

ALTERNATIVE HOUSING PILOT PROGRAM:
KATRINA COTTAGES



PERFORMANCE AUDIT
ISSUED MARCH 4, 2009

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LOUISIANA LEGISLATIVE AUDITOR
STEVE J. THERIOT, CPA

March 4, 2009

The Honorable Joel T. Chaisson, II,
President of the Senate
The Honorable Jim Tucker,
Speaker of the House of Representatives

Dear Senator Chaisson and Representative Tucker:

This report provides the results of our performance audit of the Alternate Housing Pilot Program in Louisiana, commonly referred to as the Katrina Cottages program. The audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended.

During the audit, we worked in cooperation with the Louisiana Recovery Authority (LRA) and the Louisiana Housing Finance Agency (LHFA) to collect information on the Katrina Cottages program and to answer six specific audit objectives. The report contains our answers to these objectives. Appendix A contains the LRA's response. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of both the LRA and LHFA for their assistance during this audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve J. Theriot".

Steve J. Theriot, CPA
Legislative Auditor

SJT/dl

AHPPKC09

Office of Legislative Auditor

Steve J. Theriot, CPA, Legislative Auditor



Alternative Housing Pilot Program: Katrina Cottages

March 2009

Audit Control # 40080016

Objectives and Overall Results

Based on a request from the Legislative Audit Advisory Council, we conducted a performance audit to obtain information regarding the Alternative Housing Pilot Program (AHPP) in Louisiana (commonly referred to as the Katrina Cottages¹ program). We worked in cooperation with the Louisiana Recovery Authority (LRA) and the Louisiana Housing Finance Agency (LHFA) throughout the audit to collect information and answer six audit objectives. We also met with and obtained information from Cypress Realty Partners, LLC. These objectives and the corresponding results of our work are summarized as follows.

Objective 1: What is the current status and estimated construction timeframes of the Katrina Cottages program?

Results: As of January 16, 2009, no Katrina cottages have been constructed. Cypress Realty Partners, LLC is required to develop and construct no fewer than 500 individual units before the developer services agreement ends on December 31, 2009. As of November 25, 2008, the date of the most recent grant disbursement during our audit, \$1,964,788 of the \$74,542,370 (2.6%) has been spent on the AHPP in Louisiana (*see pages 7-9*).

Objective 2: Why has Louisiana not built any Katrina Cottages in the twenty four months since receiving its AHPP grant?

Results: Louisiana's delay in building Katrina Cottages is the result of the following events:

- It took 10 months for the LHFA to develop the program, including working with FEMA, negotiating a contract with a developer, and ultimately securing program funding.
- After signing the contract and securing funding, the LHFA administered the program for four months. Governor Jindal then decided to transfer the program to the LRA.
- It took five months for the LRA to negotiate and complete the program transfer and to sign a new contract with the same developer.
- Five months after the LRA signed a contract with a developer, construction has not begun on any Katrina Cottages (*see pages 10-13*).

¹ The term "Louisiana Cottages" is also used to refer to the AHPP in Louisiana.

Objective 3: What is the estimated cost per square foot of the Katrina Cottages?

Results: The estimated cost per square foot for the Katrina Cottages² and the Carpet Cottages³ ranges from approximately \$158 to \$195. The cost per square foot includes actual construction cost, the performance bond, the general contractor’s fee, and infrastructure work. It does not include design costs (*see pages 13-14*).

Exhibit 1 Estimated Cost Per Square Foot of Katrina Cottages						
	Jackson Barracks				Lake Charles	
	Small Unit Mix		Large Unit Mix		Small Unit Mix	Large Unit Mix
	Katrina Cottages	Carpet Cottages	Katrina Cottages	Carpet Cottages	Katrina Cottages*	
Estimated Cost Per Square Foot	\$194.96	\$187.45	\$172.59	\$185.03	\$189.04	\$157.87

* The Lake Charles site does not include any Carpet Cottages.
Source: Prepared by legislative auditor’s staff using information provided by Cypress Realty Partners, LLC.

In its February 20, 2009, response, the LRA provided updated cost per square foot calculations. According to the LRA, these calculations are based on actual construction bids received. While the revised calculations are lower than those listed in Exhibit 1 above, the LRA stated that these new estimates do not include infrastructure costs. (See Appendix A for LRA’s full response to this report. Page 4 of the response contains LRA’s revised cost per square foot calculations.)

Objective 4: How did the LRA select a contractor for the Katrina Cottages program?

Results: Before Governor Jindal transferred the Katrina Cottages program to the LRA, the LHFA administered the program. The LHFA signed a developer services agreement with Cypress Realty Partners, LLC on October 12, 2007, to serve as the contractor for the Katrina Cottages program. The LHFA was not subject to Louisiana’s Public Bid Law when selecting contractors, supported by a Letter of Advice provided by the Office of the Attorney General in October 2007.

According to Louisiana Revised Statute (R.S.) 49:220.4(C), the LRA is subject to all Louisiana laws applicable to state agencies, including the public bid law and therefore is required to follow the public bid law when procuring contracts. However, the LRA did not use a competitive bid process to select a contractor, in part, on the following rationale. First, the Division of Administration (DOA) considered the contract to provide consulting services. Second, DOA considered the contract to be sole source (*see pages 14-16*).

² Katrina Cottages are single-family dwellings.
³ Carpet Cottages are multi-family dwellings.

Objective 5: Can Louisiana redirect the \$74.5 million that FEMA allocated to the Katrina Cottages program?

Results: Louisiana cannot redirect the funds from the grant. It can only be redirected if the U.S. Congress changes the appropriation (*see page 16*).

Objective 6: What are Louisiana’s plans for the occupancy and ownership of the Katrina Cottages?

Results: The LRA plans to transfer ownership of the cottages to local partners. The local partners will select the residents for the cottages from a pool of applicants approved by the LRA. First priority in selecting residents for the cottages must go to disaster victims who are eligible for FEMA financial or direct housing assistance (*see page 17*).

Scope and Methodology

We reviewed Louisiana’s participation in the AHPP in response to a legislative request. We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

To answer our audit objectives, we performed the following steps:

- Interviewed officials of the following entities regarding their participation in the AHPP.
 - Interviewed officials at the LHFA and the LRA regarding their participation in the AHPP.
 - Interviewed officials at DOA, including the Office of Contractual Review (OCR), the Office of the General Counsel, and Facility Planning and Control (FPC) regarding their participation in the AHPP.
 - Interviewed a FEMA official regarding Louisiana’s and other states’ participation in the AHPP.
- Conducted reviews of documents (e.g., contract documents, budget documents, letters/memos, e-mail correspondence) provided by both LHFA and LRA officials.
- Met with representatives from Cypress Realty Partners, LLC and The Cypress Group regarding their participation in the AHPP.
- Discussed legal issues regarding the Katrina Cottages program with the LLA Legal Division.

Appendix A contains a copy of the LRA’s response to this report.

The LHFA chose not to respond in writing to the report stating “The Legislative Auditor has performed a thorough and thoughtful analysis of the facts. The LHFA supports the auditor's findings and chooses not to comment further in connection with its performance audit.”

Appendix B contains a timeline depicting Louisiana’s participation in the AHPP.

Overview of the AHPP

Federal Enabling Legislation

The AHPP was created on June 15, 2006, by Public Law 109-234 titled “Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.” Section 2403 gave the U.S. Department of Homeland Security the authority to create the AHPP.

Purpose of the AHPP

The AHPP is a \$400 million federal government pilot program designed to explore alternatives to housing during disaster situations, such as the 2005 hurricane season. The AHPP’s specific objectives include the following:

- Evaluate the efficacy of non-traditional short and intermediate-term housing alternatives for potential future use in a catastrophic disaster environment.
- Identify, develop, and evaluate alternatives to and alternative forms of FEMA Disaster Housing to assist victims of the 2005 hurricanes in the Gulf Coast.
- Consider the feasibility of these options as part of the standard package of housing assistance that could be made available by federal government agencies or state agencies for other disasters of various sizes, locations, and impacts.
- Assure that pilot projects address the needs of a variety of populations, such as persons with disabilities and the elderly, historically underserved populations as well as renters, homeowners, single-family dwelling occupants and multi-family dwelling occupants.

AHPP Application and Selection Processes

In September 2006, FEMA invited Alabama, Florida, Louisiana, Mississippi, and Texas to apply for the AHPP (“Katrina Cottages” program). The LRA issued a Request for Ideas (RFI) on September 25, 2006, to solicit ideas for alternative housing in Louisiana.

Louisiana assembled a panel of national experts that recommended six of the 45 proposals received for inclusion in Louisiana’s AHPP application. On behalf of Governor Blanco, the Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) submitted the application, consisting of these six proposals, to FEMA on October 20, 2006.

After reviewing the recommendations of a November 2006 national evaluation panel, FEMA awarded grants as indicated in Exhibit 2 on the following page. FEMA notified the State of Louisiana of its award on December 22, 2006. This award was given wholly for the Cypress Cottage Partners proposal submitted in the GOHSEP application.

Exhibit 2 AHPP Awards by State	
State	Project Name and Recommended Grant Amount
Mississippi	<ul style="list-style-type: none"> Green Mobile (\$5,890,882) Park Model and Mississippi Cottage (\$275,427,730)
Louisiana	<ul style="list-style-type: none"> Cypress Cottage Partners (\$74,542,370)
Texas	<ul style="list-style-type: none"> Heston Group (\$16,471,725)
Alabama	<ul style="list-style-type: none"> City of Bayou La Batre (\$15,667,293)
Source: Prepared by legislative auditor's staff using information provided by the U.S. Government Accountability Office.	

The Cypress Group

In response to the RFI, Cypress Cottage Partners offered its proposal on October 4, 2006, to build single-family Katrina Cottages⁴ and multi-family Carpet Cottages.⁵ Although Cypress Cottage Partners⁶ submitted the initial proposal in response to the RFI, it was not registered with the Secretary of State at the time the proposal was submitted. Also, it was not the entity that signed the developer services agreement (i.e., contract) with the LHFA and ultimately the LRA.

Cypress Realty Partners, LLC, which incorporated on October 3, 2006, is the entity that both the LHFA and LRA contracted with to serve as the construction developer for the AHPP in Louisiana. Cypress Realty Partners, LLC is a component of The Cypress Group. According to its Web site, The Cypress Group consists of the following limited liability corporations:

1. **Cypress Advisory, LLC** provides consulting services, specializing in corporate strategy, government markets, and investment research.
2. **Cypress Advocacy, LLC** is a registered lobbying firm located in Washington, DC and Baton Rouge, Louisiana, specializing in financial services, housing finance, and hurricane reconstruction.
3. **Cypress Realty Partners, LLC** is a real estate development firm located in Baton Rouge, Louisiana, specializing in workforce housing development, new markets tax credits, and Gulf Opportunity (GO) Zone investing. In addition to the AHPP Katrina Cottages project, the only other development experience the company has is a private development of approximately 10 Katrina Cottages on South 18th Street in Baton Rouge, Louisiana.

⁴ See Exhibit 3 for a picture of a Katrina Cottage.

⁵ See Exhibit 4 for a depiction of a multi-family Carpet Cottage.

⁶ Cypress Cottage Partners identified itself as "a team of firms," including Cypress Realty Partners, LLC, architects Andres Duany and Marianne Cusato, The Shaw Group, Lowe's, Dietrich Industries, and ICF International.

Exhibit 3
Example of a Katrina Cottage



Source: Image provided by Cypress Realty Partners, LLC.

Katrina Cottage Site Locations

The LHFA and the LRA selected sites in the New Orleans, Baton Rouge, and Lake Charles areas for the Katrina Cottages. The LRA chose local partners in these areas to contribute the land and manage the cottages. One exception is that the Lake Charles partners will purchase the property using AHPP and United Way funds. The following is a list of the local partners:

- New Orleans Redevelopment Authority (NORA)⁷
- Louisiana Military Department, Jackson Barracks
- The Resource Foundation, Baton Rouge⁸
- Habitat for Humanity and Project Build a Future, Lake Charles

See pages 10-13 of this report and **Appendix B** for further information regarding Louisiana's participation in the AHPP from FEMA's award notification to Louisiana in December 2006 to the present.

⁷ The Katrina Cottages for the NORA site will not be limited to one location. These stick-built and modular cottages will be placed on lots that once had hurricane damaged houses.

⁸ The LRA is in the process of coming to an agreement with The Resource Foundation to use lots that are ready for construction in Hidden Cove subdivision off of Gardere Lane and Burbank Drive.

Exhibit 4
Example Multi-Family Cottages



Source: Image provided by Cypress Realty Partners, LLC.

Objective 1: What is the current status and estimated construction timeframes for the Katrina Cottages program?

As of January 16, 2009, no Katrina cottages have been constructed. Cypress Realty Partners, LLC is required to develop and construct no fewer than 500 individual units before the developer services agreement ends on December 31, 2009. As of November 25, 2008, the most recent grant disbursement during our audit, \$1,964,788 of the \$74,542,370 (2.6%) has been spent on the AHPP in Louisiana. The following two sections discuss the site activity and expenditure status in more detail.

Activity Status

During the audit, we asked the LRA for construction timeframes. On January 16, 2009, the LRA provided the following estimated timeframes (Exhibit 5) for the construction and completion of the Katrina Cottages:

Exhibit 5 LRA's Estimated Construction Timeframes As of January 16, 2009					
Site Location	No. Units	Environmental Approval Date	Infrastructure Construction Start Date	Housing Construction Start Date	Construction End Date
New Orleans Area - Jackson Barracks					
Single-Family Cottages	91	11/24/08*	12/08/08*	02/02/09	07/31/09
Multi-Family Cottages		11/24/08*	12/08/08*	03/16/09	08/14/09
New Orleans - Other Area Sites					
NORA	100	02/09/09	n/a	02/16/09	09/01/09
HANO - Fischer	100	02/20/09	n/a	03/02/09	08/31/09
Ephesus (Westwego)	27	02/06/09	02/16/09	04/16/09	08/31/09
Providence	60	02/09/09	n/a	02/16/09	09/01/09
Lake Charles Area					
6th Avenue	34	03/01/09	03/05/09	03/05/09	09/05/09
Scattered Sites	48	03/01/09	n/a	03/15/09	09/01/09
Baton Rouge Area					
Hidden Cove Subdivision	42	01/18/09	n/a	02/02/09	07/31/09
Total Units	502				
* Deadline met according to the LRA Housing Policy Director. Source: Prepared by legislative auditor's staff using information provided by the LRA.					

According to an LRA official, the actual completion of construction could be negatively impacted by issues outside of the program's control such as a longer than expected permitting process or environmental approval process. Completion times could also be delayed by work-halting inclement weather or the uncovering of site-specific issues that may slow construction. Based on the progress to date and the potential for further delays, it may be difficult for Cypress Realty Partners, LLC to meet the September 2009 deadline. If the cottages are not constructed by contract deadline of December 31, 2009, the state has the option to extend the developer services agreement with Cypress Realty Partners, LLC.

Penalties for Delays. According to the developer services agreement between Cypress Realty Partners, LLC and LRA, Cypress can be fined \$250 per day for each unit that is not complete by the proposed deadline in the approved construction timeline. However, this fine is applied based on the official construction schedule. Cypress Realty Partners, LLC is not required to submit official construction schedules to the LRA until after building permits have been acquired. Building permits will be acquired after the selection of the general contractor has been completed. Once official construction schedules have been submitted, the LRA will be able to apply completion penalties for failure to comply with the construction schedule.

Expenditure Status

As of November 25, 2008, Louisiana has drawn down \$1,964,788 of the \$74,542,370 (2.6%) available for the AHPP grant. This money has been spent on expenses for LHFA, LRA, and their contractors along with Cypress Realty Partners, LLC and its contractors. Exhibit 6 shows how much money was received by LRA, LHFA, and contractors for the AHPP.

Exhibit 6		
Distribution of AHPP Funds, as of November 25, 2008		
Recipient	Type of Service	Amount
Dollars paid to Cypress Realty Partners, LLC and Subcontractors		
Cypress Realty Partners, LLC	Developer	\$630,800
Duany Planter-Zybeck (DPZ)	Architectural	442,057
Looney, Ricks, Kiss Architects LLC (LRK)	Architectural	24,489
Marianne Cusato (Cusato Cottages LLC)	Architectural/Residential Designer	63,099
Shaw Environmental (Shaw)	Mobilization/Design	377,777
Stephanie Eugster	Architectural	18,249
Subtotal		\$1,556,471*
Contracts Directly with LHFA/LRA		
DeCuir, Clark & Adams LLP (DCA)	Legal Services	\$21,887
Grace & Hebert Architects, APAC (GHA)	Architectural/Contract Administration Architect	57,737
Louisiana Family Recovery Corps (LFRC)	Community Services	44,156
Luster National, Inc. (Luster)	Contract Services	116,237
Subtotal		\$240,017
Reimbursement of Louisiana State Agencies		
LHFA	Payroll	\$100,353
LRA	Payroll/Travel & Phone Reimbursement	67,947
Subtotal		\$168,300
Total AHPP Grant Money Paid Out		\$1,964,788
*Includes \$492,489 from the pre-award that is not counted toward the 10% developer fee. Source: Prepared by legislative auditor's staff using information from the seven draws made on the AHPP budget. All figures rounded to the nearest dollar.		

Developer Fee. According to the Cypress-LRA developer service agreement, Cypress Realty Partners, LLC, as project developer, is entitled to a development fee not to exceed 10% (\$6,895,365) of the contracted amount between Cypress Realty Partners, LLC and the LRA (\$68,953,654). As of November 25, 2008, Cypress Realty Partners, LLC and its subcontractors have received 15% (\$1,063,982)⁹ of the total dollars available through the developer fee. This amount is included in the total \$1.9 million that has been spent on the AHPP. The fee is earned on a site-by-site basis and includes all design, site planning, and professional services (i.e., engineering, construction management, architecture, permitting, governmental applications, and other professional services).

⁹ The \$1,063,982 does not match the total paid to Cypress and its contractors in Exhibit 6 (\$1,556,471) because it does not include the \$492,489 that was part of the pre-award.

Objective 2: Why has Louisiana not built any Katrina Cottages in the twenty-four months since receiving its AHPP grant?

The following events contributed to Louisiana's delay in building Katrina Cottages:

- It took 10 months for the LHFA to develop the program, including working with FEMA, negotiating a contract with a developer, and ultimately securing program funding.
- After signing the contract and securing funding, the LHFA administered the program for four months. Governor Jindal then decided to transfer the program to the LRA.
- It took five months for the LRA to negotiate and complete the program transfer and to sign a new contract with the same developer.
- Five months after the LRA signed a contract with a developer, construction has not begun on any Katrina Cottages.

The following describes each of these bulleted points in detail. See **Appendix B** for a timeline that illustrates these events.

It took 10 months for the LHFA to develop the program, including working with FEMA, negotiating a contract with a developer, and ultimately securing program funding. Governor Blanco notified the LHFA Board of Commissioners (LHFA Board) in January 2007 that the LHFA would administer the AHPP for Louisiana. In March 2007, the LHFA Board approved the project and authorized the LHFA to develop an agreement with Cypress Realty Partners, LLC.

Before approving the transfer of grant funds from FEMA to Louisiana, FEMA required the state to establish the actual program, which included formulating a program budget. To accomplish this, the LHFA hired a consultant, Luster National, Inc., in June 2007 to assist with the negotiations between FEMA, The Cypress Group, and the LHFA. The LHFA and Luster National, Inc., identified multiple concerns and completed several analyses during the budget negotiation period, as illustrated in Exhibit 7.

Exhibit 7 Summary of Budget Concerns June and August 2007	
Month	Concern(s)
June 2007	<p>Luster National, Inc. concerns included the following: Cypress' proposed budget submission did not contain sufficient detail.</p> <ul style="list-style-type: none"> • Contractor proposed to build 440 units at a cost per unit of \$169,414. However, Luster estimated that 700 units could be constructed at a cost per unit of \$105,986. • Luster recommended that LHFA reject the proposed budget for the following reasons: <ul style="list-style-type: none"> • Identity and qualifications of Cypress Cottage Partners were "unclear" and "suspect." The pre-award expenses were also "suspect." • The proposed management and administrative fee was equal to 32% of available funds. • The proposed budget was inconsistent in the number of proposed units and square footage of living space reported. • The proposal rewarded the contractor for spending money, not for building cottages. • Luster recommended that the LHFA administer the grant and perform contract monitoring duties.
July 2007	<p>The LHFA then raised the following concerns in a July 2007 letter to The Cypress Group:</p> <ul style="list-style-type: none"> • The legal status of Cypress Cottage Partners (author of the original proposal) • Questions regarding the contractor's qualifications, including its ability to obtain bonding and insurance coverage • Proposed budget issues, including excessive management, development, and handling fees, as well as the legality of the proposed budget under state law and its incompleteness/lack of detail
August 2007	<p>Luster National, Inc. concerns included the following:</p> <ul style="list-style-type: none"> • Cypress' proposed budget did not incorporate LHFA concerns and was "prepared and presented in complete disregard of the issues raised . . ." • Contractor proposed to build only 460 units.

Source: Prepared by legislative auditor's staff using information obtained from the LRA.

According to the LHFA Board minutes, the LHFA Board stated that if Cypress Realty Partners, LLC chose to decline the approved budget, the LHFA would have submitted a Request for Proposal (RFP) to solicit other developers. After these extensive negotiations, Cypress

Realty Partners, LLC accepted the LHFA’s proposed budget. On September 13, 2007, FEMA notified the LHFA that it had approved the award of \$74,542,370 for the Katrina Cottages and Carpet Cottages proposal. The LHFA and Cypress Realty Partners, LLC formally signed their developer services agreement on October 12, 2007.

After signing a contract and securing funding, the LHFA administered the program for four months. Governor Jindal then decided to transfer the program to the LRA. Before the award was transferred, the LHFA entered into several contracts to assist with program administration. These contracts are summarized in Exhibit 8.

Exhibit 8 New LHFA Contracts, November - December 2007		
Vendor	Contract Date	Description and Amount of Contract
Grace & Hebert Architects, APAC	November 1, 2007	• Contract administration services, \$892,200**
State of Louisiana Military Department (Cooperative Endeavor Agreement)*	November 8, 2007	• Construction, management, and operations of 75 Louisiana Cottages at Jackson Barracks • Identifies future cottage residents (employees and National Guard members affected by 2005 hurricanes)
DeCuir, Clark & Adams LLP	November 29, 2007	• Legal services, not to exceed \$50,000
Louisiana Family Recovery Corps	December 12, 2007	• Case management services for approximately 458 cottage residents, \$1,900,235
* FEMA approved changes to AHPP award conditions before this agreement. ** This amount does not include the \$20,000 application fee. Source: Prepared by legislative auditor’s staff using information provided by the LRA.		

The LHFA Board also approved three Cypress Realty Partners, LLC subcontractor agreements in December 2007 and January 2008 (with Duany Plater-Zyberk, Looney Ricks Kiss Architects LLC, and Cusato Cottages LLC). In addition, the LHFA Board considered potential sites in Lake Charles and Baton Rouge. The LHFA Board requested a proposal from the City of Lake Charles in January 2008 and authorized the LHFA to begin contract negotiations for the Baton Rouge site in February 2008.¹⁰

However, before the LHFA could make further progress, the LRA notified the LHFA that Governor Jindal directed it to take over the AHPP in February 2008. As a result, the LHFA cancelled all AHPP contracts and agreements as of March 24, 2008.

It took five months for the LRA to negotiate and complete the program transfer and to sign a new contract with the same developer. FEMA confirmed the effective date of the transfer of the AHPP from the LHFA to the LRA as March 24, 2008, and transferred the remaining grant funds (\$73,665,429) from the LHFA to the LRA. The LHFA, LRA, and FEMA

¹⁰ The Board identified concerns with the original sites proposed in a February 2007 memorandum to Governor Blanco. In October 2007, the Board approved Lake Charles, Baton Rouge, Jackson Barracks, and “scattered sites” in New Orleans as areas where Katrina Cottages would be located.

entered into an administrative transfer agreement and a memorandum of understanding to address transition issues (including invoice payments and payment methodology, drawing down of funds, and identifying responsible parties). On April 18, 2008, the Joint Legislative Committee on the Budget approved the transfer of Fiscal Year 2008 funding (\$7,095,545) from the LHFA to the LRA.

While negotiating the transfer, the LRA began administering the program. The LRA entered into a contract with DeCuir, Clark & Adams LLP to provide legal services to the LRA in May 2008.¹¹ The LRA and Cypress Realty Partners, LLC entered into a developer services agreement on July 25, 2008.

Five months after the LRA signed a contract with a developer, construction has not begun on any Katrina Cottages. As previously discussed, Cypress Realty Partners, LLC and its subcontractors have not constructed any Katrina Cottages.

A timeline depicting Louisiana's participation in the AHPP from December 2006 to the present is included as **Appendix B** of this report.

Objective 3: What is the estimated cost per square foot of the Katrina Cottages?

We calculated that the estimated cost per square foot ranges from \$157 to \$196, depending on the site location, unit mix, and cottage size. Cottages range from 612 to 1112 square feet. According to officials with Cypress Realty Partners, LLC, the preliminary cost per square foot estimates are impacted by many factors. Some of these factors include:

- The Davis-Bacon Act mandates prevailing wage labor rates for all construction projects undertaken with federal funding.
- FEMA's requirement that at least 5% of AHPP homes meet Uniform Federal Accessibility Standards.
- FEMA's requirement that all home designs be structurally certified by a licensed engineer and stamped by a Louisiana licensed architect.
- The LRA's requirement that a performance bond be purchased for every development.
- At least 10% of the cost can be attributed to the steel framing as proposed by Cypress Cottage Partners in the original proposal.

Although there are no official site budgets for the AHPP, Cypress Realty Partners, LLC has submitted estimates for both the Jackson Barracks and Lake Charles sites. In consultation with Cypress Realty Partners, LLC, we used those numbers to calculate the square footage costs of the Katrina Cottages. Exhibit 9 on the following page shows the estimated cost per square

¹¹ DeCuir, Clark & Adams LLP also provided legal services to the LHFA during its administration of the AHPP.

foot for each site and the components of that cost. These estimates are based upon the most current information available from Cypress Realty Partners, LLC during the course of our audit. According to Cypress Realty Partners, LLC and the LRA, these costs are likely to decrease as construction is bid out.

Exhibit 9						
Estimated Cost Per Square Foot of Katrina Cottages and Carpet Cottages						
	Jackson Barracks				Lake Charles	
	Small Unit Mix		Large Unit Mix		Small Unit Mix	Large Unit Mix
	Katrina Cottages	Carpet Cottages	Katrina Cottages	Carpet Cottages	Katrina Cottages*	
Infrastructure Cost**	\$37.26	\$26.10	\$26.16	\$26.10	\$43.39	\$27.56
Construction Cost	129.77	133.42	120.92	133.42	118.52	107.68
Performance Bond	3.15	3.15	2.75	2.75	2.85	2.35
General Contractor Fee	24.78	24.78	22.76	22.76	24.29	20.29
Cost Per Square Foot	\$194.96	\$187.45	\$172.59	\$185.03	\$189.05	\$157.88
* The Lake Charles site does not include any Carpet Cottages.						
**Infrastructure cost includes dirt work, retention pond, roads, water, sewer, storm-water drainage systems and other infrastructure work. It does not include design work.						
Source: Prepared by legislative auditor’s staff using information provided by Cypress Realty Partners, LLC.						

In its February 20, 2009, response, the LRA provided updated cost per square foot calculations. According to the LRA, these calculations are based on actual construction bids received. While the revised calculations are lower than those listed in Exhibit 9 above, the LRA stated that these new estimates do not include infrastructure costs. (See Appendix A for LRA’s full response to this report. Page 4 of the response contains LRA’s revised cost per square foot calculations.)

Objective 4: How did the LRA select a contractor for the Katrina Cottages program?

Before Governor Jindal transferred the Katrina Cottages program to the LRA, the LHFA administered the program. The LHFA signed a developer services agreement with Cypress Realty Partners, LLC on October 12, 2007, to serve as the contractor for the Katrina Cottages program. The LHFA was not subject to Louisiana’s Public Bid Law when selecting contractors, supported by a Letter of Advice provided by the Office of the Attorney General in October 2007. The AHPP award was then transferred from the LHFA to the LRA, effective March 24, 2008. The LHFA Board also authorized the termination of all contracts, agreements, provisions, and partnerships as of March 24, 2008. Upon the transfer, the LRA entered into a new contract with Cypress Realty Partners, LLC.

According to R.S. 49:220.4(C), the LRA is subject to all Louisiana laws applicable to state agencies, including the public bid law and therefore is required to follow the public bid law when procuring contracts. According to the state law (R.S. 39:1496), contracts for consulting services which have a total maximum amount of compensation of fifty thousand dollars or more shall be awarded through a request for proposal process under rules and regulations issued by OCR. As a result, the LRA may have been required to use a competitive bid process to select a contractor for the Katrina Cottages program. However, the LRA did not use a competitive bid process based, in part, on the following rationale.

- **DOA considered the contract to provide consulting services.** According to the general counsel for DOA, she considered the LRA's contract with Cypress Realty Partners, LLC to be a consulting services contract. While the contract between Cypress Realty Partners, LLC and the LRA contains elements of consulting services, it also contains elements of construction. For example, the contract contains the following provisions related to construction:

Section 2. Scope of Work

- (a) **General Duty of Developer:** The Developer shall perform or cause to be performed. . .development *and construction* of the AHPP units. . .
- (c) **Construction:** Developer shall develop *and construct* no fewer than five-hundred (500) individual residential living units within the total budget identified in Section 6. Ninety percent (90%) of the units constructed must be housing units designed to house at least one family and a minimum of four persons.
- (d) **Management Duties:**
 - (iii) **General Contractor for Construction:** Developer *may* negotiate and execute a contract with a general contractor for construction on such reasonable terms as it deems necessary.

Section 3. Obligation to Complete Construction

- (a) **Development and Construction Schedule:**
 - (vii) Not more than forty-five (45) days after the completion of government approvals and permitting necessary to commence construction activities, Developer *shall have commenced the construction* for which the permits and approvals apply.

- **DOA considered the contract to be sole source.** In addition to considering the LRA's contract with Cypress Realty Partners, LLC as a consulting services contract, the DOA also considered the contract to be sole source procurement. According to the general counsel for DOA, Louisiana's routine practice is to consider a contract sole source if the federal government is the source of the award and the award specifically names the recipient. According to the state

administrative code (LAC 34:V.142), sole source procurements are exempt from the competitive bid process. To designate a contract as sole source, OCR must determine in writing, based on agency documentation, that only one source can perform the services outlined in the contract.

The LRA submitted its official justification for sole source to OCR three days after signing the contract with Cypress Realty Partners, LLC. According to LRA's letter to OCR, the LRA based its justification on FEMA's award selection process. In addition, the LRA's interpretation of FEMA's application guidance is that it was required to use the initial proposer of the project. Officials with the LRA also said that FEMA verbally told them that the LRA had to select Cypress Realty Partners, LLC.

According to the current AHPP project manager, he informed the LRA that FEMA did not require it to select Cypress Realty Partners, LLC as the contractor for the Katrina Cottages proposal. FEMA merely selected the idea proposed by Cypress Cottage Partners.¹² However, the FEMA official also said that it was reasonable for the LRA to assume that because Cypress submitted the proposal, the LRA had to include Cypress in the actual construction or development of the Katrina cottages. The FEMA official further stated that he informed the LRA that changing contractors would result in time delays and a loss of grant funds because of missed deadlines, and that by March 2008, Cypress was the "only choice" to ensure the LRA would meet the program deadlines.

Objective 5: Can Louisiana redirect the \$74 million that FEMA allocated to the Katrina Cottages program?

Louisiana cannot redirect the funds from the grant. The funds can only be directed outside of the AHPP if the U.S. Congress changes the appropriation. A FEMA official has expressed that FEMA has no interest in approaching Congress to change the law.

The grant agreement states that Louisiana must use the grant to complete the Katrina Cottages project and cannot deviate from the scope of that project without prior FEMA approval. It also stipulates that grant funds cannot be transferred to other agencies without prior FEMA approval. A FEMA official said that Louisiana cannot redirect the grant to another housing plan, even if it was in Louisiana's initial application. However, he said that the grant money is tied to the Katrina Cottages idea, not the developer. The developer could be changed without affecting the grant.

According to the FEMA official, FEMA may have the authority to direct the money away from the Katrina Cottages project to another housing plan under the AHPP. However, that new housing plan may not be one of Louisiana's ideas. Therefore, the money would be redirected to

¹²As stated previously, Cypress Cottage Partners, not Cypress Realty Partners, LLC submitted the initial proposal in response to the RFI. However, it was not registered with the Secretary of State at the time the proposal was submitted and was not the entity with which the LRA signed its developer services agreement. The LRA signed its developer services agreement with Cypress Realty Partners, LLC.

another state. In addition, the official said that FEMA is unlikely to support redirecting the money because of its own accountability to the U.S. Congress regarding the completion of the grant. The FEMA official indicated that if Louisiana does not complete the Katrina Cottages project, it may have no choice but to return the grant to Congress.

Objective 6: What are Louisiana's plans for the occupancy and ownership of the Katrina Cottages?

The LRA plans to transfer ownership of the cottages to the local partners. As stated previously, the local partners include the New Orleans Redevelopment Authority, the Louisiana Military Department at Jackson Barracks, The Resource Foundation in Baton Rouge, and Habitat for Humanity and Project Build a Future in Lake Charles. The local partners will select the residents for the cottages from a pool of applicants approved by the LRA.

Ownership. According to the program's Articles of Agreement, Louisiana will initially own the cottages and has the right to transfer ownership of the cottages to the local partners. According to the general counsel for the LRA, the LRA has requested that FEMA amend the Articles of Agreement to reflect that the local partners will be the initial owners of the cottages.¹³ As a result, the LRA will not need to transfer ownership to the local partners. In addition, the LRA has drafted a cooperative endeavor agreement with each local partner stating that the local partner "will be the initial owner of all AAHP units. . . ." However, at this time the LRA has only signed a cooperative endeavor agreement with NORA.

Occupancy. According to the LRA, the local partners will select the residents for the cottages from a pool of applicants approved by the LRA. They have the option to offer rental properties or homeownership opportunities. First priority in selecting residents for the cottages must go to disaster victims who are eligible for FEMA financial or direct housing assistance. The U.S. Department of Housing and Urban Development (HUD) must approve these selection methods through the end of the grant period. The grant is scheduled to end on September 16, 2011. After that date, the grant stipulations will no longer be in effect and the cottage owners can select residents in any way they choose.

The grant agreement requires that residents be selected in the following priority order:

1. Disaster victims who are currently eligible for FEMA financial or direct housing assistance
2. Disaster victims who currently receive federal disaster housing assistance through other federal programs
3. Any other person in the state with ongoing housing needs because of the 2005 hurricanes

¹³If FEMA does not agree to amend the Articles of Agreement, the LRA will have to dispose of the cottages through donation. Although the LRA does not believe such a donation would violate Article VII of the Louisiana Constitution, it has requested an opinion from the Attorney General.

The Jackson Barracks site will house Louisiana Military Department employees and members who are victims of hurricanes Katrina and Rita. The LRA, in conjunction with its local partners, is still developing occupancy plans for the other sites.

APPENDIX A: MANAGEMENT'S RESPONSE

February 20, 2009



BOBBY JINDAL
GOVERNOR

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COMMISSIONER
OF ADMINISTRATION

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Mr. Steve J. Theriot
Legislative Auditor, CPA
P. O. Box 94397
Baton Rouge, LA 70804-9397

RE: LRA Response to Performance Audit Report on the Alternative Housing Pilot Program/Katrina Cottages Program

Dear Mr. Theriot:

The Louisiana Recovery Authority (LRA) has reviewed the Performance Audit Report dated February 11, 2009, on the Alternative Housing Pilot Program/Katrina Cottages Program (AHPP) and submits the following response. The LRA first would like to emphasize that the agency assumed responsibility for management and administration of the AHPP more than one year after the December 2006 FEMA award notification. The agency was charged with management of the program and was not charged with reinventing what previously had been approved not only by the Federal Emergency Management Agency (FEMA), but the Louisiana Housing Finance Agency (LHFA) as well.

Upon notice that the AHPP would be transferred, the LRA sought to continue the program in an expeditious and productive manner and sought not only to build on the work that already had been completed, but to ensure timely production of cottages within the time frame required by FEMA. Given the nature of the program and the time frame remaining for performance at the time the LRA assumed the program, several decisions were made on which your report does not expound sufficiently or with which your report disagrees. The LRA stands by its decisions and continues to believe that the best decisions were made for the program and the Louisiana residents impacted by the devastating storms of the 2005 Hurricane season that the program's cottages were designed to house.

Objective 1: What is the current status and estimated construction timeframes of the Katrina Cottages Program?

The LRA has shared with the Legislative Auditor's office its anticipated construction timelines for each of the AHPP sites. All sites have been selected by the LRA and our local partners and these sites have been given preliminary approval by FEMA, pending the issuance of Environmental Assessments by FEMA. The Jackson Barracks and Baton Rouge sites have received FEMA Environmental Assessments. Some sites will be grouped, where-as other sites will consist of in-fill lots scattered throughout storm-impacted cities. Since the commencement of the audit, the LRA has made significant progress in the program. Construction has begun at several sites and expenditures will increase significantly in the construction budget over the coming weeks and months.

Objective 2: Why has Louisiana not built any Katrina Cottages in the twenty four months since receiving its AHPP grant?

Louisiana was informed of the FEMA AHPP award for the Cypress Cottage Partners proposal in December 2006; however, the state did not receive official FEMA approval of the AHPP grant award until September 2007. The LRA submits that the contract delays with Cypress Realty Partners, LLC (Cypress) and the transfer of the program were not the only reasons, and not necessarily the primary reasons, why the program has not built cottages. Additional reasons for construction delays include the need to build infrastructure, the timing of the Environmental Assessment process, budget issues at Jackson Barracks, the inability to obtain suitable infill properties in New Orleans, finding suitable group sites on which to build in participating cities, and resistance from communities.

Infrastructure has to be built before housing can start on Greenfield group sites.

The program proposal was predicated on designing “New Urbanist” communities at Jackson Barracks and in Lake Charles, Baton Rouge, and Vermillion Parish. Any subdivision planned and constructed from an unimproved parcel of land takes a significant amount of time before homes can be built. It is not unusual to take a year or more to begin construction on homes. Involved issues include obtaining local approval, obtaining wetlands approval, and the added issue of obtaining environmental approval for use of federal funds.

Environmental Assessments must be issued by FEMA.

Before any site disturbance or home building can begin, FEMA must release an Environmental Assessment for a site. Sites on infill lots that were previously home sites must also receive an environmental assessment. Before environmental approval is given for a new group site or subdivision, the site must be completely designed and engineered. Approval for infill is a shorter time period, but still must be completed. Each AHPP site has required an environmental assessment.

Jackson Barracks was delayed due to bids in excess of the budget to construct infrastructure.

Infrastructure costs for “Area D”, the original site of the project at Jackson Barracks, came in at \$8.8 million on a budget of \$2.3 million. Factors causing the overage include the design-build nature of the RFP (which was completed as disaster recovery RFPs are typically done, but that process was not appropriate for this project), the excessive cost of removing existing infrastructure, the cost of electrical infrastructure, and possibly the construction climate in January 2008, the time of the RFP.

The LRA rejected the bid in April 2008 and worked with Cypress and the Louisiana National Guard to achieve a plan that could be designed and bid. Ultimately, the site was relocated, designed and bid. The final bid came in on budget at \$2.2 million in November 2008.

The difficulty of obtaining suitable infill lots.

The project to build infill lots in Treme with Providence Community housing was part of the original Cypress proposal but was shelved when Providence could not provide clear title on the properties provided through NORA. The Treme infill site was terminated prior to the execution of the Articles of Agreement by LHFA in September 2007. That site would be under construction now if the project had continued. While forthcoming shortly, the program is still not in the position to receive infill lots received by NORA through the Louisiana Land Trust until those properties are transferred to NORA. Additional NORA lots in the Ponchartrain Park neighborhood in New Orleans, for which we received environmental approval, were not compatible with the master plan for the community and thus will not be used for the program as originally planned.

Difficulty in obtaining group sites.

Group sites built on public property were an original part of the program. While the LHFA has statutory powers for the sale of public property in this program, most agencies, including the LRA, do not. To give the LRA the ability to do so or go through a process to transfer a state owned site like the Renaissance Village site in Baton Rouge could only be completed in the 2009 Legislative Session. The inability to use public sites for this same reason stopped implementation of the program in other storm-impacted parishes like Plaquemines.

Coordination with communities has delayed or terminated projects.

Communities have rejected housing through the program due to perceptions about the program, the type and quality of the homes to be constructed, whether the homes would be rented or sold, and the households that would inhabit the housing constructed through the program.

- Lake Charles rejected two Greenfield group sites, the first prior to LRA involvement and the latest on December 5, 2008. Neighbors were concerned that the development would negatively impact the surrounding community and the Mayor's office ultimately didn't believe it could get the support of the community. The city council approved an alternate smaller site and infill lots at the same December 5 meeting.
- A proposal supported by the mayor of Abbeville in the AHPP application was not embraced by Vermillion Parish officials as LHFA officials met with the parish to start the project.
- Sites in the Hoffman Triangle section of Central City, New Orleans were stopped after many public meetings were held and environmental approvals for the sites were received after a community group opposed the project due to misperceptions about the size of the homes being constructed. NORA could no longer support the project.

Objective 3: What is the estimated cost per square foot of the Katrina Cottages?

The Auditor correctly notes that construction costs will likely decrease as bids are accepted, since all the construction costs are estimates until a final bid is accepted. Bids have been accepted for the Jackson Barracks and Baton Rouge sites and for modular units to be placed on infill lots. The chart below shows the cost per unit for each. The cost listed for each modular unit is the average cost for the accepted bids of three modular builders. The costs per unit at Jackson Barracks and Baton Rouge are based on the average cost per square foot at each site.

	612	874	910	936	1080	1112	1112UFAS
Average Modular	78,290	97,068	100,358	114,135	117,802	120,398	124,283
\$/psf	128	111	110	122	109	108	112
Jackson Barracks	78,093	111,586	116,119	119,437	137,687	141,895	141,895
\$/psf	128	128	128	128	127	128	128
Baton Rouge	-	-	103,740	106,704	123,120	126,768	126,768
\$/psf	114	114	114	114	114	114	114

Objective 4: How did the LRA select a contractor for the Katrina Cottages program?

The Auditor submits, and the LRA agrees, that the agency is subject to the public bid laws of the state; however, the Auditor questions how the LRA selected its contractor for the AHPP. The LRA disagrees that the agency should have used a competitive bid process to select a contractor for the program, given the status of the AHPP contractor and the manner in which that contractor was selected. Although the Auditor correctly outlines the state AHPP Application Process and FEMA Selection Process in the Overview Section of the report, the Auditor fails to consider and include in the report important information regarding the AHPP which influenced and supports the contract process the LRA followed for the program. Most notably, the Auditor fails to provide weight to the fact that the AHPP was transferred to the LRA from another state agency for administration after the program commenced and fails to consider information which fully supports the LRA's interpretation of Cypress as a sole source for purposes of the administration of the AHPP.

The LRA was charged by Governor Jindal with assuming management and implementation responsibilities for the AHPP. The LRA was not told at the time of the transfer decision that it should restart the program; it was the agency's belief then, and its belief now, that it was charged with assuming responsibility for what had already been initiated by the LHFA and Cypress. In considering the transfer, the agency sought to determine how it could maintain the contractual relationships for the program that had previously been made by the state, which included decisions by the LHFA Board to retain/maintain Cypress as the developer for the AHPP in accordance with FEMA's selection of the Cypress Cottage Partners proposal from the state's application. When the program was transferred, a decision had been made previously by state officials that the entity from which the proposal was selected by FEMA for an AHPP award would fully participate in the implementation of the program and would serve in the capacity outlined in the state's AHPP application. Thus, when the LRA assumed responsibility for the program, its goals were to continue implementation of the program with Cypress as the developer and provide oversight necessary to meet FEMA's deadline of September 2009 for the program.

The LRA sought advice from the OCR Director and the DOA General Counsel as to how the contracts with Cypress and other LHFA AHPP contractors could be maintained by the LRA. The issue of the LRA assuming the LHFA contracts was explored; however, the OCR Director informed the LRA that there was no provision in state statutes that would allow the LRA to do that.

Thus, the LHFA was required to terminate its contracts with these contractors and the LRA would enter into contracts with those entities.

Prior to entering into contract negotiations, LRA explored which avenue would be available to the agency to allow the LRA to contract with Cypress; mainly, the LRA wanted to ensure that no additional competitive procurement procedures would be required of the agency. In discussions with the OCR Director and DOA General Counsel the LRA explained the manner in which the Cypress Cottage Partners proposal was selected for an award by FEMA out of the six proposals submitted in Louisiana's AHPP application, as is more fully explained below. During those discussions it was concluded that the LRA could consider Cypress a sole source and would be allowed to enter into a contract with the firm based on FEMA's selection of the Cypress Cottage Partners project from Louisiana's AHPP application.

When the LRA assumed responsibility for the program and the agency discussed the contract terms with LHFA and Cypress, both parties believed that the agreement could be improved and believed that some provisions of the agreement should be revised. Thus, the LRA determined that the LHFA/Cypress contract should be reviewed and revised to meet the needs of the program at the time and to ensure that Cypress understood and agreed to what would be required of the state by FEMA to meet program performance deadlines. It should be noted that the program was transferred to the LRA more than one year after the state was notified of its AHPP award for the Cypress Cottages Partners proposal.

Cypress Contract is not a Construction Contract

The LRA submits that the agency's contract with Cypress is a Developer Services Agreement which outlines the responsibilities of the developer for the AHPP, not a construction contract. Cypress itself is not constructing cottages, but is acting as the developer in the construction of cottages by another entity/construction contractor. This contractor is selected by Cypress and fulfills the general contractor/construction responsibilities as were outlined in the Cypress Cottage Partners proposal submitted in Louisiana's AHPP application.

The contract provisions cited by the auditors include language that binds Cypress to perform certain functions and cause other functions to be performed. The intent of the LRA in the agreement was and still is to hold Cypress responsible for the developer activities it agreed to perform under the proposal selected by FEMA for funding. That responsibility includes oversight of the construction of no fewer than 500 residential living units/cottages.

Cypress is a Sole Source

The Auditor questions whether Cypress can be considered a sole source procurement because a FEMA official informed them that the state, LRA/LHFA, did not have to contract with Cypress and that FEMA awarded funds to an idea.

However, the Auditor fails to include in the report additional information that supports the state's conclusion that Cypress was selected by FEMA and information which supports that Cypress and the state were led to believe that Cypress was a necessary party to the AHPP to fulfill program requirements. This was the understanding of the LRA when it contracted with Cypress gathered from the information provided below.

Program Guidance issued by FEMA.

FEMA issued program guidance for the AHPP in September 2006. That guidance outlined who would be eligible applicants for the program and which states could apply for funding. Five gulf coast states that had been hardest hit by Hurricane Katrina and other hurricanes of the 2005 season were eligible for the program. Louisiana, along with Alabama, Florida, Mississippi, and Texas, was eligible to apply for funds under the program to address ongoing housing challenges. The guidance provided as follows for the states:

“They may choose to have sub-applicants, but in all cases the Grantees are responsible for compliance with grant terms and conditions. In all cases, each sub-applicant must be submitted to the appropriate state entity that will submit one overall application for this pilot. If the sub-applicant's project is selected for award, they become a sub-grantee and will be managed and monitored by the state as grantee.” (This language was included in the draft and final versions of program guidance released by FEMA. (Pages 3 and 4, Final Program Guidance))

The guidance provided that the AHPP would be a state-managed program and each housing option presented would be considered one pilot project. States were encouraged to propose multiple projects. In addition, the guidance outlined the process that would be used to select projects for funding. This process included a FEMA review committee and a National Evaluation panel that would evaluate and score all proposals and make grant recommendations about which proposals, or portions of proposals, to fund.

The language in the guidance clearly led the state and all sub-applicants whose projects/proposals were submitted in Louisiana's application to believe and understand that: (1) if the sub-applicant's project/proposal was selected by FEMA, the state would contract with the sub-applicant as a sub-grantee; and (2) FEMA's selection included the selection of the sub-applicant and not merely the sub-applicant's alternative housing idea.

Congressional Advisory, Press Release, and Fact Sheet issued by FEMA denote the selection of the Cypress Cottage Partners Project.

FEMA issued a congressional advisory, press release, and fact sheet on December 22, 2006, the day the eligible states were notified of the AHPP proposals/projects approved for funding in their respective applications. Each document included a listing and/or summary of the projects selected for funding. Louisiana's project was listed as follows in those documents:

Congressional Advisory – Louisiana, Cypress Cottage Partners Project, up to \$74,542,370.00

Press Release – Louisiana, Cypress Cottage Partners Project, up to \$74,542,370.00

Fact Sheet – Louisiana, Cypress Cottage Partners Project (Carpet Cottage and Katrina Cottage), up to \$74,542,370.00

FEMA Congressional Testimony by Gil Jamieson, Associate Deputy Administrator, Gulf Coast Recovery and David Garratt, Acting Assistant Administrator, Disaster Assistance Directorate supports the conclusion that FEMA selected projects.

The statement issued by Mr. Jamieson and Mr. Garratt to the Senate Homeland Security and Government Affairs Committee, Subcommittee on Disaster Recovery, on April 24, 2007, explains the AHPP, and states that the five applications from the eligible states included 29 separate project proposals, and states that five projects were selected for AHPP grants, including Louisiana's Cypress Cottage Partners project. Mr. Jamieson and Mr. Garratt did not allude to the selection of an idea in their testimony; rather, they explained that projects were selected by FEMA for funding.

GAO Report references Projects and Proposals.

In August 2007, GAO issued a report on Implementation of FEMA's AHPP. Throughout the report, GAO referred to projects and proposals and did not reference ideas as what was selected by FEMA for funding. GAO stated that FEMA released guidance to solicit applications and project proposals (page 2). GAO also listed the AHPP Projects in National Evaluation Panel Rank Order and provided a Summary of AHPP Selecting Official's Recommended Project Selections and Funding Allocations. (Pages 10 and 12)

FEMA's assertion that Cypress must be paid for its idea, if the firm is not given a contract for implementation of the AHPP by the state.

In June 2008, during the LRA's contract negotiations with Cypress, the LRA asked FEMA what must occur if the parties could not reach an agreement. At that time, the LRA was informed that the state would be required to pay Cypress for its idea and that seeking another contractor at such a late date in the program would cause delay in the program, would not allow the LRA to meet the program's September 2009 deadline, and would result in the state jeopardizing program funds. The LRA again viewed the decision to use Cypress as one that had already been made by FEMA and the state and the agency did not want to jeopardize the alternative housing funding or the program.

If FEMA's assertion is correct, that Cypress must be paid if the firm was not used in the AHPP, then the agency also believes that Cypress was selected for an award and not merely the Cypress idea. The Auditor includes in the report that the FEMA official stated it was reasonable for the LRA to assume that, because Cypress submitted the proposal, the LRA had to include Cypress in the program. The FEMA official's statement actually supports the LRA's understanding that Cypress was indeed selected. In addition, the Auditor correctly reports that according to the FEMA official, Cypress was the "only choice" available to the LRA at the time to ensure that the LRA would meet established program deadlines.

FEMA's silence regarding its selection of ideas during the application and selection process supports the LRA and its contractor's understanding that Cypress was a sole source selected by FEMA. FEMA did not inform AHPP sub-applicants such as Cypress in program guidance or during the selection process that their ideas would be submitted for review and that, if selected for an AHPP award, the sub-applicant would be paid for their idea. To the contrary, FEMA's guidance informed such sub-applicants that if their project was selected for an award, they would become AHPP sub-grantees to be managed by the state. To that end, Cypress contends that the LRA could not implement the Katrina Cottages concept without using the firm as the developer, because Cypress owns the Katrina Cottages concept and design.

In addition, the Auditor contends that the entity with which the LRA executed a contract was not selected by FEMA because the AHPP proposal was submitted under Cypress Cottage Partners and not Cypress Realty Partners. However, Cypress Cottage Partners was presented in the proposal as a team of firms that included Cypress Realty Partners. The appendix of the Cypress Cottage Partners proposal provided descriptions of each team member. The appendix included a description of Cypress Realty Partners as a developer of affordable and single-family housing.

Objective 5: Can Louisiana redirect the \$74.5 million that FEMA allocated to the Katrina Cottages Program?

The LRA does not dispute the conclusion drawn by the auditor in Objective 5. The agency is aware that the funds are tied to the Katrina Cottages project as evidenced in the information provided above in Objective 4. However, the Auditor does include an inconsistent statement in Objective 5. If Cypress was the "only choice" for the LRA at the time the program was transferred, the developer could not have been changed without affecting the grant.

Objective 6: What are Louisiana's plans for the occupancy and ownership of the Katrina Cottages?

As noted by the Auditor, the Articles of Agreement for the program provide that the state initially owns the cottages.

Mr. Steve Theriot
February 20, 2009
Page 9

However, the LRA received approval from FEMA to allow local partners/sub-grantees initially to own the cottages, thereby eliminating the need to transfer ownership of the cottages from the LRA to our local partners. FEMA has agreed to forward amended Articles of Agreement for the program to the LRA, which will encompass the new initial ownership provision. The amended Articles of Agreement will also outline revisions to program operations regarding the use of modular housing units.

In addition, the LRA will execute cooperative endeavor agreements with its local partners to fulfill program requirements. These agreements dictate the responsibilities of the partners, expound on how program income will be utilized, and how cottage residents will be selected.

Overall, the LRA is extremely pleased with the progress the program has made over the last several months. Although the program was met with many obstacles, cottage construction has begun and in a short time, well deserving hurricane-impacted Louisiana residents will have access to safe and affordable housing.

The LRA respects the evaluation of the program completed by the audit team; however, the agency disagrees with some of the conclusions drawn by the team. The LRA thanks the audit team for their hard work and dedication to the state of Louisiana.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul W. Rainwater".

Paul Rainwater
Executive Director

**APPENDIX B: Timeline Depicting Louisiana's Participation
in the AHPP, December 2006 - December 2008**

Overall AHPP Status	Month No.	Month/Year	Events
Initial notification	0	December 2006	FEMA notifies Louisiana of pending \$74.5 million award.
Louisiana secures funding and construction developer	1	January 2007	LHFA Board is notified the LHFA will administer AHPP for Louisiana.
	2	February 2007	LHFA identifies concerns regarding proposed site locations.
	3	March 2007	LHFA Board approves project and authorizes LHFA to develop an agreement with Cypress Realty Partners, LLC.
	4	April 2007	* See below.
	5	May 2007	* See below.
	6	June 2007	LHFA hires Luster National, Inc. to assist with budget/contract negotiations. Luster National, Inc. identifies concerns.
	7	July 2007	LHFA notifies Cypress Realty Partners, LLC of its concerns.
	8	August 2007	Luster National, Inc. identifies additional concerns. LHFA Board approves AHPP budget and directs the LHFA to enter into an agreement with Cypress Realty Partners, LLC.
	9	September 2007	FEMA notifies LHFA that Louisiana's award is approved.
	10	October 2007	LHFA and Cypress Realty Partners, LLC sign Developer Services Agreement. LHFA approves site locations.
LHFA administers AHPP	11	November 2007	LHFA enters into contracts with Grace & Hebert Architects, APAC and DeCuir, Clark & Adams LLP. LHFA signs Cooperative Endeavor Agreement with Military Department.
	12	December 2007	LHFA enters in contract with Louisiana Family Recovery Corps. LHFA Board approves Cypress Realty Partners, LLC subcontractor agreements.
	13	January 2008	LHFA Board approves Cypress Realty Partners, LLC subcontractor agreements and requests project proposal from Lake Charles.
	14	February 2008	LHFA Board authorizes LHFA to begin contract negotiations for Baton Rouge site. LRA notifies LHFA that it will take over AHPP.

ALTERNATIVE HOUSING PILOT PROGRAM

Overall AHPP Status	Month No.	Month/Year	Events
Louisiana transfers AHPP from LHFA to LRA	15	March 2008	FEMA transfers grant funds, and LHFA/LRA/FEMA enter into Administrative Transfer Agreement, effective 3/24/08.
	16	April 2008	FY 2008 AHPP funding transferred to LRA. LHFA, LRA, and FEMA enter into Memorandum of Understanding.
	17	May 2008	LRA enters into contract with DeCuir, Clark & Adams LLP.
	18	June 2008	* <i>See below.</i>
	19	July 2008	LRA and Cypress Realty Partners, LLC sign Developer Services Agreement.
LRA administers AHPP	20	August 2008	As of December 2008, construction has not yet begun on any Katrina Cottages.
	21	September 2008	
	22	October 2008	
	23	November 2008	
	24	December 2008	

*No information regarding the month's activities available in the documentation we obtained.

Source: Prepared by legislative auditor's staff using documents obtained from the LHFA and the LRA.