

**STATE OF LOUISIANA
LEGISLATIVE AUDITOR**

**Department of Health and Hospitals
State of Louisiana
Baton Rouge, Louisiana**

**Louisiana Health Care Authority
State of Louisiana
Baton Rouge, Louisiana**

**Financial Related Audit
August 2, 1995**



Financial and Compliance Audit Division

Daniel G. Kyle, Ph.D., CPA, CFI
Legislative Auditor

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Baton Rouge, Louisiana**

**LOUISIANA HEALTH CARE AUTHORITY
STATE OF LOUISIANA
Baton Rouge, Louisiana**

**Financial Related Audit
August 1, 1995**

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor.

August 2, 1995

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August 1, 1995

Independent Auditor's Report

DEPARTMENT OF HEALTH AND HOSPITALS
STATE OF LOUISIANA
Baton Rouge, Louisiana

LOUISIANA HEALTH CARE AUTHORITY
STATE OF LOUISIANA
Baton Rouge, Louisiana

We performed a financial related audit of the Department of Health and Hospitals (DHH or the department) and the Louisiana Health Care Authority (LHCA or the authority). The purposes of our financial related audit were to review the professional service contracts between the department and Eligibility Services, Inc., (ESI) to determine (1) compliance with applicable laws and regulations; (2) the nature of the work performed and the method(s) of payment; and (3) the adequacy of the internal controls affecting the contracts.

Our audit was performed in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States, applicable to a financial related audit. Our limited procedures consisted of (1) examining selected department and authority records; (2) interviewing certain department and authority personnel and certain ESI personnel; (3) reviewing applicable Louisiana laws and regulations; (4) reviewing pertinent department and authority policies, procedures, rules, and regulations; and (5) making inquiries to the extent we considered necessary to achieve our purpose. Our procedures also included an assessment of the likelihood of irregularities and illegal acts, and any such matters that came to our attention are presented in our findings and recommendations.

Based on the application of the procedures referred to previously, the accompanying findings and recommendations represent those conditions that we feel warrant attention by the appropriate parties. Managements' responses to the findings and recommendations presented in this report are included in Attachments I and II. Where applicable, our additional comments, based on managements' responses, are included in Attachment III.

LEGISLATIVE AUDITOR

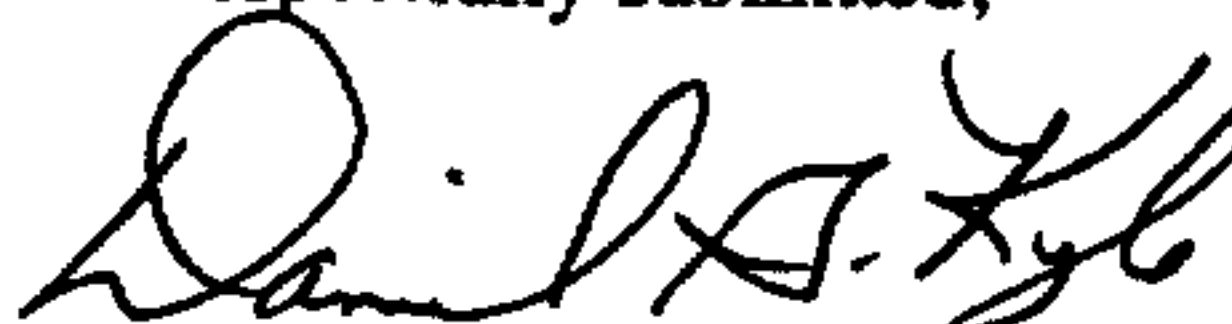
DEPARTMENT OF HEALTH AND HOSPITALS
STATE OF LOUISIANA

LOUISIANA HEALTH CARE AUTHORITY
STATE OF LOUISIANA

These limited procedures are substantially less in scope than an audit of financial statements in accordance with government auditing standards, the purposes of which are to provide assurances on the entity's presented financial statements, assess the entity's internal control structure, and assess the entity's compliance with laws and regulations that could materially impact its financial statements. Had we performed such an audit, or had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended for the use of management of DHH and LHCA and should only be used by those who fully understand the limited purposes of the procedures performed. By state law, this report is a public document and has been distributed to appropriate public officials as required by Louisiana Revised Statute 24:516.

Respectfully submitted,



Daniel G. Kyle, CPA, CFE
Legislative Auditor

CGEW:MWB:BJJ:dl

(ESI)



Office of Legislative Auditor

Executive Summary

Financial and Compliance Audit Division Financial Related Audit

Department of Health and Hospitals and the Louisiana Health Care Authority Contracts with Eligibility Services, Inc.

The Department of Health and Hospitals (DHH or the department) and the Louisiana Health Care Authority (LHCA or the authority) paid Eligibility Services, Inc., (ESI) \$18,998,535 from August 1990 through December 31, 1994. Our financial related audit of the DHH and LHCA contracts with ESI found that:

- DHH and LHCA may have overpaid ESI \$4,437,971 based on the billing method and reimbursement percentages used by ESI.
- DHH and LHCA failed to adequately monitor the ESI contracts and failed to ensure that ESI has complied with the contractual provisions, resulting in potential contract overpayments.
- DHH and LHCA paid ESI \$5,029,459 where no additional revenues were generated for the state, and they allowed ESI to bill the department based on hospital Medicaid per diem rates that were not in effect at the time the contracts were negotiated.
- DHH and LHCA paid ESI \$7,710,968 without required approvals from the Division of Administration and Department of State Civil Service.
- DHH and LHCA allowed another contractor, Deloitte and Touche, to participate in the revenues "generated" by ESI, at an additional potential cost of \$7,522,507.

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EXAMINATION OBJECTIVES

The objectives of our financial related audit were to review the professional service contracts between the Department of Health and Hospitals and a contractor, Eligibility Services, Inc., to determine:

- compliance with applicable laws and regulations;
- the nature of the work performed and the method(s) of payment; and
- the adequacy of the internal controls affecting the contracts.

FINDINGS AND RECOMMENDATIONS

The following summarizes the findings and recommendations that resulted from our financial related audit of the Department of Health and Hospitals and the Louisiana Health Care Authority and the two contracts with Eligibility Services, Inc., (ESI). Detailed information relating to the findings and recommendations may be found on the page number referenced.

Contract Monitoring

(Page 17)

Finding:

DHH and LHCA have not established adequate controls to ensure compliance with the DHH written contract monitoring plan and have not ensured that ESI has complied with contractual provisions.

Recommendation:

DHH and LHCA should establish controls to ensure that ESI has complied with contractual provisions and should ensure that subsequent agreements do not place a contractor at a potential advantage over the department or the authority.

1990 Contract - Overpayments

(Page 19)

Finding:

DHH and LHCA may have overpaid ESI by an estimated \$2,150,797 for the original contract.

Recommendation: DHH and LHCA management should refer the matter to their respective legal counsels and consider seeking repayment of any amounts to which ESI is not entitled. Also, management should monitor contractor billings to ensure that they are made in accordance with the contract.

1993 Contract - Overpayments

(Page 20)

Finding: Under the current contract, DHH accepted ESI's bid that is based on hospital per diem rates and a federal financial participation (FFP) rate that were not in effect at the time the proposal was issued. In addition, the billing method the department allowed ESI to use was different from ESI's bid, which was accepted by the department, resulting in potential overpayments estimated at \$2,287,174.

Recommendation: The department should refer the matter to its legal counsel and consider seeking reimbursement for any amount to which ESI is not entitled. Also, DHH should ensure that contract terms are based on accurate and current data, and negotiated terms result in the lowest possible cost to the state.

Questioned Costs

(Page 21)

Finding: As a result of potential overpayments to ESI, DHH may be liable for repayment of the federal share of those overpayments, which is estimated at \$1,075,399, to the Health Care Financing Administration (HCFA).

Recommendation: The department should refer the matter to its legal counsel and determine the amount of questioned costs that may be owed to HCFA. Also, management should ensure that payments are made in accordance with contracts to reduce the possibility that questioned costs would be incurred.

Payment from Indigent Pool

(Page 22)

Finding: DHH and LHCA allowed payments of \$5,029,459 to be made to ESI although no additional revenue was generated for the state. Furthermore, \$755,308 of these payments were calculated from rates that were never implemented by DHH.

Recommendation: DHH and LHCA should ensure that the payment method a contractor is allowed to use is accurate and is in accordance with the terms of the contract and RFP and that the goal of the RFP is accomplished. Furthermore, DHH and LHCA should be particularly vigilant to ensure that revenue has been increased when compensation to contractors is intended to be measured by those revenues.

Modifications to Contracts

(Page 23)

Finding: DHH and LHCA did not submit documentation, as required by Louisiana law, to the Office of Contractual Review and the Department of State Civil Service for changes in payment methodology resulting in payments of \$7,710,968. The changes in the method of payment appear to be modifications to the original contracts.

Recommendation: DHH and LHCA should ensure that any modifications to future contracts are submitted to the Office of Contractual Review and the Department of State Civil Service for review and approval as required by Louisiana law.

Overpayment - Computation Errors

(Page 24)

Finding: DHH and LHCA did not ensure that rates established by ESI for their compensation from the Medicaid teaching pool were calculated from the correct data, resulting in potential overpayments to ESI estimated at \$67,520.

Recommendation:

DHH and LHCA management should refer the matter to their respective legal counsels and should consider seeking repayment of any amounts to which ESI is not entitled. Also, management should monitor contractor billings to ensure that they are made in accordance with the contract.

Payments in Excess of Contract Maximum

(Page 25)

Finding:

LHCA did not properly monitor total payments made to ESI and paid the contractor \$20,736 above the maximum amount allowed under the original contract.

Recommendation:

LHCA management should refer the matter to its legal counsel and consider seeking repayment of any amount to which ESI is not entitled. Also, management should monitor contractor billings to prevent payments in excess of the contract maximum.

Contract Advances

(Page 25)

Finding:

In violation of Louisiana law, DHH and LHCA provided ESI a working capital advance of \$303,750.

Recommendation:

The department and the authority should ensure that all contractors who request a working capital advance are statutorily eligible for such advances before requesting them from the Division of Administration. Also, the department and the authority should ensure that they do not appear to provide an advantage to individual contractors participating in the RFP process.

Deloitte and Touche Billings

(Page 26)

Finding:

DHH and LHCA appear to have allowed the inclusion of \$50,150,047 in revenues generated by the activities of ESI in the revenues claimed and billed by Deloitte and Touche,

resulting in potential additional payments estimated at \$7,522,507.

Recommendation: In the future, DHH and LHCA should not allow two contractors to be paid based on the same revenues.

Timely Eligibility Determinations

(Page 27)

Finding: DHH has not complied with federal regulations relating to timely determination of eligibility and has not ensured that ESI has complied with contractual provisions that require that Medicaid eligibility applications be processed within specific time constraints.

Recommendation: Management should enforce compliance with the terms of the contract and with federal regulations. The department should consider action against the contractor for noncompliance, which may include removing applications from the contractor and processing them through the Medical Assistance Program units or imposing other penalties against the contractor for its failure to comply with contractual provisions.

Extended Inpatient Stays

(Page 28)

Finding: DHH and LHCA paid ESI for extended inpatient hospital stays.

Recommendation: DHH and LHCA should establish controls to reduce unnecessary referrals to ESI for extended inpatient stays.

Adjustments to Per Diem Rates

(Page 29)

Finding: DHH allowed ESI to benefit from hospital per diem rate increases that were not the result of services provided by the contractor.

Recommendation:

DHH should evaluate all contracts at each renewal period to ensure that the department is still obtaining needed services at the least possible cost and should ensure that any increases in a contract's maximum are supported by additional services supplied by the contractor.

Contract Provisions - Miscellaneous

(Page 30)

Finding:

DHH has allowed changes in contract provisions from the original contract to the current contract that appear to have directly benefitted ESI.

Recommendation:

DHH should review the current contract and any future RFP, responses, and contracts to determine the impact of the terms negotiated to ensure that no party has a distinct advantage over the other.

Chapter One: Introduction

CREATION AND DUTIES

The Department of Health and Hospitals (DHH or the department) was created in accordance with Title 36, Chapter 6 of the Louisiana Revised Statutes of 1950, as a part of the executive branch of government. DHH is charged with providing health and medical services for the uninsured and medically indigent citizens of Louisiana either directly, through the operation of health care facilities, or indirectly, by agreement with the Louisiana Health Care Authority (LHCA or the authority). Services provided by DHH include, but are not limited to, services for the mentally ill, for persons with mental retardation and developmental disabilities, for alcohol and drug abusers, public health services, and services provided under the Medicaid program. DHH oversees the operations of seven developmental centers, six mental hospitals, two long-term care hospitals, the state health department, various regulatory and licensing boards, mental health and substance abuse clinics, and other health related facilities located throughout Louisiana. The state's acute care hospitals were the responsibility of DHH until January 1, 1992, when they were transferred to LHCA in accordance with Act 390 of the 1991 Regular Session of the Louisiana Legislature.

The Louisiana Health Care Authority was created in accordance with Title 46, Chapter 6 of the Louisiana Revised Statutes of 1950, as a political subdivision of the state. LHCA is governed by a 12-member board, consisting of two ex-officio members (the Secretary of DHH and the Commissioner of Administration), nine at-large members (appointed by the governor), and the chief executive officer of the authority. LHCA is charged with the operation of the state's nine acute care hospitals which provide health and medical services for the uninsured and medically indigent citizens of Louisiana and opportunities for clinical education for the state's students of medicine, nursing, and allied health fields.

The Code of Federal Regulations 42 CFR 431.10(a)(1) requires that Medicaid state plans specify a single state agency established or designated to administer or supervise the administration of the Medicaid program for the state. Section 1.1 of the Louisiana State Plan designates DHH as the agency administering the Medicaid program for the state. The Code of Federal Regulations also requires that the state plan specify whether the agency determining eligibility is the Medicaid agency or the single state agency established by Title IV-A (Aid to Families with Dependent Children - AFDC) of the Social Security Act. Section 2.1 of the state plan for Louisiana specifies that DHH, as the Medicaid agency, is responsible for the determination of eligibility.

BACKGROUND

During our audit of DHH for the fiscal years ended June 30, 1991, and 1992, we became aware of a professional service contract between DHH and ESI, a private company providing assistance in certifying individuals as Medicaid eligible. This contract was designed to enhance collections by the department through ESI's assistance in gathering information for the determination of Medicaid eligibility for clients served by the state facilities. In addition, ESI was to provide training sessions at each facility detailing the types of cases it was successful in pursuing. Payments to ESI were contingent upon its ability to generate revenues from the data gathered for these Medicaid certifications and were based on percentages of the federal financial participation rates (FFP - the federal share or reimbursement of Medicaid expenditures incurred by the state). The original contract began August 29, 1990, and provided for an original maximum payment of \$2,430,000 to ESI. Two subsequent amendments increased the contract to \$13,415,455 over a three-year period. Due to time delays in Medicaid billing, the department agreed that ESI could be paid based on eligible receipts due to the department, rather than on actual receipts.

Effective August 20, 1993, DHH negotiated a new contract with ESI. As with the 1990 contract, reimbursement is based on percentages of the FFP of actual receipts, and ESI may be paid for eligible receipts due to the department once an individual is certified as Medicaid eligible. The contract maximum payable is \$8,100,000, and it is renewable for two one-year periods. In July 1994, the department renewed the contract for a one-year period.

Our examination of the contracts covered the period from August 29, 1990, through December 31, 1994. Before July 1, 1992, DHH was responsible for monitoring the 1990 contract. However, beginning July 1, 1992, LHCA assumed this responsibility on behalf of DHH. LHCA is continuing to make payments under this contract. Beginning with the 1993 contract, DHH assumed responsibility for managing and paying ESI. For the period August 29, 1990, through December 31, 1994, the department and the authority paid ESI \$18,998,535. Table 1 on the following page provides a breakdown of payments made by DHH and by LHCA over the lives of the contracts through December 31, 1994.

Table 1
Schedule of Total Contract Payments
Through December 31, 1994

Fiscal Year	DHH	LHCA	Total
1991	\$746,688		\$746,688
1992	3,099,451		3,099,451
1993		\$4,814,587	4,814,587
1994	2,000,000	3,691,792	5,691,792
1995	3,562,343	1,083,674	4,646,017
Total	\$9,408,482	\$9,590,053	\$18,998,535

Source: Prepared by Legislative Auditor's staff from various department and authority contract payment information sources.

Payments under the 1990 contract have totaled \$13,436,192, from August 29, 1990, through December 31, 1994. This payment total represents an increase of \$11,006,192 over the original contract maximum of \$2,430,000, an overall 452 percent increase as shown in Table 3 on page 11. The remaining \$5,562,343 was paid under the 1993 contract. The August 29, 1990, contract is more fully discussed in Chapter Two, and the August 20, 1993, contract is discussed in Chapter Three.

OBJECTIVES

The objectives of this examination were to review the professional service contracts between the department and ESI to determine (1) compliance with applicable laws and regulations; (2) the nature of the work performed and the method(s) of payment; and (3) the adequacy of the internal controls affecting the contracts.

REPORT ORGANIZATION

The remainder of this report is organized into three additional chapters plus attachments as follows:

- **Chapter Two** addresses the August 29, 1990, contract with ESI.
- **Chapter Three** addresses the August 20, 1993, contract with ESI.
- **Chapter Four** addresses the Legislative Auditor's findings and recommendations.
- **Attachment I** contains DHH management's responses to the findings and recommendations.
- **Attachment II** contains LHCA management's responses to the findings and recommendations.
- **Attachment III** contains the Legislative Auditor's additional comments to managements' responses.

The discussions of the contracts will include background information leading up to the issuance of the Requests for Proposals (RFPs), contract awarded, contract terms, and contract payments. The findings and recommendations are presented in the executive summary as well as in their respective chapter.

MATTERS FOR FURTHER CONSIDERATION

Information provided by ESI indicated that 21 of its Louisiana employees (one-third of its staff) are former Louisiana state employees. Among these employees is Ms. Billy Cadwallader Ramsey, who terminated her employment with DHH as the Confidential Assistant to the Secretary, Mr. J. Christopher Pilley, on September 25, 1992, at which time she began working for Administaff, Inc. Administaff is a staff leasing company which had entered into a contractual agreement with ESI to hire its employees and thereafter lease them back to ESI. Subsequently, Ms. Ramsey was employed directly by ESI. The department received an ethics ruling from the Department of State Civil Service, Commission on Ethics for Public Employees dated September 30, 1992, that allowed her employment with ESI under certain conditions. DHH had requested this ruling before Ms. Ramsey's termination based on generalized, broad information available at the time. Our review of the ethics ruling and Ms. Ramsey's activities relative to the contracts between DHH and ESI disclosed information that we feel was not presented to the Ethics Commission with the request for the ruling. As a result of our financial related audit of the ESI contracts, we are submitting this information to the Commission on Ethics for Public Employees for reevaluation.

Chapter Two: 1990 Contract

REQUEST FOR PROPOSALS

During the late 1980s, there was a statewide initiative to reduce the costs of state government because of projected budgetary shortfalls in succeeding years. State agencies were restricted in their ability to hire additional staff and were challenged to work within these constraints.

The Department of Health and Hospitals (DHH) determined that the goals of the initiative would best be met through the issuance of various Requests for Proposals (RFPs) for cost savings/revenue enhancement programs for the department. In November 1989, DHH issued an RFP for the recovery of uncompensated care. The objectives of the RFP were as follows:

1. To follow up with persons who are potentially eligible for Medicaid and for other third party resources to enhance collections for uncompensated care provided by the department;
2. To obtain reasonable proposals to design, develop, and implement policies and procedures that will enhance collections within three months of the contract award;
3. To realize net savings to DHH from the proposal;
4. To conduct quarterly training sessions at each facility detailing which types of cases the contractor was successful in pursuing; and
5. To provide quarterly written reports containing information provided in training sessions as well as recommendations for changes in operating procedures that, in the contractor's opinion, would enhance the effectiveness of collecting uncompensated care.

The RFP specified that the percentage of savings (or increased collections) payable to the contractor would remain unchanged from the original rate for the renewal periods. Also, the RFP stated that the contractor would not receive a percentage of additional federal financial participation (FFP) or collections received by DHH on subsequent claims for the same recipient. FFP is the percentage amount of Medicaid expenditures reimbursed to states by the federal government.

When ESI responded to the RFP, it was a newly formed corporation with no state or federal tax identification number and no financial history (required in the RFP). However, ESI stated that an agreement had been reached with an individual to provide \$250,000 for initial capitalization and to provide additional financial resources if needed. In its proposal, ESI stated that it was confident that it would be adequately funded through this initial capitalization and through pending contracts in California and Florida. Within eight months of the inception of the contract, the department began providing ESI with working capital advances, which were paid once per year to ESI. ESI, in turn, repaid the department within each fiscal year in which the advance was paid.

ESI did not have three customer references as required by the RFP. However, resumes of key corporate officials submitted with the response showed their backgrounds in the health care industry and experience with eligibility determinations. ESI stated that it had employment applications from individuals who had made commitments to work for ESI once a formal contract was awarded.

CONTRACT AWARDED

DHH received three proposals in response to the RFP, and ESI was the successful proposer. Though newly formed, with no financial or service history, ESI was awarded a single contract with the DHH, which was signed by then DHH Secretary, David Ramsey, effective August 29, 1990. This contract will be referred to as the original or 1990 contract.

ESI was to assist the department in the recovery of uncompensated care by following up on those individuals referred by the department and who may have been eligible for Medicaid and other third party sources. Furthermore, ESI was required to design, develop, and implement policies, procedures, and reports that would enhance collections by the department and to conduct training sessions at each facility to familiarize the department with the types of cases that ESI was successful in pursuing. ESI's earnings were based on revenues received by the department for those patients referred to ESI who were certified as Medicaid eligible.

Total payments under the contract were \$13,436,192 for the period August 29, 1990, through August 19, 1993. This total includes a payment in excess of the contract maximum of \$20,737.

CONTRACT TERMS

ESI's primary responsibility under the contract was to assist the department in certifying patients/recipients as Medicaid eligible. The contract specified that the department would decide who would be referred to ESI for follow-up, and ESI was not allowed to refuse a referral without written approval from the department. ESI was also required to contact third party resources to obtain information needed to determine eligibility for those resources.

The contract established specific time requirements for processing applications for the determination of Medicaid eligibility. For individuals who were discharged from the hospital before an application being taken by the department's Medical Assistance Program (MAP) unit, the department had the option of contacting the client, conducting a face to face interview, and securing the signed application form, or the department could have submitted the individual to ESI without further follow-up by the MAP unit. MAP units are DHH administered sections that work in the various regions within the state to process Medicaid eligibility applications. Even if a contractor gathers the information required to make an eligibility determination, only the DHH employee at the MAP unit can actually establish/certify a specific recipient as Medicaid eligible. DHH is specified as the Medicaid agency and as the responsible agency for the determination of eligibility by the Louisiana State Plan (page 1).

If the department was not successful in contacting the client, conducting the interview, and securing the signed application within 10 working days after the discharge date, then the applicant was to be referred to the contractor. ESI was required to hand deliver the signed application and all other information necessary to establish eligibility within 30 calendar days after the referral date.

If the department was able to contact the client, conduct an interview, and secure an application within the required 10 working days, the MAP unit had 20 calendar days from the date of application to complete the determination. If, due to the applicant's failure to provide the requested information, the MAP unit had not established eligibility within 20 calendar days, then the application was to be referred to the contractor.

ESI was required to process all referrals from the MAP units within 45 to 60 days as mandated by the Code of Federal Regulations so that there would be no delay in the Medicaid application process. ESI was required to process these applications based on the date of application, not the date of the referral.

ESI was not to receive a percentage of additional FFP or collections received by the department on claims submitted before or after the inpatient stay which resulted in the referral. This eliminated the possibility that ESI might be paid for multiple inpatient stays once an individual was determined to be Medicaid eligible. This provision restricted payment to ESI only for the inpatient stay for which the referral was made.

Payments to ESI were based on percentage fees established in the contract. ESI would be paid 22 percent of the FFP of the first \$1,000,000 in actual collections, 21 percent of the FFP of the second \$1,000,000 in actual collections, and 20 percent of the FFP of the actual collections in excess of \$2,000,000 until the contract maximum of \$13,415,455 was met. The contract was subsequently amended to allow payments to ESI for eligible receipts instead of actual collections. This provision meant that once a person was certified as Medicaid eligible, ESI could bill the department for its expected fee before actual Medicaid payment to the facility for the services provided.

The contract term was originally for a period of 12 months beginning August 29, 1990. DHH had the option to renew the contract for two additional one-year periods and subsequently exercised this option, renewing the contract through August 19, 1993.

Medicaid Disproportionate Share Reimbursement

Medicaid disproportionate share (DISPRO) is additional reimbursement to states providing a disproportionate amount of free care to medically indigent individuals. The DISPRO payments are meant to help recoup the additional costs incurred by states in providing this free care to medically indigent individuals. ESI has received a percentage of DISPRO paid to the facilities.

No provisions were included in the contract for potential windfall increases in hospital revenues that were the result of Medicaid rate increases. During the lives of the contracts, DISPRO reimbursement rates increased dramatically. Table 2 on the following page shows the per diem rates in effect for each facility at the beginning of the contract and the rate in effect at the end of the contract.

Documentation from the proposers' conference disclosed that the department provided prospective proposers with the hospital per diem rates, which included DISPRO, in effect at the time the RFP was issued in November 1989. Those rates were the July 1, 1988, rates in Table 2. Therefore, the bids submitted to the department would have been based on these rates.

Table 2
Medicaid Per Diem Rates During the Contract Life

Facility	July 1, 1988	July 1, 1990	November 1, 1990	July 1, 1992	March 1, 1993
Earl K. Long	\$903.56	\$1,390.16	\$2,004.21	\$2,065.40	\$724.83
Huey P. Long	671.74	746.64	1,226.53	1,825.88	573.80
E. A. Conway	869.04	856.24	1,380.11	1,613.46	641.31
W. O. Moss	743.74	1,593.45	3,394.40	2,151.65	371.64
Medical Center of Louisiana at New Orleans	836.67	1584.66	2362.41	3110.14	697.99
University Medical Center	855.27	994.22	1,670.83	1,847.83	646.59
Leonard Chabert	569.08	1,153.16	1,681.66	1,774.52	755.46

Source: Prepared by Legislative Auditor's staff from information furnished by DHH Institutional Reimbursements Section.

DISPRO Pooling Payments

Before March 1, 1993, DHH paid DISPRO to the facilities as a part of their per diem rate. For each Medicaid recipient inpatient billing, the per diem amount paid consisted of the actual cost of providing care to an individual plus a DISPRO portion, which compensated facilities for providing free care to the medically indigent. As shown in Table 2, the per diems increased dramatically during the life of the contract before March 1, 1993. During the life of the contract, the department received approval from the Health Care Financing Administration (HCFA) to change a factor it used in determining the DISPRO reimbursement (called the standard multiplier), resulting in significant increases in Medicaid revenues. DHH's application for the change in this factor was not based on services provided by ESI.

For the period March 1, 1993, through September 30, 1994, the department used a different means of DISPRO reimbursement to the facilities, employing a "pooling" method. HCFA, with the federal fiscal year that began October 1, 1992, limited the amount of money to be paid to states for DISPRO reimbursement. States were "capped" at the amount of DISPRO they had paid during the federal fiscal year that began October 1, 1991. Louisiana paid approximately \$1,200,000,000 (includes the state's share or match) in DISPRO during that federal fiscal year and was limited to this amount for future years.

Under this pooling approach, DHH Medicaid administration determined the allocation of DISPRO among four categories or pools: Medicaid Teaching, Medicaid Non-Teaching, Medicaid Psychiatric Care, and Indigent. Both privately-owned and state-owned facilities could participate in each of the pools. The total dollars allocable to all these pools were fixed based on the cap of \$1,200,000,000. The federal share of this amount was set at the beginning of each federal fiscal year based on the FFP. If, for example, the FFP was set at 75 percent, then \$900,000,000 of the total allocable to DISPRO was paid from federal funds. The remaining \$300,000,000 would be paid from state funds.

DHH Medicaid administration determined the amount to be allocated to each of the four pools. Using historical data for each facility that participated in the categories, DHH determined a per diem to be paid for each type of stay. For example, DHH gathered data for all paid Medicaid days from cost information on file with the department at March 31, 1993, for each facility that was participating in the Medicaid pool. A paid Medicaid day is defined as an inpatient day for a Medicaid eligible recipient, thus making the facility eligible for Medicaid payments. These days were then used to derive the per diem that would be assigned for a paid Medicaid day for distribution from the Medicaid pool. No longer was the DISPRO reimbursement tied directly to a patient. Instead, paid Medicaid days for an inpatient are added to all paid Medicaid days for that facility then multiplied times the per diem to arrive at the total allocable from pooling.

The greatest share of DISPRO was allocated to the Indigent pool. Louisiana has been providing a significant amount of free care to the medically indigent. Simply stated, an indigent day results from an inpatient stay for an individual who is not Medicaid eligible and who has no other resources to pay for services provided. ESI's function, to assist the department in certifying individuals as Medicaid eligible, would reduce the number of days that the hospitals would include in the Indigent pool, thus reducing their respective shares of the Indigent pool allocation. The number of days for a recipient certified as Medicaid eligible would be moved from the Indigent pool to the Medicaid pool, decreasing a facility's share of the Indigent pool and increasing its share of the Medicaid pool. A facility would, therefore, not be eligible for participation in both the Medicaid and Indigent pools for the same days.

The reallocation within and among pools has no effect on the overall amount of federal revenues for DISPRO received at the state level since HCFA fixed the amount of DISPRO states may pay. Also, beginning October 1, 1992, the state's FFP has steadily declined, decreasing the amount of federal reimbursement received by the state and increasing the share of state dollars that are required to be matched against federal dollars.

CONTRACT PAYMENTS

ESI was paid \$13,436,192 over the life of the contract, or \$20,737 more than the contract maximum payable shown in Table 3. These payments were based on the percentage rates established in the contract.

Table 3
DHH Contracts - Contract Provisions

Description	Amount
Original Contract Maximum Payable	\$2,430,000
Number of Amendments Affecting Maximum Payable	2
Dollar Total of Amendments to the Maximum Payable	\$10,985,455
Percentage Increase	452%
Amended Contract Maximum Payable	\$13,415,455

Source: Prepared by Legislative Auditor's staff from contract and contract amendments. Percentage is rounded to the nearest whole number.



Chapter Three: 1993 Contract

REQUEST FOR PROPOSALS

On June 29, 1993, the Department of Health and Hospitals (DHH or the department) released a Request for Proposals (RFP) to continue the work performed by Eligibility Services, Inc., (ESI) under the original contract.

The RFP stated that DHH was seeking proposals for the purposes of identifying individuals who are potentially eligible for Medicaid and other third party resources to enhance collections for uncompensated care. The RFP established reimbursement to the successful bidder as a percentage of enhanced collections received by the state, and the percentage would remain unchanged from the original rate for the renewal periods. The objectives of the RFP were as follows:

1. To follow up with persons who are potentially eligible for Medicaid and for other third party resources to enhance collections for uncompensated care provided by the department;
2. To obtain reasonable proposals to design, develop, and implement policies and procedures within three months of awarding the contract that will enhance collections;
3. To use all possible sources that would result in increased revenue to the state;
4. To conduct quarterly training sessions at each facility detailing which types of cases the contractor was successful in pursuing;
5. To obtain assistance from the contractor to identify, facilitate, and manage access to all funding sources available to obtain health insurance coverage for the uninsured, under-insured, and medically indigent residents of Louisiana;
6. To assist the uninsured, under-insured, and medically indigent patients in accessing and availing themselves of all benefits to reduce the amount of uncompensated care provided by public facilities; and

7. To provide quarterly written reports containing information provided in training sessions as well as recommendations for changes in operating procedures that, in the contractor's opinion, would enhance the effectiveness of collecting for uncompensated care.

The RFP stated that the contractor would not receive a percentage of additional FFP or collections which may be received by DHH on subsequent claims for the same recipient unless the recipient's claim would subsequently be referred to the contractor. This marked a change from the first contract, which did not allow payment for multiple inpatient stays.

CONTRACT AWARDED

DHH received five proposals in response to the RFP, and ESI was the successful proposer. ESI was awarded a single contract with DHH, Office of the Secretary, effective August 20, 1993. This contract will be referred to as the current or 1993 contract.

The services to be provided in the contract were to assist the department in the recovery of reimbursement for uncompensated care by assisting persons referred by the department who may be eligible for Medicaid and for other third party resources. ESI was further required to design, develop, and implement policies, procedures, and reports which would enhance collections by the department and conduct training sessions at each facility. ESI's earnings were based on revenues received by the department for those patients referred to ESI who were certified as Medicaid eligible.

Total payments under the contract were \$5,562,343 for the period August 20, 1993, through December 31, 1994.

CONTRACT TERMS

ESI's primary responsibility under the contracts was to assist the department in certifying individuals as Medicaid eligible. The contract specified that the department would decide who would be referred to ESI for follow-up. ESI was also required to contact third party resources to obtain information needed to determine eligibility for third party resources.

The contract established specific time requirements for processing applications for the determination of Medicaid eligibility that were generally identical to those of the original contract.

ESI was required to process all referrals from the MAP units within 45 to 90 days as mandated by the Code of Federal Regulations so that there would be no delay in the Medicaid application process. ESI was required to process these applications based on the date of application, not the date of the referral.

A provision in the current contract allows ESI to receive a percentage of additional FFP or collections received by the department on claims submitted after or before the inpatient stay which resulted in the referral. This provision allows ESI payment even though Medicaid eligibility may have been established before the referral made by the MAP units. The original contract specifically prohibited these multiple payments.

Payments to ESI were based on percentage fees established in the contract. ESI would be paid 17 percent of the FFP of the first \$40,000,000 in actual collections, 16 percent of the FFP of the second \$40,000,000 in actual collections, and 15 percent of the actual collections in excess of \$80,000,000 until the contract maximum of \$8,100,000 is met.

The contract term was originally for a period of 12 months beginning August 20, 1993. DHH had the option to renew the contract for two additional one-year periods and subsequently exercised this option for a one-year renewal. The department may renew the contract for an additional one-year period.

CONTRACT PAYMENTS

ESI has been paid \$5,562,343 from the inception of the contract through December 31, 1994. DHH accepted the proposal from ESI, dated July 23, 1993, based on Medicaid per diem rates that were in effect at February 28, 1993, even though the department had instituted the change in the method of paying DISPRO to the facilities on March 1, 1993. The method of payments for DISPRO was changed to the pooling method as described in Chapter 2, page 9, and ESI has continued to receive payments from the DISPRO pools.

As with the original contract, ESI was to have been paid a percentage of the FFP received by the state for enhanced collections attributable to its work. However, as discussed in the findings at pages 19-21, ESI has used a static FFP rate of 74.48 percent for all billings. This rate was not in effect at any time during the life of the contract.

Chapter Four: Findings and Recommendations

CONTRACT MONITORING

DHH and LHCA have not established adequate controls to ensure compliance with the DHH written contract monitoring plan and have not ensured that ESI has complied with contractual provisions. Louisiana Revised Statute (LSA-R.S.) 39:1497(4) requires that agencies certify to the Office of Contractual Review that they have developed and intend to implement a written plan for contract monitoring. DHH submitted this certification, and documentation we examined has shown that a monitoring plan had been developed. However, we noted numerous instances of a failure to adequately monitor the contract as disclosed by the following (each of the following should be considered separately - any dollar amounts should not be aggregated as explained in the referenced findings):

1. DHH and LHCA did not monitor and verify billings from ESI to ensure that payments were based on accurate data. ESI was overpaid based on the misapplication of reimbursement rates as follows:

DHH and LHCA did not ensure that ESI used the correct federal financial participation (FFP) rate, which is based on the date of receipt of federal funds, and that ESI used the correct reimbursement rates as specified in the original contract, resulting in potential overpayments of \$2,150,797 (page 19).

DHH and LHCA allowed ESI to use a method of reimbursement that was different than the method specified in the contract (reimbursement based on a percentage of the Medicaid per diem rate versus reimbursement from the DISPRO pools), resulting in potential overpayments to the contractor for \$2,287,174 (page 20).

The department may have incurred questioned costs of at least \$1,075,399 for potential overpayments to ESI. These costs would be reimbursable to the federal government (page 21).

ESI billed the department and the authority for a share of DISPRO allocated to the indigent pool using a rate that was never implemented by the department, resulting in potential overpayments to ESI of \$755,308 (page 22).

DHH and LHCA allowed a change in the payment methodology different than that specified in both contracts, resulting in payments of \$7,710,968 without the required approvals (page 23).

DHH and LHCA did not ensure that the calculation of payments from the Medicaid teaching pool were based on accurate data, resulting in potential overpayments of \$67,520 to ESI (page 24).

LHCA did not adequately monitor payments to ESI, resulting in payments of \$20,736 in excess of the contract maximum for the original contract (page 25).

2. DHH and LHCA did not monitor and verify billings from ESI to prevent excess payments based on the pooling of DISPRO revenues to the facilities, resulting in payments to ESI of \$5,029,459 where no additional revenues were generated for the state (page 22).
3. DHH and LHCA allowed advance payments to the contractor that are prohibited by Louisiana law (page 25).
4. DHH and LHCA have allowed another contractor, Deloitte and Touche, an international accounting and auditing firm providing management advisory services to DHH and LHCA, to participate in the revenues generated by the work of ESI. Both contractors have been paid on the same basis (a percentage of revenues generated) for the same revenues. Payments to Deloitte and Touche for ESI generated revenues were approximately \$7,522,507 (page 26).
5. DHH and LHCA have not provided for enforcement of contractual provisions relating to timely processing of Medicaid eligibility applications by ESI, resulting in noncompliance with federal regulations (page 27).
6. DHH and LHCA allowed facilities to refer individuals to ESI for Medicaid eligibility determinations sooner than might otherwise have been necessary and have paid ESI fees for extended inpatient stays. Payments to ESI for 228 inpatients' stays of 30 days or more total \$2,709,237 (page 28).
7. DHH negotiated a second contract with ESI that provided a distinct advantage to ESI by allowing the contractor payment from multiple inpatient stays and has allowed ESI to receive all referrals at three facilities, increasing the revenues available to ESI (page 30).

As shown previously, failure to adequately develop, monitor, and enforce contract provisions may result in excess payments to a contractor and may result in noncompliance with federal regulations and Louisiana law.

DHH and LHCA should establish controls to ensure that ESI has complied with contractual provisions and should ensure that subsequent agreements do not place a contractor at a potential advantage over the department or the authority.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

1990 CONTRACT - OVERPAYMENTS

DHH and LHCA may have overpaid ESI by an estimated \$2,150,797 for the original contract. The contract specified that ESI would be paid a percentage share of the federal financial participation (FFP) received by the DHH/LHCA facilities as a result of ESI's work. The FFP rate to be applied to overall collections was not fixed in the contract. This rate changes October 1 of each year, which is the beginning of the federal fiscal year. Our examination of the contract disclosed the following:

1. On March 1, 1993, DHH dramatically reduced the Medicaid per diem rates, removing disproportionate share (DISPRO) from these rates. DHH then began reimbursing the facilities for their share of DISPRO using a pooling concept (for an explanation of DISPRO pools, see page 9). We compared the amount that ESI was paid under the pooling method to the highest per diem rates that were in effect during the life of the contract, the rates at February 28, 1993, and determined that ESI was paid \$1,890,273 more than if the highest rates had been used.
2. The contract specified the percentage rates that ESI would be paid for enhanced collections (page 8) until the maximum was met. However, of 320 ESI invoices examined, 101 were billed at 22 percent of the FFP.

The FFP rate that ESI used for billing was 74.48 percent. This rate remained unchanged for all billings submitted by ESI, even though it was effective only for departmental receipts for the period October 1, 1990, through September 30, 1991. The FFP rate of 74.48 percent was applied to all 320 ESI invoices.

As a result of the misapplication of the reimbursement percentage rate and the FFP rate, ESI was overpaid a combined \$240,737.

3. The FFP rate of 74.48 percent was applied to all pooling invoices as well as the regular ESI billings. The overpayment to ESI because of the failure to consider

the annual change in the FFP rate for additional pooling invoices is estimated at \$19,787.

We estimate that overpayments to ESI resulting from the situations previously described total \$2,150,797.

DHH and LHCA management should refer the matter to their respective legal counsels and consider seeking repayment of any amounts to which ESI is not entitled. Also, management should monitor contractor billings to ensure that they are made in accordance with the contract.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

1993 CONTRACT - OVERPAYMENTS

Under the current contract, DHH accepted ESI's bid that is based on hospital per diem rates and a federal financial participation (FFP) rate that were not in effect at the time the proposal was issued. In addition, the billing method the department allowed ESI to use was different from ESI's bid, which was accepted by the department, resulting in potential overpayments estimated at \$2,287,174. The request for proposals (RFP) states that the purpose of the contract is to enhance collections for uncompensated care and that the contractor is to be reimbursed on a percentage of these enhanced collections to the state. Good business practices dictate that the department negotiate contract terms that would result in the lowest possible cost to the state. Our examination disclosed the following:

1. ESI's proposal was based on a percentage of the FFP of hospital per diem rates in effect at February 28, 1993. DHH had dramatically reduced those rates on March 1, 1993, four months before the issuance of the RFP on June 29, 1993. However, from the inception of the contract, ESI billings have been calculated based on a percentage of revenue received by the facilities from both the Medicaid and indigent disproportionate share (DISPRO) pools (for an explanation of DISPRO pools, see page 9), as well as the increased FFP relating to the hospitals' per diem rates for each patient billed. Because the department allowed a method of compensation that was neither clearly delineated in the contract nor in accordance with the terms of the bidder's proposal, we estimate that the contractor was paid \$2,287,174 more than it would have received if payments had been made based on the rates in effect at February 28, 1993, in conjunction with a static FFP rate of 74.48 percent.

2. The department accepted ESI's proposal based on a static FFP rate of 74.48 percent, the rate in effect for federal fiscal year ended September 30, 1991. However, this rate changes at the beginning of each federal fiscal year, and at the time the contract was negotiated, the rate in effect was 73.71 percent. It decreased to 73.49 percent less than two months after the contract's effective date. Use of an expired FFP rate results in payments to the contractor in excess of enhanced collections to the state. We estimate the contractor has been reimbursed approximately \$79,636 more than would have been received had the effective FFP rates been applied.

The department should refer the matter to its legal counsel and consider seeking reimbursement for any amount to which ESI is not entitled. Also, DHH should ensure that contract terms are based on accurate and current data, and negotiated terms result in the lowest possible cost to the state.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

QUESTIONED COSTS

As a result of potential overpayments to ESI, DHH may be liable for repayment of the federal share of those overpayments, which is estimated at \$1,075,399, to the Health Care Financing Administration (HCFA). Prudent business practices and adequate internal controls require that the department pay only for services that meet the needs of the department, are acceptable, and fulfill the terms of the contract. In addition, Office of Management and Budget (OMB) Circular A-87, Section C, provides that costs are allowable when necessary and reasonable, and allocable to a particular federal program to the extent of the benefits received.

As shown in the previous two findings titled 1990 Contract - Overpayments and 1993 Contract - Overpayments, we estimate that the overpayments to ESI totaled \$4,437,971. Of this amount, at least \$1,075,399 has been drawn from HCFA as the federal share of allowable Medicaid administrative costs. However, any amount drawn that was related to an overpayment would not be necessary and reasonable in accordance with Circular A-87. The department may be liable for repayment to HCFA of the federal funds drawn.

The department should refer the matter to its legal counsel and determine the amount of questioned costs that may be owed to HCFA. Also, management should ensure that payments are made in accordance with contracts to reduce the possibility that questioned costs would be incurred.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

PAYMENT FROM INDIGENT POOL

DHH and LHCA allowed payments of \$5,029,459 to be made to ESI although no additional revenue was generated for the state. Furthermore, \$755,308 of these payments were calculated from rates that were never implemented by DHH. The requests for proposals (RFP) issued by DHH indicate that the objectives of the proposed contracts are to enhance collections for uncompensated care and that the successful contractor will be reimbursed on a percentage of enhanced collections by the state. Furthermore, both contracts specify that the contractor is to receive a percentage fee of the enhanced federal financial participation (FFP), which the department receives as a result of information provided by the contractor that is necessary to establish Medicaid eligibility. Good business practices dictate that a contractor's compensation be based on accurate data. Our examination disclosed the following:

1. On March 1, 1993, while the original contract was the responsibility of LHCA, the hospital per diem rates were significantly reduced because amounts paid to hospitals for disproportionate share (DISPRO) were removed from the hospital per diem rates. The amounts to be paid to hospitals for DISPRO were then placed in pools and each hospital received a share of the pool based on the number of Medicaid patient days or indigent patient days on designated reports maintained by DHH (for an explanation of this pooling method, see page 9). For referrals of patient stays after March 1, 1993, ESI billed LHCA for a percentage of the amount received from both the indigent and Medicaid pools as well as for FFP relating to the hospital per diem rates. However, a single individual could not be properly reported as both a Medicaid patient and an indigent. The work that ESI does would, by its nature, remove patients from the indigent pool and place them in the Medicaid pools. Although the state's revenues from the indigent pool would not be enhanced by ESI's work, LHCA allowed \$2,290,985 to be paid to ESI based on amounts the hospitals received from the indigent pool.
2. Under the current contract, DHH has continued to pay ESI based on collections from the DISPRO pools, and ESI has received a total of \$2,738,784 based on amounts the hospitals received from the indigent pool although no additional revenue was received by the state.
3. For the period October 1, 1993, through March 31, 1994, ESI was compensated from the indigent pool based on a single hospital per diem rate of \$3,039 when

the actual rate implemented by the department ranged from \$1,914 to \$2,023, depending on the facilities to which DISPRO was paid. This resulted in potential overpayments to the contractor estimated at \$755,308.

DHH and LHCA should ensure that the payment method a contractor is allowed to use is accurate and is in accordance with the terms of the contract and RFP and that the goal of the RFP is accomplished. Furthermore, DHH and LHCA should be particularly vigilant to ensure that revenue has been increased when compensation to contractors is intended to be measured by those revenues.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

Additional Comments by the Auditor

Our additional comments are at Attachment III.

MODIFICATIONS TO CONTRACTS

DHH and LHCA did not submit documentation, as required by Louisiana law, to the Office of Contractual Review and the Department of State Civil Service, for changes in payment methodology resulting in payments of \$7,710,968. The changes in the method of payment appear to be modifications to the original contracts. Louisiana Revised Statutes (LSA-R.S.) 39:1484(5) and (6) define contracts to include all contract modifications, and LSA-R.S. 39:1502 provides that no contract is valid nor will the state be bound by the contract until it is approved in writing by the director of the Office of Contractual Review. In addition, Louisiana Administrative Code (LAC) 34:V.121(G)(1) requires that certain contracts be approved by the Department of State Civil Service. Our review disclosed the following:

1. Beginning March 1, 1993, while the original contract was the responsibility of LHCA, hospital per diem rates were reduced to remove disproportionate share (DISPRO) payments from the rates. For hospital stays after that date, Eligibility Services, Inc., (ESI) adjusted its billings to include a share of the payments hospitals received from both the Medicaid and indigent DISPRO pools, as well as the percentage of increased federal financial participation (FFP) as specified in the contract (for an explanation of the DISPRO pools, see page 9). Although these invoices were paid, the authority was unable to provide any documentation indicating that management had agreed to the change. Furthermore, approval for the change was neither requested nor received from the Office of Contractual Review and/or Civil Service. As a

result of this condition, \$3,511,074 was paid on the original contract without the approvals cited in the statutes mentioned previously.

2. The original contract expired on August 19, 1993, and a successor contract became effective August 20, 1993. Even though ESI had modified its billing procedures under the original contract, this change in compensation methodology was not considered in the terms of the new contract. The new contract specified ESI would receive compensation as a percentage of increased FFP just as it had in the previous contract. However, ESI continued to bill, and the department continued to pay, invoices based on a share of the payments hospitals received from the Medicaid and indigent DISPRO pools in addition to the percentage of increased FFP specified in the terms of the contract. As a result, \$4,199,894 was paid on this contract without the approvals cited in the statutes mentioned previously.

DHH and LHCA should ensure that any modifications to future contracts are submitted to the Office of Contractual Review and the Department of State Civil Service for review and approval as required by Louisiana law.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

OVERPAYMENT - COMPUTATION ERRORS

DHH and LHCA did not ensure that rates established by ESI for their compensation from the Medicaid teaching pool were calculated from the correct data resulting in potential overpayments to ESI estimated at \$67,520. Good internal controls would dictate that a sufficient review of billing methods be made to ensure that billings are based on accurate data. For the first pooling period (March 1, 1993, through September 30, 1993) DHH calculated the amount that each hospital would receive from the Medicaid disproportionate share (DISPRO) pools based on annualized Medicaid days rather than actual Medicaid days (the pooling method of paying DISPRO is discussed on page 9). That is, if a hospital had instituted a new program during the prior year which was in effect only a portion of that year, that hospital's days would be adjusted as if the new program had been in effect for an entire year. Because ESI calculated their compensation based on actual days rather than annualized days, their compensation was too high for Medical Center of Louisiana at New Orleans, resulting in overpayments of \$16,667 by DHH and \$50,853 by LHCA.

DHH and LHCA management should refer the matter to their respective legal counsels and should consider seeking repayment of any amounts to which ESI is not entitled. Also, management should monitor contractor billings to ensure that they are made in accordance with the contract.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

PAYMENTS IN EXCESS OF CONTRACT MAXIMUM

LHCA did not properly monitor total payments made to ESI and paid the contractor \$20,736 above the maximum amount allowed under the original contract. All payments to a contractor should strictly adhere to the terms of the contract. Although an accountant was monitoring payments to ESI to ensure that the authority did not exceed the contract maximum, the total payments used by the accountant for fiscal years 1993 and 1994 were not reconciled to the authority's contract management system and/or to actual disbursements recorded in the state's accounting system. As a result, the monitoring procedure applied was ineffective because it was based on inaccurate data, and payments to ESI exceeded the \$13,415,455 contract maximum by \$20,736.

LHCA management should refer the matter to its legal counsel and consider seeking repayment of any amount to which ESI is not entitled. Also, management should monitor contractor billings to prevent payments in excess of the contract maximum.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

CONTRACT ADVANCES

In violation of Louisiana law, DHH and LHCA provided ESI a working capital advance of \$303,750. Louisiana Revised Statute (LSA-R.S.) 39:1512(B) provides that an advance can be made if the using agency is a non-profit corporation and certain other criteria are met. Neither DHH nor ESI is a non-profit corporation. Therefore, an advance would be prohibited by Article 7, Section 14 of the Louisiana Constitution of 1974. Eight months after the contract became effective, the department requested and received authorization from the Division of Administration, Office of Contractual Review to amend the contract to pay the contractor a working capital advance. The advance of \$303,750 was repaid at the end of each contract year, but it was immediately reissued to the contractor when the contract renewal options were

exercised. Failure to comply with Louisiana law has the effect of providing the contractor an interest free loan for 2.3 years. In addition, negotiating an amendment after the effective date of the contract that allowed a working capital advance for a newly formed company and which was not considered in the original Request for Proposals (RFP) may have precluded participation of other undercapitalized, but qualified, contractors in the bidding process.

The department and the authority should ensure that all contractors who request a working capital advance are statutorily eligible for such advances before requesting them from the Division of Administration. Also, the department and the authority should ensure that they do not appear to provide an advantage to individual contractors participating in the RFP process.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

Additional Comments by the Auditor

Our additional comments are at Attachment III.

DELOITTE AND TOUCHE BILLINGS

DHH and LHCA appear to have allowed the inclusion of \$50,150,047 in revenues generated by the activities of ESI in the revenues claimed and billed by Deloitte and Touche, resulting in potential additional payments estimated at \$7,522,507. Prudent business practices would dictate that the department and the authority not allow one contractor to participate in the revenues generated by another contractor in instances where the method of reimbursement for both contracts is essentially the same.

Since September 1989, Deloitte and Touche, an international accounting and auditing firm providing management advisory services to DHH and LHCA through numerous revenue enhancement contracts, which included operations improvements, has been paid a percentage of revenues generated. A portion of the collections generated as a result of ESI's work is included in the revenues for which Deloitte and Touche has been paid.

From August 1990 through December 1994, we have estimated that ESI has been paid for revenues "generated" of \$132,653,407. Total revenues are gross, before considering the effects of the federal financial participation (FFP) rate and the percentage reimbursement rates that ESI has used.

A review of the Deloitte and Touche billings indicated that ESI revenues were not deducted from the revenues that Deloitte and Touche billed for its percentage reimbursement. Before October 1, 1992, Deloitte and Touche was paid for all Medicaid revenues received by the

DHH/LHCA facilities. After that date, DISPRO was removed from the revenues billable by Deloitte and Touche. Adjusting the revenues "generated" by ESI for the effects of DISPRO results in approximately \$50,150,049 in revenues that have also been included in Deloitte and Touche billings.

Management and Deloitte and Touche have explained that the work of ESI did not actually generate revenues. Once ESI completed its work, a patient's account still had to be billed, and Deloitte and Touche received credit for the billings. Management stated that claims worked by ESI would not have been paid had Deloitte and Touche not provided revenue enhancement and operations improvement consulting services. The department and the authority made a conscious decision to allow both ESI and Deloitte and Touche to participate in the ESI generated revenues at their respective reimbursement percentages (at rates ranging from 31 to 37 percent on the same \$50,150,049 in revenues).

The department and the authority should not have allowed payment to ESI on a revenue basis if that work did not result in increased revenues. However, certifying a patient as Medicaid eligible would entitle the facilities to payment for that patient's care. If ESI's work resulted in increased revenue, then Deloitte and Touche should not have been allowed to benefit from that work. By allowing Deloitte and Touche to participate in ESI generated revenues, the department and the authority may have incurred an additional cost of approximately \$7,522,507 in contractual payments.

In the future, DHH and LHCA should not allow two contractors to be paid based on the same revenues.

Managements' Responses

The DHH response is at Attachment I and the LHCA response is at Attachment II.

TIMELY ELIGIBILITY DETERMINATIONS

DHH has not complied with federal regulations relating to timely determination of eligibility and has not ensured that ESI has complied with contractual provisions that require that Medicaid eligibility applications be processed within specific time constraints. The Code of Federal Regulations 42 CFR 435.911(a)(1) and (2) require that applications for determination of eligibility be processed within 90 days for applicants applying on the basis of disability and 45 days for all other applicants. The contracts negotiated between DHH and ESI established time guidelines for submission of applications to ESI and for processing applications by ESI, which allow the department to comply with federal regulations.

Documentation provided by DHH and LHCA facilities disclosed that ESI has not been in compliance with the time guidelines throughout the lives of the two contracts, holding applications for periods of up to 501 days. In addition, the department has not exercised its ability to take the initial application and attempt to gather the information for the determination of eligibility before referring the applicant to ESI. For example, three LHCA facilities now refer 100 percent of applicants directly to ESI.

A review of the billings submitted by ESI to the department for payment indicate that inpatients at other LHCA facilities are being referred before their discharge, and before the facilities taking eligibility applications, within one or two days of admission. This indicates that the Medical Assistance Program (MAP) units are making no attempt to process applications for Medicaid eligibility. Despite the fact that ESI is receiving referrals before applications being taken, the company is still not complying with the time requirements established in the contract that allow the department to comply with federal regulations.

The contract contains no provision(s) for action against the contractor for failure to comply with the terms of the contract other than standard language allowing cancellation of the contract by the department upon 30 days written notice to the contractor. There is no evidence that the department has initiated any action against ESI for noncompliance.

Management should enforce compliance with the terms of the contract and with federal regulations. The department should consider action against the contractor for noncompliance, which may include removing applications from the contractor and processing them through the MAP units or imposing other penalties against the contractor for its failure to comply with contractual provisions.

Managements' Responses

The DHH response is at Attachment I and the LHCA response is at Attachment II.

EXTENDED INPATIENT STAYS

DHH and LHCA paid ESI for extended inpatient hospital stays. Good business practices would dictate that the department and the authority consider the effect of prolonged lengths of stay on payments to the contractor, reducing referrals for extended lengths of stay, where possible, thereby reducing the possibility of additional or unnecessary payments to a contractor. Our examination of the ESI contracts disclosed the following:

1. Of the total \$18,998,534 paid by DHH and LHCA to ESI for the period August 1990 through December 1994, \$2,709,237, or 14.26 percent, was paid for inpatient stays of 30 days or more.

2. A review of the ESI billings indicated that 228 individuals had inpatient stays ranging from 30 to 291 days, and ESI collected fees ranging from \$1,197 to \$73,923 for these stays. The average fee paid to ESI for each of these 228 individuals' stays was \$11,883. A review of the admission dates and the referral dates to ESI disclosed that many of the referrals for these individuals occurred within several days of the patients' admission dates, indicating that the Medical Assistance Program (MAP) units may not have attempted to take the inpatient applications and that referral to ESI was almost immediate. In addition, there was no indication that these individuals' applications required additional contractor effort beyond that for referrals for stays under 30 days.

DHH and LHCA have paid \$2,709,237 to ESI that they may not have had to pay had procedures been in place to ensure that these individuals' applications were processed by the DHH MAP Unit personnel.

DHH and LHCA should establish controls to reduce unnecessary referrals to ESI for extended inpatient stays.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

ADJUSTMENTS TO PER DIEM RATES

DHH allowed ESI to benefit from hospital per diem rate increases that were not the result of services provided by the contractor. Good business practices dictate that management ensure that needed services are acquired at the least possible cost to the state and that contractors do not derive windfall benefits not directly related to the services they provide. The hospital per diem rates in effect at December 8, 1989, were provided to the proposers at the proposers' conference and would have been the rates on which the proposers most likely based their bids. However, by the date the contract became effective, August 29, 1990, per diem rates had increased an average of 52.7 percent. No language was included in the contract to preclude the contractor from benefitting from rate increase windfalls. In addition, by August 28, 1991, the date the first renewal option was exercised, rates had increased an average of an additional 64.9 percent. Although the contract specified that the percentage fee would remain the same for any renewal periods, the department had the option to cancel the contract and rebid. However, it did not do so.

Failure to ensure that contractors do not benefit from windfalls not directly related to the services they provide can result in unnecessary costs to the state as may have happened in this case, particularly since the maximum amount payable under this contract was increased from \$2,430,000 to \$13,415,455 over the three-year life of the contract.

DHH should evaluate all contracts at each renewal period to ensure that the department is still obtaining needed services at the least possible cost and should ensure that any increases in a contract's maximum are supported by additional services supplied by the contractor.

Managements' Response

The DHH response is at Attachment I and the LHCA response is at Attachment II.

Additional Comments by the Auditor

Our additional comments are at Attachment III.

CONTRACT PROVISIONS - MISCELLANEOUS

DHH has allowed changes in contract provisions from the original contract to the current contract that appear to have directly benefitted ESI. Good business practices would dictate that DHH negotiate contract terms that do not provide an additional advantage or put at a disadvantage, either party to a contract. Our examination of the department's contracts with ESI disclosed the following:

1. During the life of the current contract, the Medical Assistance Program (MAP) units operating at Leonard Chabert Medical Center and W. O. Moss Medical Center were eliminated (the regions maintain MAP personnel to approve applications completed by ESI). In addition, the Medical Center of Louisiana at University Hospital does not have a MAP unit nor does it use the MAP unit at Medical Center of Louisiana at New Orleans (Charity Hospital). At these facilities, ESI receives 100 percent of the inpatient referrals for individuals who are not identified as Medicaid eligible at the time of admission. As a result, the department is paying ESI more than it otherwise might if the department's MAP units were to take applications and attempt to gather information to determine Medicaid eligibility.

For example, under the original contract, Leonard Chabert Medical Center accounted for 17.3 percent of the total payments to ESI. Under the current contract, the medical center now accounts for 41 percent of the total payments.

2. In the original contract, ESI was not allowed to receive payment for multiple referrals, which result when individuals are referred to ESI for an inpatient hospital stay before or after the stay for which the original referral is made. The current contract allows ESI to get paid for specific multiple referrals, even though Medicaid eligibility may have already been established. The likelihood

that multiple referrals will occur at the above three facilities is increased since ESI gets 100 percent of the referrals.

A review of the invoices submitted by ESI to the department for the current contract resulted in our identification of 116 names that were duplicated from one to three times, resulting in payments for multiple referrals estimated at \$235,908 (excluding the initial inpatient stay). This amount does not include similar names that may, upon further investigation, result in the identification of additional multiple referrals, nor does it include identification of individuals who may have received services from two or more of the state facilities. Also, this figure does not include certifications for family members that result in automatic eligibility for other family members (i.e., babies who are deemed eligible based on a Medicaid application approved for an eligible mother).

Medical Center of Louisiana at University Hospital, Leonard Chabert Medical Center, and W. O. Moss Medical Center have accounted for 56.08 percent, 36.78 percent, and 3.18 percent of the identified payments for multiple referrals, respectively.

Failure to adequately gauge the impact of a contract's terms may result in potential additional costs to the department, as shown above.

DHH should review the current contract and any future RFP, responses, and contracts to determine the impact of the terms negotiated to ensure that no party has a distinct advantage over the other.

Managements' Responses

The DHH response is at Attachment I and the LHCA response is at Attachment II.

Additional Comments by the Auditor

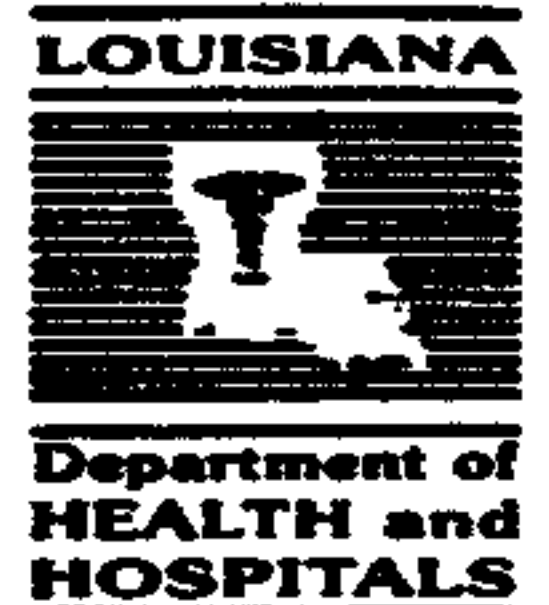
Our additional comments are at Attachment III.

Attachment I
DHH Management's Responses



Edwin W. Edwards
GOVERNOR

STATE OF LOUISIANA
DEPARTMENT OF HEALTH AND HOSPITALS



Rose V. Forrest
SECRETARY

August 1, 1995

Dr. Daniel Kyle, CPA, CFE
Legislative Auditor
Office of Legislative Auditor
P. O. Box 94397
Baton Rouge, LA 70804-9397

Dear Dr. Kyle:

Ms. Margaret Bumm's letter of June 5, 1995 to Mr. Stan Mead regarding your office's audit of the Department of Health and Hospitals (DHH) contract with Eligibility Services Incorporated (ESI) was referred to me for reply. I want to thank your office for allowing me additional time to respond to the findings of the audit.

Attached please find a point by point response to the findings of your office regarding the ESI contract. In your letter to the department and the Louisiana Health Care Authority (LHCA) you indicated that "this report is intended for the use of the management of the Department of Health and Hospitals and should only be used by those who fully understand the limited purposes of the procedure performed." Viewed in that context the department believes that the report missed the mark on several issues, including contract overpayment, questioned costs, reimbursement from disproportionate share funds, and contract modifications among others. The report did however raise several issues which do have merit, including contract monitoring procedures, erroneous FFP, untimely eligibility determinations and contract advances. Accordingly while the department did not concur with all of the findings of your office it does concur improvements can and should be implemented in problems areas identified by your office. DHH, LHCA, and ESI have already instituted a process of good faith negotiation as required by the contract and state law, to attempt to reconcile disputed contractual issues. The department will keep your office advised of any developments in that regard.

Thanking you for the opportunity to respond to their preliminary report, I remain

Very truly yours,

Charles F. Castille
Deputy Secretary

Dr. Daniel Kyle
August 1, 1995
Page 2

cc: Ms. Rose Forrest
Mr. Tom Collins
Mr. Stan Mead
Dr. William Cherry
Mr. Don Elbourne

I. **Contract Monitoring**

DHH concurs in part that it did not establish adequate controls to ensure compliance with the DHH written contract monitoring plan. Other alleged failures to adequately monitor the contract are repetitions of later findings noted in the audit and responses thereto will be made to those specific findings.

II. **1990 Contract Overpayments**

DHH does not concur that it may have overpaid ESI by an estimated \$2,150,797 for the original (1990) contract. The auditor notes that in March 1993 DHH removed disproportionate share from the per diem rates of the state charity hospitals and began using a pool concept. The auditor contends that based on the rates in effect on February 28, 1993 ESI was overpaid by \$1,890,273. The auditor notes that LHCA was responsible for monitoring the original contract after July 1, 1992. DHH could not have overpaid ESI after March 1993 since it was not responsible for monitoring the contract at that time.

DHH does acknowledge that incorrect percentage rates may have been applied to ESI invoices. DHH, LHCA, and ESI met recently to review source documents and to determine the extent of overpayment, if any, by whom it was made and to secure reimbursement if an overpayment was made. This will enable the parties to perform a complete reconciliation to determine the extent of any over or under payments. This is in compliance with the terms of the contract and state law which require initial good faith negotiations to resolve contract disputes. DHH also concurs that the incorrect FFP rate may have used after September, 1991. This issue will also be subject to good faith negotiation as noted above.

III. **1993 Contract Overpayment**

DHH does not concur with the finding of the Legislative Auditor that DHH inappropriately accepted a bid from ESI based on hospital per diem rates not in effect at the time the proposal was issued. DHH does acknowledge that the FFP rate used to determine reimbursement for ESI reimbursements were incorrect.

As noted by the auditor, DHH changed to a pool methodology for allocating disproportionate share payments in March 1993. The pool methodology was administratively implemented to maximize overcollections and to insure that the federal disproportionate share cap was not exceeded. The DHH Secretary at the time indicated that he never intended the change in the methodology to affect how

the contractor would be reimbursed. He indicated that in the RFP the contractor's fee was to be calculated as a percentage of FFP and that since disproportionate share funds are included as a portion of FFP the contractor was entitled to a percentage of disproportionate share regardless of how DHH administratively chose to allocate those funds to the hospitals. Accordingly, the contract was awarded in accordance with the terms of the RFP calling for reimbursement based on "a percentage of enhanced Federal Financial Participation".

The department's position at the time it entered into the 1993 contract was that the pool methodology should not affect either negatively or positively how ESI was to be reimbursed. The department is examining whether ESI may have benefitted by the application of the pool methodology as opposed to the previous payment method used in the 1990 contract where disproportionate share funds were part of the hospital rates. If it is determined that ESI was compensated more than it would have been had all disproportionate share funds continued to have been part of the hospital per diem rates, then recoupment action will be initiated through good faith negotiations as required by the contract and state law.

With regard to the FFP rate, DHH and ESI acknowledge that erroneous payments did occur. ESI contends that for a period of time the FFP rate went up but was not changed and that ESI was underpaid during this time. The parties will enter into good faith negotiations as noted above to reconcile the issue of over or under payments.

IV. Questioned Costs

DHH does not concur that DHH may be liable for repayment of the federal share of overpayments to the Health Care Financing Administration. This finding is predicated on the previous finding by the auditor that an overpayment occurred and that DHH would not take administrative to recoup an overpayment if one did occur. As noted previously DHH does not concur that an overpayment occurred based on it inappropriately accepting an ESI contract based on hospital per diem rates not in effect. To the extent ESI benefitted more than it should have through the application of the pool methodology DHH intends to recoup said funds if overpayments were made. If the funds are recouped, or, if as ESI contends, underpayments were made, then there would be no basis for the auditors finding.

V. Payment from the Indigent Pool

DHH does not concur that it allowed payments of \$5,029,459 to be made to ESI although no additional revenue was generated for the state. The auditor's contention that DHH paid ESI \$2,738,784 based on amounts received from the indigent pool although no additional revenue was recognized by the state is

predicated on the theory that if ESI failed to make a patient Medicaid eligible and the hospital was paid uncompensated costs for indigent care, ESI efforts did not benefit the state and it should not be reimbursed for those indigent days. This contention however fails to take into account the requirement that in order for state hospitals to continue to qualify for 200% reimbursement of uncompensated (i.e. indigent) costs those hospitals must achieve and maintain a certain level of Medicaid days. The value provided by ESI was that it allowed the state hospitals to maintain that critical threshold level of Medicaid days during a period of time when the state hospitals were losing their traditional market share of Medicaid patients to private hospitals. ESI's efforts therefore allowed many of these hospitals to continue to qualify as high disproportionate share hospitals and remain eligible to be compensated at 200% of cost of uncompensated care. Accordingly ESI activities did generate additional revenue for the state and as a result ESI was entitled to be reimbursed.

The contention by the auditor that ESI received \$755,308 in overpayments because it was compensated from the indigent pool based on a \$3,039 rate when the actual rate ranged from \$1,914 to \$2,023 is more difficult to understand. It may be that the auditor believes ESI should receive only the hospital rate allocated to the indigent pool rather than the actual amount of reimbursement for uncompensated care realized. It is unclear however if this is the point being made. Suffice it to say, no matter what the per diem rates were, ESI was entitled under the contract to receive reimbursement for a percentage of reimbursement of uncompensated (indigent) cost as a part of enhanced FFP.

VI. Modification to Contract

DHH does not concur that it failed to submit documentation as required by law to the Office of Contractual Review and the Department of Civil Service for changes in payment methodology which "appear" to be modifications of the original contract which changes in methodology resulted in payments of \$7,710,968. At the outset it should be noted that the auditor does not allege that the payment of \$7,710,968 was inappropriate, only that this was the amount paid based on changes in methodology which it asserts "appear" to be contract modifications.

The payment of ESI invoices for disproportionate share funds did not require a contract amendment. It was clearly the intent of the parties to make those payments in the 1990 contract. The pooling methodology was established in March 1993 and the new contract was executed in August 1993. Both ESI and DHH were aware of the pooling methodology at the time the new contract was being negotiated and executed. Since DHH clearly intended to continue to allow ESI to receive reimbursement from "enhanced" FFP, which included disproportionate share, there was no need to amend the contract at some later date. Accordingly DHH did not fail to submit documentation to Office of

Contractual Review and Department of Civil Service as required by law because the alleged modifications were covered under the broad language of the original contract and did not require an amendment. Finally the payment of \$4,199,894 to ESI was properly made and did not require any further amendment or approval of amendments.

VII. Overpayment - Computation Errors

DHH is continuing to review the auditor's finding that ESI may have been overpaid as a result of computation errors based on actual days in the teaching pools rather than annualized days. When the pools were established, a prospective payment was established based on the number of days of service a hospital was expected to deliver. In the state hospitals, these days were annualized to reflect changes in services, however, the plan did not call for reconciliation to actual days unless the hospital's estimate was used. DHH did provide ESI with schedules reflecting the pool amount per day that would be paid to each hospital and ESI billed in accordance with these schedules. Theoretically, if downward adjustments to the pools were made at a subsequent date to reflect actual days, then ESI could have been overpaid. It is highly unlikely that this would have occurred since the state plan provided that any overpayments made on the basis of erroneous annualization of days would be recouped and distributed to the largest hospital in the state, i.e. Medical Center of Louisiana at New Orleans. We are not aware that any such adjustments were made.

VIII. Payment in Excess of Contract Maximum

This finding and recommendation deals with LHCA only and does not require response by DHH.

IX. Contract Advances

DHH does not fully concur with the Legislative Auditors finding it violated Louisiana law by providing ESI a working capital advance of \$303,780. The amendment to the 1990 contract allowing a working capital advance was specifically authorized by the Division of Administration, Office of Contractual Review to allow DHH and ESI to resolve a cash flow problem caused by the long period of it took for the contractor to get reimbursed for activities that it had performed. While such an amendment was not specifically authorized by the RFP, it was not prohibited either. The opinion of the Legislative Auditor that ESI was undercapitalized and that other undercapitalized but otherwise qualified bidders may have been precluded from participation is speculative at best. In effect what the amendment sought to achieve was equity so that ESI would not be forced in a position of making a loan to the DHH by continuing in operation

while it waited for reimbursement. The working capital advance provision was part of the new 1993 contract which was also approved by the Division of Administration. DHH does acknowledge that R. S. 39:1512(B) appears to preclude working capital advances for other than non-profit corporations. DHH assumed, perhaps wrongly that approval of the Office of Contractual Review was all that was required. It should be noted that all working capital advances were ultimately repaid. DHH will, however, no longer request working capital advances unless such advances comply with R. S. 39:1512(B).

X. Deloitte and Touche Billings

DHH does not concur with the Legislative Auditors finding that it inappropriately allowed inclusion of revenues generated by ESI in revenue claimed and billed by Deloitte and Touche. ESI and Deloitte and Touche have separate and distinct roles. There are a large number of discrete functions which must operate correctly and in the proper sequence in order for hospitals to maximize revenue. In the case of patients in state LHCA hospitals applying for Medicaid, this required the combined efforts of ESI and Deloitte and Touche, each performing their discrete contractual responsibilities. A Medicaid claim could not be paid had ESI not facilitated the eligibility certification, nor would the claim have been paid had Deloitte & Touche not provided revenue enhancement and operations improvement consulting services. Due to this combined effort, DHH and LHCA did make a conscious decision to allow each contractor to participate in the revenues generated by their combined effort. It should also be noted that the combined effort of these contractors in maximizing new Medicaid days was critical to maximizing disproportionate share funds for DHH.

Accordingly, based on the combined effort of ESI and Deloitte and Touche in generating additional revenue in new Medicaid days, it was appropriate that both contractors participate in the additional revenues generated thereby all in accordance with the terms of their contracts.

XI. Timely Eligibility Determinations

DHH does concur with the findings of the Legislative Auditors that it did not assure that ESI complied with federal regulations requiring that Medicaid eligibility applications be processed within specified time constraints. The department has directed the Eligibility Operations Section of the Bureau of Health Services Financing to work with ESI and require it to comply with the contractual language. Failure of ESI to live up to these requirements could lead to sanctions and possible contract termination.

XII. Extended Inpatient Stay

DHH does concur that ESI was paid for extended hospital days, but it does not concur that such payment was inappropriate. As noted by the auditor, state agencies were restricted in the late 1980's from hiring additional staff. DHH was required to seek the services of contractors like ESI to enhance collections. Specifically the ESI contract called for it to provide services that personnel in the DHH MAP units could not provide. Obviously if DHH's Map units could have performed all of the eligibility documentation activities required of them the RFP would never have been issued or a contract awarded. While it is true that ESI may have benefitted from extended stays such reimbursement was in compliance with the terms of the contract.

It should also be noted that ESI often undertook eligibility documentation efforts which failed to produce a collectable claim. It is estimated that these uncollectible claims exceeded \$2.5 million in one facility (Charity Hospital). The contractor took an inherent risk in accepting referrals some of which did not produce a fee to ESI. Accordingly while ESI might have benefitted from extended stays, it also lost money on uncollectible claims.

XIII. Adjustments to Per Diem Rates

DHH does not concur that it allowed ESI to benefit from hospital per diem rate increases that were not the result of service provided by the contract. This allegation is similar to the allegation regarding allowing ESI to participate in revenue generated through the indigent pools and the responses are also similar.

It is important to note that throughout both contract periods DHH made modifications to the hospital reimbursement methodology that impacted ESI. The hospital base per diem's were periodically inflated to comply with the Medicaid State Plan. The multiplier and various other elements of the original disproportionate share formula were periodically modified to enhance hospital reimbursement and to assume that the department and the LHCA met the budgetary expectations imposed by the legislature. As noted earlier ESI played a key role in helping the department and the LHCA meet these goals by assisting the hospitals in meeting the threshold criteria to qualify for disproportionate share. As a consequence, it was the department's position that ESI should participate in these payments in accordance with the contract provisions.

XIV. Contract Provisions - Miscellaneous

DHH does not concur with the finding of the Legislature auditor that DHH allowed changes in contract provisions from the original to the current contract that appear to have directly benefitted ESI. Again the auditor does not allege overpayments, only that the changes "may result in potential additional costs".

Attachment II

LHCA Management's Responses

LHCA LOUISIANA HEALTH
CARE AUTHORITY

July 7, 1995

Dr. Daniel G. Kyle, CPA, CFE
Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70802

RE: Response by the Louisiana Health Care Authority to the Legislative Auditor's Financial and Compliance Audit Division, Financial Related Audit, Correspondence of June 5, 1995, regarding Eligibility Services, Inc.

Dear Dr. Kyle:

Thank you for granting the additional time to respond to the Financial Related Audit of the State of Louisiana's contract with Eligibility Services, Inc. Because of responsibilities related to Legislative Session and the close of the Fiscal Year, the LHCA would not have had sufficient time to prepare an adequate response without this extension of time. We appreciate your understanding and cooperation.

It is our opinion that the ESI contract should never have been transferred to the LHCA because of the nature of the services provided under the contract. The responsibility for determination of eligibility is a function reserved to the state Department of Health and Hospitals, not the LHCA.

The original contract was initiated by DHH at a time when the state was in a fiscal crisis. At that time, the state's two-pronged objective was to enhance any and all non-state general fund revenues while at the same time reduce the number of state employees. Because DHH found itself in conflict with these goals, it decided to contract out a service the department believed would, and in fact did, benefit the state.

Although the LHCA does not agree with all of the findings, we do take very seriously the findings of the Legislative Auditor and believe many of the recommendations in the Financial Related Audit have merit. We intend to utilize many of these recommendations in future contracts. More to the subject at hand, DHH, LHCA and ESI will be meeting to (1) determine the extent of any potential overpayment, and (2) by whom the potential overpayment was made. We will seek reimbursement upon a determination that an overpayment was made, in accordance with terms of the contract and state law requiring initial good faith negotiations to resolve contractual disputes.

It should be understood that the original contract and all but Amendment No. 7 to the contract was initiated by DHH. Although funds for the ESI contract were appropriated to the LHCA for the fiscal year beginning July 1, 1992, the controversy over the LHCA Governing Board appointments created a climate of uncertainty which continued until late 1992. Additionally, this was a time of transition during which the LHCA was emerging as an entity separate from DHH and management and staffing functions were being shifted from DHH to the LHCA. During this period, the LHCA and DHH cooperated in the monitoring and payment of invoices under the ESI contract.

It is with this explanation of the origin of the contract that we offer our responses to the findings of the Legislative Auditor.

Contract Monitoring

The LHCA concurs, in part, that it did not establish adequate controls to ensure proper monitoring of the contract as discussed in findings in the audit. The management of LHCA intends to establish controls to assure that subsequent agreements do not place a contractor at a potential advantage over the department as recommended by the Legislative Auditor.

It should be noted that whereas the LHCA was appropriated funds to pay for the original ESI contract for the fiscal year beginning July 1, 1992, Chris Pilley, then secretary of DHH, signed the amendment extending the contract into its third year (August 28, 1992, through August 20, 1993.) This amendment was approved by the Division of Administration on June 12, 1992. Contract monitoring procedures previously established by DHH and in place at that time continued to be followed by the LHCA. The LHCA monitored and verified billings from ESI to assure that payments were based on data supplied by DHH. Each hospital verified and approved each invoice in accordance with procedures set forth by DHH.

1990 Contract - Overpayment

Point Number 1. LHCA does not concur that it may have overpaid ESI by an estimated \$1,890,273 for the original contract. LHCA paid ESI based on the formula methodology schedule prepared 6-21-93 (see attachment 1) approved by Chris Pilley, Secretary of DHH.

Medicaid disproportionate share (DSH) was implemented by Congress to provide additional payments to hospitals who serve a disproportionate share of Medicaid and uninsured patients. Louisiana began the DSH program in state fiscal year 1988-89 and subsequently increased payments under the program until it was capped in 1993 at a level of approximately \$1.2 billion. When the 1990 contract was initiated, Medicaid disproportionate share was included in the Medicaid per diem rate of the charity hospitals. This rate was calculated based on a low income utilization rate formula

which was primarily based on the Medicaid utilization and uncompensated care (free care) charges of each individual facility.

On March 1, 1993, DHH modified the DSH payment methodology and created a system that placed hospitals in pools. Each pool was allocated to individual hospitals based on the number of Medicaid days or free care days of the hospital. In other words, the basic components of Medicaid DSH, Medicaid and free care, were split up and removed from the actual per diem rate paid to a hospital. DHH calculated the "effective per diem rate" associated with each pool. ESI was allowed to participate in revenues related to Medicaid days as if Medicaid DSH were continued to be paid through an all inclusive per diem rate.

In several instances, the Legislative Auditor refers to a percentage of the Federal Financial Participation (FFP) on the Medicaid per diem rate as being the basis for ESI compensation. This is not true as the contract states that the contractor will be paid a percentage of enhanced FFP, and does not make any mention to per diem rates. Paying DSH through pools should not invalidate ESI's compensation which is based on FFP collected and not on base per diem rates. Allowing ESI to participate in the DSH pools, appeared to be the only method available which allowed ESI to be compensated in the Medicaid collections which were in the base per diem rate (which included DSH using a formula that included Medicaid utilization and free care charges) at the time the contract was established.

In a letter dated December 2, 1994 to Mr. Bruce Janet, CPA Audit Manager, from Charles Castille, Deputy Secretary of DHH, he identifies that his investigation determined that the intent of the parties at the time the ESI contract was negotiated was that "enhanced Federal Financial Participation" included disproportionate share funds. It is with the understanding of this intent that the formula methodology schedule was applied to the invoices.

Point Number 2. LHCA reviewed all of the invoices it paid connected with the contract and found that none of the invoices were billed at 22% of FFP as charged by the Legislative Auditor. Therefore, we do not concur with the Auditor's statement that ESI was overpaid by \$240,737.

Point Number 3. As in Point Number 1, the payments by LHCA were based on the FFP rate as stipulated in the formula methodology schedule approved by former Secretary Pilley. It does appear that the rate was incorrect and as previously mentioned DHH, LHCA, and ESI will be meeting to determine the extent of any overpayment and by whom it was made and will secure reimbursement if an overpayment was made, in compliance with the terms of the contract and state law which requires initial good faith negotiations to resolve contract disputes.

1993 Contract - Overpayment

This finding deals with the current contract between ESI and DHH and should more appropriately be addressed by DHH.

Questioned Cost

This finding should more appropriately be addressed by DHH.

Payment from indigent pool

LHCA does not concur with the findings that DHH and the LHCA allowed payments to be made to ESI although no additional revenue was generated for the state. The same argument stated under the **1990 Contract - Overpayment** finding applies to this finding.

Modifications to Contracts

LHCA does not concur that "the changes in method of payment appear to be a modification to the original contracts." The contract states that the contractor will be paid a percentage of enhanced FFP and does not mention the method of reimbursement to the LHCA. In addition the auditor states "Although these invoices were paid, the authority was unable to provide any documentation indicating that management had agreed to the change." This documentation is in the form of the formula methodology schedule prepared June 21, 1993 and approved by Chris Pilley, then Secretary of DHH.

Overpayment computation errors

LHCA does concur that ESI may have been overpaid as a result of computational errors and as previously mentioned DHH, LHCA, and ESI will be meeting to determine the extent of any overpayment and by whom it was made and will secure reimbursement if an overpayment was made, in compliance with the terms of the contract and state law which require initial good faith negotiations to resolve contract disputes.

Payments in Excess of Contract Maximum

LHCA concurs in part that it did not properly monitor total payments made to ESI and paid the contractor \$20,736 above the maximum amount allowed under the original contract. The LHCA did not reconcile the *Contract Management System* and the *Financial Accountability and Control System* in state fiscal year 1992-93. As a result, at the time of the audit, LHCA was utilizing erroneous contract balances. This has been adjusted and although LHCA did pay the contractor \$20,736 above the maximum amount allowed under the original contract, LHCA also had presented to ESI credit memos of \$28,693.66 which when processed will bring the contract within the contract maximum.

Contract Advances

LHCA does not concur with the finding that DHH and LHCA provided ESI a working capital advance of \$303,750. Prior to any monies being transferred to ESI, DHH asked the Division of Administration to review and approve the payment of those funds to ESI. The request was approved by the Division of Administration. LHCA did not participate in this process.

Deloitte and Touche Billings

LHCA does not concur that the inclusion of \$50,150,047 in revenues generated by the activities of ESI in the revenues claimed and billed by Deloitte and Touche, resulting in potential additional payments of \$7,522,507. The function provided by Deloitte and Touche and the function provided by ESI are distinct and separate. ESI determines the eligibility of patients and assists in obtaining the documentation for the patient's eligibility. Deloitte and Touche assists LHCA in insuring that all possible eligible funds are collected and secured for those eligible patients. Therefore, our opinion is that inclusion of the \$50,150,047 is correct.

ESI and Deloitte & Touche are paid for different services required to receive payment for Medicaid claims, both sets of services being essential to overall revenue maximization. Payments to ESI and Deloitte & Touche are based on overall revenues achieved as this is the most appropriate reimbursement methodology and performance measure for the services rendered by each.

The establishment of a patient's eligibility for Medicaid, as ESI does, is a critical item in the overall revenue generation process. However, services rendered by ESI to certify Medicaid patients will not result in new revenue to the State without also charging, coding, billing and collecting for the services, areas in which Deloitte & Touche provides assistance. Therefore, the combination of services provided by ESI and Deloitte & Touche in the instance of new Medicaid eligibles, are both required to enhance the revenues of the LHCA. Since revenue impact is the most appropriate measure for the services performed by both ESI and Deloitte & Touche, revenue enhancement is an appropriate basis for their reimbursement. When Deloitte & Touche and ESI jointly affect revenues associated with an individual patient, there is in fact a higher cost to the LHCA or DHH. However, the benefit to the State is still a considerable multiple since without the combined services, such revenue would be lost entirely.

It must also be recognized that the \$50,150,047 in question included a significant portion of Medicaid disproportionate share payment. While ESI is compensated on FFP which includes disproportionate share, Deloitte & Touche in the current contract beginning October 1, 1992, does not include disproportionate share as a basis for which its compensation is determined. Therefore, it is appropriate to charge that both organizations are claiming these revenues as a basis for payment.

Timely Eligibility Determinations

Eligibility determination as mentioned previously is the responsibility of DHH. It is LHCA's estimation, that compliance with federal regulation in this regard should be addressed by DHH.

Extended Inpatient Stay

LHCA does not concur with the legislative Auditors that "unnecessary payments" were made to the contractor. Although payments were made for extended inpatient stays, it was in compliance with the terms upon which the contractor based their bid. One factor cannot be considered in isolation. Bidders had to consider the work required on those cases that are never certified Medicaid eligible or are certified Medicaid eligible for short stays. It should be noted that the contract stipulated that

the contractor could not refuse a referral of a case. These risk factors have to be considered along with the extended stays when evaluating the appropriateness of payments.

Adjustments to Per Diem Rated

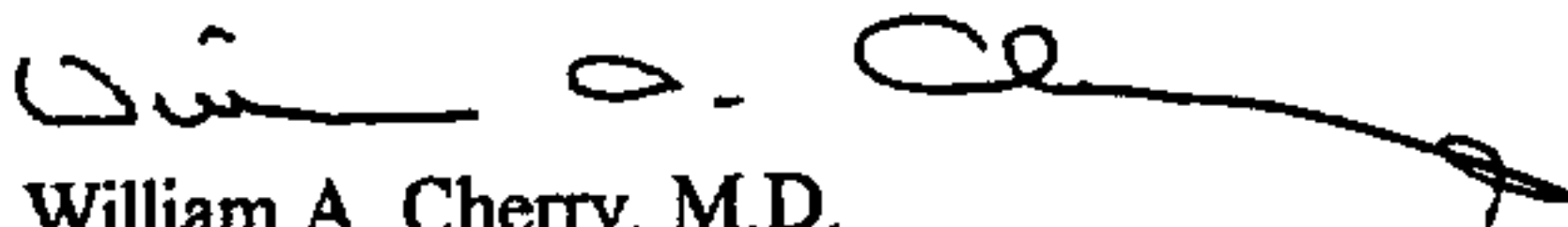
As previously mentioned the amendment to extend the contract into the third year was signed by Chris Pilley, former Secretary of DHH and was approved June 12, 1992 prior to the beginning of the fiscal year 1992-93 in which LHCA was appropriated the funds for the contract. It is therefore the opinion of LHCA that this finding is more appropriately addressed by DHH.

Contract Provisions - Miscellaneous

This finding deals with the current contract between DHH and ESI and should more appropriately be addressed by DHH.

We appreciate your allowing us to review the draft of your report and look forward to working with your office on this project in the future.

Sincerely,



William A. Cherry, M.D.
Chief Executive Officer

cc: Don Elbourne, CFO
Art Landry, Comptroller

DHH does acknowledge that ESI was allowed to accept all referrals at Chabert Medical Center, W. O. Moss Medical Center and University Hospital (New Orleans). This change from the original contract was not implemented to benefit ESI, but to provide essential services at facilities where DHH either had no MAP Units or where there were chronic strategies of MAP personnel. With regard to Moss, it changed from essentially an outpatient facility to a full fledged inpatient hospital at the time the new contract with ESI was awarded. Moss did not have sufficient MAP personnel to handle the increased workload. Chabert experienced significant problems with Medicaid eligibility. As noted by the auditor University Hospital (formerly Hotel Dieu) was acquired by the state in early 1993 and had no MAP Unit. LHCA management requested DHH to allow ESI to handle all referrals at these facilities as a pilot project and DHH agreed. The intent of the project was to ascertain if it would be more efficient to the ESI personnel perform eligibility functions and have MAP personnel perform certification functions (which function could only be done by DHH employees).

The auditor contends that at those facilities ESI gets a greater benefit of multiple referrals since it handles all referrals. It should be noted that the auditor does not contend that the contract was deliberately constructed to achieve this result. DHH in agreeing to the request of LHCA management to allow ESI to handle referrals at all these facilities was an attempt to address a greater problem. The failure of any of these facilities to meet the Medicaid threshold limits for high disproportionate share hospital far outweighed any loss DHH might have incurred by multiple referrals. DHH contends that it made the proper management decision.

Attachment III

**Legislative Auditor's
Additional Comments**

PAYMENT FROM INDIGENT POOL

The DHH management response relating to \$755,308 in overpayments from the indigent pool appears to interpret our finding to mean that ESI should receive only the hospital rate allocated to the indigent pool rather than the actual amount of reimbursement for uncompensated care realized. We noted that ESI was paid based on \$3,039 for indigent pool DISPRO revenues, even though the actual rates applied to those pools by DHH during that time period ranged from \$1,914 to \$2,023. Since ESI established per diems for each of the pool categories (see Chapter 2, page 9 for a description of DISPRO pools), we reviewed these rates separately. The \$755,308 overpayment is not related to our findings based on whether we believe that ESI should have been entitled to payments from the indigent pool. It is based only on the per diem rates used at which ESI billed.

CONTRACT ADVANCES

Although the payment of working capital advances may have been intended to correct perceived inequities resulting from tasks for which DHH was responsible (i.e., timely billing), it is questionable that the working capital advance was necessary. At the same time that a contract amendment allowing the advance was authorized, an additional amendment that allowed ESI to be paid for eligible receipts (in advance of actual receipt of funds by the hospitals) was also authorized. Allowing ESI to be paid based on eligible receipts should have been sufficient to compensate for any inequity caused by any timing delays associated with billing. ESI stated in its response to the RFP for the original contract that it would have sufficient working capital available to fulfill the terms of the contract. In addition, other bidders who may have been precluded from participation in the RFP might have submitted bids if they had known that the department would have allowed a working capital advance.

The state is not responsible for maintaining a profit for business. Businesses loan other businesses and state government's money, whether in cash or goods or services, as a normal operating practice. There is no difference in ESI providing a service than a vendor delivering goods with a promise to pay in the future by the state. If vendors have cash flow problems, they generally seek loans from financial institutions. Likewise, ESI could have sought loans from financial institutions based on the contract it had with DHH. In effect, by providing a working capital advance, DHH has acted as ESI's financial institution and provided a business loan at zero percent interest.

LHCA did not concur with our finding relating to contract advances because the request for the amendment was approved by the Division of Administration, and LHCA did not participate in the process. However, on October 29, 1992, an LHCA official approved the payment of the third working capital advance to ESI. The authority, therefore, had the opportunity to review the practice of providing the advances and decide on the legality of the issue for itself.

ADJUSTMENTS TO PER DIEM RATES

The changes in the per diem rates for the hospitals were not made based on any work performed by ESI. In fact, from the time that ESI presented its proposal to the department to the actual time that the contract was negotiated, per diem rates at the various facilities had increased, in some instances by over 100 percent. These changes were not the result of any effort on the part of ESI since they became effective before work began under the contract. However, ESI was allowed to participate in these, and all other increases in the per diems. The increases would not have been a function of eligibility determinations. DISPRO revenues increased because of the increased costs of providing free care. ESI's work, providing information to assist the state in certifying free care patients as Medicaid eligible, has the effect of reducing the cost of free care and reducing the facilities' shares of DISPRO revenues.

DHH has stated that ESI played a key role in helping the department and the authority by assisting the hospitals in meeting the threshold criteria to qualify for participation in DISPRO revenues. A review of the RFP, the contract, and other associated documents provided no evidence that this was an objective of the contract. If this is now stated to be one of the objectives, then the nature of the work to be performed by ESI is not as it was defined in the contract.

Finally, DHH allowed ESI to participate in and benefit from all increases in per diem rates, but did not require that ESI also participate in any decreases in per diem rates, resulting in all the risk being borne by the state while the contractor received all the benefits.

CONTRACT PROVISIONS - MISCELLANEOUS

During the period the department contracted with ESI, the MAP unit at Leonard Chabert Medical Center was eliminated. Based on our estimate of the structure necessary to support eligibility determinations in this region (from interviews with DHH personnel, a review of the ESI staff structure, and an analysis of applicable civil service salaries), a staff of 13 would be necessary to perform the eligibility determinations function for Chabert. Our estimate of the maximum annual cost of this staff, including benefits, is \$532,000. For the period November 1993 through December 1994, when there was no MAP unit function at Chabert, and ESI received all referrals for eligibility determinations, ESI has been paid \$2,280,324, or more than four times the amount it would have cost the department had it maintained the function without ESI for the same time period.

ORIGINAL SCHEDULE

UNIVERSITY OF CALIFORNIA - ESI
 POOL DISPROPORTIONATE SHARE
 MARCH 1990 - SEPTEMBER 1990

FORMULA METHODOLOGY SCHEDULE

DISPRO POOLS	MEDICAL CENTER	POOL DAYS		PROJ. DSH PAYMENTS		LESS FFP 74.45% (DAILY)	ESI FEE 20% (DAILY)
		(12 MOS.)	(7 MOS.)	(7 MOS.)	(DAILY)		
(1) TEACHING	CHANDLER CTR OF LA @NO	69,167	48,237	62,004,804	8,952,401	957,988	181,598
	EARL K. LONG	86,748	20,734	23,789,728	3,368,675	853,885	170,777
	E.A. CONWAY	38,175	17,502	20,054,108	2,858,300	853,885	170,777
	HUEY P. LONG	19,283	7,853	8,878,895	1,259,842	853,885	170,777
	SOUTH LA MED CTR @ J. CHABERT	22,571	13,091	15,008,014	2,144,002	853,885	170,777
	UNIVERSITY MED CTR	27,103	16,720	18,021,482	2,574,983	853,885	170,777
(2) NON-TEACHING	W.D. MOSS	1,101	630	489,888	69,832	571,12	114,322
(3) PSYCH	CHANDLER CTR OF LA @NO	12,887	7,445	3,533,057	478,905	338,02	67,29
	EARL K. LONG	5,140	2,980	1,344,980	182,340	338,02	67,29
	E.A. CONWAY	3,421	1,894	885,173	127,882	338,02	67,29
	HUEY P. LONG	1,686	878	411,175	53,025	338,02	67,29
	SOUTH LA MED CTR @ J. CHABERT	1,508	873	394,598	50,271	338,02	67,29
	UNIVERSITY MED CTR	2,227	1,282	582,728	78,218	338,02	67,29
(4) INCREAS	W.D. MOSS	1,943	1,127	508,425	72,532	338,02	67,29
(5) NON-ANNUALIZED CHNO DAYS (ESI NOT INVOLVED WITH HOTEL DER)	CHANDLER CTR OF LA @NO	23,925	31,277	41,303,938	5,900,847	883,63	196,73
	EARL K. LONG	7,218	4,185	5,527,373	788,825	883,63	196,73
	E.A. CONWAY	23,186	11,896	15,495,324	2,288,703	883,63	196,73
	HUEY P. LONG	7,218	4,185	5,527,373	788,825	883,63	196,73
	SOUTH LA MED CTR @ J. CHABERT	2,410	1,398	1,848,932	263,718	883,63	196,73
	UNIVERSITY MED CTR	22,922	13,295	17,557,589	2,528,284	883,63	196,73
(6) NON-ANNUALIZED CHNO DAYS (ESI NOT INVOLVED WITH HOTEL DER)	W.D. MOSS	4,614	2,678	3,634,271	504,898	883,63	196,73

PREPARED: 6-21-90

APPROVED: *J. Christy P. King*
 Dept. Health & Hospitals

FORMULA METHODOLOGY
 1. Actual Pool Days (12 mos) x 50% (7 of 12 mos) = Pool Days (7 mos)
 2. Projected DSH Payment (7 mos) divided by Pool Days (7 mos) = Projected DSH Payment (daily)
 3. Projected DSH Payment (daily) x 74.45% FFP x 20% ESI fee = ESI Fee (daily)