983 was allowable. However, \$5,711,145 was unallowable because the State agency advanced funds to a subrecipient that did not obligate and disburse the funds within the specified program period. In addition, the subrecipient earned interest totaling \$215,783 on program funds that it did not remit to the Federal Government as required. These deficiencies occurred because the State agency (1) did not have sufficient procedures to ensure that subrecipients obligated and expended funds within the period specified in the grant awards and (2) was not aware of the requirement to remit interest to the Federal Government.

UNALLOWABLE PROGRAM COSTS

Federal Regulations

Federal regulations provide guidance on when funds should be made available to recipients and subrecipients to carry out program activities.

Pursuant to 45 CFR § 92.21(b), Federal agencies must make payments to State and local governments in a manner that “shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee” Furthermore, 45 CFR § 92.21(c) provides that “[g]rantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.”

Pursuant to 45 CFR § 92.37(a)(1) and (4), States must “[e]nsure that every subgrant includes any clauses required by Federal statute and executive orders and their implementing regulations” and “[c]onform any advances of grant funds to subgrantees substantially to the same standards of timing and amount that apply to cash advances by Federal agencies.” Similar requirements

(45 CFR § 74.22(b)(2)) apply to grants and cooperative agreements with institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations:

. . . cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out . . . the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs

Federal regulations also govern when costs may be charged to awards. Concerning State government recipients, 45 CFR § 92.23(a) and (b) state:

Where a funding [program] period is specified, a grantee may charge to the award only costs resulting from obligations of the funding [program] period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding [program] period A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period

Similar requirements can be found at 45 CFR §§ 74.28 and 74.5 concerning awards and subawards to institutions of higher learning, hospitals, and other recipients. Pursuant to 45 CFR § 74.28: “Where a funding period is specified, a recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period”

In addition, Federal regulations require that for a cost to be allowable, it must be allocable to a particular Federal award (2 CFR part 225, App. A, § C.1.b (formerly OMB Circular A-87) and 2 CFR part 230, App. A, § A.2.a (formerly OMB Circular A-122)). A cost is allocable only if the goods or services being charged to the award are in accordance with the “relative benefits received” (2 CFR part 224, App. A, § C.3.a and 2 CFR part 230, App. A, § A.4.a).

Program Funds Not Spent Within Program Period and Unearned Performance Fees

The State agency claimed \$5,711,145 in unallowable program costs because it advanced funds to AHA, which did not, in turn, disburse them within the program period, and because AHA claimed unearned performance fees associated with these awards.

As shown in Appendix A, the State agency made 10 awards totaling \$6,173,849 to AHA during program years 2004 and 2005. The State agency made some of these awards at the end of the program years. As of the end of program years 2004 and 2005, AHA had not spent \$5,711,145 of the \$6,173,849 that the State agency had advanced. The program periods during which these funds were required to be expended for program purposes varied. If the State agency did not request an extension of time to disburse the awards, the program period was 12 months. On the other hand, if an extension was requested, the program period could be longer than 12 months. In either situation, the funds should have been used for program purposes during the respective program period. (See Appendix A.) Absent approved carryover, these funds were available only

to cover allowable costs of the particular program year. Because these funds were not used to obtain goods or services benefiting the particular grant awards, the costs claimed by the State agency were not allocable to this grant and were therefore unallowable.

The State agency considered the funds advanced to AHA to be expenses at the time of the advances. The State agency did not have policies and procedures to ensure that AHA obligated and expended grant funds within the period specified in the grant award. According to the State agency, it believed that AHA needed the funds in advance to make arrangements with individual hospitals to provide services.

The \$5,711,145 in unallowable costs that the State agency claimed included performance fees. Performance fees, which were provided for in the subrecipient agreements, were intended to pay subrecipients for the administrative costs associated with administering the agreements. Performance fees for the individual agreements ranged from 5 to 10 percent. AHA claimed these fees even though it had not spent most of the program funds and therefore had not earned the fees. We considered \$177,317 in performance fees to be unallowable because AHA claimed them for particular awards from which there were no corresponding expenditures for goods and services within the specified program period.

INTEREST EARNED ON PROGRAM FUNDS

Federal regulations (45 CFR § 74.22(l)) state that “. . . interest earned [in excess of \$250] on Federal advances . . . shall be remitted annually to the Department of Health and Human Services”

As of the end of our fieldwork, AHA had earned interest totaling \$215,783 on advances from the State agency but had not remitted the interest to HHS as required. Neither the State agency nor AHA was aware of the requirement to remit interest income to the Federal Government.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$5,711,145 in unallowable costs;
- remit \$215,533 in interest earned on program funds (\$215,783 less \$250 allowed to be retained pursuant to Federal regulations);
- remit any additional interest earned after the completion of our fieldwork, less the amount allowed to be retained pursuant to Federal regulations; and
- institute procedures to ensure that subrecipients obligate and expend funds within the periods specified in the grant awards.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency agreed to refund all interest earned on advances to AHA except for \$37,039 that the State agency said AHA used for hospital preparedness. The State agency did not agree with our finding that AHA did not properly expend \$5,711,145 in grant funds for the following reasons:

- The State agency contended that it expended the funds appropriately under a generally accepted accounting principle, cash accounting; therefore, AHA had an additional 3 years to expend the funds under State law.
- The State agency said that it claimed expenditures pursuant to HRSA and ASPR guidance. The State agency referenced e-mail correspondence from both HRSA and ASPR that, according to the State agency, justified its claiming advances to AHA as expenses.
- The State agency said that it had minimized the time between the transfer of funds to AHA and AHA's disbursement of the funds, given the requirement to achieve program purposes. The State agency further asserted that the requirement to time advances to AHA's immediate needs was inconsistent with meeting program purposes and cited 45 CFR § 74.22(b)(2)⁵ to support its assertion.

The State agency's comments, except for personally identifiable information, are included as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

Interest Earned on Advances to the Alabama Hospital Association

The State agency should seek guidance from HRSA and ASPR regarding the allowability of AHA's use of \$37,039 in interest earned on grant funds for hospital preparedness without prior approval.

Grant Funds Expended Appropriately

Neither grant regulations nor we prescribe a particular accounting method, cash basis or otherwise. The State agency elected to use cash accounting and claimed expenses at the time cash was disbursed. Regardless of the accounting method used, the State agency and its subrecipients are required to adhere to Federal regulations that stipulate that a recipient may charge to an award only allowable costs resulting from obligations incurred during the funding period. The State agency's practice of advancing grant funds to AHA and immediately claiming the advances as expenses under cash accounting does not meet this requirement.

⁵Title 45 CFR § 74.22(b)(2) states: "Unless inconsistent with statutory program purposes, cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project."

Specifically, 45 CFR § 74.28 (made applicable to AHA by 45 CFR § 74.5) requires that “[w]here a funding period is specified, a recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period” The HHS Departmental Appeals Board (DAB) has consistently held that “expenditures that are incurred outside the grant term are not allocable to the grant activities for which the grant was originally awarded” (Huron Potawatomi, Inc., DAB No. 1889 (2003), and Arlington Community Action Program, Inc., DAB No. 2141 (2008)).

The notices of award gave the State agency a 12-month period to expend grant funds. When the State agency transferred the funds to AHA, the funds were still considered Federal grant funds, and AHA should have spent them within the funding period specified in the notices of award. Even though State law may have given AHA 3 years to complete its work, the State agency’s funding of AHA activities should have been more precisely matched to AHA’s need for funds throughout the HRSA-approved budget periods.

No-cost extensions are available to address situations in which funds cannot be spent during a given funding period. Under a no-cost extension, the awarding agency grants a recipient additional time to spend funds for goods and services and to claim costs as expenses when the funds are actually spent. The State agency requested and received no-cost extensions for some of the funds we questioned, but AHA still did not spend all the funds by the end of the extension. In other instances, the State agency disbursed the funds to AHA within the original funding period and reported the funds to HRSA as expended. Because the State agency had reported the funds as expended, a no-cost extension was not an option, so AHA had only the 12-month program period during which to obligate and expend the funds. However, AHA did not expend all the funds within that period. The State agency should not have advanced the funds to AHA and should have requested a no-cost extension in these instances.

Expenditures Claimed Pursuant to Guidance

We disagree that the e-mail correspondence from HRSA and ASPR justified the State agency’s practice of claiming advances as expenses. The correspondence from HRSA supports our contention that AHA was required to disburse grant funds within the program period. In a May 24, 2007, e-mail, a HRSA official told the State agency: “If the funds are obligated for a specific purpose and those obligated funds are not liquidated/spent [by AHA] by the end of the project period⁶ then they are not considered spent.”

In an e-mail dated June 26, 2007, the State agency provided ASPR with details (including completion dates) of two awards to AHA to purchase antibiotics and to increase hospital surge capacity. However, the State agency did not tell ASPR that the funds in question were awarded during the September 2004 through August 2005 program year and were disbursed to AHA in September 2005 and March 2006, respectively. In both instances, the State agency disbursed the funds to AHA after the program year had ended. Consequently, ASPR approved the State agency’s use of funds without full disclosure of the facts concerning those funds.

⁶The term “project period,” which is used in this e-mail correspondence, is synonymous with the term “program year,” which we chose to use. (See footnote 2.)

Time Between Advancing and Spending Funds

The State agency said that the regulation that we cited (45 CFR § 74.22(b)(2)) as requiring it to limit and minimize the timing of cash advances also exempted the State agency from following the regulation when its requirements were inconsistent with statutory program purposes. The State agency said that program guidance and the statutory requirements (section 319 C-1 of the Public Service Act) to achieve program purposes were inconsistent with 45 CFR § 74.22(b)(2) and that the State agency was, accordingly, exempt from the CFR's requirements. However, 45 CFR part 74 pertains to grants and cooperative agreements with institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations and would apply to any cash advances that AHA may have made. The State agency is required to follow 45 CFR § 92.21, which does not contain the same "[u]nless inconsistent with statutory program purposes" exemption. However, even if the applicable part 92 regulation contained such an exemption, we found nothing in section 319 C-1 that would exempt the State agency from complying with the grant regulations.

Regarding the performance fees charged by AHA, we requested during our fieldwork that AHA provide documentation to support the fees. The only documentation that we received showed that AHA prorated the fees over the grant period. Although the State agency claimed that AHA earned the fees because it had accomplished work, the State agency provided no documentation of that work, and, in most instances, AHA incurred no actual expenses for goods and services during the period for which it claimed the fees. Therefore, we continue to recommend that the State agency refund the fees.

We continue to recommend that the State agency refund to the Federal Government \$5,711,145 for unallowable expenses claimed for budget years 2005 and 2006.

APPENDIXES

AWARDS TO THE ALABAMA HOSPITAL ASSOCIATION

Description	Date Awarded	Program Year¹	Amount Awarded	Funds Unexpended at the End of the Program Year
Mass casualty hospital	Oct. 2004	Sept. 2003–Aug. 2005	\$887,864	\$887,864
Personal protective equipment and decontamination	Oct. 2004	Sept. 2003–Aug. 2005	1,270,439	1,270,439
Sentinel Laboratory Program	Aug. 2005	Sept. 2003–Aug. 2005	85,696	85,696
Satellite conference downlink systems	Aug. 2005	Sept. 2004–Aug. 2005	450,000	173,150
Cache of antibiotics	Sept. 2005 ²	Sept. 2004–Aug. 2005	565,850	565,850
Cache of antibiotics	Dec. 2005	Sept. 2005–Aug. 2006	600,000	600,000
Patient conveyor system	Feb. 2006	Sept. 2005–Aug. 2006	389,000	389,000
Cache of medical supplies/equipment	Mar. 2006 ²	Sept. 2004–Feb. 2006	1,500,000	1,500,000
Emergency preparedness exercise	Feb. 2006	Sept. 2005–Aug. 2006	175,000	7,500
Sentinel Laboratory Program	July 2006	Sept. 2005–Aug. 2006	250,000	231,646
Total			\$6,173,849	\$5,711,145

¹The State agency made some of the awards to the Alabama Hospital Association (AHA) during the original 12-month program year. For other awards, the State agency requested a time extension to pay the funds to AHA. Accordingly, the program period (the period during which the funds could be spent) was 12 months for some awards and longer for other awards.

²The State agency obligated both of these awards to AHA within the program years (ended August 2005 and February 2006, respectively) to report them as expended. However, the State agency did not award the funds to AHA until after the program year ended.



STATE OF ALABAMA DEPARTMENT OF
PUBLIC HEALTH

Donald E. Williamson, MD
State Health Officer

September 25, 2008

Mr. Peter J. Barbera
Regional Inspector General for Audit Services
Department of Health and Human Services
Region IV
61 Forsyth Street, S.W.
Suite 3T41
Atlanta, Georgia 30303

RE: OIG Report Number A-04-07-01049

Dear Mr. Barbera:

This is in response to your letter of September 4, 2008, transmitting a draft report regarding allowability of costs claimed under Alabama's Bioterrorism Hospital Preparedness Program for the period September 1, 2004 through August 31, 2006.

Audit Findings and Recommendations

The state of Alabama claimed \$18.1 million for reimbursement for the period. The Office of Inspector General (OIG) reviewed \$12.1 million of that reimbursement. Of that amount, the audit found \$5,711,145 in expenses that were not allowable plus \$215,783 interest earned by a sub-recipient not returned to the Federal government as required.

Summary of Questioned Charges		
	Program Year	Amount Disallowed
<u>Funds unexpended during program year</u>		
Mass casualty hospital	Sept. 2003 – Aug. 2005	887,874
Personal protective equipment and decon	Sept. 2003 – Aug. 2005	1,270,439
Sentinel Laboratory Program	Sept. 2003 – Aug. 2005	85,696
Satellite conference downlink systems	Sept. 2004 – Aug. 2005	173,150
Cache of antibiotics	Sept. 2004 – Aug. 2005	565,850
Cache of antibiotics	Sept. 2005 – Aug. 2006	600,000
Patient conveyor system	Sept. 2005 – Aug. 2006	389,000
Cache of medical supplies/equipment	Sept. 2004 – Feb. 2006	1,500,000
Emergency preparedness exercise	Sept. 2005 – Aug. 2006	7,500
Sentinel Laboratory Program	Sept. 2005 – Aug. 2006	231,646
Total Disallowed		5,711,145
<u>Interest Earned</u>		
Interest earned by sub-recipient		215,783
Less amount allowed to be retained		(250)
Total Interest Returned		215,533

Mr. Peter Barbera
September 25, 2008
Page 2

OIG NOTE: We redacted personally identifiable information from the State agency's comments.

In response to these findings, you recommend that the Alabama Department of Public Health (ADPH):

- Refund \$5,711,145 for unallowable costs. These questioned costs include \$177,317 in performance fees paid to the Alabama Hospital Association (ALAHA).
- Remit \$215,533 in interest earned on program funds.
- Institute procedures to ensure sub-recipients obligate and expend funds within the periods specified in the grant awards.

Thus, the OIG had adverse findings in three areas: expenditure of funds outside of allowable time frames (including the ALAHA performance fees); interest earnings; and sub-recipient monitoring.

Alabama's Response – Funds were expended properly

The funds were fully expended during the grant period.

The OIG takes the position that the questioned funds either were not expended during the grant period or did not benefit the grant period and therefore must be refunded. In fact, funds were expended during the grant period and properly reported on financial status reports (FSRs). Alabama's actions were in full compliance with federal regulations and with specific guidance received from the Health Resources and Services Administration (HRSA) program and grant management staff. The state of Alabama has the option to operate on a cash or accrual basis. Alabama chose the cash option. In a cash system, funds are expended when disbursed. All of the questioned transactions were properly disbursed, expended, and reported. Under state law and practice, ALAHA then had up to three years to complete their contract.

The expenditures were in accordance with HRSA guidance.

On March 23, 2004, [REDACTED] HRSA Hospital Preparedness Project Officer, e-mailed [REDACTED] Grants Management Specialist with the HRSA Division of Grants Management Operations, Government and Special Focus Branch, the following request:

"I have attached a memo/question that I received from one of my states. The crux of the issue is when funds are considered obligated and expended. Are funds considered obligated and expended when the State contracts with a hospital and transfers the money to the hospital? Or are they actually expended when the sub-awardee spends the money at the local level? Your insight would be greatly appreciated."

[REDACTED] response:

"I am going to explain the difference between obligated and expended funds. When you write a check to the hospitals the funds are expended. When you simply sign a contract with the hospitals the funds are being obligated. ... If funds are obligated only they are not spent. If funds are spent they are no longer available for obligation to the grantee."

In [REDACTED] request and [REDACTED] response (Attachment 1), the hospital is the "sub-awardee" (or sub-grantee); thus, [REDACTED] response clearly states that the grantee expends the funds when it writes a check to the sub-grantee. By that standard, the ADPH clearly expended the grant funds when it wrote a check to ALAHA, our sub-grantee.

Mr. Peter Barbera
September 25, 2008
Page 3

In addition, [REDACTED] goes on to explain that, "Obligations by recipients" represent goods and services received "during a funding period that will require payment during the same or a future period." This is an acknowledgement that payments may be made during a future period. This guidance was forwarded to every state in Region IV. It is exactly in conformance with Alabama's cash basis system. As will be demonstrated below, Alabama acted in conformance with this concept which is consistent with historic practice, federal rules, and generally accepted accounting principles.

In May 2007, while doing field work for this audit, the OIG raised questions about the allowability of expenditures outside the grant period by ALAHA. Those questions triggered a series of communications between [REDACTED] Director of Emergency Preparedness, and our project officer with the Office of the Assistant Secretary for Preparedness and Response (ASPR), formerly HRSA. Several million dollars worth of projects were pending completion that would have been compromised under the OIG's interpretation as the expenditures would have been outside the required time periods.

Upon receipt of an opinion by [REDACTED] on May 24, 2007, which was in direct contradiction of the guidance provided three years earlier (Attachment 1), ADPH sought clarification from the ASPR program office. [REDACTED] wrote a detailed description of the projects and the rationale used that supported their execution and asked for permission to proceed. The ASPR program director approved the state's course of action on June 27, 2007 (Attachment 2). With that assurance, we permitted ALAHA to move forward.

Alabama minimized the time advanced funds were used and, in any case, the grant objective of hospital readiness is paramount.

The essence of the regulations cited by the OIG is that the time be minimized between the advance of the funds and the expenditure of the funds and that the timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs. It is our position that time was minimized in the administration of these grants and sub-recipients because of the complexity and scale of the grant objectives. In any case, the grant objective of hospital readiness is critical.

The key concepts are "minimized" advances and that the timing and amount of cash advances shall be as "close as is administratively feasible" to the actual disbursements by the recipient organization for direct program or project costs. The full citation includes the qualifying phrase, "Unless inconsistent with statutory program purposes...". That phrase is the heart of the matter. The program purpose of the National Bioterrorism Hospital Preparedness Program (NBHPP) is "to prepare hospitals and supporting healthcare systems, in collaboration with other partners, to deliver coordinated and effective care to victims of terrorism and other public health emergencies." It would have been impossible for Alabama and the federal hospital preparedness program to achieve this goal if the OIG rule interpretation had been followed.

Alabama has more than 130 general hospitals. In order to achieve the goals of the grants, strategies were developed which required more than 630 sub-agreements; many of which were capital projects that took more than a year to plan and implement. The ADPH determined that the only practical way to execute these strategies was to work through ALAHA who provided a ready administrative network. The time was minimized and the strategies executed successfully within a time frame allowable by state law and, as described above, within program guidance.

The federal grant's objective of hospital readiness was achieved.

First, and perhaps most important, every dollar was expended to satisfy the objectives identified for each grant cited in the OIG report. The direct result of the work conducted in carrying out these objectives is

Mr. Peter Barbera
September 25, 2008
Page 4

evidenced by Alabama's increased level of emergency preparedness. In fact, last year Alabama received national recognition by the Trust for America's Health for meeting nine of 10 objectives established to gauge states ability to respond to public health emergencies and disasters.

Some of the grant funds awarded, such as increasing the isolation capacity in hospitals, involved capital improvement. These projects would have been impossible to complete within the grant timeframes now cited. Regulatory requirements associated with hospital construction, as well as typical construction and contractor issues, would have prevented any hospital in Alabama from accomplishing the objective of increasing capacity to isolate and treat Alabama citizens exposed to potential lethal and contagious diseases or chemicals while protecting other patients and its community from further exposure. ALAHA did, however, accomplish this objective as well as all of the other grant objectives through constant communication, guidance, and meetings with ADPH, and by following the direction given by HRSA/ASPR.

Alabama Monitored the Sub-recipient

The sub-recipient's progress in meeting its work plan was monitored.

The progress of the sub-recipient in the achievement of the work plan was monitored through regular meetings, reports, and oversight by ADPH emergency preparedness staff. ALAHA provided written progress reports on a quarterly basis. The Department was fully aware of the timeframe required to achieve the grant objectives and the sub-recipient's progress.

The sub-recipient appropriately charged performance fees.

ALAHA operates under the accrual basis of accounting. Accordingly, grant administrative fees are recognized and charged as they are earned. The majority of administrative work entails the identification of award recipients, establishment of memorandums of understanding, coordination with vendors, and/or completion of grant objectives by the award recipient. Specific examples of the work accomplished during this time period follow and are included in Attachment 3:

- The prudent development of a plan to execute the objectives of a specific grant, to include strategic placement of supplies, equipment, and training opportunities to ensure emergency response was enhanced throughout the state.
- The identification of qualified awardees was made.
- Potential awardee consultation and information was provided to ensure a complete understanding of the responsibilities associated with the award of any grant funds.
- Documents such as memorandums of understanding not only had to be created, but delivered to and executed with each potential awardee.
- Depending on the objectives established, significant dialogue and coordination with vendors was necessary to complete orders, delivery, and personnel training.

ALAHA sequestered the funds into earmarked, interest earning accounts. As ALAHA performed the work, it was paid from those accounts for work performed. Disbursement of funds to member hospitals for their individual projects represented the final step in the process and occurred after ALAHA had completed most of its work. Interest earned from these accounts will now be returned to the Federal Government.

Interest Earned on Sub-recipient Deposits Will be Returned

The Hospital Association reports that a total interest of \$282,294.91 was earned on all grants audited. The interest will be returned immediately with the exception of \$37,039.16. The \$37,039.16 was used by the

Mr. Peter Barbera
September 25, 2008
Page 5

Hospital Association for mass casualty hospital plan implementation. Since this was done in good faith and to cover costs critical to hospital preparedness, we plan to request permission from HRSA to forgive these expenditures.

Conclusion

We hereby request that the draft recommendation for repayment of the time frame related exceptions, ALAHA performance fees, and the comments on sub-recipient monitoring be removed. All remaining interest earned will be returned.

Finally, we appreciate the professionalism and diligence of the audit staff that did the field work on this project. Although there are points on which we disagree, the audit staff was professional in working with the state and sub-recipient. We also appreciate the opportunity to provide our response and hope the state and HRSA can reach an amicable agreement as to the settlement of the questioned cost.

Sincerely yours,



Donald E. Williamson, M.D.
State Health Officer

DEW/red

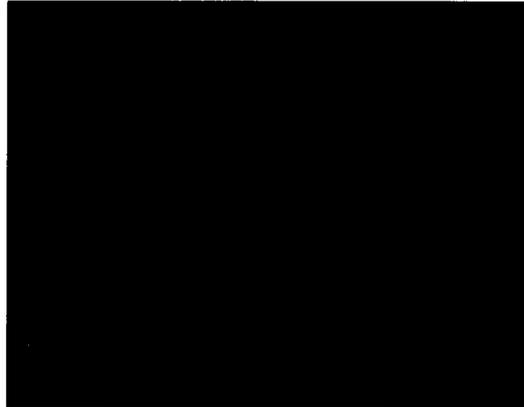
Attachments

Attachment 1



[REDACTED]
(HRSA)*
[REDACTED]
03/25/2004 01:34 PM

To:



cc:

Subject: Information from the BHPP Grants Specialist

FYI.

-----Original Message-----

From: [REDACTED] (HRSA)
Sent: Wednesday, March 24, 2004 6:20 PM
Cc: [REDACTED] (HRSA)
Subject: RE: FW: HRSA Fund Obligation Permission

I am going to explain the difference between obligated and expended funds. When you write a check to the hospitals the funds are expended. When you simply sign a contract with the hospitals the funds are being obligated. Please keep very careful records of these expenditures because everyone in this program will be required to complete a A-133 audit report next year. Your thoughts on the difference between obligated (promised) versus expended (spent) are correct.

Obligations by Recipients - The amounts of orders placed, contracts and sub-contracts awarded, goods and services received, and similar transactions during a funding period that will require payment during the same or a future period.

Unobligated Balance - The portion of funds authorized by the Federal agency that has not been spent or obligated by the recipient.

If funds are obligated only they are not spent. If funds are spent they are no longer available for obligation to the grantee.

An obligation is an agreement that the funds will be spent.

Your concern about not being able to obligate or spend all of these funds by

Attachment 1

August 31, 2004 is really out of our control. You need now to figure how these funds can best be used to accomplish the goals you proposed in the grant application. If there is a problem spending these funds then we have alternatives next year which include an offset of funds.

Try to spend these funds as quickly as possible so there will not be a problem in August.

[REDACTED]
Grants Management Specialist
HRSA Division of Grants Management Operations
Government and Special Focus Branch

>>> [REDACTED] (HRSA) " [REDACTED] 3/23/2004 3:11:36 PM
>>>

[REDACTED]
I have attached a memo/question that I received from one of my states. The crux of the issue is when funds are considered obligated and expended. Are funds considered obligated and expended when the State contracts with a hospital and transfers the money to the hospital? Or are they actually expended when the sub-awardee spends the money at the local level? Your insight would be greatly appreciated. Thanks!

[REDACTED]

Attachment 2



[Redacted]
(HHS/ASPR)"

[Redacted]
06/27/2007 02:19 PM

To [Redacted]

cc [Redacted]

bcc [Redacted]

Subject RE: Our discussion regarding HRSA funding yesterday

History: This message has been forwarded.

Yes

From: [Redacted]
Sent: Wednesday, June 27, 2007 2:25 PM
To: [Redacted] (HHS/ASPR)
Subject: RE: Our discussion regarding HRSA funding yesterday

[Redacted]

Just to clarify, you and [Redacted] are in agreement and approve our plan to move forward on these projects as we have described to you. Please confirm so that we can move immediately.

[Redacted]
Center for Emergency Preparedness
Alabama Department of Public Health
334-206-7933
[Redacted]@adph.state.al.us

[Redacted] (HHS/ASPR)* To [Redacted] adph.state.al.us
[Redacted]
06/27/2007 01:15 PM SubjRE: Our discussion regarding HRSA funding yesterday
ect

Alright [Redacted] you are ready to move forward.
Thanks again,
[Redacted]

[Redacted]
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Preparedness and Response
Direct: (202) [Redacted]
[Redacted]

From: [redacted]@adph.state.al.us [redacted]
Sent: Wednesday, June 27, 2007 1:58 PM
To: [redacted] (HHS/ASPR)
Cc: [redacted]@adph.state.al.us; [redacted] (HHS/ASPR); [redacted]@adph.state.al.us; [redacted] (HHS/ASPR)
Subject: RE: Our discussion regarding HRSA funding yesterday

[redacted]
We are not proposing any change in the scope of the work as originally discribed. The only factor we are addressing at this point is the time frame. All projects are to be completed as per our original agreement with HRSA.

[redacted]
Center for Emergency Preparedness
Alabama Department of Public Health
334-[redacted]
[redacted]
[redacted]

06/27/2007 11:40 AM

To: [redacted]
Cc: [redacted]
Subject: RE: Our discussion regarding HRSA funding yesterday
ct

[redacted]
I discussed this with [redacted] and we are in agreement with your general approach around spending these funds on prophylactic antibiotics (\$509,000) and hospital surge capacity (\$1,350,000). We would need some more specifics around what is being purchased.
Thank you, and please call if you need to.
[redacted]

[redacted]
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Preparedness and Response
Direct: (202) [redacted]
[redacted]

From: [REDACTED]@adph.state.al.us [REDACTED]
Sent: Tuesday, June 26, 2007 4:03 PM
To: [REDACTED] (HHS/ASPR); [REDACTED] (HHS/ASPR)
Cc: [REDACTED]
Subject: Our discussion regarding HRSA funding yesterday

[REDACTED]

The purpose of this note is two-fold. First, to explain the Department's approach in the execution of several contracts between the ADPH and the Alabama Hospital Association (ALAHA). These contracts were funded by HRSA (now ASPR) Hospital Preparedness federal grant. Second, to seek approval, by the ASPR program staff, of a strategy in finalizing those contracts that will assure timely closure.

Federal funds drawn down by the State of Alabama and advance funded to ALAHA were expended at the point of the payment. They were expended for the following reasons:

1. The federal common rule allows advance funding:

"45CFR92.21(c) Advances. Grantees and sub grantees shall be paid in advance provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement."

The ADPH used advanced funding for these contracts to allow sufficient time to implement a complex hospital readiness program that could not have been otherwise achieved.

2. The State of Alabama classified the payment as an expenditure. When Alabama advance funds a contract, the transaction constitutes an expenditure under state law. Alabama has adopted GASB 14 as the standard for identifying component units of the State of Alabama. Funds flowing out of the state treasury to non-state entities are reflected as expenditures.

Advance funding of the contract was correctly recorded as an expenditure since the ALAHA is not an agency of the state of Alabama. When the ADPH advance funded the ALAHA contract it was counted as an expenditure since the funds passed from the state treasury and thus from the control of the state of Alabama to the grantee.

The expenditure was then recorded on the ADPH books of account and duly reported as a program outlay or expenditure as required in accordance with instructions on the grant Financial Status Report (FSR).

3. The instruction on the FSR form SF-269A specifically requires the state to:

*Address insertion added when entire email chain was re-printed from email archives.
See original email included with this attachment.

"Enter total program outlays less any rebates, refunds, or other credits. For reports prepared on a cash basis, *outlays are the sum of actual cash disbursements* for direct costs for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to Sub recipients."

To [REDACTED] (HRSA)" [REDACTED], [REDACTED]@adph.state.al.us
* cc
Subject Re: Our discussion regarding HRSA funding yesterday

Under state law, the time period allowed to fulfill a contractual specification is designated in the contract up to a maximum of 36 months.

The ADPH currently has several contracts with the ALAHA for which they have exceeded the ending date of the grant and any extensions. These contracts were advance funded to allow a reasonable time to execute these extremely complex agreements that required participation of more than a hundred hospitals statewide.

The strategy of seeking agreements with individual hospitals before ALAHA expended the funds has resulted in a slower than desired execution. The ADPH and ALAHA are committed to completing the contracts being mandated the ALAHA.

First, ALAHA will purchase, receive, store, and distribute the equipment to participating hospitals rather than waiting to seek agreement with each individual hospital. The two contracts that apply are for prophylactic antibiotics (balance \$509,000) and hospital surge capacity (\$1,350,000). Both of these contracts are well suited to this arrangement.

Second, the schedule of work and time period for each contract has been agreed to by ADPH and ALAHA. This will ensure completion by September, 2007.

We await confirmation from ASPR on this approach.

[REDACTED]
Center for Emergency Preparedness
Alabama Department of Public Health
334-[REDACTED]
[REDACTED]

[REDACTED] (HHS/ASPR)" [REDACTED]

05/24/2007 08:54 AM

[REDACTED]
Sent from Verizon Blackberry

-----Original Message-----

From: [REDACTED] (HHS/ASPR)

To: [REDACTED] (HRSA); [REDACTED]@adph.al.state.us' [REDACTED]
Sent: Thu May 24 09:51:35 2007
Subject: Re: Our discussion regarding HRSA funding yesterday

[REDACTED] go with [REDACTED] explanation - she is the expert. Thanks.

[REDACTED]
Sent from Verizon Blackberry

-----Original Message-----

From: [REDACTED] (HRSA)
To: [REDACTED] (HHS/ASPR)
Sent: Thu May 24 09:35:42 2007
Subject: RE: Our discussion regarding HRSA funding yesterday

[REDACTED]
Do you want me to try to explain this one. I do not see your explanation in this message. I think that [REDACTED] has obligation and liquidation confused.

The answer to [REDACTED]'s question is no. If the funds are obligated for a specific purpose and those obligated funds are not liquidated/spent by the sub-contractor by the end of the project period then they are not considered spent.

The ADPH has obligated these funds but if they are not spent/liquidated by the sub-contractor at the end of the grant year/project period then they are not considered spent. If ADPH gives the funds to the sub-contractor then ADPH has obligated those funds. When the funds are liquidated/spent by the sub-contractor then they are considered spent.

If there is a written agreement between the grantee and the sub-contractor to provide services and the grantee has approved the spending of those funds and given them to the sub-contractor then those funds are obligated. All funds awarded by HRSA must be obligated/have written agreement by the end of the project period which is listed on the Notice of Grant Award.

Those obligated funds must be spent/liquidated/charged to the account and shown as expended by 90 days after the end of the project period. We can grant very brief extensions of the liquidation date but the grantee must request the extension in writing prior to the end of the project period and have that request for an extension of the liquidation/spending of those funds approved before they have extra time to liquidate/spend the funds.

If a project period ends 8/31/2007 then all of those funds must be

Original email

[REDACTED]/DPH
06/26/2007 03:03 PM

To [REDACTED] (HHS/ASPR)" <[REDACTED]>
[REDACTED]@hhs.gov
cc [REDACTED]/FIN/ADPH@ADPH, [REDACTED]
[REDACTED]PS/ADPH@ADPH
bcc
Subject Our discussion regarding HRSA funding yesterday [REDACTED]

[REDACTED]

The purpose of this note is two-fold. First, to explain the Department's approach in the execution of several contracts between the ADPH and the Alabama Hospital Association (ALAHA). These contracts were funded by HRSA (now ASPR) Hospital Preparedness federal grant. Second, to seek approval, by the ASPR program staff, of a strategy in finalizing those contracts that will assure timely closure.

Federal funds drawn down by the State of Alabama and advance funded to ALAHA were expended at the point of the payment. They were expended for the following reasons:

1. The federal common rule allows advance funding:

"45CFR92.21(c) Advances. Grantees and sub grantees shall be paid in advance provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement."

The ADPH used advanced funding for these contracts to allow sufficient time to implement a complex hospital readiness program that could not have been otherwise achieved.

2. The State of Alabama classified the payment as an expenditure. When Alabama advance funds a contract, the transaction constitutes an expenditure under state law. Alabama has adopted GASB 14 as the standard for identifying component units of the State of Alabama. Funds flowing out of the state treasury to non-state entities are reflected as expenditures.

Advance funding of the contract was correctly recorded as an expenditure since the ALAHA is not an agency of the state of Alabama. When the ADPH advance funded the ALAHA contract it was counted as an expenditure since the funds passed from the state treasury and thus from the control of the state of Alabama to the grantee.

The expenditure was then recorded on the ADPH books of account and duly reported as a program outlay or expenditure as required in accordance with instructions on the grant Financial Status Report (FSR).

3. The instruction on the FSR form SF-269A specifically requires the state to:

"Enter total program outlays less any rebates, refunds, or other credits. For reports prepared on a cash basis, *outlays are the sum of actual cash disbursements* for direct costs for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to Sub recipients."

Under state law, the time period allowed to fulfill a contractual specification is designated in the contract up to a maximum of 36 months.

The ADPH currently has several contracts with the ALAHA for which they have exceeded the ending date of the grant and any extensions. These contracts were advance funded to allow a reasonable time to execute these extremely complex agreements that required participation of more than a hundred hospitals statewide.

The strategy of seeking agreements with individual hospitals before ALAHA expended the funds has resulted in a slower than desired execution. The ADPH and ALAHA are committed to completing the contracts being mandated the ALAHA.

First, ALAHA will purchase, receive, store, and distribute the equipment to participating hospitals rather than waiting to seek agreement with each individual hospital. The two contracts that apply are for prophylactic antibiotics (balance \$509,000) and hospital surge capacity (\$1,350,000). Both of these contracts are well suited to this arrangement.

Second, the schedule of work and time period for each contract has been agreed to by ADPH and ALAHA. This will ensure completion by September, 2007.

We await confirmation from ASPR on this approach.

[REDACTED]
Center for Emergency Preparedness
Alabama Department of Public Health
334-[REDACTED]
[REDACTED]@adph.state.al.us
[REDACTED] (HHS/ASPR)" [REDACTED]



[REDACTED] (HHS/ASPR)"
[REDACTED]@hhs.gov> To [REDACTED] (HRSA)" [REDACTED]
05/24/2007 08:54 AM cc [REDACTED]@adph.state.al.us

Subject Re: Our discussion regarding HRSA funding yesterday

[REDACTED]
Sent from Verizon Blackberry

-----Original Message-----

From: [REDACTED] (HHS/ASPR)
To: [REDACTED] (HRSA); [REDACTED]@adph.al.state.us' [REDACTED]
Sent: Thu May 24 09:51:35 2007
Subject: Re: Our discussion regarding HRSA funding yesterday

[REDACTED] go with [REDACTED] explanation - she is the expert. Thanks.

[REDACTED]
Sent from Verizon Blackberry

-----Original Message-----

From: [REDACTED] (HRSA)
To: [REDACTED] (HHS/ASPR)
Sent: Thu May 24 09:35:42 2007
Subject: RE: Our discussion regarding HRSA funding yesterday

[REDACTED]
Do you want me to try to explain this one. I do not see your explanation in this message. I think that [REDACTED] has obligation and liquidation confused.

The answer to [REDACTED]'s question is no. If the funds are obligated for a specific purpose and those obligated funds are not liquidated/spent by the sub-contractor by the end of the project period then they are not considered spent.

The ADPH has obligated these funds but if they are not spent/liquidated by the sub-contractor at the end of the grant year/project period then they are not considered spent. If ADPH gives the funds to the sub-contractor then ADPH has obligated those funds. When the funds are liquidated/spent by the sub-contractor then they are considered spent.

If there is a written agreement between the grantee and the sub-contractor to provide services and the grantee has approved the spending of those funds and given them to the sub-contractor then those funds are obligated. All funds awarded by HRSA must be obligated/have written agreement by the end of the project period which is listed on the Notice of Grant Award.

Those obligated funds must be spent/liquidated/charged to the account and shown as expended by 90 days after the end of the project period. We can grant very brief extensions of the liquidation date but the grantee must request the extension in writing prior to the end of the project period and have that request for an extension of the liquidation/spending of those funds approved before they have extra time to liquidate/spend the funds.

If a project period ends 8/31/2007 then all of those funds must be obligated by that date. Those funds must be liquidated/spent/charged to the PMS account by November 30, 2007.

[REDACTED]
Grants Management Specialist
HRSA Division of Grants Management Operations

-----Original Message-----
From: [REDACTED] (OS)
Sent: Thursday, May 24, 2007 8:27 AM
To: [REDACTED]@adph.state.al.us; [REDACTED] (HRSA)
Subject: Re: Our discussion regarding HRSA funding yesterday

[REDACTED]
Sent from Verizon Blackberry

-----Original Message-----
From: [REDACTED] (HHS/ASPR)
To: [REDACTED]@adph.state.al.us; [REDACTED];
[REDACTED]@hhs.gov
Sent: Thu May 24 08:25:41 2007
Subject: Re: Our discussion regarding HRSA funding yesterday

[REDACTED]
Is my explanation to [REDACTED] correct?
Thank you,

[REDACTED]
Sent from Verizon Blackberry

-----Original Message-----
From: [REDACTED]@adph.state.al.us [REDACTED]
To: [REDACTED] (HHS/ASPR)
Sent: Thu May 24 04:20:47 2007
Subject: Our discussion regarding HRSA funding yesterday

[REDACTED]

This e-mail is sent as a clarification of our conversation regarding the HRSA funding. It is my understanding from that conversation that if we contract with Alabama Hospital Association (AlaHA) for products or services to hospitals within Alabama which are supplied based on request from the hospital, and if all funds have been drawn down by AlaHA and are fully expended by ADPH prior to the end of the grant year, but all of the funds are not completely expended by AlaHA at the end of the grant year, HRSA still considers the funds expended because ADPH has expended them. Please verify that my understanding represents the conclusion of our discussion.

I look forward to your reply as soon as possible.

[REDACTED]
Center for Emergency Preparedness
Alabama Department of Public Health



Attachment 3

September 18, 2008

J. Michael Horsley
PRESIDENT

Dr. Don Williamson, State Health Officer
Alabama Department of Public Health
201 Monroe Street
Montgomery, Alabama 36130

Dear Dr. Williamson:

In response to the **DRAFT** report from the U.S. Department of Health and Human Services (HHS), Office of the Inspector General (OIG), the Alabama Hospital Association (AlaHA) would like to offer comments taking exception to specific points made in the **DRAFT** report.

First, and perhaps most important, every dollar was expended to satisfy the objectives identified for each grant cited in the OIG report. The direct result of the work conducted in carrying out these objectives is evidenced by Alabama's increased level of emergency preparedness. In fact, last year Alabama received national recognition by the Trust for America's Health for meeting 9 of 10 objectives established to gauge states' ability to respond to public health emergencies and disasters.

We are proud of our accomplishments and wish to thank IHHS for affording Alabama resources that otherwise would not have been possible. The role AlaHA plays in the overall effort is worthwhile and through our partnership with the Alabama Department of Public Health (ADPH), a critical component of the Hospital Preparedness Program (HPP). A few examples of how the HPP funds have enhanced Alabama's acute care hospitals' ability to respond include:

- Coordination and multi-discipline development of plans for response following a mass casualty event;
- Enhanced hospital capabilities through the purchase of special equipment for participation in the Sentinel Laboratory Program;
- On-site training and special instruction availability for hospital personnel as well as local health care professionals and first responders through satellite downlink with ADPH;
- Supplies of antibiotic caches throughout the state for distribution following any type of post-exposure prophylaxis;
- Readiness for response to pandemic influenza or other disease outbreaks, chemical spills, or bioterrorism attacks through a substantial increase in hospital isolation capacity, the purchase and stationing of decontamination trailers, personal protective equipment and patient conveyor systems throughout the state;
- Redundant communication equipment;
- Enhanced community relationships and local planning efforts with first responders and medical professionals through training exercises.
- Increased ability for response to patient surge through the purchase of mobile trailers, which are stationed and ready for deployment to an affected area, stocked with equipment and supplies specific to burn, blast, pediatric and obstetric special needs.

Second, in response to the timeframe in which grant objectives were met and funds were disbursed, AlaHA, acting upon guidance received by the ADPH from HHS, completed the objectives of each grant cited with diligence. Some of the grant funds awarded, such as increasing the standard and emergency department isolation capacity in hospitals, involved capital improvement. These projects would have been impossible to complete within the grant timeframes now cited. Regulatory requirements associated with hospital construction, before and after capital improvements, not to mention typical construction and contractor issues would have prevented any hospital in Alabama from accomplishing the desired objective, to increase its ability to isolate and treat any Alabama citizen exposed to potential lethal and contagious diseases or chemicals while protecting other patients and its community from further exposure. We did, however, accomplish the objectives of this as well as all the cited grants through constant communication, guidance and meetings with ADPH, following the direction given by HHS.

Lastly, in response to the recognition of administrative fees, AlaHA operates under the accrual basis of accounting. Accordingly, grant administrative fees are recognized and disbursed as earned.

Significant administrative work is conducted long before checks are written. To accomplish what we believe to be our obligation, being good stewards of the resources provided through the Hospital Preparedness Program, deliberate consideration is given to each project to ensure maximum benefit of program dollars. To satisfy this obligation, the following are a few examples of work conducted prior to the expenditure of funds:

- The prudent development of a plan to execute the objectives of a specific grant, to include strategic placement of supplies, equipment, and training opportunities to ensure emergency response is enhanced throughout the state.
- The identification of qualified awardees.
- Potential awardee consultation and information is provided to ensure a complete understanding of the responsibility associated with the award of any grant funds.
- Documents such as memorandums of understanding must not only be created, but delivered to and executed with each potential awardee.
- Depending on the objectives established, significant dialogue and coordination with vendors is necessary to complete orders, delivery and personnel training.

Once again, the Alabama Hospital Association is proud to play a part in helping our state continue to improve its level of emergency preparedness. We look forward to the opportunity to continue our important partnership with the Alabama Department of Public Health as we work to meet our goals. We want to ensure HHS of our total cooperation with any future guidance and direction given with regard to carrying out the administration of funds provided through the Hospital Preparedness Program.

If I can be of any assistance please do not hesitate to call on me or any of our Emergency Preparedness staff.

Sincerely,



J. Michael Horsley, President
Alabama Hospital Association