Issue Date November 9, 2010	
Audit Report Number 2011-HA-0001	

TO: Vicki Bott, Deputy Assistant Secretary for Single Family Housing, HU
Jemine A. Bryon, Chief Procurement Officer, Office of the Chief Procurement Office, N

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FROM: Saundra G. Elion, Director, Headquarters Audit Division, GAH

SUBJECT: HUD Did Not Adequately Plan the Procurement of the Management and Marketing Contracts

HIGHLIGHTS

What We Audited and Why

We performed an audit of the selection of management and marketing contractors for single-family properties owned by the U.S. Department of Housing and Urban Development (HUD). This audit was initiated based on a complaint to our hotline alleging possible mismanagement, political influence, and violations of law in the procurement strategy used to select firms for the third generation management and marketing (M&M III) contracts. Our objective was to determine whether the allegations of mismanagement, political influence, and possible violations of law were valid.

What We Found

We found the allegation of mismanagement credible; however, we did not find support to substantiate the allegations of political influence or violations of law. The Office of Single Family Asset Management (single family) and the Office of the Chief Procurement Officer (procurement office) did not have adequate controls to ensure that the M&M III contracts were awarded in a timely and efficient manner. Specifically, key stakeholders were not included in the initial planning for these contracts, and acquisition plans were not developed in a timely manner. As a result, the M&M III contracts were delayed for nearly a year, and bridge contracts with an estimated cost of more than $275 million had to be awarded to the existing M&M II contractors to avoid a lapse in the management and marketing services.

What We Recommend

We recommend that the Deputy Assistant Secretary for Single Family Housing develop controls to award contracts in a timely manner, thus avoiding unnecessary expenditures for extending contracts. We also recommend that the Deputy Assistant Secretary (1) follow the procurement office's established acquisition planning requirements and procurement acquisition lead time (PALT)[1] guidance, (2) submit timely and complete performance work statements on all future contracts, and (3) use in-house resources when forming the integrated program team for all significant acquisitions to avoid unnecessary expenditures such as those paid to a contractor for writing performance work statements.

In addition, we recommend that HUD's Chief Procurement Officer (1) assign significant acquisitions to offices that have sufficient staff and expertise to avoid unnecessary expenditures such as those paid to an administrative support contractor, and (2) ensure that the PALT schedule is followed and require written justification when significant delays are encountered.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We provided the discussion draft to single family and the procurement office for comment on July 13, 2010. We provided a revised draft to the auditees on September 24, 2010, then the final revised draft on October 15, 2010. We received written comments from single family and the procurement office on October 21, 2010, that generally agreed with our findings and recommendations. The complete text of the auditees' responses, along with our evaluation of those responses, can be found in Appendix B of this report.

[1] A schedule of the standard number of days it takes to process actions through the acquisition process.

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BACKGROUND AND OBJECTIVE

Since 1999, the U.S. Department of Housing and Urban Development (HUD) has outsourced the disposition of its single-family properties conveyed to it as a result of defaults on Federal Housing Administration-insured loans. The first generation of management and marketing contracts (known as M&M I) consisted of 16 contracts with a value of $1.2 billion. These contracts were awarded to seven private firms to provide management and marketing services throughout the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Marianna Islands. In 2004, 24 second generation (M&M II) contracts, with a value of $1.9 billion, were awarded to 12 private firms.

Each M&M I and II contractor provided administrative and program support and property management, marketing, and sales in their assigned geographic areas. Their responsibilities included ensuring that

- Lenders (Federal Housing Administration-approved mortgage loan holders or mortgage loan servicers) complied with all legal requirements for conveying good marketable titles to HUD;
- Properties were secure, safe, and maintained to preserve property values during the transition; and
- Properties were accurately valued and proceeds were properly accounted for and delivered to HUD in a timely manner.

By the end of the two contract periods, HUD had spent far in excess of the estimated contract value to manage and market its single-family properties and was not satisfied with the quality of the work of some contractors.

In an attempt to remedy the shortcomings of the M&M I and II contracts as well as to increase HUD's net return on single-family properties, increase management oversight and control, address historical audit findings, and improve effectiveness and efficiency of the disposition process, the Office of Single Family Asset Management (single family) restructured its overall approach for obtaining management and marketing services. Specifically, in 2007, single family awarded an 8(a) sole-source[2] contract to Booth Management Consulting, LLC (Booth), to assist with planning the third generation management and marketing (M&M III) contracts. Booth recommended that the management and marketing contracts be separated into four primary areas, and single family agreed. The four areas are as follows:

- **Oversight monitor** – One contract, valued at $17.2 million, to be awarded to assist HUD in meeting its program objectives by monitoring and providing oversight of the M&M III contractors. HUD planned to award this contract in February 2009.

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[2] A sole-source contract is a contract that is entered into after soliciting and negotiating with only one source.

- **Mortgagee compliance manager** – One contract, valued at $50.3 million, to be awarded to certify that the lender protected and preserved HUD's property against damages and completed the foreclosure action within the required timeframe. HUD planned to award this contract in May 2009.

- **Field services manager** – HUD planned to award 35 contracts to private firms at an estimated value of $1 billion. The primary purpose of these contracts is to provide property maintenance and preservation services in support of HUD's property disposition program nationwide. HUD planned to award these contracts in late May 2009, 2 months before the majority of the M&M II contracts would expire.

- **Asset manager** – HUD planned to award 26 contracts to private firms at an estimated value of $987.6 million. The primary purpose of these contracts is to market and sell single-family properties within the contractor's designated geographic area. HUD planned to award these contracts in September 2009.

The value of the 63 M&M III contracts is estimated to be $2.1 billion.

HUD's Office of the Chief Procurement Officer (procurement office) has overall responsibility for obtaining all contracted goods and services for HUD and works closely with each program office in developing its procurement requirements. To ensure that HUD meets its strategic objectives, the procurement office has established policies and procedures for HUD program offices to follow. Some of those procedures include the development of short- and long-range acquisition plans, establishing timelines for completing and submitting contract requests, and providing the procurement office adequate time to acquire goods and services in the most cost-effective manner. Contracts are awarded and managed by four principal offices within HUD at HUD headquarters and three field contracting operations offices in Philadelphia, PA, Atlanta, GA, and Denver, CO. Additionally, there are specialty areas within the field contracting operations offices. In 2007, the procurement office designated the Atlanta office as the M&M Contracting Center of Excellence.

Our objective was to determine whether the allegations of mismanagement, political influence, and possible violations of law were valid.

RESULTS OF AUDIT

Finding 1: HUD Did Not Adequately Plan the Procurement of Management and Marketing Services Under the M&M III Contracts

The Office of Single Family Asset Management (single family) and the Office of the Chief Procurement Officer (procurement office) did not adequately plan the procurement of management and marketing services under the M&M III contracts. Inadequate planning occurred because single family mismanaged the process by using a contractor to plan the strategy and create the performance work statements for the M&M III contracts and the headquarters procurement office experienced staff shortages and continuous staff turnover. As a result, the M&M III contracts were delayed for nearly a year, and bridge contracts with an estimated cost of more than $275 million had to be awarded to the existing M&M II contractors to avoid a lapse in management and marketing services.

Key Stakeholders Were Not Involved in the Initial Planning Process

Single family began planning the process to award the M&M III contracts in 2007, nearly 2 years before the expiration dates of the M&M II contracts. However, in its attempt to reengineer this 10-year-old management and marketing services contract process that had proven to be risky and costly to HUD, single family neglected to follow the established protocol for procuring significant acquisitions such as this one.

In accordance with the Procurement Office Handbook 2210.3, the procurement office and single family established an integrated program team (IPT)[3] for M&M III. The goal of the IPT is to ensure that all necessary expertise is made available and devoted to the successful accomplishment of the procurement. To that end members were appointed to the IPT; an acquisition strategy, including critical milestones and target dates, was developed; and an acquisition project plan was also developed.

Noticeably absent from the IPT and the initial planning process (that happened before July 2007), were the Office of Housing's Procurement Management Division and Office of Budget and Field Resources. These

[3] An IPT is a group of key stakeholders, made up of management, program, technical, and contracting experts, assembled to accomplish critical and complex procurement actions.

key stakeholders could have provided program and technical expertise necessary to execute a timely and successful acquisition. Specifically

- The Office of Housing's Procurement Management Division conducts the market research for new procurements for the Office of Housing and reviews the requests for contract services and the performance work statements for all single-family contracts.

- The Office of Housing's Office of Budget and Field Resources generally determines the funding source and certifies that the appropriate funds are available in the Office of Housing's budget for all new procurements.

In addition to the two single family offices described above, the M&M Contracting Center of Excellence[4] (the center) was not actively involved in planning the M&M III acquisition. The former director of the center believed his role as an "advisor" to the IPT was less than that of a member and considered his contributions minor. However, the current director shared specific "lessons learned" based on the center's experiences in administering the management and marketing contracts with the Director of Single Family Asset Management in November 2007. One lesson he shared was, "Acquisition Planning cannot be allowed to occur independently in a vacuum!" He emphasized that other offices, including single family, real estate-owned property divisions, the Office of General Counsel, and homeownership centers (offices that insure single-family mortgages and oversee the selling of HUD homes) must also participate in the process [if the procurement is to be successful].

As best we could discern from the few planning records provided to us, the focus of the IPT changed and the target dates abandoned shortly after the current Director of Single Family Asset Management became part of the organization. For example, the market research and performance work statement tasks were no longer led by in-house (IPT) team members, and none of the target dates were adhered to. Instead of using the strategy set forth by the IPT, the Director of Single Family Asset Management elected to outsource much of the planning function to Booth. In 2007, single family awarded Booth a $1.6 million 8(a) sole-source contract to assist with planning the M&M III contracts. Planning consisted of providing best industry practices relating to the property management and disposition of HUD-owned single-family properties and providing guidance in restructuring the overall management and marketing contract structure. Each of these functions could have been handled by one of the key stakeholders described above or other members appointed to the IPT.

[4] The procurement office designated the Southern (Atlanta) Field Contracting Center as the M&M Contracting Center of Excellence in 2007 because the Atlanta office was responsible for managing and overseeing the M&M II contracts and, therefore, was knowledgeable of the requirements and practices of providing management and marketing services and overseeing the contracts.

Moreover, Booth was not familiar with HUD's internal acquisition requirements for keeping the management and marketing service contracts on schedule. Booth's lack of familiarity led to delays in the acquisition process.

The Contractor Developed Statements for M&M III Contract Proposals

Under the 8(a) sole-source planning contract with Booth, single family also tasked Booth to develop performance work statements and statements of objectives (hereafter referred to as statements) for each of the four major areas of the M&M III contracts. The statements Booth prepared were poorly developed and written; therefore, single family deemed the statements to be unacceptable and had to use its own staff to revise and complete the statements.

According to the technical monitor for the Booth contract and documents contained in the contract file, Booth merely copied verbatim language from the previous M&M II contract into the requested statements for the M&M III proposals without taking into consideration the restructured approach to unbundle the services. The poorly written statements were even more confusing given Booth's acceptable work on the market study as well as the firm recommending the asset disposition strategy and structure for M&M III. The technical monitor also stated that:

> . . . it was thought that the next step in the process of developing the requirements would be a seamless process for BMC [Booth]. In practice it was anything but. Even though this structure was largely based on BMC's recommendations to HUD, it became clear early in this task that BMC did not have a fundamental understanding of the requirements and a fundamental lack of understanding of the HUD's management and marketing (M&M) under its existing M&M structure.

This statement clearly shows that HUD recognized that Booth "did not have a fundamental understanding of the requirements." HUD provided Booth's staff with written feedback as well as a walk-through of the existing M&M II contract to explain where to make specific changes to the language in the statements. However, the changes that were inherent in the new M&M III contract disposition structure were not always incorporated into the statements. As a result of the fundamental misunderstanding and lack of clarity, Booth submitted multiple drafts (as many as 10 drafts for the compliance contract proposal alone). Single family ultimately asked Booth to discontinue work on this task and had its own staff spend additional time and resources revising and completing the statements. By that time, Booth had exceeded its hours allocated to this task and requested an additional $299,399 for the work done. However, single family negotiated a settlement of $146,246 for the additional hours spent on this unsuccessful task. Ultimately, Booth was paid $352,508 for this task. We believe that the $352,508 paid to Booth was an unnecessary expenditure because single family spent additional time and resources revising and completing the statements.

Acquisition Plans Were Not Submitted in a Timely Manner

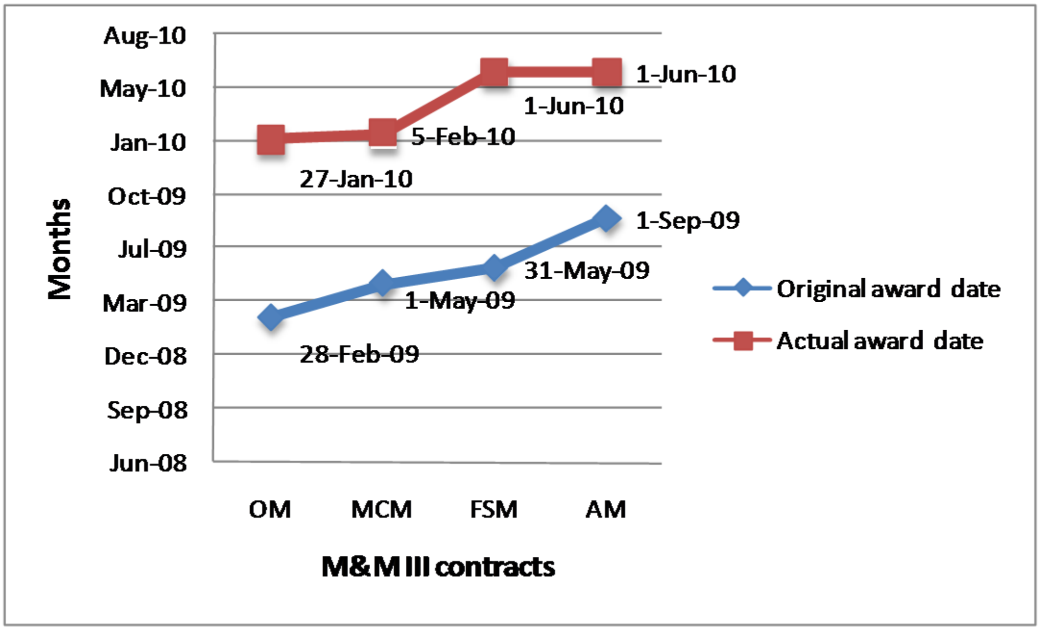
Single family's acquisition plans for the procurement of the M&M III contract were not developed and provided to the procurement office in a timely manner. The PALT schedule as prescribed by the procurement office describes the standard number of days typically needed by the procurement office to complete the preaward portion of the acquisition process from beginning to end. Single family submitted three of the four M&M III contract solicitations after the established lead time specified in the PALT. The number of days late ranged from 37 to 127 days.[5]

The contracting officer for the M&M III contracts stated, "…the requirement [performance work statement] was not timely and not properly defined by the program office." The poorly written statements contributed to the delays in meeting established timelines because single family and procurement office personnel had to devote additional time and resources to revising and completing the statements submitted by the contractor. Consequently, single family failed to meet HUD's established lead time requirements for submitting complete statements to the procurement office.

Additional delays were attributed to single family's need to reassess appropriate funding sources for the oversight monitor (oversight) and mortgagee compliance manager (compliance) contracts. This funding error was not found until January 2010, more than 9 months after the original M&M III solicitations were announced and after the M&M II contracts had expired. As a result, the procurement office could not award the oversight and compliance contracts until single family had reviewed its available budget resources and determined whether appropriate funds were available. Single family identified an appropriate funding source, and the procurement office awarded both the oversight and compliance contracts nearly a month later, in January and February 2010 respectively. As shown in the chart below, the M&M III contracts were from 9 to 12 months late.

[5] The established lead time for the oversight, compliance, and asset manager contracts was 120 days before the planned award date and 210 days for the field services manager contracts.

Planned and actual award dates for the M&M III contracts



Source: The procurement office

Oversight monitor (OM) - 11 months late
Mortgagee compliance monitor (MCM) - 9 months late
Field service manager (FSM) - 12 months late
Asset manager (AM) - 9 months late

The procurement office attributed the delays in awarding the contracts to many factors, including late requests for quotes, amendments to the proposal, legal sufficiency reviews, responding to extensive questions asked by perspective vendors, vendor protests, incorrect funding source, and late responses from single family and the Office of General Counsel.

Had the IPT included key stakeholders such as personnel from Office of Housing's Budget Office and the Procurement Management Division, and had the Director of Single Family Asset Management heeded the advice of the current Director of the M&M Contracting Center of Excellence to "timely collaborate during all phases of the process," many of the problems, including the poorly written statements and the funding source, may have been avoided.

The Headquarters Procurement Office Experienced Staff Shortages and High Staff Turnover

Staff shortages and high staff turnover in the headquarters procurement office contributed to the mismanagement of the M&M III contracting process. Although the procurement office had requested an additional 12 positions over the past 4 years, that office had a continuous staff shortage of 18 to 20 vacancies and a 50 to 60 percent staff turnover rate every 18 months. Further, 95 percent of the staff who worked on the presolicitation phase of the M&M III contracts was no longer employed by the procurement office by the time we completed our audit.

While the acquisition community throughout the Federal Government is experiencing shortages, HUD's shortages and turnovers have persisted for years, thereby causing a lack of continuity in procurement actions. This conclusion is supported by the resource management study[6] HUD conducted in 2004 that stated,

> "The [procurement] Office faces a number of challenges that impact efficiency, including a shortage of staff resources, high turnover…"

However, despite the continuous staff shortages and high staff turnover at the headquarters procurement office, a former Deputy Chief Procurement Officer decided to award the M&M III contracts from the headquarters procurement office instead of the M&M Contracting Center of Excellence. The center had a larger, more experienced, stable office staff that had in-depth knowledge of the management and marketing services process, as well as HUD's procurement procedures. We believe the M&M Contracting Center of Excellence had the capacity to process this procurement more efficiently than the headquarters procurement office.

To mitigate the staff shortages and increased workload at the headquarters procurement office caused by the M&M III solicitations, single family funded a $325,300 8(a) sole-source contract to Design to Delivery, Inc. This contractor was to provide administrative support to the procurement office for processing the asset manager and field service manager solicitations under the M&M III contracts. However, Design to Delivery only worked on the contract for a portion of the base year because single family deemed Design to Delivery's performance to be "unacceptable" and the delivered products to be "untimely and without an acceptable level of quality."

Conversely, Design to Delivery believed that the information its staff received from single family to complete its deliverables was unclear and incomplete and the difficulties it experienced working with the contracting officer for the M&M III contracts were the factors affecting its performance.

We believe that the $325,300 paid to Design to Delivery was an unnecessary expenditure of funds that possibly could have been avoided if the M&M III contracts had been awarded by the M&M Contracting Center of Excellence.

[6] US Department of Housing and Urban Development; Resource Estimation and Allocation Process (REAP), Study # 14, March 18, 2004

As stated above, we believe that because the center had a stable staff that had years of experience working with HUD's management and marketing contractors the center may have had the capacity to award the M&M III contracts more timely. Furthermore, the center will administer the M&M III contracts after they are awarded.

HUD Awarded Sole-Source Contracts To Avert a Lapse in Services

None of the M&M III contracts had been awarded by the end of the M&M II contract period. To avert a lapse in the management and marketing services, the procurement office first exercised the contract extension option then awarded sole-source contracts. The M&M II contracts allowed the procurement office to extend the services (under the M&M II contracts) for an additional 6 months beyond the initial contract period. These extensions were given with the expectation of having the M&M III contracts in place by January 2010.

However, when it became obvious to the procurement office and single family that none of the M&M III contracts would be awarded in time (i.e., before December 2009) to transition the properties from the M&M II contractors, they elected to award bridge contracts to the 19 existing M&M II contracts. Since, Federal procurement law precludes HUD from awarding bridge contracts unless the agency invokes one of the statutory exceptions to full and open competition, the Chief Procurement Officer, with the approval of the Secretary of HUD, invoked the public interest exception and notified Congress of HUD's intent to award these sole-source bridge contracts in December 2009. To that end, HUD negotiated new (bridge) contracts with the existing contractors for the continuation of management and marketing services provided under the M&M II contracts.

Unlike the extensions to the M&M II contracts, in which the costs remained essentially the same as for option year 4, the procurement office negotiated substantial increases in the prices of many of the 19 M&M II bridge contracts. The procurement office explained, and we acknowledged, that it was reasonable to increase the price of the bridge contracts to include the cost of inflation as well as changing conditions in the housing market. However, when we compared the individual line items, some of the contract prices appeared to be unreasonable given that the bridge (sole-source) contract was with the same private firm, for essentially the same services, to cover the same geographic area that they had under M&M II. For example, our review of the property management fees paid to each contractor during option year 4 showed that the procurement office negotiated fees that were as much as 77.8 percent higher for the bridge contract than those same fees had been for M&M II. See appendix A for a comparison of the management fees.

Based on the data obtained from single family and the procurement office, the 19 bridge contracts will cost HUD in excess of $275 million. The substantial increase in the cost of the management and marketing services under the bridge contract could have been avoided had HUD awarded the M&M III contracts in accordance with their initial timelines.

Conclusion

The poor decisions made by single family and the procurement office in restructuring and planning the M&M III contracts resulted in significant delays in awarding contracts valued at $2.1 billion, the largest and most critical single procurement for HUD. To avoid a lapse in the management and marketing services that could have caused significant financial harm, HUD's only option at that point was to award bridge contracts. Unfortunately, the average cost of the 19 sole-source contracts will cost substantially more than the average cost of the M&M II contracts. Also, the $352,508 paid to Booth to develop the statements of work and the $325,300 contract awarded to Design to Delivery to provide administrative support for the M&M III contract solicitations were the results of poor management decisions.

Recommendations

We recommend that the Deputy Assistant Secretary for Single Family Housing

1A. Develop controls to award contracts in a timely manner, thus avoiding unnecessary expenditures such as the additional costs incurred for extending the M&M II bridge contracts.

1B. Follow the procurement office's established acquisition planning requirements and PALT guidance, and submit timely and complete performance work statements on all future contracts.

1C. Use in-house resources for significant acquisitions to ensure that the necessary knowledge and experience are leveraged to the greatest extent possible during the acquisition process, thus avoiding unnecessary expenditures such as those paid to a contractor for writing the statements of objectives and performance work statements.

We recommend that HUD's Chief Procurement Officer

1D. Assign significant acquisitions to the office that is sufficiently staffed with the necessary experience and technical expertise to ensure the timely award of contracts, thus avoiding unnecessary expenditures such as those paid to the administrative support contractor.

1E. Ensure that requirements in the PALT are followed and require written justification when there are significant delays in the acquisition process.

SCOPE AND METHODOLOGY

We performed an audit of the selection of management and marketing contractors for single-family properties owned by HUD in response to a hotline complaint alleging possible mismanagement, political connections, and violations of law in the selection of firms for M&M III contracts.

- We performed audit work from October 2009 through July 2010 at HUD headquarters in Washington, DC, and at the Southern Field Contracting Operations Office in Atlanta, GA. Our audit generally covered the period August 2004 through May 2010 but was expanded when necessary to include other periods.

To accomplish our objective, we

- Reviewed the Federal Acquisition Regulation and applicable HUD acquisition regulations and General Services Administration regulations.
- Conducted interviews with single family, procurement office, Office of Housing's Procurement Management Division, Office of the General Counsel, and General Services Administration employees in Washington, DC, to determine their roles and responsibilities regarding the M&M III contracts.
- Conducted interviews with Southern Field Contracting Operations Office and General Services Administration employees in Atlanta, GA, and the Chicago Operations Branch to determine their roles and responsibilities regarding the M&M II, M&M II extension, and M&M III contracts.
- Conducted interviews with former HUD contractors to determine their roles and responsibilities regarding the M&M III acquisition process.
- Examined the M&M III contract solicitations and the prime contractor and subcontractor contracts.
- Examined the M&M II contracts and the M&M II bridge contracts to determine whether premium costs were paid.

We did not review computer processed data during the audit. We relied on the information contained in the M&M II and M&M II bridge contracts, and the M&M III solicitation files.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

INTERNAL CONTROLS

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objectives:

- Effectiveness and efficiency of operations – Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.

- Compliance with applicable laws and regulations – Policies and procedures that management has in place to ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- Single family and the procurement office did not have adequate controls in place to ensure that the M&M III contracts were awarded in a timely and efficient manner.

APPENDIXES

Appendix A

COMPARISON OF MANAGEMENT FEES PAID

Contractor	Geographic area	M&M II option Year 4	Bridge contract			Increase over M&M II	Percentage of increase
			Management fee	Mortgagee compliance services fee[1]	Fee total		
Hooks Van Holm	PA, DE	$ 1,800	$ 2,500	$ 700	$ 3,200	$ 1,400	77.8%
Best Assets Inc.	ND, SD, NE, MN, IA, WI	$ 2,059	$ 3,549	$ 99	$ 3,648	$ 1,589	77.2%
Southwest Alliance of Asset Managers D6, LLC	South TX	$ 1,678	$ 2,848	$ -	$ 2,848	$ 1,170	69.7%
Hooks Van Holm	AL, MS	$ 1,800	$ 2,500	$ 450	$ 2,950	$ 1,150	63.9%
Southwest Alliance of Asset Managers D5, LLC	NM, North TX	$ 1,632	$ 2,644	$ -	$ 2,644	$ 1,012	62.0%
Michaelson, Connor and Boul Inc.	MT, WY, CO, UT	$ 3,134	$ 4,448	$ 339	$ 4,787	$ 1,654	52.8%
Pyramid Real Estate Services, LLC	KS, MO, OK	$ 2,150	$ 3,084	$ 120	$ 3,204	$ 1,054	49.0%
Home Source[2]	MD, DC	$ 2,787	$ 4,074		$ 4,074	$ 1,287	46.2%
Michaelson, Connor and Boul Inc. [3]	AZ, NV	$ 3,088	$ 4,080	$ 388	$ 4,468	$ 1,379	44.7%
Pyramid Real Estate Services, LLC	TN,KY	$ 2,225	$ 3,071	$ 120	$ 3,191	$ 966	43.4%
Harrington, Moran, Barksdale Inc.	IL, IN	$ 2,381	$ 3,200	$ -	$ 3,200	$ 819	34.4%
Harrington, Moran, Barksdale Inc.	VA, WV	$ 2,179	$ 2,800	$ -	$ 2,800	$ 621	28.5%
National Home Management Solutions[4]	NY, NJ	$ 2,985	$ 3,550	$ 180	$ 3,730	$ 745	25.0%
National Home Management Solutions[4]	OH	$ 2,995	$ 3,550	$ 180	$ 3,730	$ 735	24.5%
Atlantic Alliance	PR	$ 3,207	$ 3,884	$ -	$ 3,884	$ 677	21.1%
Michaelson, Connor and Boul Inc.[3]	MI	$ 3,154	$ 3,154	$ 495	$ 3,649	$ 495	15.7%
Pemco, LTD[5]	GA	$ 3,451	$ 3,796		$ 3,796	$ 345	10.0%
National Home Management Solutions of New York, LLC	FL	$ 3,751	$ 4,000	$ 121	$ 4,121	$ 370	9.9%
Harrington, Moran, Barksdale Inc.	NC, SC	$ 1,745	$ 1,430	$ 340	$ 1,770	$ 25	1.4%
Pemco, LTD[5]	CA	$ 4,270	$ 4,208	$ 110	$ 4,318	$ 48	1.1%
Cityside Management Corp.	New England	$ 2,700	$ 2,585	$ 115	$ 2,700	$ -	0.0%
Cityside Management Corp.	LA, AR	$ 2,200	$ 2,003	$ 197	$ 2,200	$ -	0.0%
Home Source[2]	MD, D.C.	$ 4,200	4074		$ 4,074	$ (126)	-3.0%

[1] HUD negotiated the mortgagee compliance services separately under the bridge contract. These fees had been combined with the management fees under the M&M II contract; therefore, for comparison we combined the management and mortgagee compliance fees for the bridge contract to accurately reflect the costs.

[2] Same contract; however, the management fees were based on the number of properties under M&M II. The bridge contract was based on a flat fee of $4,074.

[3] Same contract with different management fees for the different geographic areas.

[4] Same contract with different management fees for the different geographic areas.

[5] Same contract with different management fees for the different geographic areas.

Appendix B

AUDITEE COMMENTS AND OIG'S EVALUATION

Ref to OIG Evaluation **Auditee Comments**

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

OCT 2 1 2010

MEMORANDUM FOR: Saundra G. Elion, Director, Headquarters Audit Division, GAH

FROM: Vicki B. Bott, Deputy Assistant Secretary for Single Family Housing, HU

SUBJECT: HUD Did Not Adequately Plan the Procurement of the Management and Marketing Contracts
Audit No.: 2010-HA-XXXX
Issue Date: August 17, 2007

The Office of Inspector General (OIG) performed the subject audit in order to assess the process by which the U.S. Department of Housing and Urban Development (HUD) restructured, planned and awarded the third generation management and marketing (M&M III) contracts for HUD-owned single family properties. The audit was initiated by OIG hotline complaints alleging possible mismanagement, political influence and violation of law in procurement procedures. The OIG found no evidence of either political influence or violation of law. These findings are reinforced by the successful disposition of 13 protests submitted by unsuccessful bidders and adjudicated before HUD, the GAO and the Court of Federal Claims; one additional protest remains and is pending decision. The OIG found the allegation of mismanagement credible and cited the following specifics:

- Key stakeholders were not involved in the initial planning process.
- Outsourcing of procurement planning was unnecessary and contractor-developed statements for M&M III contract proposals were inadequate.
- Acquisition plans were not submitted in a timely manner per PALT schedules and guidance.
- Delayed contract awards required bridge contracts for M&M II contractors in order to avert service lapses, resulting in avoidable costs to HUD.
- Management decisions made by the Office of the Chief Procurement Officer led to inefficiencies and additional outsourcing of administrative support.

The OIG also provided specific recommendations related to the points above. This response addresses those recommendations that were directed toward the Office of Single Family Housing (Single Family).

In general, Single Family agrees that additional controls and process improvements are necessary. However, it is important to acknowledge the complexity and monumental effort presented by the M&M III procurement process. These audit findings notwithstanding, Single Family reserves the right to adjust PALT schedules in consultation with key stakeholders when the nature of a particular procurement necessitates adjustment, and to contract with outside vendors when appropriate.

The Office of Single Family Housing's responses to the audit recommendations are as follows:

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OIG's Recommendation 1A:
Develop controls to award contracts in a timely manner, thus avoiding unnecessary expenditures such as the additional costs incurred for extending the M&M II bridge contracts.

Comment 1

Single Family's Response:
The Office of Single Family Housing agrees that additional controls and process improvements are required to ensure effective and efficient procurement planning in the future. Single Family notes that the M&M III procurement was an uncommon example with a particularly large scope and high level of complexity. Internal controls to ensure compliance with applicable laws and regulations were successful in this case, and HUD maintained comprehensive, accurate and clear documentation in support of its procurements decisions. Single Family acknowledges that management controls to ensure the timely award of contracts were insufficient. It is currently assessing existing policies and procedures in an effort to identify necessary enhancements.

OIG's Recommendation 1B:
Follow the procurement office's established acquisition planning requirements and PALT guidance, and submit timely and complete performance work statements on all future contracts.

Comment 2

Single Family's Response:
The Office of Single Family Housing agrees that initial planning did not thoroughly reflect the magnitude of the M&M III procurement effort. This impacted target date forecasting, mitigation of schedule risks, and contingency planning. PALT guidance allows for amended lead times, stating that "[b]ased upon a procurement action's complexity and nature, the Contracting Officer may adjust these lead times to allow for unusual or complex situations." The M&M III procurement clearly fit this exception, but necessary adjustments were not fully documented. In light of PALT guidance, Single Family will ensure accurate future procurement timelines to the best of its ability, documenting adjustments for unusual circumstances as necessary.

OIG's Recommendation 1C:
Use in-house resources for significant acquisitions to ensure that the necessary knowledge and experience are leveraged to the greatest extent possible during the acquisition process, thus avoiding unnecessary expenditures such as those paid to a contractor for writing the statements of objectives and performance work statements.

Single Family's Response:
Ultimately, the Procurement Management Division (PMD), the Office of Finance and Budget (FAB), and OCPO (Headquarters and the Center of Excellence) were actively involved in the M&M III procurement process. The Office of Single Family Housing has provided documentation of this involvement to the OIG. Single Family agrees that key stakeholder involvement in all planning phases is highly important, and it will ensure that in-house resources are fully utilized for future acquisitions of this scope.

Comment 3

In general, the Office of Single Family Housing reserves its right to engage outside contractors and leverage private sector expertise when it determines this type of engagement to be necessary and prudent.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-0001

CHIEF PROCUREMENT OFFICER

OCT 2 1 2010

MEMORANDUM FOR: Saundra G. Elion, Director, Headquarters Audit Division, GAH

FROM: Jemine A. Bryon, Chief Procurement Officer, N

SUBJECT: HUD Did Not Adequately Plan the Procurement of the Management and Marketing Contracts

We have reviewed your draft audit report of the Office of the Chief Procurement Officer's (OCPO) procurement of the Marketing and Management (M&M III) contracts. This audit was initiated by the OIG based on a complaint to its hotline alleging possible mismanagement, political influence, and violations of law in the procurement strategy used to select M&M III firms. In summary, after a nearly one year audit of this procurement action, the OIG states that allegations of mismanagement are credible, but did not find allegations of political influence or violations of law. We really appreciate the OIG's efforts to confirm that this program, which comprises the single largest acquisition program serving the Department, was conducted properly, without any political influence or violations of law. However, we disagree that there was mismanagement of the acquisition.

We agree that certain situations occurred during the procurement that, with 20/20 hindsight, might have been avoided if a different course had been taken, but to speculate, after the fact, what might or might not have occurred had a different course been taken, is simply speculation and not fact. It should be noted that, out of this very complex process, HUD awarded over 60 contracts and task orders. Unsuccessful offerors filed thirteen protests against the awards at a combination of the Agency-level, the Government Accountability Office, and the US Court of Federal Claims. To date, twelve of them have been denied, dismissed, or withdrawn; the thirteenth is still pending a decision. The successful award of these contracts and implementation of a new management model for the Single Family real estate inventory was only possible because of the close collaboration and due diligence by all the stakeholders in the solicitation, evaluation and award process.

Finding 1: HUD Did Not Adequately Plan the Procurement of Management and Marketing Services Under the M&M III Contracts

Under the subsection titled "Acquisition Plans Were Not Submitted in a Timely Manner," the audit discusses extensively the failure to adhere to Procurement Acquisition Lead Times (PALT) times. The requirement for PALT is not established in the Federal Acquisition Regulation or any other regulatory directive. The PALT is guidance provided by OCPO (as in most other agencies), as described in Handbook 2210.3, for planning purposes to program and contracting staff regarding the expected time it should take to conduct a procurement action, based upon the proposed acquisition strategy. While we strive for adherence to the PALT, we also recognize that complicated and large acquisitions such as M & M III may deviate from the PALT for factors within and outside of our control.

Comment 4

The report makes the statement: "Had the IPT included stakeholders such as personnel from the office of Housing's Budget office and the Procurement Management Division, and had the Director of Single Family Asset Management heeded the advice of the current Director of the M&M Contracting Center of Excellence to 'timely collaborate during all phases of the process,' many of the problems, including poorly written statements of work and the funding source, may have been avoided." This statement is speculative and has no basis in fact The OIG was provided numerous documents evidencing inclusion of all parties identified above throughout the acquisition process. Even given the early planning and collaboration, the reality was that factors outside of the planning process contributed to the delays, including numerous questions from vendors that had to be answered, necessary amendments to the solicitation, pre-proposal protests filed, and, although not noted in the report, for the Asset Manager awards, the need to initiate discussions and obtain final proposal revisions. It is clear that more than simple advance planning was the cause for the delay in making the awards. These kinds of issues occur with some procurements, thereby delaying awards, and cannot be predicted. To make a statement that many of the problems "...may have been avoided" is simply supposition, as it is impossible to predict what would have happened differently if a different course had been followed.

Comment 5

Under the subsection titled "The Headquarters Procurement Office Experienced Staff Shortages and High Staff Turnover," this section contains few relevant facts. The fact that there were staff shortages and turnover should not lead to a conclusion of contributing to mismanagement. While OCPO continues to experience high turnover in its staffing, as does the rest of the Federal Government in the acquisition field, there is no basis for the reported "...50 to 60 percent staff turnover rate every 18 months." as stated in the report. It is simply inaccurate.

Comment 6

The report is also critical of a former Deputy Chief Procurement Officer's decision to process the acquisitions through OCPO headquarters instead of its Atlanta office. A decision to assign a procurement action to a specific office must be presumed to be made in good faith, with intentions that OCPO will perform to the best of its ability based upon the conditions in place at that time. Even a court of law presumes that the government acts in good faith absent any evidence to the contrary, yet the audit appears to presume that the then-Deputy CPO intentionally made decisions that sabotaged the procurement. The report also makes statements that are incorrect regarding the staffing of the Atlanta office at the time decisions were made and that the auditor "believes" Atlanta had the capacity to process the procurement more efficiently than the headquarters procurement office. This statement is not an accurate assessment and is based only upon hindsight opinions of a few people. Any assertion that the OCPO's M&M Center of Excellence (COE) in Atlanta was in a better position to accomplish the procurement is unsupportable. As of January 2007, the COE was still an organization only on paper. A plan to transition all of the M&M II contracts from the other offices had been drawn up, but the COE was not yet staffed up to enable all the M&M II contracts to be transferred to them. They also still maintained a bevy of other contracts that were scheduled to be reassigned to other offices but had not yet been transferred. Both the Southern and Western Field Contracting Directors had suggested holding off the transfer until the COE was fully staffed; however, the M&M II contracts were transferred to the COE anticipating full staffing was imminent. To this day, the COE has not been fully staffed according to the original plan, nor were many contracts that were supposed to be transferred to other offices able to be transferred, because of other unanticipated workload and client realignments in offices that were supposed to pick up the transferred contracts. If the M&M III acquisition had been sent to the COE, it is very likely that they still would have required some contractor support because they were not sufficiently staffed to pick up that workload at the time.

Comment 7

Additionally, the audit states that "We believe that the $325,300 paid to Design to Delivery was an unnecessary expenditure of funds that possibly could have been avoided if the M&M III contracts had been awarded by the M&M Contracting Center of Excellence." This statement is simply an opinion. Based on the staffing levels and competing priorities, it remains our position today that this acquisition required supplemental contractor support services.

Comment 8

Under the subsection titled "HUD Awarded Sole-Source Contracts To Avert a Lapse in Services," the audit incorrectly asserts that the substantial increase in the cost of the M&M II bridge contracts could have been avoided had HUD awarded the M&M III contracts in accordance with their initial timelines. While the audit does correctly show that the unit prices were increased on some of the bridge contracts from the original M&M II contracts, this is to be expected whenever any new contract is awarded. The M&M II contracts were awarded more than five years earlier. Price increases occurred for a variety of reasons, ranging from cost of living increases associated with inflation to changes due to the volatile housing market conditions in which the contractors operated from when the original M&M II contracts were awarded. As such, it is virtually impossible to accomplish an apples-to-apples comparison of prices between the contracts without doing a comprehensive analysis of all the conditions that go into the preparation of the unit prices. The OIG did not conduct the necessary analysis to conclude that had the M&M III contracts been awarded based upon the original schedule, these costs would have been avoided. Simply put, such costs would have merely been spent under the M&M III contracts instead.

Our responses to the recommendations are as follows:

Recommendation 1D: HUD's Chief Procurement Officer assign significant acquisitions to the office that is sufficiently staffed with the necessary experience and technical expertise to ensure the timely award of contracts, thus avoiding unnecessary expenditures such as those paid to the administrative support contractor.

Comment 9

Response to Recommendation 1D: The recommendation apparently presupposes that the CPO would consciously assign a major acquisition to an office that does not have sufficient resources to perform the procurement. We do not do that. Every procurement action assigned to any office is done so with the presumption that the office has, or will have, sufficient resources to accomplish the task. If it is necessary to provide additional staff or contractor support to complete the task, that is the duty and within the authority of the CPO to decide how best to proceed.

OCPO does not agree with the assertion that the expenditures made to the administrative support contractor were "unnecessary." An acquisition of this size given available staffing resources required supplemental support. OCPO does concur with the recommendation, and will assign procurements to an office best equipped to handle them, as determined at that point in time by the CPO.

Recommendation 1E: HUD's Chief Procurement Officer ensure that requirements in the

Comment 10

PALT are followed and require written justification when there are significant delays in the acquisition process.

Response to Recommendation 1E: OCPO does not concur with obtaining written justifications for significant delays in the acquisition process. As previously stated, the PALT was developed as guidance with recognition that a particular procurement action's complexity and nature may necessitate adjustment due to unusual or complex situations. It is not clear to us what benefit is received by requiring written justifications. Contracting officers work closely with their customers and should be working through any unnecessary delays. Contracting officers are already required to document any significant events and factors that affect the procurement (e.g. delays, its causes and resolution) in their written price negotiation memorandums (PNM). The Deputy CPO will issue a reminder to all contracting officers of their responsibility to fully document their PNMs, including any significant delays, causes, and resolution, as reflected in the current PNM format posted on the OCPO HUDWeb page.

Regarding the identification of a significant deficiency in internal controls, OCPO does not agree that a significant deficiency exists. The fact that the M&M III contracts were not awarded in accordance with the original schedule does not necessarily indicate such a deficiency. Each one of the challenges faced with the MMIII acquisitions was resolved as expeditiously as possible. We of course desired and worked hard to award these contracts earlier in the process, but circumstances did not permit. For all the reasons previously delineated, delays in making contract awards occur on occasion. What is clear is that, due to extraordinary measures on the part of HUD program, contracting, and legal staff, there were no breaks in contract service, no potential homebuyer was denied an opportunity to purchase a HUD Home, no fraud, waste or abuse of funds occurred, and, to date, HUD has not lost a single protest that has been filed against these awards. As with any large procurement action, there will be "lessons learned" that can be identified to make the next procurement even more effective, but that in no way gives credibility to allegations or findings of mismanagement of the program.

Once again, we thank the OIG for its efforts to review these significant acquisitions to confirm that there were no violations of law or political influence.

OIG Evaluation of Auditee Comments

Comment 1 We concur with single family's planned actions and willingness to make the necessary improvements in its existing policies and procedures.

Comment 2 We concur with single family's planned action to ensure that future timelines reflect the magnitude of the acquisition, deviation from and adjustments to the timelines are documented.

Comment 3 We concur with single family that key stakeholders' involvement in all planning phases is very important and its proposed action to ensure that in-house resources are used for future significant acquisitions. However, since the documentation provided to us did not show that representatives from the budget office or the procurement management division attended the initial IPT meetings, we did not revise the report or our conclusions.

OIG acknowledges single family's right to engage outside contractors and leverage private sector expertise as necessary. However, we strongly encourage single family to ensure that vendors have the requisite knowledge and skills to perform the necessary tasks to expedite future acquisitions.

Comment 4 We disagree with the procurement office's assertion that statements relative to our conclusion about the exclusion of select stakeholders are speculative and have no basis in fact. The report clearly acknowledges that a number of factors contributed to the delays in awarding the M&M III contracts.

Specifically, our report referenced the fact that there was indeed an absence of the key stakeholders after Booth was selected as the contractor to assist with the planning function of this acquisition. In particular, the absence of the Office of Housing's Office of Budget and Field Resource contributed to the delays with the funding issues that were encountered. Further, due to the poor quality of work submitted by Booth, additional time and resources were consumed by the need to revise the statements of work. Had the program office divisions with the requisite knowledge and expertise been involved, many of the delays of this significant acquisition may indeed have been avoided.

Comment 5 We disagree with the procurement office's assertion that staff shortages and turnover should not lead to a conclusion of mismanagement and that there is no basis for the reported "50 to 60 percent staff turnover rate every 18 months…It is simply inaccurate."

We reaffirm our position that staff shortages and high turnover in the procurement office contributed to the mismanagement of the M& M III contracting process. These factors directly impacted the acquisition from pre-solicitation through final award of the M&M III contracts. Moreover, the contracting officer for M &M III informed us that

> The loss of 95 percent of the procurement office staff caused a lack of clarity and a lack of continuity in the actions taken prior to the staff leaving. These actions included the status of the procurement, pre-solicitation documents, acquisition plans, technical evaluation plans, performance work statements, solicitation documents; etc. Ultimately, the original decision makers were no longer a resource to the department to execute their decisions.

Regarding the turnover, the Acting Chief Procurement Officer during the pre-solicitation phase of this contract advised us that the procurement office had a 50 to 60 percent staff turnover rate every 18 months. We accepted the "50 to 60 percent" range of turnover because, as the Acting Chief Procurement Officer, he was responsible for managing the workload and staffing resources in the procurement office at the time of this acquisition. Since the procurement office did not provide documentation to refute the turnover rate, we did not revise the report.

Comment 6 We disagree that the audit report makes inferences or statements "that the then-Deputy Chief Procurement Officer intentionally made decisions that sabotaged the procurement." While the decisions may have been made in good faith, the information we obtained during our review led us to conclude that the Atlanta office had the capacity to process the procurement more efficiently than the headquarters procurement office. Given that the M&M III was the largest and most critical single procurement for HUD and the headquarters procurement office was experiencing high turnover and staff shortages, we believe the managers of the procurement office should have assessed its available resources and either moved this significant acquisition from the headquarters office or detailed procurement staff from the field who were knowledgeable of the management and marketing services contracting process.

Our conclusion about the viability of using the Atlanta office is supported by the current Chief Procurement Officer in the procurement office's most recent Procurement Management Review dated September 17, 2009. She states in that review that "the recent creation of the Management & Marketing (M&M) Center of Excellence in Atlanta, GA allows OCPO [the procurement office] to strategically centralize the administration and management of one of HUD's largest acquisitions with a dedicated team of experienced support staff." Additionally, the Atlanta office clearly had the experience as it was responsible for managing and overseeing the M&M II contracts and, therefore, was knowledgeable of the requirements and practices of providing management and marketing services and overseeing the contracts.

Comment 7 We reaffirm our position that the decision to award this large and critical procurement from the headquarters procurement office contributed to the mismanagement of the acquisition and the contract with Design to Delivery, Inc. was evidence of that mismanagement. Because the headquarters procurement office was understaffed, single family funded the administrative support contract with Design to Delivery~~.~~ Again, we believe that the managers of the procurement office could have avoided the cost of this administrative support contract had the M&M III acquisitions been assigned where resources were more readily available.

Additionally, we maintain that the Atlanta office may have been in a better position to handle the increase in workload and the additional resources that this significant procurement required.

Comment 8 We reaffirm our position that the substantial increase in the cost of the management and marketing services under the bridge contract could have been avoided had HUD awarded the M&M III contracts in accordance with their initial timelines.

While we acknowledge that the part of the unit price increases were due to normal market conditions, we cannot overlook the fact that $275 million was spent on the bridge contracts, and this was in addition to the planned $2.1 billion cost of the M&M III contracts. We believe that had the M&M III contracts been awarded on time, this $275 million would not have been spent on bridge contracts, nor would it have been spent on M&M III (thus increasing the planned cost of the M&M III contracts to $2.4 billion). Single family would have been able to use the $275 million on other projects.

Comment 9 We concur with the procurement office's proposed action to assign future procurements to an office that is best equipped to handle significant acquisitions.

Comment 10 The procurement office's proposed action (to remind contracting officers to document "any significant delays, causes, and resolution…") is only partially responsive to Recommendation 1E. While we agree that the contracting officers can and should document the delays, the cognizant program offices should also be required to prepare a justification, as specified in the Procurement Office Handbook 2210.3. Specifically, section 4-1 requires the head of the cognizant program office to "submit a written request for the extended lead-time to the Assistant Chief Procurement Officer responsible for the acquisition." In addition, the current Chief Procurement Officer stated in the Procurement Management Review referenced above that "it is imperative that HUD improve internal controls over the acquisition function." One of the suggested ways for the procurement office to improve its internal controls over the acquisition function was "to initiate stricter consequences for program personnel who do not adhere to the procurement administrative lead times". The "stricter consequences" could be to require detailed justification. Implementation of both the handbook and management review recommendations could further improve the quality of HUD's acquisition process.

We are optimistic that reminding the contracting officers of the impact delays have on the quality of the acquisition process and their responsibility for full documentation should ensure an accurate record of any significant delays, causes, and resolutions that occur on all acquisitions.