



U.S. Department of Agriculture



Office of Inspector General
Southeast Region

Audit Report

**Delta Regional Authority
Fiscal Years 2001 - 2003**

**Report No. 62099-1-AT
September 2004**



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Southeast Region - Audit

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DATE: September 10, 2004

REPLY TO

ATTN OF: 62099-1-At

SUBJECT: Delta Regional Authority Fiscal Years 2001 - 2003

TO: Patrick H. Johnson
Federal Co-Chairman
Delta Regional Authority

This report presents the results of our audit of the Delta Regional Authority (Authority), Fiscal Years 2001 – 2003. Our objective was to determine if management controls were in place to ensure funds appropriated by Congress were properly accounted for and safeguarded against waste and abuse. Your August 25, 2004, response to the draft report is included as exhibit B with excerpts and the Office of Inspector General's (OIG) position incorporated in the Findings and Recommendations sections of the report.

We acknowledge the strong efforts you and your staff has taken to resolve the issues we reported and appreciate the proactive approach you have taken in strengthening the Authority's programs.

Based on your response, we have accepted management decision on Recommendations Nos. 1, 2, 3, 5, 6, 7, and 8. Please follow your agency's internal procedures in forwarding documentation for final action to the Office of the Chief Financial Officer.

Management decision has not been reached on Recommendation No. 4, item (1). Management decision can be reached on this recommendation once you have provided the additional information outlined in the report section, OIG Position.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective actions taken and planned, including timeframes for their implementation. Please note that the regulation requires that management decisions be reached on all recommendations within 6 months of report issuance.

/s/

RAYMOND G. POLAND
Regional Inspector General

Executive Summary

Delta Regional Authority Fiscal Years 2001 - 2003 (Audit Report No. 62099-1-AT)

Results in Brief

The Delta Regional Authority (Authority) was created by the Delta Regional Authority Act of 2000 (Act). The Authority is a Federal-State partnership serving 240 counties and parishes in an 8 State region. Led by a Federal co-chairman and the Governors of each participating State, the Authority is designed to remedy severe and chronic economic distress by stimulating economic development and fostering partnerships that have a positive impact on the region's economy.

Our audit objective was to determine if management controls were in place to ensure funds appropriated by Congress are properly accounted for and safeguarded against waste and abuse. We found that the Authority had not established controls for grant expenditures in accordance with legislative requirements. The Authority relies only on an initial project application scoring process to control funds allocated for grants. According to the Act, the Authority is to allocate at least 75 percent of appropriated amounts available for grants to programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region. Furthermore, the Authority must allocate 50 percent of funds available for grants to transportation and basic public infrastructure projects. Without controls, the Authority has no assurance that legislative limitations placed on grant funding are met.

We identified 3 of 13 grants reviewed with questionable costs totaling \$357,332 of \$2,103,150 in disbursements.¹ One grant reimbursed a grantee \$300,000 for costs of \$247,000 incurred before the grant period started and for an ineligible entity in violation of regulations. This grantee then subgranted the \$53,000 in excess grant funds it received to another entity without the knowledge and consent of the Authority. For the second grant, we found that the Authority reimbursed prohibited charges of \$12,332. For the third grant, the Authority provided the grantee a 90-percent advance of grant funds totaling \$45,000 without documentation as to the need for such a large advance.

The Authority has not implemented systems for monitoring grantee progress in achieving grant objectives and activities set forth in the Authority's enabling legislation. We did not find any evidence of project monitoring in any of the 13 grant files we reviewed. Although the Authority had planned to develop internal procedures for monitoring the grants, it had not developed these procedures at the time of our fieldwork. Without an effective monitoring system, the Authority's grantees receive Federal grant dollars without any assurance that grantors spend the funds as intended. Similarly,

¹ See exhibit A, "Summary of Monetary Results."

the Authority was not monitoring grantee reporting requirements as an effective means of ensuring grantees are progressing toward meeting the grants' objectives in an efficient and timely manner. As a result, based on our review of the 13 grant files in our sample, we found the following.

- 16 quarterly progress reports were submitted late;
- 4 final reports were due, but had not been submitted; and
- progress reports did not always follow the prescribed format.

At the time of our fieldwork, the Authority had not taken necessary steps to comply with the Accountability of Tax Dollars Act of 2002.² This Act extended to the Authority a requirement to prepare and submit to Congress and the Director of the Office of Management and Budget (OMB) an audited financial statement beginning with the fiscal year (FY) 2002 cycle. Although OMB waived the requirement for FY 2002, the Authority had taken no action to implement the requirements for FY 2003 and future years.

At the exit conference, Authority officials stated that many changes have occurred in the Authority's operations since completion of our fieldwork. They indicated that professional and experienced staff had been hired to enable the Authority to better deliver services and project grants to its constituent areas. While acknowledging that mistakes had been made, Authority officials stated that with the addition of experienced staff and implementation of new management controls and policies and procedures governing the Authority's operations, many of the findings discussed in our report would not be problems in the future.

Recommendations In Brief

We recommend that the Authority develop an effective means for controlling appropriated funds within congressionally imposed limitations. We also recommend the Authority develop monitoring policies and procedures for ensuring grants of Federal funds are being used as intended and in accordance with applicable laws and regulations. We recommend that the Authority ensure policies and procedures are in place to prevent payments to grantees for costs incurred outside of grants' period of performance, and strengthen management controls for authorizing and approving reimbursements to grantees for allowable costs. In addition, the Authority should recover questioned or unsupported costs paid to grantees, if appropriate.

We further recommend the Authority develop written management controls covering advances of funds to grantees. The Authority should also develop written policies and procedures for ensuring grantees submit timely progress

² Public Law 107 – 289, dated November 7, 2002.

and final reports on project activities and implement a sanction policy for withholding payments to grantees due to late or missing progress or final reports. Finally, we recommend that the Authority take steps, immediately, to meet the financial statement preparation and audit requirements of the Accountability of Tax Dollars Act of 2002 for FY's 2003 and 2004.

Agency Response

In its August 25, 2004, written response to the draft report, the Authority responded favorably to most of our recommendations and included adequate remedies to the conditions reported. However, the Authority disagreed with Finding 1 and Finding 4, and disagreed with portions of Finding 2. We have incorporated applicable portions of the Authority's response, along with our position, into the Findings and Recommendations section of this report. The full text of the response is included as exhibit B of the audit report.

OIG Position

Based on the agency's response, we made several modifications and clarifications to the report. We concur with the Authority's proposed corrective actions and have accepted management decision for Recommendations Nos. 1, 2, 3, 5, 6, 7, and 8. However, we did not accept management decision for Recommendation No. 4. Management decision can be reached once the Authority provides specific actions planned, and estimated timeframes for completion, to correct the condition noted.

Abbreviations Used in This Report

Act
 The Delta Regional Authority Act of 2000..... 1

Authority
 Delta Regional Authority 1

Bank
 Liberty Bank and Trust Co. 15

CDE
 Community Development Entities..... 10

COFFEE
 Community of Faith for Economic Empowerment 15

Foundation
 Liberty Foundation, Inc. 15

FY
 Fiscal Year 2

LDD
 Local Development Districts 1

NMTC
 New Markets Tax Credit..... 10

OIG
 Office of Inspector General 7

OMB
 Office of Management and Budget..... 2

RD
 Rural Development 1

Standards
 Standards for Internal Control in the Federal Government 22

U.S.C.
 United States Code..... 1

USDA
 U.S. Department of Agriculture..... 1

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Background and Objectives

Background

The Delta Regional Authority Act of 2000³ (Act) created the Delta Regional Authority (Authority). The Authority is a Federal-State partnership serving 240 counties and parishes in an 8 State region. Led by a Federal co-chairman and the Governors of each participating State, the Authority's objective is to remedy severe and chronic economic distress by stimulating economic development and fostering partnerships that will have a positive impact on the region's economy. The Authority helps economically distressed communities leverage other Federal and State programs, which are focused on basic infrastructure development and transportation improvements, business development, and job training services. Under Federal law, at least 75 percent of funds must be invested in distressed counties, parishes, and pockets of poverty, with 50 percent of the funds earmarked for transportation and basic infrastructure improvements. Funds may be spent in areas not distressed for projects that can demonstrate significant benefits to a distressed area.

The Authority's governing board consists of the Federal co-chairman who is appointed by the President and confirmed by the Senate, and the Governors of the eight participating States, but each may designate a State alternate to sit on the board. Annually, the board elects a State co-chairman. The Federal co-chairman represents a ½ vote and the States collectively represent a ½ vote. Policy and project grants require one vote for approval. This temporary voting method is set to expire on December 31, 2004. Beginning on January 1, 2005, a decision by the Authority shall require a majority vote of the Authority to be effective. This change will essentially render the vote of the Federal co-chairperson to one vote out of nine.

At the local level, the Authority coordinates efforts with a combination of agencies including local development districts (LDD) and each member's State Department of Economic Development. The Authority was also to collaborate with the U.S. Department of Agriculture's (USDA) Rural Development (RD). Through RD's network of State and local offices, RD was to assist the Authority with project evaluation criteria for proposed projects and administration of projects.

The Authority must prioritize use of Federal funds, with transportation and basic public infrastructure projects receiving at least 50 percent of the appropriated funds, in the following order:

1. basic public infrastructure in distressed counties and isolated areas of distress,

³ Enacted through the Consolidated Appropriations Act, 2001, Public Law 106-554, codified at 7 United States Code (U.S.C.), Section 2009aa to 2009aa-13.

2. transportation infrastructure for the purpose of facilitating economic development,
3. business development with emphasis on entrepreneurship, and
4. job training or employment-related education, with emphasis on use of existing public educational institutions located in the region.

The Authority may provide matching funds for other Federal programs. However, there is a 90-percent cap on the Federal share unless the project is in a distressed county.

The Authority covers 8 States and 240 counties or parishes. No State is required to participate with the Authority. The States and counties covered by the Authority are:

Alabama	20 counties
Arkansas	42 counties
Illinois	16 counties
Kentucky	21 counties
Louisiana	46 parishes
Mississippi	45 counties
Missouri	29 counties
Tennessee	21 counties

Originally, the Act called for appropriations of \$30 million for each fiscal year (FY) until 2007, and would remain available until expended. However, Congress appropriated \$20 million in FY 2001, \$10 million in FY 2002, and \$8 million in FY 2003. Additionally in FY 2003, \$2 million was set-aside for the Authority out of USDA RD's budget for Rural Community Advancement Program grants. Appropriations may be used to supplement other Federal grants but not to exceed 90 percent of the project. No more than 5 percent of annual appropriations can be used for administrative expenses of the Authority. As well, administrative expenses are divided equally, with 50 percent to come from the Federal Government, and the remaining 50 percent to come from the States participating in the Authority. The Authority will expire on October 1, 2007.

The Act requires USDA's Office of Inspector General to audit the activities, transactions, and records of the Authority on an annual basis.

Public Law 107-289, the Accountability of Tax Dollars Act of 2002, requires the Authority to prepare and submit to Congress and the Office of Management and Budget (OMB) audited financial statements beginning with FY 2002. OMB waived the requirement for FY 2002 for agencies that had not prepared an audited financial statement in the past. The 2003 report was due January 30, 2004.

Objective

Our objective was to determine if management controls were in place to ensure funds, appropriated by Congress, are properly accounted for and safeguarded against waste and abuse.

Findings and Recommendations

Finding 1

Controls Needed for Mandated Grant Expenditure Limitations

The Authority has not established accounting controls for expending grant funds in accordance with legislative requirements placed on congressional appropriations available for grants. The potential for misallocation of grant funds existed because the Authority relied solely on the initial project application scoring process as the only means to control expended grant funds.

Section 382 F(b)(1) of the Act states that

** * * The Authority shall allocate at least 75 percent of the appropriations for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region. * * **

Sec 382 F (d) of the Act further states that

** * * The Authority shall allocate at least 50 percent of any funds made available* * * for transportation and basic public infrastructure projects * * **

The Authority does not have an effective means of accounting for grants expenditures and reporting on the legislative requirements placed on funding for grants to eligible entities. The Authority uses an electronic spreadsheet software program for tracking amounts spent on grant projects. However, these spreadsheets do not have information on whether the funds or projects are expended on or serve isolated areas of distress or distressed counties, nor if the 50 percent requirement on transportation or basic public infrastructure projects is being met. The summary sheets only track how much of the total grant a recipient has spent.

The Authority's project scoring process assigns values to projects serving distressed counties or isolated areas of distress, as well as projects committed to a transportation or basic public infrastructure need. However, the Authority scores projects on a variety of other factors as well. Projects that do not meet any of these priority factors can still be funded if the project is

scored high on other nonrelated factors. According to the Act, the Authority must make grants in one of four priority areas of funding:

- basic public infrastructure,
- transportation infrastructure,
- business development, and
- job training or employment-related education.

The Authority's grant scoring process gives maximum value to projects directly addressing one or more of the priority areas and a lesser value to projects indirectly addressing one or more priority areas. Transportation and basic public infrastructure projects are afforded the same weight as the other two priority areas. Likewise, proposed projects located in distressed counties or isolated areas of distress are awarded more points than projects not located in distressed areas. However, since the location and type of project are not the only factors used in scoring a proposed project, it is possible for a project to be funded that does not meet these two criteria. For example, a business development project that proposes to operate in a county, which is not distressed, might be funded, if, the score is high enough on other factors. However, the project would not fall within the 75-percent and 50-percent thresholds. Since the Authority only tracks total amounts expended on grants, it has no means to monitor grant amounts expended within these legislative grant limit categories. The scoring process only controls the initial allocation of funds to grants and is not an effective accounting control for monitoring expended fund allocations. Also, if grants are canceled or not fully expended, there are no controls to account for reallocating the funds to meet the 50- and 75-percent funding limitations.

Conversely, the Authority has an effective annual budgeting process as a control over legislatively mandated limits on administrative expenses. Enabling legislation limited the Authority to no more than 5 percent of annual appropriated amounts for administrative expenses.⁴ The Authority tracks administrative expenditures according to accounting codes and matches these expenses against the administrative expense budget for a given year. By doing so, the Authority can be reasonably assured that administrative expenses will not exceed the 5-percent limitation mandated by the Act. We concluded that accounting controls exist to effectively track and control the 5-percent limit on administrative expenditures.

The Authority needs to develop controls to ensure that funds expended for project grants adhere to legislative limitations. Unlike administrative expenses, the Authority does not have an effective means of ensuring that

⁴ 7 U.S.C. Section 2009aa-13.

grant expenditures are properly accounted for and fall within the congressionally imposed limits.

Recommendation No. 1

Develop and implement controls for grant expenditures (1) that serve distressed counties or isolated areas of distress to ensure that at least 75 percent of appropriated amounts are expended on projects serving these areas and (2) spent on transportation and basic public infrastructure projects to ensure that at least 50 percent of appropriated amounts available for grant funding are expended on these type projects.

Agency Response. In its August 25, 2004, response, the Authority stated:

* * * * *

The Authority had an effective means for controlling appropriated funds within congressionally imposed limitations prior to the disbursement of any appropriated funds, but have also improved upon the system.

* * * * *

- *In October 2002, the Authority established controls for **allocating** grant funds in accordance with legislative requirements placed on congressional appropriations available for grants. This is evidenced by two spreadsheets entitled “75% Funding Breakdown” and “State Project Summaries” which were created to ensure both legislative requirements were met. Therefore, it is clear that the Authority did in fact have means to monitor grant allocation amounts within these legislative grant limit categories.*
- *The Authority also ensured grant funds were actually **expended** in accordance with these legislative requirements. It was mathematically impossible for either of the percentages to dip below the Congressional requirement in the 2001-02 grant program. In addition, Authority officials knew the allocation percentages would be met due to the allocation accounting controls mentioned above. However, in an abundance of caution, the Director of the Federal Programs has added an extra column to the Grant Disbursement Spreadsheet to keep a running total on the federal dollars expended to further ensure the Congressional limitations are met.*

* * * * *

*In response, the Authority **emphatically states that administrative controls for expending grant funds were, in fact, in place and implemented prior to the distribution of any funds, and federal funds were at all times expended within the Congressional limits.***

*The Authority established controls for **allocating** grant funds in accordance with legislative requirements placed on Congressional appropriations available for grants. Two spreadsheets were prepared so as to facilitate these controls. One spreadsheet entitled “75% Funding Breakdown” was specifically created to ensure the 75% requirement was met. A second spreadsheet entitled “State Project Summaries” specifically listed the percentage spent in each State on the four funding areas required by the Delta Regional Authority Act of 2002, as amended, ensuring that the 50% requirement was met. As these spreadsheets were created in October 2002, and funds were not disbursed until March 15, 2003, it is clear, and recognized by [the Office of Inspector General] OIG, that the Authority had means to monitor grant amounts allocated within these legislative grant limit categories.*

*The Authority also ensured grant funds were actually **expended** in accordance with these legislative requirements. Specifically, the 2001-02 grants program consisted of \$26,300,000. Of this, 96% was allocated to distressed counties and 74.9% was allocated to transportation and basic public infrastructure projects. As \$2,017,300.04 was deobligated from approved grants, it was mathematically impossible for either of the percentages to dip below the Congressional requirement. Considering that much of this deobligated money was used in distressed counties and for transportation and basic public infrastructure projects. Authority officials knew these figures would be met due to the allocation accounting controls mentioned above. However, in an abundance of caution, the Director of Federal Programs has added an extra column to the Grant Disbursement Spreadsheet, which is updated and distributed weekly, to keep a running total on the federal dollars expended to further ensure the Congressional limitations are met.*

The Official Draft expresses concern that “[P]rojects that do not meet any of these priority factors [distressed counties or

*isolated areas of distress and transportation or basic public infrastructure] can still be funded if the project is scored high on other nonrelated factors.” Yet, it is clear from the Delta Regional Authority Act of 2000, as amended, that projects that are not in distressed counties or isolated areas of distress and are not transportation or basic public infrastructure can be funded as long as the 75% and 50% requirements are met. This concern, therefore, appears to be unfounded. * * * While acknowledging OIG’s concerns, the Authority has not, in actuality, ever failed to meet the Congressional limitations. Nonetheless, while this Finding is moot, the system has been modified and improved. * * **

OIG Position. At the time of our audit fieldwork, the Authority did not have accounting controls in place to ensure Congressional limitations were met for grant expenditures. As Finding 1 indicates, we recognized the Authority’s control over grant allocations, but we did not see accounting controls for grant **expenditures**. Given that grants initially approved by the Authority may subsequently be canceled, adequate controls over allocations provide little assurance that expenditures will meet the Congressional limits. The Authority’s response provides as proof the existence of accounting controls over expenditures that the 2001-02 grants program ultimately fell within the 75 percent and 50 percent thresholds, even after \$2,017,300 was deobligated. However, the Authority’s logic is faulty because the fact that expenditures ultimately were within the thresholds does not lend assurance that this will always be the case in subsequent grant cycles. We do not agree that the existence of accounting controls is proved because the expenditures were within the limits. We were not able to test whether the Authority’s accumulated grant expenditures met the limitations because, at the time, there was no mechanism to accurately account for and report grant expenditures against the Congressional limitations. We stand by our finding that the Authority did not have accounting controls during the time we conducted our fieldwork.

However, we accept management decision for Recommendation No. 1 because the Authority indicated an acceptable accounting control has been implemented that will enable them to obtain reasonable assurance that grant **expenditures** will fall within Congressional limitations.

Finding 2**The Authority Provided Funds for Questionable and/or Unsupported Costs**

Our review of 13 grants disclosed that the Authority provided funds for questionable or unsupported costs totaling \$357,332 for 3 grants. We

questioned these costs because (1) \$247,000 of expenditures were incurred outside the approved grant period and to an ineligible entity, (2) \$53,000 of expenditures were subgranted to another entity without the knowledge and consent of the Authority, (3) \$45,000 of expenditures were advanced to a grantee without adequate supporting documentation of need, and (4) \$12,332 of expenditures were made for ineligible costs. The questionable expenditures occurred because the Authority did not follow internal controls established to ensure that claims for reimbursement were for authorized purposes and eligible costs before disbursing the payments. In addition, the Authority had not implemented systems to monitor grant expenditures (see Finding No. 3).

We evaluated the Authority's internal controls over grant expenditures or charges made to the grants we reviewed. At the time of our fieldwork, our review of the 13 grants in our sample with obligations totaling \$6,890,384, showed that 5 of the 13 grantees had not requested a drawdown of grant amounts (i.e., the grantees had not made charges to the grants). However, the other eight grantees in our sample had received disbursements totaling \$2,103,150. For the eight grants with expenditures, we examined documentation related to the grantees' request for drawdown of funds. The documentation we examined included invoices, purchase orders, and other similar documents submitted by the grantees supporting their request for payment. We also reviewed the Authority's documents supporting the approval and authorization for payments to the grantees. Based on this review, we identified three grants with questionable expenditures totaling a combined \$357,332.⁵

Grant No. LA-2084: The Authority provided a \$300,000 grant to this nonprofit entity for costs that occurred before the grant period began, and were primarily used by a sister for-profit corporation to apply for and receive Government tax credits. The Authority bypassed internal controls designed to reimburse only allowable costs. Also, the grantee subgranted excess funds to another nonprofit entity without the approval of the Authority. As a result, the Authority provided \$300,000 in Federal grant funds for ineligible costs and purposes.

The Authority's grant agreement with the grantee states in Part II ("General Provisions"), Article 11: "Method of Payment" (4) "Disbursements:"

** * * All disbursements shall be for obligations incurred, **after the effective date**, in the performance of this Agreement, and shall be supported by contracts, invoices, vouchers, and other data, as appropriate, evidencing the disbursements. [Emphasis added.]*

⁵ See exhibit A, "Summary of Monetary Results."

The Authority's Grant Administration Manual Frequently Asked Questions stipulates at Section VI. "Record Keeping and Audits" (A) costs incurred during the grant period.

** * * DRA [the Authority] will not reimburse expenditures occurring before or after the grant period. * * **

The Authority awarded a \$300,000 grant to a nonprofit entity located in Louisiana to develop an application for tax credits from the U.S. Department of the Treasury's New Markets Tax Credit (NMTC) Program⁶. The grantee's agreement with the Authority stipulated the grant's period of performance as February 10, 2003, through December 15, 2006. Prior to this period of performance, the grantee's corporate bank entered into an agreement with a private consulting firm (consultant) to develop the application. This agreement with the consultant was effective on July 22, 2002. The consultant performed the work and received four payments from the bank, totaling \$247,000, during August and September 2002.

The grantee subsequently sent a letter to the Authority dated March 25, 2003, requesting payment of the entire grant amount of \$300,000. The Authority approved payment of \$300,000 to the grantee on April 2, 2003, and provided a check the next day. The Authority approved the payment even though costs were incurred and paid prior to the grant's period of performance.

At the exit conference, the Authority's General Counsel stated that the grant agreement contained a "scrivener's error"⁷ concerning the grant's period of performance. According to the General Counsel, the correct period of performance was February 10, 2002, through December 15, 2006. The General Counsel provided an "Addendum to Grant Agreement" reflecting the new dates. The addendum is dated June 15, 2004. The grant was not effective and signed by both parties until February 5, 2003. In this case, an affiliated bank (not the grantee) provided funding for the consultant via a series of transactions during August and September 2002. We question the integrity of simply amending the grant agreement to cover pre-award costs when the original application made no mention of when those costs would be incurred.

The Authority's General Counsel stated that it was the clear intent of both parties to provide funding for the cost of developing the NMTC application. It was not apparent from the grantee's grant application that the NMTC application was due by August 29, 2002. The nonprofit entity misrepresented

⁶ The NMTC Program permits taxpayers to receive a credit against Federal income taxes for making qualified equity investments in designated community development entities (CDE). Substantially, all of the qualified equity investment must be used, in turn, by the CDE to provide investments in low-income communities.

⁷ Scrivener is defined as a professional or public writer, such as a clerk or notary.

their application for funding by not disclosing that the affiliated bank hired the consultant on July 22, 2002, and that the bank (and its shareholders) were initially paying for and would receive the benefit of the NMTC allocation, if so awarded. A for-profit bank is not an eligible entity for Authority funding.

The Authority's booklet entitled Grants Administration – 2002 Process details the management control process over grantee payments. On page 4, under "Reimbursement/Advance Process" we find

** * * Deputy Director attach all documentation to project file, log into payment notebook and check closing document notebook for any outstanding documentation required before receipt of funds. Review all documentation for accuracy and justification. Create review and approval letter for Finance Officer, Executive Director and Co-Chairman attach on front of received documentation to project folder. Discuss with Finance Director and get his signature. Submit to Executive Director and Federal Co-Chairman for their approval. * * **

The Authority's Executive Director unilaterally approved and authorized the \$300,000 payment to the grantee without adequate supporting documentation, even though the program coordinator and finance director did not first authorize and approve the request for reimbursement, as required. The executive director did not know why the payment approval form did not have the required signatures.

Since the Authority paid the grantee's full grant funding of \$300,000, for a service that cost \$247,000 (mentioned previously, as consultant fees for the development of the New Markets Tax Credit Application), the grantee had \$53,000 in excess grant funds. The grantee subgranted this \$53,000 to another nonprofit entity without seeking approval from the Authority. The grant agreement stipulates that the grantee was not to subcontract for any of the work to be performed under the agreement without first obtaining prior written approval from the project coordinator.

At the exit conference, Authority officials stated that per the original application, the nonprofit entity sought \$600,000 in Authority funding of which half was to be sub-awarded to another nonprofit entity. Authority application reviewers sought clarification of the application. In response, the nonprofit entity revised their requested funding to \$300,000 for the application preparation phase of their proposed project with no subgrantee award. We agree that the original application sought funding to be sub-awarded to the other nonentity, but the original application was modified as evidenced by the clarification letter, with a reduction in funding and no mention of intent to sub-award funds to the other nonprofit entity. Indeed, the actual grant agreement made no mention of the sub-award. As a result,

the grantee misused \$53,000 in Federal funds by violating the terms of the agreement with the Authority.

Grant No. TN-2108: The Authority misspent \$12,332 in Federal funds by reimbursing the grantee for prohibited costs. This occurred because Authority officials did not adequately examine documentation for reimbursement of prohibited costs. During our audit fieldwork, the Authority requested and received full reimbursement from the grantee.

The Authority's internal control procedures⁸ require the Deputy Director of Program Compliance to review all documentation submitted by grantees for reimbursement of costs for accuracy and justification. Certifying and disbursing officials are responsible for exercising reasonable care to prevent overcharges that could result from illegal payments.⁹ Payments may be made to grant recipients only when there is adequate documentation. Before approval, appropriate program staff must be reasonably certain that grant requirements are being met. All claims for reimbursement must be reviewed for reasonableness and propriety.

Attachment B of OMB Circular A-122, "Cost Principles for Nonprofit Organizations," provides principles establishing allowable costs. Item number 18 stipulates that goods or services for personal use are not allowed.

The Authority awarded a nonprofit entity, located in Tennessee in a former school, \$461,100 for the construction of a health clinic within an existing gymnasium and additional office space on the second floor. Also, funding was provided for renovations to other buildings at the entity's site.

The grantee submitted a request of \$12,332 for reimbursement of costs incurred during the period January through March 2003. The Authority approved the payment request despite documentation showing that many items were goods or services for personal use. Although the grantee submitted detailed receipts, it was unclear as to which items made up the \$12,332. The Deputy Director for Program Compliance reviewed the receipts based on our request and was unable to itemize specific costs. The director telephoned the grantee requesting refund of the entire amount to the Authority. The grantee refunded the entire amount of \$12,332 with a check, dated September 12, 2003, payable to the Authority.

Grant No. AL-2073: The Authority awarded the grantee, a nonprofit entity located in Alabama, \$50,000 for a youth internship program at LDD's in Alabama's delta regions. The grant period was March 1, 2003, through March 1, 2004. In June 2003, the grantee requested an advance of 90 percent of the grant amount, or \$45,000. The Authority approved the grant request.

⁸ Grants Administration – 2002 Process, page 4.

⁹ "Financial Management Guidelines," pages 12 and 18.

The grantee's stated purpose for a 90-percent advance was to initiate the program. However, the grantee did not provide any documentation indicating the reason it needed such a large advance or that it had hired any interns. Also, the grantee's advance request did not stipulate a timeframe for the expenditure of the advanced funds.

The Authority's grant agreement with the grantee contained language¹⁰ that allows for an advance of funds in amounts sufficient (not to exceed 90 percent of the total grant amount) to meet scheduled payroll and other related costs provided certain conditions are met. These conditions include obtaining a firm commitment of employment from each employee appointed under the agreement. Another condition is that formal subcontracts have been executed, which will require payment for goods and services to be delivered during the period for which the advance is sought.

OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations," establishes principles for agencies to follow in administering Federal grants with nonprofit agencies. The circular defines an advance as a U.S. Treasury payment to a recipient upon its request before the recipient makes outlays either by the recipient or in advance of predetermined payment schedules. These regulations require:

- payment methods to minimize the time elapsing between the transfer of funds to the grantee from the U.S. Treasury and the disbursement of the funds for program purposes by the grantee;
- cash advances to a grantee to be limited to the minimum amounts needed and be timed in accordance with the actual, immediate cash requirements of the grantee in carrying out the grant's purpose; and
- timing cash advances and the amounts as close as is administratively feasible to the actual disbursements by the grantee.

We concluded the grantee did not adequately document the need for the advance and that the Authority does not have management controls over payment advances designed to ensure that the elapsed time is minimized between the advance and disbursement of funds.

Recommendation No. 2

Ensure the recovered \$12,332 for Grant TN-2108 is used for eligible costs, and recover the \$300,000 in ineligible grant funds for Grant LA-2084, if appropriate (see exhibit A).

¹⁰ Grant Agreement: Part II - "General Provisions," Article 11: "Method of Payment" (2) "Advance Payments."

Agency Response. In its August 25, 2004, response, the Authority stated:

* * * * *

** * * The Authority had contracted with USDA-RD to assist in administering several grants, including the one at issue. The Authority and USDA-RD entered into a Memorandum of Agreement on February 14, 2003. As part of this Agreement, USDA-RD agreed to “administer and service * * * [the Authority] grants...” This was done as USDA-RD “has considerable experience and special expertise in providing financial and technical assistance to communities and businesses in rural America.” In administering these funds, USDA-RD must “follow their regulations” and “ensure compliance with the DRAA.” Therefore, it was USDA-RD’s responsibility to “report fully and accurately grant expenditures;” but the Authority recognizes and understands it is ultimately responsible.*

* * * * *

USDA-RD had the responsibility in TN-2108 to “report fully and accurately grant expenditures.” The funds were disbursed at the direction of the representative from USDA-RD, but, as cited in OIG’s Official Draft, were returned at the request from the Authority within three weeks. Therefore, this portion of this Finding has been satisfied.

* * * * *

SUMMARY OF RECOVERIES

<i>Project</i>	<i>Amount</i>	<i>Date Return Demanded</i>	<i>Date Funds Returned</i>
<i>LA-2084</i>	<i>\$300,000.00</i>	<i>August 5, 2004</i>	<i>Forthcoming</i>
<i>AL-2073</i>	<i>\$2,000.00</i>	<i>July 15, 2004</i>	<i>July 17, 2004</i>
<i>TN-2108</i>	<i>\$12,332.10</i>	<i>September 15, 2003</i>	<i>September 19, 2003</i>

* * * * *

The project is currently “on hold” as the Grantee is waiting on architect revisions. As the project has been approved by the Authority and the Governor of Tennessee, the Authority will ensure this money is used for eligible costs as directed by OIG.

* * * * *

The alleged sub-grant in LA-2084 to the “Community of Faith for Economic Empowerment” (hereinafter “COFFEE”) was contemplated in the original Project Application, but after the \$600,000 grant request was halved and clarification notes were requested, nothing was mentioned as to COFFEE receiving any funds whatsoever. Rather, it appears the entire \$300,000.00 was to be used by Liberty Foundation, Inc., (hereinafter “Foundation”) to prepare an application for New Market Tax Credits. In fact, nowhere in the Grant Agreement between the parties is COFFEE even mentioned, much less authorized to receive funds. As such, it appears \$53,000.00 was misused by the Grantee when it was given to COFFEE without prior approval by the Authority. In light of this revelation revealed by the investigations of OIG and the Authority, the Authority’s General Counsel has demanded return of \$53,000.00.

*On July 30, 2002, **Liberty Foundation, Inc.**, a non-profit entity, submitted a Project Application. No where in the Application is any indication given that Liberty Bank and Trust Co., (hereinafter “Bank”) a for-profit entity, was involved in the grant. Clarification of the Application was requested and a response was provided on August 28, 2002, on “Liberty Foundation, Inc., (a 501(3)(c) Company)” [sic] letterhead. Based upon the Application and the clarification letter, the Authority believed the grantee was the Foundation, and the entire grant was going to be used to prepare an application for New Market Tax Credits. However, upon the investigations of OIG and the Authority, it is clear that the Consulting Agreement recently received between the Bank and VFD Group, LLC, to prepare the application for the New Market Tax Credits was entered into on July 22, 2002, with payments made to VFD Group, LLC, beginning in August of 2002. The investigations also revealed that the application for the New Market Tax Credits was filed on August 29, 2002, by the Bank and not the Foundation, all before the funds were awarded in the fall of 2002. Then, when the grant proceeds were forwarded to the Foundation, the Bank was simply reimbursed by the Foundation for the payments already made to VFD Group, LLC, for preparation of the application. As such, the Authority directed its General Counsel to demand repayment of the entire amount of the funds. According to Bank and Foundation officials, a response directly from the Bank and Foundation and at least of portion of the grant funds will be delivered by September 7, 2004. If the entire amount is not returned, the Authority will turn the situation over to the United States Attorney’s General office immediately.*

* * * * *

SUMMARY OF RECOVERIES

<i>Project</i>	<i>Amount</i>	<i>Date Return Demanded</i>	<i>Date Funds Returned</i>
<i>LA-2084</i>	<i>\$300,000.00</i>	<i>August 5, 2004</i>	<i>Forthcoming</i>
* * *	* * *	* * *	* * *
* * *	* * *	* * *	* * *

* * * * *

OIG Position. We accept the Authority’s management decision for this recommendation.

Recommendation No. 3

Require the grantee to provide adequate supporting documentation to show how the \$45,000 advance for grant AL-2073 was spent. Recover any amount not spent for authorized purposes (see exhibit A).

Agency Response. In its August 25, 2004, response, the Authority stated:

* * * * *

**** The Authority provided \$45,000 of a \$50,000 grant to hire students for 90 days to work at the six local development districts serving Alabama’s distressed Delta eligible counties. The findings made are twofold. First, the “grantee did not provide any documentation indicating the reason it needed such a large advance or that it had hired any interns.” Second, “the grantee’s advance request did not stipulate a timeframe for the expenditure of the advanced funds.”*

(1) Documentation

A “Request for Advance or Reimbursement” was executed by the Grantee on January 29, 2003. Although it was clear this was an advance for operating costs for the program, no documentation was attached, nor requested, stating exactly how this advance was to be used. However, it is clear from the straightforward application that the funds received were going to be used to actually hire the students as interns as this was the only request made in the original application. This begs the question of how else could this money have been spent?

In any event, it appears that the Deputy Director of Compliance, who is no longer with the Authority, did not follow

internal guidelines which resulted in the advance being made without proper documentation. In review of the documents since received, it is clear that \$43,000 of the grant has been expended pursuant to the grant application. Specifically, the Expenditure Report received from the Grantee lists the local development districts, the name of the interns, the duties of the interns, the dates of employment, and the amounts paid. This Report exhibits that \$25,457.26 has been spent in accordance with the application. Time sheets received from the Grantee exhibits \$3,000 was properly spent pursuant to the application as administrative support of the Alabama Association of Regional Council's office. The June 15, 2004, correspondence from [], Executive Director of the Alabama Association of Regional Councils, exhibits all but \$2,000 was spent in the three months following the date of this correspondence in accordance with the grant application. The remaining \$2,000 that was simply being held by the Grantee was returned on June 16, 2004, due to the demand of the Authority.

* * * * *

Documentation has been produced by the Grantee in AL-2073 which evidences that \$43,000 of the grant have been used, or will be used in the next three months, pursuant to the grant application. The Authority demanded the remaining \$2,000 which was mailed on June 16, 2004, and received by the Authority shortly thereafter.

SUMMARY OF RECOVERIES

<i>Project</i>	<i>Amount</i>	<i>Date Return Demanded</i>	<i>Date Funds Returned</i>
* * *	* * *	* * *	* * *
<i>AL-2073</i>	<i>\$2,000.00</i>	<i>July 15, 2004</i>	<i>July 17, 2004</i>
* * *	* * *	* * *	* * *

* * * * *

OIG Position. We accept the Authority's management decision for this recommendation.

Recommendation No. 4

Ensure that applicable grant provisions and policies are followed to (1) prevent payments to grantees for costs incurred outside of the applicable grant's period of performance; (2) reimburse grantees for only allowable charges that are properly supported; and (3) address the advance of funds to

grant recipients, including instructing grantees to document the need for any advance request, and a timeframe for disbursement of the advance.

Agency Response. Concerning our recommendation for the Authority to ensure applicable grant provisions and policies are followed to prevent payments to grantees for costs incurred outside of the grants' period of performance, in its August 25, 2004, response the Authority stated:

* * * * *

OIG recommended the Authority ensure policies and procedures are in place to prevent payments to grantees for costs incurred outside of grants' period of performance, and strengthen management controls for authorizing and approving reimbursements to grantees' allowable costs. Management controls within the grant program have been strengthened.

* * * * *

The Authority further responded to grant number LA-2084 with:

* * * * *

(1) The Grant Period Began In 2002

The Grant Agreement between the Authority and the Grantee contained a "scrivener's error" by stating the grant period began in 2003 as opposed to 2002. In fact, the introduction of the Grant Agreement correctly states the "Grant Period" began in 2002. As this was one of the first of 137 grants in this cycle, a simple mistake was made in one place in the Grant Agreement between the parties. Although this is not acceptable, it is certainly understandable in light of the task undertaken by the Authority. An Addendum to the Grant Agreement recognizing and correcting this error has since been executed.

Clearly, it was the intent of the parties for the grant period to include 2002. As the application for the New Market Tax Credits Program was due before August 29, 2002, obviously the grant period included 2002. The trail of approval is clear. The project was:

- *applied for on July 30, 2002;*
- *recommended by the Governor of Louisiana on August 5, 2002;*

- *received a high score when reviewed by the Authority staff on September 23, 2002;*
- *approved by the Federal Co-Chairman shortly thereafter; and*
- *approved by the Authority's Board shortly thereafter.*

Therefore, it is clear the project was approved for federal funds at every level prior to the disbursement of any federal funds.

The fact the work was completed prior to the execution of the grant documents is irrelevant. No federal or state laws or regulations or OMB circulars were violated. All that was violated was an internal guideline that was:

- *drafted by the Deputy Director of Compliance to be used as her own personal form;*
- *never reviewed by the Authority's General Counsel; and*
- *never adopted by the Authority.*

* * * * *

Concerning our recommendation for the Authority to ensure applicable grant provisions and policies are followed to reimburse grantees for only allowable charges that are properly supported, the Authority responded:

* * * * *

The Director of Federal Programs has directed, and trained, the project coordinators to only reimburse or advance items from the budgets completed by the grantees. If an employee of an administrating agency indicates that an item should be paid, but the project coordinator has any uncertainty as to the payment, the Director becomes involved to ensure proper documentation before any payments are made.

* * * * *

Concerning our recommendation for the Authority to ensure applicable grant provisions and policies are followed to reimburse grantees for only allowable charges that are properly supported, the Authority responded:

* * * * *

The Authority recognizes the advance funds were not expended immediately, but rather as the expenses were incurred. To ensure the elapsed time is minimized between the advance and disbursement of funds, the new Director of Federal Programs has implemented a policy that prescheduled advancements are not to be paid unless the expenses are to be made within three months pursuant to Form SF-270. This has been explained to the Director of Alabama Association of Development Council. As the project coordinators have been trained in this policy as well, this will not be a problem in the future.

OIG Position. The Authority's response, dated August 25, 2004, did not specifically address our recommendation to ensure that applicable grant provisions and policies are followed to prevent payments to grantees for costs incurred outside of the applicable grant's period of performance. The Authority's response indicates that management controls within the grant program have been strengthened, but does not mention how management controls were strengthened concerning payments outside of a grant's period of performance. To reach management decision on this recommendation, the Authority needs to provide us with a response that demonstrates the Authority's commitment to ensuring only eligible costs occurring within a grant's period of performance are paid.

We accept the Authority's management decision for items (2) and (3) for this recommendation.

The Authority disagreed with our assertion that costs incurred under grant number LA-2084 were outside of the grant's period of performance. The Authority maintained the grant's period of performance as stated in the grant agreement was incorrect and attributable to a "scrivener's error." The Authority argued as irrelevant the fact that the work was completed prior to the execution of the grant documents. The Authority further argued that no Federal or State laws or regulations or OMB circulars were violated. The Authority maintained that the only thing that was violated was an internal guideline that was never adopted by the Authority.

We stand by our finding that the work performed for grant number LA-2084 was outside of the grant's period of performance. Furthermore, it concerns us that the Authority deems irrelevant the timeframe for performance of work under this grant agreement. The internal guidelines the Authority states were "never adopted" was provided to us by the Authority during the conduct of our fieldwork. As put forth to us and included in grant agreement packages as Authority policy, it is the criteria we used to audit against.

Concerning the same grant number (LA-2084), the Authority also disagreed with our assertion that internal controls designed to reimburse only allowable costs were bypassed. Our finding is based on the fact that an internal document the Authority uses to ensure all requests for payment are properly vetted by appropriate Authority officials (program and finance/administration) did not have the appropriate approvals. The Authority's response stipulated that proper approvals were obtained prior to disbursement of \$300,000. As evidence, the Authority asserted that the program official had reviewed and scored the initial project proposal and the finance/administration official executed a request for reimbursement to a representative from the General Services Administration. The fact that the program official reviewed and scored the initial project application is irrelevant concerning the payment to the grantee. The finance/administration official requested payment only after the executive director unilaterally approved the payment. The internal control of requiring the program and finance/administration officials to approve payments is supposed to be prior to the executive director's approval or disapproval. As an internal control, we feel this procedure is adequate, if followed. However, in this case, the control was not followed. An internal control is only as good as management lends adherence to it.

Finding 3**Controls Over Grant Expenditures Need Improvement**

The Authority has not implemented effective systems to monitor grant projects to ensure that grantee expenditures accomplished the objectives set forth in the enabling legislation and that grantees met applicable reporting requirements. Although the Authority planned to develop internal procedures for monitoring grants, it had not completed these procedures at the time of our fieldwork. An Authority official said that monitoring systems were not implemented because of other priorities and the lack of staff. The absence of procedures to monitor grantees, lessens the Authority's ability to ensure that (1) funds are spent in accordance with applicable laws and regulations and (2) grantees were making progress in achieving the objectives of their projects and the overall objectives of the legislation. We also found that progress reports for our sample of 13 grant files were submitted late, not submitted, or were not in the proper format. Grantees are required to submit progress reports to help the Authority check the progress of grantees toward successful project completion. At the time of our fieldwork, progress reports were the only means the Authority had to ensure successful grantee progress. However, the Authority was not monitoring these reports.

As a means of reviewing the Authority's management controls over the grant administration process, we judgmentally selected 13 grants to review from

the FY's 2001 and 2002 grants cycle.¹¹ The selected sample of 13 grants accounted for \$6,890,384 in obligations of which \$2,103,150 had been expended. Since its inception in FY 2001, the Authority has done a commendable job of establishing an organization that was able to allocate \$28.5 million for eligible project grants across its eight member States in a relatively short period. However, given the Authority's short existence, we identified weak controls over the grant administration process. Specifically, we found the following.

Monitoring of Grantee Financial and Program Activities

Finding No. 2, in this report, identified a total of \$357,332 in ineligible or unsupported costs caused, in part, to the absence of an effective monitoring program. We tested grant files to confirm that (1) the Authority was monitoring those grants for which the Authority was the administrative entity responsible for servicing grants and (2) the Authority was ensuring that other administrative entities (USDA's RD and LDD's) were fulfilling their monitoring responsibilities. We found little evidence that the Authority monitored grantee activities. The Authority's Deputy Director for Program Compliance agreed that monitoring had not been done on the grants in our sample and said that other priorities and lack of staff resources contributed to this condition. We concluded that management had not developed policies and procedures for monitoring grants.

The General Accounting Office's Standards for Internal Control in the Federal Government (Standards) provides the overall framework for establishing and maintaining internal control. According to the Standards, monitoring is one of the five Standards for internal control. The Standards stipulate

** * * Internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations. It is performed continually and is ingrained in the agency's operations. It includes regular management and supervisory activities, comparisons, reconciliations, and other actions people take in performing their duties. * * **

The Authority has plans to develop internal procedures for monitoring. For grants where the Authority is not the administrative entity, it established memorandums of agreement with USDA's RD and member States' LDD's for them to serve as the administrative entity responsible for monitoring.

Monitoring of Grantee Reporting Requirements

¹¹ See the "Scope and Methodology" section of this report for details on our sample selection.

Similarly, the Authority was not adequately monitoring grantee-reporting requirements designed to report on program progress and results. The Authority does not have in place policies and procedures for reviewing and verifying information submitted via the progress and final reports. Also, the Authority has not developed and implemented a systematic process ensuring that grantees submit progress and final reports in a timely manner. As a result, the Authority lacks assurance that grantees are spending grant funds in accordance with applicable laws and regulations and managing projects in accordance with grant agreements. (See Finding No. 2.)

OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations," sections 51 through 53 set forth the procedures for reporting on the recipient's financial and program performance. Section 51 (b), "Monitoring and Reporting Program Performance" states

**** (b) The Federal awarding agency shall prescribe the frequency with which the performance reports shall be submitted. *** Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. ****

Section 51(d) further provides –

**** (d) When required, performance reports shall generally contain, for each award, brief information on each of the following.*

(1) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons why established goals were not met, if appropriate.

*(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs. ****

The Authority's Grant Administration Manual Frequently Asked Questions also stipulates that final reports are due 30 days after the project has ended.

We tested for evidence that the Authority's grantees were submitting required progress and final reports and that the Authority was effectively monitoring grantees' reports. We found that the Authority does not monitor, analyze, or verify the status of progress and final reports, and did not take any remedial actions, such as withholding progress payments, against grantees for not

submitting required reports. In summary, based on our review of the 13 grant files in our sample, we found the following:

- 16 quarterly progress reports were submitted late;
- 4 final reports were due, but had not been submitted; and
- progress reports did not always follow the prescribed format.

Untimely quarterly progress reports, final reports not submitted, and inconsistent quarterly report formats resulted from the Authority's lack of an effective monitoring system. We also could not determine the grant period's starting and ending dates for 2 grants out of the 13 reviewed. In the absence of grant period starting and ending dates, we used the date of grant approval as a logical starting date for purposes of determining due dates for progress reports.

Recommendation No. 5

Develop monitoring policies and procedures to ensure that grants of Federal funds are used as intended and in accordance with applicable Federal laws and regulations and develop procedures to ensure that basic agencies, such as USDA's RD and LDD's are fulfilling their monitoring duties.

Agency Response. In its August 25, 2004, response, the Authority stated:

* * * * *

Since the departure of the Deputy Director of Compliance and the hiring of a new Director of Federal Programs, the Authority has developed monitoring policies and procedures to ensure that grants of Federal funds are used as intended. Specifically, all invoices or other supporting documentation must be compared with the project budget. This is done by the project coordinator and then double checked by the Director of Federal Programs. The Director of Finance and Administration and finally, the Executive Director and the Federal Co-Chairman, must approve the disbursement. In short, five approvals are required to ensure that grants of Federal funds are used as intended.

Procedures to ensure that basic agencies are fulfilling their monitoring duties have been implemented. Specifically, the weekly Grant Summary Report exhibits the status of reporting by each grantee. Under the Memorandums of Agreement, the administering agencies are required to provide quarterly reports discussed below from the grantees, and USDA-RD

provides a final accounting on each project when completed. The Director of Federal Programs and the program coordinators review each SF-270 and supporting documentation forwarded by the administering agencies.

* * * * *

OIG Position. We accept the Authority's management decision for this recommendation.

Recommendation No. 6

Assess whether additional resources should be hired or assigned within their existing administrative expense allotment to monitor grantees' activities.

Agency Response. In its August 25, 2004, response, the Authority stated:

* * * * *

OIG concurs with the Authority's decision to hire additional resources. Specifically, [] has been hired as Director of Federal Programs. [] has over 29 years of experience with lending institutions and has been running the federal grants program as if it were a lending institution. Thanks to his experience and expertise, [] has revamped the monitoring, policies and procedures of the grants program. In addition, two new project coordinators were hired to assist him and have been trained to ensure that the grants of federal funds are being used in accordance with applicable federal laws and regulations. This action by the Authority again exhibits a proactive approach which was installed by the Authority shortly after the initial grant closing documents were signed and before significant funds were disbursed as it was recognized that additional resources were needed.

* * * * *

OIG Position. We accept the Authority's management decision for this recommendation.

Recommendation No. 7

Establish controls to ensure that grantees submit timely and accurate progress and final reports and that reports are thoroughly reviewed for discrepancies; and impose sanctions, such as withholding progress payments, against grantees for not submitting timely reports.

Agency Response. In its August 25, 2004, response, the Authority stated:

* * * * *

The Authority has established controls to ensure that grantees submit timely and accurate progress and final reports. Specifically, the Quarterly Project Performance Activity Report has been modified as has the Delta Regional Authority Worksheet for Reimbursement Request. In addition, a Financial Status Report (SF-269) is now required of all grantees. These are patterned from USDA-RD which prepared the same based on OMB-Circulars. Information required for the reports is given to the grantees before any funds are disbursed and explained by both General Counsel and the Director of Federal Programs. These reports are required quarterly until the project is completed, even if Authority funds have been fully disbursed before the project is completed. As policy, both reports are due 15 working days after the end of each quarter. If a report is not timely received, a project coordinator personally calls both the administering agency and the grantee regarding the status. This is monitored closely until received with intervention by the Director of Federal Programs if necessary. If any documentation is delinquent or incomplete, absolutely no funds are disbursed until the documentation is received and approved.

* * * * *

OIG Position. We accept the Authority's management decision for this recommendation.

Finding 4

The Authority Did Not Adequately Prepare for Compliance with the Accountability of Tax Dollars Act of 2002

At the time of our fieldwork, the Authority had not taken necessary steps to comply with the Accountability of Tax Dollars Act of 2002¹². This

¹² Public Law 107 – 289, dated November 7, 2002.

Accountability of Tax Dollars Act required the Authority to prepare and submit to Congress and OMB an audited financial statement beginning with the FY 2002 cycle. Although OMB waived the requirement for FY 2002, Authority officials had not taken action to implement the Accountability of Tax Dollars Act 's requirements to prepare and submit audited financial statements for FY 2003. The Authority was made aware of the Act's requirements and its applicability to them via an e-mail message from OMB, dated January 8, 2003. The message stated that the Authority was to work with OIG to determine the best course of action to comply with the Act. The onus of compliance lies with the Authority. The Authority took no steps to contact OIG concerning the Act's requirements prior to our entrance conference on July 29, 2003. At that time, we determined that the Authority had not taken action regarding the Act's requirements. By not taking the necessary steps to comply with the Accountability of Tax Dollars Act's requirements, the Authority has delayed an important step in strengthening its financial and performance reporting.

The Accountability of Tax Dollars Act permitted OMB to waive the requirement for submitting audited financial statements during an initial transition period. OMB waived the requirement for FY 2002 for those agencies that had not prepared audited financial statements in the past. The Authority was to begin to plan for the financial statement audits for FY 2003. These statements were due January 30, 2004, unless OMB granted another waiver. OMB required entities to submit any requests for waiver by May 30, 2003. Additionally, beginning with the FY ending September 30, 2004, the Authority will be required to submit performance and accountability reports to OMB and Congress by November 15, 2004.

At the time of our fieldwork, the Authority had not complied with this Accountability of Tax Dollars Act. In October 2003, we held a telephone conference call with the Authority's Federal Co-Chairman and Director of Finance and Administration to discuss their requirement to obtain a FY 2003 financial statement audit by January 30, 2004. Even though the date for requesting a waiver had passed, we recommended that the Federal co-chairman request either a waiver from the January 30, 2004, due date, or an extension of the due date considering the limited time the Authority had to obtain a financial statement audit. OMB did not grant the Authority a waiver from the January 30, 2004, due date, nor did they grant an extension of time. OMB informed the Authority that they could send whatever work had been accomplished towards getting audited financial statements completed by January 30, 2004.

Recommendation No. 8

Immediately plan to meet the financial statement preparation and audit requirements of the Accountability of Tax Dollars Act of 2002 for FY's 2003 and 2004. These steps should include ensuring the Authority has

the skills and resources necessary to prepare its financial statements in accordance with generally accepted accounting principles and that evidence is maintained to support the information in those financial statements.

Agency Response. In its August 25, 2004, response, the Authority stated:

* * * * *

OIG recommended the Authority take steps, immediately, to meet the financial statement preparation and audit requirements of the Accountability of Tax Dollars Tax Dollars Act of 2002 for fiscal year 2003 have been met and for 2004 will be met.

* * * * *

*The Authority has been in constant contact with OIG representatives and has performed accordingly concerning the Accountability of Tax Dollars Act of 2002 which was complied with on August 13, 2004. * * **

* * * * *

** * * The Authority contacted * * * [a] CPA * * * [firm] in Jackson, Mississippi, to conduct this audit. * * * [The CPA firm] completed this audit on August 13, 2004. The Authority has contracted with * * * [the CPA firm] to complete the * * * [FY] 2004 audit which will be submitted by the deadline date of November 15, 2004. * * **

OIG Position. We accept the Authority's management decision for this recommendation. The Authority responded that they are in compliance with the Accountability of Tax Dollars Act of 2002. The legislation extended to the Authority a requirement to submit to Congress and OMB audited FY 2003 financial statements by January 2004. The Authority did not comply with this deadline. The Authority's response suggests OIG complicity with the Authority regarding compliance with the Accountability of Tax Dollars Act of 2002. However, the Authority had not taken any steps towards compliance prior to our entrance conference in July 2003. The onus of compliance rested with the Authority, not OIG.

Scope and Methodology

Scope - Audit work was performed at the Authority's office in Clarksdale, Mississippi, and at the offices of an Authority grantee located in New Orleans, Louisiana, during the period July to October 2003. We included the Authority operations and management controls over Federal funds from inception (FY 2001) through FY 2003.

We judgmentally selected 13 grants for review. We only included grants made from FY 2001 through FY 2003. Our universe of grants, from which our sample was selected, included 110 project grants. Our sample selection was based on an electronic spreadsheet document provided to us by the Authority's personnel. The spreadsheet, "Grant Compliance Summary Report for 2002 State Projects," was dated July 25, 2003. Based on this document, we determined the following:

- The 110-grant universe represented obligations of Federal dollars totaling \$24,977,200 of which \$2,629,978 had been disbursed.

From this universe, our sample of 13 judgmentally selected grants totaled \$6,890,384 in obligations of which \$2,103,150 had been disbursed.

Sample Selection Criteria - Our sample was chosen using three criteria.

1. We selected at least one grant from each of the eight member States.
2. We chose large dollar grants.
3. We chose grants that had funds disbursed to the grantee. (For States that did not have grants that received disbursements, we chose large dollar grants.)

The audit was conducted in accordance with generally accepted government auditing standards. Accordingly, it included such tests of the accounting records and other auditing procedures necessary to accomplish our audit objective. We evaluated Authority management controls over grants administration and expenditures. We also evaluated Authority management controls over financial administration including accounting controls.

Methodology - To accomplish our objective, the audit included interviews with Authority personnel and examinations of policies, procedures, and activities. Specifically, we:

1. reviewed program regulations, instructions, policies, and procedures, as applicable, to the Authority;

2. reviewed external and internal audit reports, financial reports, and performance reports;
3. reviewed contracts and agreements between the Authority and grantees, strategic plans, program funding, and financial reports;
4. interviewed the Authority's office officials. We also interviewed a grant official from one Authority grantee;
5. reviewed the Authority's accounting system and expenditures; and
6. reviewed grant documents and related documentation for 13 judgmentally selected grants.

Exhibit A – Summary of Monetary Results

FINDING NUMBER	RECOMMENDATION NUMBER	DESCRIPTION	AMOUNT	CATEGORY
2	2	Grant funding provided for speculative projects that put Federal funds at risk; and, because <ul style="list-style-type: none"> • \$247,000 in costs were incurred outside of the grant period and • \$53,000 was subgranted without knowledge and consent of the Authority. 	\$300,000	Questioned Cost, Recovery Recommended
2	2	Disallowed costs charged to the grant.	12,332 ¹³	Questioned Cost, Recovery Recommended
2	3	90 percent of the grant amount advanced to grantee without adequate documentation of need.	45,000	Unsupported Costs, Recovery Recommended
Total			\$357,332	

¹³ This amount was recovered during the audit fieldwork; however, we recommended that this amount be used for eligible purposes.

**DELTA REGIONAL AUTHORITY'S RESPONSE TO
OFFICIAL DRAFT AUDIT REPORT (FISCAL YEARS 2001-
2003) BY U.S. DEPARTMENT OF AGRICULTURE, OFFICE
OF INSPECTOR GENERAL, SOUTHEAST REGION**

PREAMBLE

The Delta Regional Authority (hereinafter “Authority”) first met on February 23, 2002. Since that time, the Authority has granted over \$34 million through 188 grants all across the counties and parishes throughout the eight Delta states. As a result, an additional \$135 million in investment has been leveraged, a ratio of 3.97 to 1. At the Authority’s last Board meeting in June, the Authority decided it is time to start shifting from the “organizational phase” of the organization to the “established phase,” whereby the Authority emphasizes “performance, accountability and sustainability” with its grants program.

Thanks to the Office of the Inspector General (hereinafter “OIG”) and the proactive approach of the Authority, this shift has been eased. Specifically:

- OIG recommended and, thereby helped, implement various policies and procedures to ensure funds appropriated by Congress are properly safeguarded and accounted for.
- The Authority, recognizing the enormity of beginning a federal agency, has been proactive in its approach. Specifically, the Authority requested assistance from outside auditors as early as September 2002.

As stated in OIG’s Official Draft “many of the findings discussed in [OIG’s] report would not be problems in the future.” As such, the Authority is well on its way to “performance, accountability and sustainability.” Specifically, the recommendations made by OIG have been taken and implemented. For instance:

- OIG recommended the Authority develop an effective means for controlling appropriated funds within congressionally imposed limitations. *The Authority had an effective means for controlling appropriated funds within congressionally imposed limitations prior to the disbursement of any appropriated funds, but has also improved upon the system.*
- OIG recommended the Authority develop monitoring policies and procedures for ensuring grants of Federal funds are being used as intended and in accordance with applicable laws and regulations. *The Authority has developed monitoring policies and procedures for ensuring that grants of Federal funds are used as intended and in accordance with applicable laws and regulations.*
- OIG recommended the Authority ensure policies and procedures are in place to prevent payments to grantees for costs incurred outside of grants’ period of performance, and strengthen management controls for authorizing and approving reimbursements to grantees’ allowable costs. *Management controls within the grant program have been strengthened.*

- OIG recommended the Authority develop written management controls covering advances of funds to grantees. *The Authority has adopted OMB Circulars to assist with management controls covering advances of funds to grantees.*
- OIG recommended the Authority develop written policies and procedures for ensuring grantees submit timely progress and final reports on project activities and implement a sanction policy for withholding payments to grantees due to late or missing progress or final reports. *The Authority has developed written policies and procedures for ensuring grantees submit timely progress and final reports on project activities and implemented a policy of withholding payments to grantees due to late status reports.*
- OIG recommended the Authority take steps, immediately, to meet the financial statement preparation and audit requirements of the Accountability of Tax Dollars Act of 2002 for fiscal years 2003 and 2004. *The audit requirements of the Accountability of Tax Dollars Act of 2002 for fiscal year 2003 have been met and for 2004 will be met.*

EXECUTIVE SUMMARY OF DELTA REGIONAL AUTHORITY'S RESPONSE

Response to Results in Brief

Response to Finding 1 *Management Controls Needed For Grant Allocation Requirements Were In Place.*

- In October, 2002, the Authority established controls for **allocating** grant funds in accordance with legislative requirements placed on congressional appropriations available for grants. This is evidenced by two spreadsheets entitled “75% Funding Breakdown” and “State Project Summaries” which were created to ensure both legislative requirements were met. Therefore, it is clear that the Authority did in fact have means to monitor grant allocation amounts within these legislative grant limit categories.
- The Authority also ensured grant funds were actually **expended** in accordance with these legislative requirements. It was mathematically impossible for either of the percentages to dip below the Congressional requirement in the 2001-02 grant program. In addition, Authority officials knew the allocation percentages would be met due to the allocation accounting controls mentioned above. However, in an abundance of caution, the Director of the Federal Programs has added an extra column to the Grant Disbursement Spreadsheet to keep a running total on the federal dollars expended to further ensure the Congressional limitations are met.

Response to *The Authority Appropriately Provided Funds for Supported Costs.*
Finding 2

The Grant Agreement between the Authority and the Grantee in LA-2084 contained a “scrivener’s error” by stating the grant period began in 2003 as opposed to 2002. This is evidenced in the introduction of the Grant Agreement which correctly states the “Grant Period” began in 2002. As the application for the New Market Tax Credits Program was due before August 29, 2002, obviously the grant period included 2002.

Further, and more importantly, the fact the work was completed prior to the execution of the grant documents is irrelevant as no federal or state laws or regulations or OMB circulars were violated. In addition, the project was:

- recommended by the Governor of Louisiana,
- received a high score when reviewed by the Authority staff, and
- was approved by the Authority’s board prior to disbursement.

The alleged sub-grant in LA-2084 to the “Community of Faith for Economic Empowerment” (hereinafter “COFFEE”) was contemplated in the original Project Application, but after the \$600,000 grant request was halved and clarification notes were requested, nothing was mentioned as to COFFEE receiving any funds whatsoever. Rather, it appears the entire \$300,000.00 was to be used by Liberty Foundation, Inc., (hereinafter “Foundation”) to prepare an application for New Market Tax Credits. In fact, nowhere in the Grant Agreement between the parties is COFFEE even mentioned, much less authorized to receive funds. As such, it appears \$53,000.00 was misused by the Grantee when it was given to COFFEE without prior approval by the Authority. In light of this revelation revealed by the investigations of OIG and the Authority, the Authority’s General Counsel has demanded return of \$53,000.00.

On July 30, 2002, *Liberty Foundation, Inc.*, a non-profit entity, submitted a Project Application. No where in the Application is any indication given that Liberty Bank and Trust Co., (hereinafter “Bank”) a for-profit entity, was involved in the grant. Clarification of the Application was requested and a response was provided on August 28, 2002, on “Liberty Foundation, Inc., (a 501(3)(c) Company)” [sic] letterhead. Based upon the Application and the clarification letter, the Authority believed the grantee was the Foundation, and the entire grant was going to be used to prepare an application for New Market Tax Credits. However, upon the investigations of OIG and the Authority, it is clear that the Consulting Agreement recently received between the Bank and VFD Group, LLC, to prepare the application for the New Market Tax Credits was entered into on July 22, 2002, with payments made to VFD Group, LLC, beginning in August of 2002. The investigations also revealed that the application for the New Market Tax Credits was filed on August 29, 2002, by the Bank and not the Foundation, all before the funds were awarded in the fall of 2002. Then, when the grant proceeds were forwarded to the Foundation, the Bank was simply reimbursed by the Foundation for the payments

already made to VFD Group, I.L.C, for preparation of the application. As such, the Authority directed its General Counsel to demand repayment of the entire amount of the funds. According to Bank and Foundation officials, a response directly from the Bank and Foundation and at least of portion of the grant funds will be delivered by September 7, 2004. If the entire amount is not returned, the Authority will turn the situation over to the United States Attorney’s General office immediately.

USDA-RD had the responsibility in TN-2108 to “report fully and accurately grant expenditures.” The funds were disbursed at the direction of the representative from USDA-RD, but, as cited in OIG’s Official Draft, were returned at the request from the Authority within three weeks. Therefore, this portion of this Finding has been satisfied.

Documentation has been produced by the Grantee in AL-2073 which evidences that \$43,000 of the grant have been used, or will be used in the next three months, pursuant to the grant application. The Authority demanded the remaining \$2,000 which was mailed on June 16, 2004, and received by the Authority shortly thereafter.

SUMMARY OF RECOVERIES

Project	Amount	Date Return Demanded	Date Funds Returned
LA-2084	\$300,000.00	August 5, 2004	Forthcoming
AL-2073	\$2,000.00	July 15, 2004	July 17, 2004
TN-2108	\$12,332.10	September 15, 2003	September 19, 2003

Response to *Controls Over Grant Expenditures Have Been Improved.* Finding 3

The Authority has developed and/or established:

- monitoring policies and procedures to ensure that grants of Federal funds are used as intended;
- procedures to ensure that basic agencies are fulfilling their monitoring duties;
- controls to ensure that grantees submit timely and accurate progress and final reports; and
- sufficient additional resources have been hired to assist, including a Director of Federal Programs.

Accordingly, the results of this Finding are moot as the appropriate policies, procedures, and controls have been made.

Response to *The Authority Has Complied with the Accountability of Tax Dollars Act*
Finding 4 *of 2002.*

The Authority has been in constant contact with OIG representatives and has performed accordingly concerning the Accountability of Tax Dollars Act of 2002 which was complied with on August 13, 2004. As such, this citation appears to be moot.

Response to Recommendations in Brief

- The Authority had an effective means for controlling appropriated funds within congressionally imposed limitations prior to the disbursement of any appropriated funds, but have also improved upon the system.
- The Authority has developed monitoring policies and procedures for ensuring grants of Federal funds are being used as intended and in accordance with applicable laws and regulations.
- Management controls within the grant program have been strengthened.
- The Authority has adopted OMB Circulars to assist with management controls covering advances of funds to grantees.
- The Authority has developed written policies and procedures for ensuring grantees submit timely progress and final reports on project activities and implemented a policy of withholding payments to grantees due to late status reports.
- The audit requirements of the Accountability of Tax Dollars Act of 2002 for fiscal year 2003 has been met and for 2004 will be met.

RESPONSE TO FINDINGS AND RECOMMENDATIONS

Response to *Management Controls Needed For Grant Allocation Requirements*
Finding 1 *Were In Place.*

Part of Finding 1 states “[T]he Authority has not established controls for expending grant funds in accordance with legislative requirements placed on congressional appropriations available for grants.” The “legislative requirements” include the 75% requirement of appropriated amounts to distressed counties or isolated areas of distress and the 50% requirement of appropriated amounts on transportation and basic public infrastructure projects.

In response, the Authority *emphatically states that administrative controls for expending grant funds were, in fact, in place and implemented prior to the distribution*

of any funds, and federal funds were at all times expended within the Congressional limits.

The Authority established controls for *allocating* grant funds in accordance with legislative requirements placed on Congressional appropriations available for grants. Two spreadsheets were prepared so as to facilitate these controls. One spreadsheet entitled “75% Funding Breakdown” was specifically created to ensure the 75% requirement was met. A second spreadsheet entitled “State Project Summaries” specifically listed the percentage spent in each state on the four funding areas required by the Delta Regional Authority Act of 2002, as amended, ensuring that the 50% requirement was met. As these spreadsheets were created in October 2002, and funds were not disbursed until March 15, 2003, it is clear, and recognized by OIG, that the Authority had means to monitor grant amounts allocated within these legislative grant limit categories.

The Authority also ensured grant funds were actually *expended* in accordance with these legislative requirements. Specifically, the 2001-02 grants program consisted of \$26,300,000. Of this, 96% was allocated to distressed counties and 74.9% was allocated to transportation and basic public infrastructure projects. As \$2,017,300.04 was de-obligated from approved grants, it was mathematically impossible for either of the percentages to dip below the Congressional requirement. Considering that much of this de-obligated money was used in distressed counties and for transportation and basic public infrastructure projects, Authority officials knew these figures would be met due to the allocation accounting controls mentioned above. However, in an abundance of caution, the Director of Federal Programs has added an extra column to the Grant Disbursement Spreadsheet, which is updated and distributed weekly, to keep a running total on the federal dollars expended to further ensure the Congressional limitations are met.

The Official Draft expresses concern that “[P]rojects that do not meet any of these priority factors [distressed counties or isolated areas of distress and transportation or basic public infrastructure] can still be funded if the project is scored high on other nonrelated factors.” Yet, it is clear from the Delta Regional Authority Act of 2000, as amended, that projects that are not in distressed counties or isolated areas of distress and are not transportation or basic public infrastructure can be funded as long as the 75% and 50% requirements are met. This concern, therefore, appears to be unfounded. However, during the audit visit, the Authority had received pre-applications to determine eligibility for the 2003 Grants Program. A pre-application process was developed for Fiscal Year 2003 focusing on the four priority areas of funding. Clarification notes were also developed narrowing eligibility to the previous four areas. Further, DRA scored all projects in the 2001-2002 grant cycle only. In the subsequent grant cycles, projects are deemed eligible or ineligible and then the governors choose from the list of eligibles. Upon receipt of the governors’ selections, the Director of Federal Programs ensures the Congressional limitations are met before any other processing is done. While acknowledging OIG’s concerns, the Authority has not, in actuality, ever failed to meet

Exhibit B – Agency Response

the Congressional limitations. Nonetheless, while this Finding is moot, the system has been modified and improved.

Response to *The Authority Appropriately Provided Funds for Supported Costs.*
Finding 2

Grant No. LA-2084: Following the investigations by OIG and the Authority, the facts appear to be that Liberty Bank and Trust Co., (hereinafter “Bank”), contracted to pay \$247,000 to a third party to prepare for the Bank an application for New Market Tax Credits; Liberty Foundation, Inc. (hereinafter “Foundation”) applied for a grant with the Authority; the *third party was paid by the Bank*; the application was filed in the name of the Bank, *not the Foundation*; the Foundation was awarded the grant; the Bank received notice that it had been awarded New Market Tax Credits; the Foundation requested, and received, the Authority’s funds; the Foundation’s grant funds were used to *reimburse* the Bank; the Bank *retained* the New Market Tax Credits; and the remaining \$53,000 was forwarded by the Foundation to COFFEE.

As a result of the investigation by the Authority and OIG, the Federal Co-Chairman directed its General Counsel to demand repayment of the entire amount of the funds by the correspondence dated August 5, 2004, a copy of which is attached hereto as Exhibit “A”. On August 12, 2004, General Counsel for the Authority was informed by [] of the Bank/Foundation that the funds and a separate response by the Bank/Foundation were forthcoming. This conversation was confirmed in writing as is exhibited by Exhibit “B”. As the deadline for the Authority’s Response was August 16, 2004, the Federal Co-Chairman requested, and received, a ten day extension from OIG to allow time for the Bank/Foundation to return the funds and prepare a response. On August 24, 2004, the Authority had not received either. As such, the Authority’s General Counsel again confirmed the agreement that the funds were going to be returned by correspondence, a copy of which is attached hereto as Exhibit “C”, and advised that the matter was to be turned over to the United States Attorney’s General office. In response to this letter, [] requested that the Bank/Foundation be given to September 7, 2004, to make a decision as to the amount of the funds to be returned and prepare a response. The Federal Co-Chairman agreed to this request, but again reiterated its demand for the return of the entire amount of the funds and advised the matter will be turned over to the United States Attorney’s General office if the entire amount of the funds are not received by September 7, 2004, as is exhibited by the correspondence attached hereto as Exhibit “D”.

For clarification and to assist in the Authority’s Response, a time line is necessary.

07/22/02	Consulting Agreement between Liberty Bank and Trust Co., and VFD Group, LLC, to prepare the application for the New Market Tax Credits entered into
07/30/02	Application received by the Authority via fax from Liberty Foundation Inc.

Exhibit B – Agency Response

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08/05/02 Applications approved and recommended by the Governor of Louisiana

08/08/02 Application reviewed by Authority employees, [] and []

08/28/02 Clarification of the application received (no mention of COFFEE)

08/29/02 Application for the New Market Tax Credits filed on behalf of Liberty Bank and Trust Co.

09/23/02 Application re-scored by [] (299 of 325)

11/20/02 Letter sent from DRA to [] of Liberty Foundation, Inc., notifying him that the Grant had been approved in the amount of \$300,000

01/28/03 All compliance documents (grant agreement, grantee's affidavit, Mediation and Arbitration Disclosures and Agreement, etc.) signed by [] President/CEO of Liberty Bank and Trust

03/18/03 Approval of Tax Credits Confirmation in amount of \$50,000,000

03/25/03 SF 270 and correspondence from [] requesting funding received

04/02/03 [] the Authority's Executive Director, executed correspondence approving disbursement of the funds

04/10/03 \$300,000 deposit of Treasury Check to the bank account of Liberty Foundation, Inc.

05/2/03 Letter from COFFEE to [] requesting \$53,000 allotment of proceeds of DRA grant to support COFFEE's activities.

09/29/03 Letter from [] to [] President of COFFEE, delivering check for \$53,000

08/5/04 Demand made on [] of Liberty Foundation, Inc./Liberty Bank and Trust Co.

(1) The Grant Period Began In 2002

The Grant Agreement between the Authority and the Grantee contained a “scrivener’s error” by stating the grant period began in 2003 as opposed to 2002. In fact, the introduction of the Grant Agreement correctly states the “Grant Period” began in 2002. As this was one of the first of 137 grants in this cycle, a simple mistake was made in one place in the Grant Agreement between the parties. Although this is not acceptable, it is certainly understandable in light of the task undertaken by the Authority. An Addendum to the Grant Agreement recognizing and correcting this error has since been executed.

Clearly, it was the intent of the parties for the grant period to include 2002. As the application for the New Market Tax Credits Program was due before August 29, 2002, obviously the grant period included 2002. The trail of approval is clear. The project was:

- applied for on July 30, 2002;
- recommended by the Governor of Louisiana on August 5, 2002;
- received a high score when reviewed by the Authority staff on September 23, 2002;
- approved by the Federal Co-Chairman shortly thereafter; and
- approved by the Authority’s Board shortly thereafter.

Therefore, it is clear the project was approved for federal funds at every level prior to the disbursement of any federal funds.

The fact the work was completed prior to the execution of the grant documents is irrelevant. No federal or state laws or regulations or OMB circulars were violated. All that was violated was an internal guideline that was:

- drafted by the Deputy Director of Compliance to be used as her own personal form;
- never reviewed by the Authority’s General Counsel; and
- never adopted by the Authority.

(2) Three Individuals Approved This Grant

The Authority at the time of this grant required approval by three individuals for disbursement of funds:

- the Deputy Director of Compliance,

- the Director of Finance and Administration, and
- the Executive Director.

Each of these individuals approved this grant. [redacted], the Deputy Director of Compliance, reviewed and scored the project which received 299 of a possible 325 points, strongly indicating her approval of this grant. Upon receipt of the SF-270, [redacted], the Authority's Executive Director, executed correspondence dated April 2, 2003, after the award of the New Market Tax Credits, which approved disbursement of the funds. Finally, [redacted], the Director of Finance and Administration, executed a request for reimbursement to [redacted] of the General Services Administration on the same day. As such, *the allegation that the "Authority's Executive Director unilaterally approved and authorized the \$300,000 payment..." is incorrect.*

The allegation that this grant was made "without adequate supporting documentation" is also incorrect. The Authority received a "Request for Advance or Reimbursement" which requested reimbursement for the total outlays of the program from February 10, 2002, until March 31, 2003, documenting that the funds had either been spent or were ready to be spent. Attached was an email showing the application had been approved as of March 13, 2003. In addition, it is clear from the subsequent documentation received that the funds were wired to VFD Group, LLC, and spent pursuant to the "turn key" contract.

In sum, the requisite documents were received and properly reviewed by the Authority, but it was later learned through the investigations of OIG and the Authority that funds were misused which resulted in the demand for repayment set-forth in paragraph (4) below.

Although the Authority recognizes this documentation may not be complete, the new Director of Federal Programs is capable of making such judgment decisions in the future, and has trained his two program coordinators to ensure adequate supporting documentation is attached to each SF-270 as well as status reports.

(3) The Use of Grant Funds to the Nonprofit Entity COFFEE Were Not Approved by the Authority

The original Project Application states funds were to be used to "build up capacity in the Community of Faith for Economic Empowerment ("COFFEE")." Initially, a \$600,000 grant was requested. This was to be distributed as follows: \$242,000 to the entity preparing the application for New Market Tax Credits; \$300,000 to COFFEE to develop a \$700 million proposal for public and private financing to assist local faith based groups to acquire and rehab 6,800 blighted housing units in New Orleans; and \$58,000 to acquire and support professional staff to ensure compliance with the New Market Tax Credits and other federal assistance programs. When the grant was halved by the Governor of Louisiana to \$300,000, clarification was requested. In these clarification

notes, nothing was mentioned as to COFFEE and no mention was made of the intent to sub-award funds to COFFEE. Rather, the revised application indicated the entire \$300,000 was to be used by the Foundation to prepare an application for New Market Tax Credits which DRA has now learned were actually applied for, received by, and retained by the Bank. In fact, no where in the Grant Agreement between the parties is COFFEE even mentioned, much less authorized to receive funds. As such, it appears \$53,000.00 was misused by the Grantee when it was given to COFFEE without prior approval by the Authority. Further, COFFEE has never delivered any product for the federal funds received. In light of this revelation revealed by the investigations of OIG and the Authority, the Authority's General Counsel has demanded return of this portion.

(4) The Application Indicated the Non-Profit Entity Was the Grantee

On July 30, 2002, *Liberty Foundation, Inc.*, a non-profit entity, submitted a Project Application. No where in the Application is any indication given that the Bank, a for profit entity, was involved in the grant. Twice, the Application indicates that \$242,000.00 "will be used" in preparing the application for the New Market Tax Credits. Clarification of the Application was requested and responded to on August 28, 2002, on "Liberty Foundation, Inc., (a 501(3)(c) Company)" [sic] letterhead. Again, it appears that the funds will be used "for the application preparation phase." Based upon the Application and the clarification letter, the Authority believed the grantee was the Foundation and the entire grant was going to be used to prepare an application for New Market Tax Credits. However, upon the investigations of OIG and the Authority, it is clear that the Consulting Agreement recently received between the Bank and VFD Group, LLC, to prepare the application for the New Market Tax Credits, was entered into on July 22, 2002, with payments made to VFD Group, LLC, beginning in August of 2002. The investigations also revealed that the application for the New Market Tax Credits was filed on August 29, 2002, by the Bank, not the Foundation, all before the funds were awarded in the fall of 2002. Then, when the grant proceeds were forwarded to the Foundation, the Bank was simply reimbursed by the Foundation for the Bank's payments already made to VFD Group, LLC, for preparation of the application. *As such, recovery has been demanded and is expected to be received by September 7, 2004, as described above.*

It should be noted that OIG did *not* direct the Authority to recover this money, but to continue the proactive approach it has taken throughout, the Authority has issued a demand for this entire grant.

Grant No. AL-2073: The Authority provided \$45,000 of a \$50,000 grant to hire students for 90 days to work at the six local development districts serving Alabama's distressed Delta eligible counties. The findings made are twofold. First, the "grantee did not provide any documentation indicating the reason it needed such a large advance or that it had hired any interns." Second, "the grantee's advance request did not stipulate a timeframe for the expenditure of the advanced funds."

(1) Documentation

A “Request for Advance or Reimbursement” was executed by the Grantee on January 29, 2003. Although it was clear this was an advance for operating costs for the program, no documentation was attached, nor requested, stating exactly how this advance was to be used. However, it is clear from the straightforward application that the funds received were going to be used to actually hire the students as interns as this was the only request made in the original application. This begs the question of how else could this money have been spent?

In any event, it appears that the Deputy Director of Compliance, who is no longer with the Authority, did not follow internal guidelines which resulted in the advance being made without proper documentation. In review of the documents since received, it is clear that \$43,000 of the grant has been expended pursuant to the grand application. Specifically, the Expenditure Report received from the Grantee lists the local development districts, the name of the interns, the duties of the interns, the dates of employment, and the amounts paid. This Report exhibits that \$25,457.26 has been spent in accordance with the application. Time sheets received from the Grantee exhibits \$3,000 was properly spent pursuant to the application as administrative support of the Alabama Association of Regional Council’s office. The June 15, 2004, correspondence from [redacted], Executive Director of the Alabama Association of Regional Councils, exhibits all but \$2,000 was spent in the three months following the date of this correspondence in accordance with the grant application. The remaining \$2,000 that was simply being held by the Grantee was returned on June 16, 2004, due to the demand of the Authority.

(2) Advances Were Not Spent Immediately, but Management Controls Have Been Implemented

The Authority recognizes the advance funds were not expended immediately, but rather as the expenses were incurred. To ensure the elapsed time is minimized between the advance and disbursement of funds, the new Director of Federal Programs has implemented a policy that prescheduled advancements are not to be paid unless the expenses are to be made within three months pursuant to Form SF-270. This has been explained to the Director of Alabama Association of Development Council. As the project coordinators have been trained in this policy as well, this will not be a problem in the future.

Grant No. TN-2108: The Authority agreed to provide \$461,100 which in turn made available \$449,900 from USDA-RD to assist with a Community Resource Center Project. Part of the project included administrative expenses and provided for contingencies.

The Authority had contracted with USDA-RD to assist in administering several grants, including the one at issue. The Authority and USDA-RD entered into a Memorandum of Agreement on February 14, 2003. As part of this Agreement, USDA-RD agreed to “administer and service DRA grants...” This was done as USDA-RD “has considerable

experience and special expertise in providing financial and technical assistance to communities and businesses in rural America.” In administering these funds, USDA-RD must “follow their regulations” and “ensure compliance with the DRAA”. Therefore, it was USDA-RD’s responsibility to “report fully and accurately grant expenditures;” but the Authority recognizes and understands it is ultimately responsible.

The investigations by OIG and the Authority revealed the following:

- On or about July 14, 2003, [redacted], former Deputy Director of Compliance for the Authority, received a SF-270 Form from the Grantee.
- Two days later, on July 16, 2003, [redacted] requested a revised SF-270 with supporting documentation.
- On August 4, 2003, [redacted] a Rural Development Specialist from Covington, Tennessee, mailed a revised SF-270, plus a second SF-270, directing [redacted] to forward the reimbursement of the funds expended.
- [redacted] again questioned the expenses a second time during her telephone conversation with [redacted] on August 13, 2003.
- This conversation is referenced in [redacted] correspondence on August 19, 2003. In this correspondence, [redacted] “recommend[ed] the funds be disbursed to pay the approved requests.”
- On August 21, 2003, the funding request form, in reliance upon USDA-RD, was properly executed by Authority personnel and was paid on September 2, 2003.
- Upon review by the representative of OIG, the Director of Finance and Administration was properly advised that these funds must be returned.
- The Director of Finance and Administration sought recovery of the funds shortly thereafter and received the same by check dated September 12, 2003.

The Director of Federal Programs has directed, and trained, the project coordinators to only reimburse or advance items from the budgets completed by the grantees. If an employee of an administrating agency indicates that an item should be paid, but the project coordinator has any uncertainty as to the payment, the Director becomes involved to ensure proper documentation before any payments are made.

The project is currently “on hold” as the Grantee is waiting on architect revisions. As the project has been approved by the Authority and the Governor of Tennessee, the Authority will ensure this money is used for eligible costs as directed by OIG.

Response to *Controls Over Grant Expenditures Have Been Improved.* Finding 3

Since inception, the Authority, and specifically the Federal Co-Chairman, anticipated inevitable problems. In starting a new federal agency, such oversights are unavoidable and were expected by the Authority. Recognizing this, the Federal Co-Chairman and the Authority has taken a proactive approach since its initial stages. Specifically, on September 18, 2002, the Federal Co-Chairman requested Smith Turner and Reeves to conduct a “controls audit” which was completed on January 9, 2003. On August 7, 2003, the Federal Co-Chairman requested the same firm conduct independent audits of eleven projects. This request was timely made approximately five months after the last of the grant closing documents were signed. Again, the Federal Co-Chairman and the Authority wanted to ensure the proper controls were in place.

Since the departure of the Deputy Director of Compliance and the hiring of a new Director of Federal Programs, the Authority has developed monitoring policies and procedures to ensure that grants of Federal funds are used as intended. Specifically, all invoices or other supporting documentation must be compared with the project budget. This is done by the project coordinator and then double checked by the Director of Federal Programs. The Director of Finance and Administration and finally, the Executive Director and the Federal Co-Chairman, must approve the disbursement. In short, five approvals are required to ensure that grants of Federal funds are used as intended.

Procedures to ensure that basic agencies are fulfilling their monitoring duties have been implemented. Specifically, the weekly Grant Summary Report exhibits the status of reporting by each grantee. Under the Memorandums of Agreement, the administering agencies are required to provide quarterly reports discussed below from the grantees, and USDA-RD provides a final accounting on each project when completed. The Director of Federal Programs and the program coordinators review each SF-270 and supporting documentation forwarded by the administering agencies.

OIG concurs with the Authority’s decision to hire additional resources. Specifically, [] has been hired as Director of Federal Programs. [] has over 29 years of experience with lending institutions and has been running the federal grants program as if it were a lending institution. Thanks to [] experience and expertise, [] has revamped the monitoring, policies and procedures of the grants program. In addition, two new project coordinators were hired to assist [] and have been trained to ensure that the grants of federal funds are being used in accordance with applicable federal laws and regulations. This action by the Authority again exhibits a proactive approach which was installed by the Authority shortly after the initial grant closing documents were signed and before significant funds were disbursed as it was recognized that additional resources were needed.

Memorandums of Understanding are in place with USDA-RD, local development districts, and the Economic Development Authority to administer jointly funded projects

and selected additional projects. The administering agencies administer the funds for the Authority, with the Authority's project coordinators reviewing the documentation supporting funds requested and quarterly reports.

The Authority has established controls to ensure that grantees submit timely and accurate progress and final reports. Specifically, the *Quarterly Project Performance Activity Report* has been modified as has the *Delta Regional Authority Worksheet for Reimbursement Request*. In addition, a *Financial Status Report (SF-269)* is now required of all grantees. These are patterned from USDA-RD which prepared the same based on OMB-Circulars. Information required for the reports is given to the grantees before any funds are disbursed and explained by both General Counsel and the Director of Federal Programs. These reports are required quarterly until the project is completed, even if Authority funds have been fully disbursed before the project is completed. As policy, both reports are due 15 working days after the end of each quarter. If a report is not timely received, a project coordinator personally calls both the administering agency and the grantee regarding the status. This is monitored closely until received with intervention by the Director of Federal Programs if necessary. If any documentation is delinquent or incomplete, absolutely no funds are disbursed until the documentation is received and approved.

The administering agencies have been trained regarding these requirements, and others, by [] Specifically, a training session was held in Memphis, Tennessee, on January 28, 2004. Ninety-two people from thirty-three of the forty-four local development districts in Delta counties attended. The timeliness and importance of status and final reports was discussed and emphasized.

Response to *The Authority Has Complied with the Accountability of Tax Dollars Act Finding 4 of 2002.*

The Authority was made aware of this Act by an OMB examiner in January, 2003. Per the examiner's instructions, the Director of Finance and Administration discussed this issue with the OIG representative in June, 2003. At that time, there was some confusion as to whether OIG was to complete this task or whether the Authority needed to hire an outside contractor. A few months into the audit, OIG requested that the Authority obtain a waiver from OMB for Fiscals Year 2002 and 2003. The Authority requested, and received, a waiver from OMB for Fiscal Year 2002 and the first three quarters of 2003. The Authority then proceeded, at the OIG representative's request, to obtain an additional waiver for the FY 2003 year end report.

In October of 2003, the Federal Co-Chairman and the Director of Finance and Administration discussed with an OIG representative compliance with the Act. These individuals were told that OIG was not sure if compliance was required of the Authority and that OIG would inform the Authority shortly as to how to proceed. Then, in mid-December 2003, the Authority held another conference call with OIG. During this call the OIG representative informed the Federal Co-Chairman and the Director of Finance

Exhibit B – Agency Response

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and Administration that OIG would not be preparing the financial statement audit and that an outside contractor should be hired to do this work. Also at that time, [redacted] of OIG sent an email with the scope of work to be followed when contracting for this audit. The Authority contacted [redacted], CPA, of Smith Turner and Reeves in Jackson, Mississippi, to conduct this audit. Smith Turner and Reeves completed this audit on August 13, 2004. The Authority has contracted with Smith Turner and Reeves to complete the Fiscal Year 2004 audit which will be submitted by the deadline date of November 15, 2004. Therefore, this citation appears to be moot.