



MAY 31 2007

TO: Terry L. Cline, Ph.D.
Administrator
Substance Abuse and Mental Health
Services Administration

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

SUBJECT: Emergency Response to Hurricanes Katrina and Rita: Audit of Substance Abuse and Mental Health Services Administration's Award Process for a Contract With The Advertising Council, Inc. (A-03-06-00538)

This report provides the results of our audit of the Substance Abuse and Mental Health Services Administration's (SAMHSA) award process for a contract with The Advertising Council, Inc. (the Council), of New York, New York. The audit is one of several reviews of procurements by SAMHSA and other components of the Department of Health and Human Services (HHS) in response to Hurricanes Katrina and Rita in 2005.

BACKGROUND

Hurricane Relief Efforts

Following Hurricanes Katrina and Rita, SAMHSA identified a need to motivate those affected by the hurricanes to take care of their emotional well-being and to inform them of available mental health services. To meet this need, SAMHSA executed modifications 7 and 8 to an existing cost-plus-award-fee contract with the Council. The existing contract, which was effective September 30, 2004, obligated the Council to conduct national public health campaigns designed to improve the general understanding of mental illnesses and emotional disturbances. Modification 7 obligated the Council to furnish radio and television public service announcements to reach adult victims of Hurricanes Katrina and Rita and first responders, as well as parents and caregivers who could assess the emotional well-being of children affected by the hurricanes. Modification 8 provided an additional \$78. The modifications, effective October 14 and November 30, 2005, provided a total of \$300,000 for these purposes.

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

Federal Acquisition Regulations

The Federal Acquisition Regulation (FAR) defines a contract as a mutually binding legal relationship obligating the seller to furnish the supplies or services and the buyer to pay for them. It includes all types of commitments that obligate a Government expenditure of appropriated funds, including awards, job orders, letter contracts, orders, and bilateral contract modifications (FAR 2.101).

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

The FAR and the HHSAR provide, among other things, that HHS agencies award each contract to a responsible party (FAR 9.103(a)) and document compliance with requirements for full and open competition and the determination that the price was fair and reasonable (FAR 6.101(b) and 15.402(a)). With respect to full and open competition, FAR 6.001(c) specifies that contract modifications that are within the scope of the contract are exempt from the requirements. Agencies also must develop a statement or description of the goods or services being requested (FAR 16.504(a)(4)(iii)).

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

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

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

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

Scope

We limited our audit to the award process for modifications 7 and 8, effective October 14 and November 30, 2005, to SAMHSA's contract 280-04-0084 with the Council. We did not assess SAMHSA's overall internal control environment. We also did not review contract performance or the acceptance and inspection of goods and services received.

We performed fieldwork at SAMHSA's Division of Contracts Management in Rockville, Maryland, from February through March 2006.

Methodology

To accomplish our objective, we:

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

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

RESULTS OF AUDIT

SAMHSA complied with FAR and HHSAR requirements during the award process for modifications 7 and 8 to contract 280-04-0084 with the Council. SAMHSA awarded modification 7 under the waiver that limited actions necessary to ensure full and open competition. According to the procurement records, SAMHSA had determined that an unusual and compelling urgency existed sufficient to solicit from a single source, the Council. Furthermore, the procurement records contained all required documentation. Pursuant to FAR 6.001(c), modification 8 was exempt from requirements for full and open competition. The Council waived its indirect costs, fixed costs, and award fee on these disaster-related modifications.

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

If you have any questions about this report, please do not hesitate to call me, or your staff may contact Joseph J. Green, Assistant Inspector General for Grants, Internal Activities, and Information Technology Audits, at (202) 619-1175 or through e-mail at Joe.Green@oig.hhs.gov. Please refer to report number A-03-06-00538.