U.S. DEPARTMENT OF COMMERCE
Office of Inspector General

U.S. Department of Commerce

A Survey of Hurricane Katrina and Hurricane Rita Contracts and Grants

Final Audit Report No. DEN-17829-6-0001/July 2006

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Office of Audits, Denver Regional Office

MEMORANDUM FOR: Otto J. Wolff
Chief Financial Officer and
Assistant Secretary for Administration

FROM: John M. Seeba
Assistant Inspector General for Auditing

SUBJECT: Survey of Hurricane Katrina and Hurricane Rita
Contracts and Grants
Final Audit Report Number DEN-17829-6-0001

This is the final report of OIG's survey of Department of Commerce contracts and financial assistance awards made in the aftermath of hurricanes Katrina and Rita. The contracts were awarded to study the effects of hurricanes on selected structures in the region, and to recover from the damaging effects of the hurricanes on Commerce structures, equipment, and personnel. The grants were awarded to provide for economic and business developments in the hurricane affected areas, and to fund the replacement of television transmission equipment damaged during the hurricane. We found that the Department had taken steps to provide reasonable assurance that funds were awarded appropriately on the contracts and financial assistance awards that we examined. Therefore, our report does not contain recommendations for implementation and follow-up and an audit action plan will not be required.

Introduction

We conducted this survey 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. A copy of this report has been forwarded to the PCIE Homeland Security Working Group, currently coordinating the inspectors general review of post-hurricane spending.

Objectives, Scope and Methodology

We performed a limited review of Department of Commerce contracts and financial assistance awards made in the aftermath of hurricanes Katrina and Rita to determine whether Commerce had taken reasonable steps to reduce the potential for fraud, waste and abuse. To accomplish our objectives, we identified contractors and award recipients and the number and dollar value of contracts and awards, and reviewed expenditures related to those transactions. We did not rely on computer-processed data, but traced selected transactions to source documentation.

We used the following methodology:

- **Personal interviews and examinations of relevant documents.** We conducted entrance conferences with audit liaison and program officials from five Department of Commerce agencies: Economic Development Agency, Minority Business Development Agency, National Institute of Standards and Technology, National Oceanic and Atmospheric Administration, and National Telecommunications and Information Administration. We met with procurement officials and contracting officers to obtain listings of contracts issued subsequent to when hurricanes Katrina and Rita made landfall and obtained copies of contracts issued over $10,000 at NOAA's Acquisition and Grants Office in Silver Spring, Maryland, and the Central Regional Acquisition Office in Kansas City, Missouri. We obtained grant documents and met with audit liaison and program officials of the Department in Washington, D.C., and at their regional offices. In addition, we obtained copies of the Federal Procurement Data System listing of post Hurricane Katrina issued contracts for Department of Commerce.

- **Site Visits.** We conducted site visits at both the National Marine Fisheries Service Laboratory and National Seafood Inspection Laboratory in Pascagoula, Mississippi, to observe the hurricane damage, confirm the receipt or delivery status of contracts and purchase requests, and discuss recovery efforts with laboratory directors. We met with officials of the Houston Minority Business Development Center and obtained documents outlining its assistance to minority contractors and outreach activities.

We conducted our basic field work from October to December 2005 at Department of Commerce agencies or grant recipients in Washington, DC, Kansas City, Missouri, Pascagoula, Mississippi, Atlanta, Austin, and Houston. We conducted our audit in accordance with generally accepted government auditing standards and under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated May 22, 1980, as amended.

Department of Commerce Implemented Reasonable Precautions with Its Special Hurricane Procurements

Two agencies within the Department of Commerce, NIST and NOAA, issued contracts to acquire goods or services subsequent to the landfall of hurricanes Katrina and Rita. We examined NIST and NOAA procurements in excess of $10,000 to determine whether the agencies had taken reasonable steps to reduce the potential for fraud, waste and abuse. We did not examine contractor billings to test for reasonableness and allowability of costs.

NIST awarded one $300,000 contract to a California-based nonprofit corporation to conduct a field study of damage caused by the hurricanes to major buildings, residential construction, and different types of infrastructure, and to report on the findings and any recommendations for more detailed studies. NIST chose not to use special procedures

for hurricane-related procurements, but instead used existing procedures to award the contract. NIST awarded the contract noncompetitively, citing an unusual and compelling urgency for the services and stating that the proposed contractor was the only responsible source that could meet the government's needs. Even though either unusual or compelling urgency or lack of other responsible sources would have been a sufficient basis for noncompetitive procurement, NIST's written justification cited both. We examined NIST's written justification for the noncompetitive procurement and the contract terms.

NOAA made the remaining Commerce procurements related to post-hurricane economic recovery or relief. As of January 3, 2006, NOAA had made 668 individual hurricane-related purchases, with obligations totaling about $6.56 million. The vast majority of NOAA's purchases were relatively small. In fact, 608 of the 668 purchases (91 percent) were less than $10,000 each. Cumulatively, these 608 purchases accounted for less than $300,000 of NOAA's total. The remaining 60 purchases totaled about $6.27 million.

OIG examined the 60 NOAA procurements in excess of $10,000 each to determine whether the agency had taken reasonable steps to reduce the potential for fraud, waste and abuse. Most of NOAA's 60 largest procurements involved emergency response and recovery operations at a NOAA facility in Pascagoula, Mississippi, that was severely damaged by Hurricane Katrina. NOAA facilities in Miami, Florida, and at Stennis Space Center in Mississippi also suffered damage from the hurricane. NOAA's director of acquisitions and grants designated NOAA's Central Region Acquisition Division in Kansas City, Missouri, as the lead office responsible for taking the necessary action to quickly restore facilities to operational mode in an efficient and effective manner. The director of the Central Region Acquisition Division and a NOAA project engineer were deployed from Kansas City to Pascagoula immediately after the hurricane to provide on-site procurement support and contractor oversight.

In a memo signed September 7, 2005, the Central Region Acquisition Division director made a class action determination that full and open competition was not required for supplies and services in response to Hurricane Katrina because NOAA's need for supplies and services was of an unusual and compelling nature and the government would be seriously injured unless NOAA were permitted to limit the number of sources

from which it solicited quotes, bids, or proposals. Such class action determinations are permitted by Section 6.303-1(c) of the Federal Acquisition Regulation. The determination stated, “The affected offices are responsible for fishery management, seafood safety, and the environment. It is critical that these offices be restored as quickly as possible so that they can resume operations and manage programs that affect the safety and well being of the public, the economy, and the environment.”

The largest of NOAA's sole source procurements involved emergency cleanup and repair at the hurricane-damaged Pascagoula, Mississippi, facility. Before the storm struck, the NOAA facility in Pascagoula was in the process of renovation and expansion. A NOAA damage assessment of the Pascagoula facility immediately after the hurricane determined that cleanup work should begin as quickly as possible to prevent the spread of mold. The NOAA contracting officer determined that NOAA’s needs would best be served by awarding the cleanup and repair contract to the construction contractor who had been working on the renovation and expansion, rather than delaying the cleanup while locating another contractor. According to the contracting officer, the renovation contractor was a local small business with a good performance record and a crew available to begin work immediately. We examined the contracting officer’s written justification to award the contract noncompetitively and the terms of the contract. We also obtained a written certification from the NOAA project engineer deployed to Pascagoula stating that the prices paid by the government for cleanup and repair services were fair and reasonable.

In addition to facility cleanup and repair, managers of the damaged Pascagoula offices and laboratories teamed with the contracting officer and project engineer from Kansas City to assess immediate needs for reestablishing operations. These included acquisition of trailers and/or modular buildings to serve as temporary work space, replacement office and laboratory equipment and supplies, and replacement vehicles. We examined NOAA’s procurement files and met with the contracting officer and NOAA’s director of acquisitions and grants to identify NOAA’s management controls and procurement procedures. We learned that most of the contracts in our sample were awarded competitively, under normal Commerce procedures. OIG also examined receiving records and toured the Pascagoula facility to observe the ongoing repair work and to confirm receipt of items purchased. We observed many of the purchased and leased items in use or in secure storage awaiting completion of temporary work space. NOAA personnel in Pascagoula were able to provide information showing that purchased items not physically located in Pascagoula were either still on order with vendors or being held at the vendors’ facilities pending notification that temporary work space was available and NOAA could accept shipment.

We also examined specific instances in which NOAA used emergency expanded procurement authorities that were granted in the aftermath of Hurricane Katrina. Federal law allows agencies to increase certain procurement thresholds and limitations to support a national emergency. We determined that eight NOAA contracting officers received emergency expanded procurement authorities. The expanded authorities were granted for (1) micropurchases, which normally involve purchases up to $2,500 and are usually made with federal purchase cards; (2) simplified acquisitions, normally referring to purchases

from $2,500 up to $100,000 that do not require the extensive formal solicitation process mandated for larger government purchases; and
(3) requirements to set aside certain purchases for small and disadvantaged businesses.[1]
The following table summarizes NOAA's expanded authorities:

Authority	Normal Limit or Threshold	Hurricane Katrina Expanded Limit or Threshold
Micropurchase	$2,500	$15,000
Simplified acquisition	$100,000	$250,000
Socio-economic set-aside	$2,500	$15,000

We examined the 60 NOAA procurements in excess of $10,000 and found that contracting officers utilized increased authorities for only nine procurements. Five of the nine procurements involved the expanded simplified acquisition authority at the hurricane-damaged Pascagoula, Mississippi, facility to lease modular buildings for temporary workspace, purchase generators to provide electrical power, and purchase replacement laboratory supplies and equipment. The largest of the five simplified acquisitions totaled $140,000. The remaining four of nine uses of increased purchase authorities involved three micropurchases of equipment, ranging in amount from a little more than $10,000 to just under $14,000, and a waiver of a small business set-aside for a $15,000 contract with a nonprofit marine sanctuary foundation.

From our limited review, we believe that the Department implemented reasonable precautions, given the circumstances of a significant catastrophic event, to protect the interests of the government and award contracts in a timely manner.

Department of Commerce Hurricane Financial Assistance Awards were Reasonable and Handled Properly

Three Commerce bureaus, EDA, MBDA, and NTIA, made a total of six financial assistance awards, involving about $9.42 million in federal funding, in the aftermath of hurricanes Katrina and Rita. We examined the bureaus' award processes to determine if they took reasonable precautions to award financial assistance grants or cooperative agreements to reduce the potential for fraud, waste and abuse. We limited our review to the award process and did not audit either the recipient's cost claimed or their performance under the awards.

EDA Grant Awards. EDA awarded four grants totaling $8,840,000 to the states of Louisiana ($4 million), Mississippi ($4 million) and Alabama ($450,000 and $390,000) for economic recovery planning and technical assistance in the aftermath of Hurricane Katrina. We examined EDA's findings relative to the need for emergency grant funding to the hurricane-impacted area, as outlined in a decision memorandum approved by the

[1] The eight contracting officers also received emergency increases in thresholds for (1) a test program for acquisition of certain commercial items, and (2) restrictions on certain foreign purchases, but neither of these expanded authorities were exercised in response to the hurricanes.

acting assistant secretary for economic development. In approving the memorandum, the acting assistant secretary makes a determination that each of the states is designated a "Special Impact Area," which allows EDA to waive certain award processing requirements that would otherwise apply to EDA grant funding, such as strict adherence to comprehensive regional economic development strategies. The assistant secretary also authorized the EDA regional directors responsible for the three states, for a period of 3 months, to modify general EDA processing procedures for economic recovery investments in response to Hurricane Katrina and subsequent 2005 natural disasters.

MBDA Grant Awards. MBDA awarded a $300,000 cooperative agreement amendment to the Houston Minority Business Development Center (MBDC) for supplemental funding to provide business development services to minority owned businesses affected by Hurricane Katrina in the state of Louisiana and to displaced minority firms from Louisiana relocated in Texas. There was no nonfederal matching share requirement for the amendment. The MBDC program does not have rules, including specified minimum matching share requirements, published in the Code of Federal Regulations. The program description contained in the Catalog of Federal Domestic Assistance states that MBDA reserves the right to waive matching share requirements for MBDC awards on a case-by-case basis.

NTIA Grant Awards. NTIA awarded a grant with a federal share of $283,320 to the Louisiana Educational Television Authority, under the Public Telecommunications Facility Program (PTFP), for emergency replacement of transmission equipment. The grant required a nonfederal matching share contribution of $94,440, bringing the total estimated project cost to $377,760. According to award documents, the Authority's television transmitter was damaged by Hurricane Katrina and was operating at only 20 percent power after the hurricane, prompting the request for financial assistance. NTIA made the award under its existing PTFP regulatory authority, with expedited processing. We confirmed that PTFP regulations allow NTIA to consider applications after the closing date of its normal annual grant cycle and to establish an expedited timetable for evaluation when an eligible applicant suffers catastrophic damage to its broadcast equipment as a result of a natural disaster.

In conclusion, after reviewing the EDA, MBDA and NTIA award documents, regulations, and discussing the award and with agency officials, we believe the Department actions to award the grants were reasonable.

cc: Sandy K. Baruah, Assistant Secretary of Commerce for Economic Development
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