U.S. DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL
75 Park Place, 12th Floor
New York, New York 10007

March 30, 2004

Control Number
ED-OIG/A02-D0014

Honorable César A. Rey-Hernández
Secretary of Education
Puerto Rico Department of Education
Calle Teniente González, Esq. Calle Calaf – 12th Floor
Urb. Tres Monjitas
San Juan, Puerto Rico 00919

Dear Secretary Rey-Hernández:

This is our Final Audit Report entitled *Puerto Rico Department of Education's (PRDE) Title I Expenditures for the period, July 1, 2002 to December 31, 2002*. The objective of our audit was to determine if the non-salary, Elementary and Secondary Education Act, Title I, Part A expenditures reported by PRDE for the six-month period ending December 31, 2002, were allowable and spent in accordance with Federal law and regulations. During the course of the expenditure review, we found that PRDE had allowed approximately $109.8 million to lapse for the grant award years 1997 through 2001. We also found that PRDE improperly expended $49,536 in Title I funding.

We provided a draft of this report to PRDE. In its response dated March 12, 2004, PRDE stated that it is working in cooperation with the U.S. Department of Education (ED) to ensure that lapsed Title I funds can be reimbursed to PRDE as quickly as possible. PRDE also stated that the questioned expenditures at the targeted assistance schools failed to establish harm to the Federal interest. PRDE's response did not cause us to change our findings or recommendations. We have summarized PRDE's comments after each finding and have included PRDE's entire response as an Attachment.

BACKGROUND

On May 29, 2002, ED designated PRDE as a "high-risk" grantee under 34 C.F.R. § 80.12 because of problems in PRDE's fiscal and program accountability such as:

- late submission of Single Audits,
- failure to adhere to procurement regulations and procedures,
- lack of proper internal controls, and
- actions leading to the indictments of the former Secretary of Education and other associated individuals.

On June 27, 2002, PRDE submitted a Corrective Action Plan that outlined steps already taken and those to be taken to address the problems and ensure compliance with all of the requirements applicable to ED's programs.

On August 28, 2002, ED informed PRDE that the Office of Elementary and Secondary Education (OESE) had approved the issuance of fiscal year 2002 grant awards for 12 programs with Special Conditions. The Special Conditions required quarterly reports for each program with regard to expenditures and progress in implementing the grants, and a quarterly report of PRDE's progress in implementing the Corrective Action Plan. ED allowed PRDE to draw down only up to half of the total funding on each of these grants until ED received the first quarterly report and determined PRDE demonstrated substantial progress.

On January 31, 2003, PRDE submitted to ED the first quarterly report, which included the six-month period, July 1, 2002 to December 31, 2002. The report covered $258 million in expenditures incurred by PRDE from Federal education funds for this six-month period. Our audit report covers non-salary related Title I expenditures that totaled $18,653,325, as reported by PRDE.

AUDIT RESULTS

Finding 1 PRDE had approximately $109.8 million in Title I funds that have lapsed

PRDE did not effectively manage its Federal grant funds. As a result, PRDE will be unable to use $109,805,677 in five Title I grants, awarded from October 1, 1997, through July 1, 2001. These funds could have been used to benefit Title I students. Of that amount, $15,937,608 from one of the grant awards was de-obligated and reverted to the U.S. Treasury on September 30, 2003. The remaining $93,868,069 from the other four grants lapsed and will revert to the U.S. Treasury unless PRDE can provide evidence to ED of outstanding expenses obligated during the grant periods.

According to 34 C.F.R. § 80.20(b)(2),[1] "Accounting records . . . must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income."

The regulations at 34 C.F.R. § 80.20(b)(3) state, "Internal Control . . . Effective control and accountability must be maintained for all grant and subgrant cash . . . ."

Pursuant to 34 C.F.R. § 80.23(a) and (b), "Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period. . . . A grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period. . . . The Federal agency may extend this deadline at the request of the grantee."

[1] Unless otherwise specified, all regulatory citations are to the July 1, 2002 volume.

Under the "Tydings Amendment," Section 421(b) of the General Education Provisions Act, 20 U.S.C. 1225(b), any funds not obligated and expended during the period for which they were awarded become carryover funds and may be obligated and expended during the succeeding fiscal year.

ED's Grant Administration and Payment System (GAPS) shows information on grant awards, such as authorizations, confirmed deposits, draws, and available balances. As of March 12, 2004, GAPS reported the following Title I grant award funds as lapsed:

Grant Award	Authorization	Lapsed Funds
S010A970052	$ 262,486,541	$15,937,608
S010A980052	262,430,968	1,306,037
S010A990052	262,430,237	19,735,690
S010A000052	262,415,735	31,409,119
S010A010052	267,301,457	41,417,223
Totals	$1,317,064, 938	$ 109,805,677

Of the $109,805,677 in lapsed funds, $15,937,608 from award S010A970052 reverted to the U.S. Treasury on September 30, 2003.

PRDE did not closely monitor available grant balances. According to PRDE officials, the problem began when PRDE's Budget Division did not open grant accounts timely in the Puerto Rico Treasury Department's Puerto Rico Integrated Financial Accounting System (PRIFAS). PRDE officials stated that this forced them to charge payroll for the new grants to the previous grant year or any other grant that had an available balance, resulting in untimely multiple adjusting entries in GAPS.

Additionally, PRDE officials stated that their Accounting Division did not obtain the payroll report, known as the GL 200, from the Puerto Rico Treasury Department until two to three months after the payroll had been processed. Consequently, PRDE had to make multiple adjusting entries months after the charges were made and, in some instances, after the grant had been closed in GAPS.

PRDE officials stated that they allowed charges to be made to previous grant years because the account codes in PRIFAS remained open for five years, as opposed to three years in GAPS. This allowed charges to be made against the grants for funding periods already closed in GAPS.

We concluded that, had internal controls been in place to prevent lapsed funds, approximately $109.8 million could have been better used to provide Title I services to Puerto Rico's students.

Recommendations

We recommend that the Assistant Secretary for OESE require PRDE to:

1.1 Provide evidence to OESE of any valid obligations made within the authorized award periods so that grants, with funds that have not yet reverted to the U.S. Treasury, can be reopened and funds liquidated;

1.2 Access and use the data in GAPS to closely monitor available grant balances;

1.3 Implement a system that will require PRDE's Budget Division to open new grant account codes upon the receipt of the Grant Award Notification;

1.4 Open the grant account codes in PRIFAS timely and make payroll charges to the corresponding grant year only;

1.5 Implement a system that will allow the receipt of the GL 200 payroll report from the Puerto Rico Treasury Department no more than two weeks after the payroll has been processed; and

1.6 Implement a system that will require PRDE's Accounting Division to make timely reconciliations to the GL 200 payroll report and timely adjusting entries to GAPS, as appropriate.

PRDE's response

PRDE stated that it is working in cooperation with ED to ensure that lapsed Title I funds can be reimbursed as quickly as possible. During recent conversations with ED, PRDE explained that it had properly obligated the funds in question during the authorized period, but ED had not reimbursed the funds. PRDE indicated that once it provides evidence to ED of obligations that were properly incurred, but not reimbursed, ED would reopen the grants and permit PRDE to liquidate the funds.

OIG's reply

We considered PRDE's response, but did not change our finding or recommendations. Although PRDE is working with ED to ensure that funds can be reimbursed, PRDE must provide evidence that the obligations were incurred within the grant period. PRDE also made adjustments and liquidations to grant award S010A010052, and we have adjusted the lapsed funds amounts accordingly. No other adjustments or liquidations occurred to the remaining reported Title I grant awards. As a result, PRDE had lapsed funds totaling $109,805,677, as of March 12, 2004.

Although PRDE reported it is in the process of implementing recommendation 1.1, it did not present a corrective action plan addressing the remaining recommendations to avoid this situation in the future. Specifically, PRDE did not address recommendations 1.2 through 1.6.

As a result, PRDE is unable to ensure that Title I funds will not continue to lapse and revert to the U.S. Treasury.

Finding 2 PRDE improperly expended $49,536 in Title I funds

PRDE did not properly monitor Title I expenditures in the regions and at targeted assistance schools. Also, PRDE officials lacked knowledge and training in the proper use of Title I funds at targeted assistance schools. Our review of a sample of non-salary related Title I expenditures reported by PRDE for the period July 1, 2002, through December 31, 2002, disclosed that PRDE improperly expended $49,536 in Title I funds. As a result, PRDE could not assure ED that funds were expended properly.

Appropriate use of Title I funds depends on whether the school is operating a schoolwide program or a targeted assistance program. According to the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001,

> Sec. 1114. Schoolwide Programs. (a) Use of Funds for Schoolwide Programs – (1) In General - A local educational agency may consolidate and use funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families.
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> Sec. 1115. Targeted Assistance Schools. (a) In General . . . all schools selected to receive funds . . . that are ineligible for a schoolwide program . . . or that choose not to operate such a schoolwide program . . . may use funds received under this part only for programs that provide services to eligible children . . . identified as having the greatest need for special assistance.
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> [Sec. 1115(b)(3) states,] Funds received under this part may not be used to provide services that are otherwise required by law to be made available to children . . . but may be used to coordinate or supplement such services.

We found that PRDE expended $42,941 in Title I funds to supplant rather than supplement State funds at a targeted assistance school. This school purchased a digital duplicator, supplies, computer equipment, and computer licenses that were used by ineligible students. We also found that at another targeted assistance school PRDE improperly expended $275 to purchase a desk for a principal. PRDE expended $1,950 for catering services at training entitled "Nursing Mothers" given to school nurses. In addition, a PRDE region improperly charged $4,370 to Title I when the expense was actually for Title II, Class Size Reduction.

Recommendations

We recommend that the Assistant Secretary for OESE require PRDE to:

2.1 Refund $49,536 for improper expenditures to the Title I account;

2.2 Institute monitoring controls to ensure targeted assistance schools properly expend Title I funds according to the regulations; and

2.3 Provide training to PRDE officials regarding the supplementing provisions of the Title I program.

PRDE's response

PRDE stated that the questioned expenditures at the targeted assistance schools failed to establish harm to the Federal interest. PRDE stated at least $43,216 ($42,941 and $275) of questionable expenditures in two schools, Republica El Salvador and Sotero Figueroa, were used to satisfy the requirements of a schoolwide program. PRDE also stated that although the draft audit report treated the two schools as targeted assistance schools, both schools meet the qualification for a schoolwide program under section 1114 of the Elementary and Secondary Education Act.

OIG's reply

We considered PRDE's response, but did not change our finding or recommendations. Although PRDE stated both Republica El Salvador and Sotero Figueroa meet the qualifications for a schoolwide program, PRDE had designated both schools as targeted assistance schools. In fact, PRDE provided OIG documentation during the audit that these two schools were targeted assistance schools. As a result, expenditures must be treated as targeted assistance school expenses. PRDE did not provide a response to the remaining questioned costs or recommendations 2.2 and 2.3.

OTHER MATTERS

During our audit work, we noticed significant lapsed funds in program areas that are in addition to the scope of this audit. On December 9, 2003, we issued an Interim Audit Memorandum (State and Local No. 04-02) to ED's Chief Financial Officer identifying a total of approximately $217.4 million in ED grant funds that would lapse by December 31, 2003. This amount included the $96.3 million reported in the draft of this report, the $38.3 million reported in our concurrent draft audit report on PRDE's Special Education Expenditures (report No. ED-OIG/A02-D0020), and $82.8 million we identified in grant funds that are from programs outside the scope of these two audits. As of March 12, 2004, PRDE had lapsed funds totaling $109.8 million and $38.1 million for Title I and Special Education grants, respectively. Had internal controls been in place to prevent lapsed funds, and pending evidence of any outstanding obligations, approximately $230.7 million in ED grants could have been better used to provide services to Puerto Rico's students.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine if the non-salary, Title I expenditures reported by PRDE for the six-month period ending December 31, 2002, were allowable and in accordance with Federal law and regulations.

To accomplish our audit objective, we reviewed PRDE's fiscal year 2002 Single Audit report and documents supporting the expenditures selected for testing. In addition, we interviewed ED program officials, PRDE's Central Office officials, and PRDE's regional and school officials. We performed our fieldwork at PRDE's offices in Hato Rey, Puerto Rico, from April 16, 2003, through October 20, 2003, the date of our exit conference.

To test the expenditures, we made site visits, from August 26, 2003, through August 29, 2003, to the following targeted assistance schools: SU Nemesio R. Canales II, República El Salvador, Miguel Such, Dr. José N. Gandara, Dr. José Celso Barbosa, Luis Muñoz Rivera, Juan Antonio Corretjer, Sotero Figueroa, Berwind Superior, and Jose F. Díaz.

To achieve our audit objective, we selected both random and judgmental samples from a universe developed from the $139,608,705 of Title I expenditures reported by PRDE in its January 31, 2003, report to ED. Of that amount, $18,653,325 represented non-salary related expenditures. Included in this total were expenditures not covered by the Special Conditions reporting requirement (2002/2003 expenditures). First, we selected random samples and found that some transactions were grouped transactions that contained multiple (50 plus) expenditures. We then judgmentally selected from within these grouped transactions for testing. We stratified our sample between non-salary related expenditures covered by the Special Conditions and the expenditures not covered by the Special Conditions. The universe of non-salary expenditures covered by the Special Conditions was 558 expenses totaling $4,098,268. The universe of non-salary expenditures not covered by the Special Conditions was 3,789 expenses totaling $14,555,057, including numerous negative adjusting transactions.

We sampled 30 expenditures from the universe of expenditures covered by the Special Conditions; 50 expenditures from the universe of expenditures not covered by the Special Conditions; and 10 judgmentally selected negative expenditures from the universe of non-Special Conditions expenditures.

The sample of 30 expenditures from the universe of expenditures covered by the Special Conditions was stratified by dollar volume, omitting transactions under $1,000, and using the following strata:

$1,000 - $12,999	17 expenditures
$13,000 - $159,999	5 expenditures
$160,000 plus	8 expenditures

The sample of 50 expenditures from the universe of positive expenditures not covered by the Special Conditions was stratified by dollar volume, using the following strata:

\$2,000 - \$9,999	20 expenditures
\$10,000 - \$99,999	10 expenditures
\$100,000 - \$999,999	10 expenditures
\$1,000,000 plus	10 expenditures

The judgmental sample of 10 negative expenditures not covered by the Special Conditions was based on the highest dollar expenditure.

In total, our samples accounted for \$7,123,033 (38 percent) of the total reported non-salary related Title I expenditures. However, included in our samples were 19 "Petition of Funds" transactions. These transactions represent the disbursement of funds to Community Schools and were not actually 19 transactions, but multiple (50 plus) expenditures, supporting one transaction. As a result, we selected a judgmental sample based on the schools receiving the most funds. Using this basis, we judgmentally selected the targeted assistance schools in the San Juan Region.

To achieve our objective, we relied on the computer-processed data provided by PRDE to ED in its report dated January 31, 2003. To test the reliability and completeness of PRDE's data, we attempted to reconcile the expenditures reported by PRDE to drawdowns reported in GAPS. While verifying PRDE's GAPS reconciliations, we found five grants with closed funding periods that had lapsed funds. Consequently, we incorporated this matter and its effects in the AUDIT RESULTS section of this report.

To further test the reliability of the data, we tested three GAPS drawdowns. To accomplish this analysis we requested PRDE to re-run its query of PRIFAS to determine if the query submitted to ED was complete. Based upon these tests, we concluded that the data was not complete, but it was sufficiently reliable for audit purposes.

We conducted the audit in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

STATEMENT ON MANAGEMENT CONTROLS

As part of this audit we assessed the system of management controls applicable to PRDE's administration of Title I expenditures and Title I account balances. Our assessment was performed to gain an understanding of PRDE's system. Based on previous knowledge gained through our prior audits (ED-OIG/A01-90006, ED-OIG/A01-90007, ED-OIG/A01-A0004, ED-OIG/A02-B0012, ED-OIG/A02-B0025, and ED-OIG/A02-C00017) and ED's designation of PRDE as a "high-risk" grantee under 34 C.F.R. § 80.12, we determined the level of control risk, that is the risk that material errors, or irregularities, or illegal actions may occur, to be high. We found that PRDE lacked adequate controls for managing its Title I account balances and for expending Title I funds. These weaknesses and their effects are fully disclosed in the AUDIT RESULTS section of this report.

ADMINISTRATIVE MATTERS

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on this audit:

Raymond J. Simon
Assistant Secretary
Office of Elementary and Secondary Education
Federal Building 6
400 Maryland Ave., SW, Room 3W315
Washington, D.C. 20202

It is the policy of the U.S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent the information contained therein is not subject to exemptions in the Act.

Sincerely,

/s/

Daniel P. Schultz
Regional Inspector General
for Audit

TRANSMITTAL MEMORANDUM

TO: **Daniel P. Schultz**
FROM: **Ileana Fas Pacheco**
DATE: **March 12, 2004**

RE: **Response to OIG Draft Audit Reports**

Attached please find the Puerto Rico Department of Education's response to Draft OIG Audit Reports: ED-OIG/A02-D0014 and ED-OIG/A02-D0020.

For the Special Education Response (Response to ED-OIG/A02-D0020), attached please also find a cover letter from PRDE's Assistant Secretary for Special Education and Exhibits for the Special Education Response. If you would like a hard copy of any of these documents, please let us know and we will be happy to send them to you.

If you have any questions, please feel free to contact me.

OIG DRAFT AUDIT REPORT
PRDE's TITLE I EXPENDITURES
AUDIT CONTROL NO. ED-OIG/A02-D0014

The Puerto Rico Department of Education (PRDE) appreciates the opportunity to respond to the Office of Inspector General's (OIG) findings outlined in its January 26, 2004 draft audit report. This response was originally due thirty days after the date of the letter (February 25, 2004). On February 17, 2004, the PRDE requested an extension to respond to the findings due to the ongoing negotiations with the U.S. Department of Education on Finding One. OIG granted the extension and required that this response be submitted no later than March 12, 2004.

PRDE has the following response to the findings contained in the audit report.

Finding One – PRDE had approximately $96.3 million in Title I funds that have lapsed

Finding One states that $96,314,200 of Title I grant money "will revert to the U.S. Treasury unless PRDE can provide evidence to ED of outstanding expenses obligated during the grant period."

PRDE is working in cooperation with the U.S. Department of Education (ED) to ensure that these funds can be reimbursed to PRDE as quickly as possible. During recent conversations with ED, PRDE explained that it properly obligated the funds in question during the authorized award periods. Federal accounts were properly opened, and expenses incurred to the relevant accounts, but funds were not reimbursed to PRDE. It should be noted that because these Title I grants exceed $10 million, PRDE is required to use the zero balance/reimbursement technique for these funds under the Treasury-State Agreement between the United States and Puerto Rico.

PRDE has developed a methodology, which has been accepted by ED in recent conversations, which will allow PRDE to demonstrate the timely obligation of the Title I grants. ED has stated that once PRDE provides evidence of obligations that were properly incurred, but not reimbursed, ED will reopen these grants and permit PRDE to liquidate the funds in question.

Finding Two – PRDE improperly expended $49,536 in Title I funds

Finding Two states that PRDE improperly expended $49,536 worth of Title I funds. The vast majority of that total represents the questioned costs for expenditures at targeted assistance schools (comprised of $42,941 in one targeted assistance school and $275 at another targeted assistance school).

PRDE is committed to strengthening its federal grants management system and is working cooperatively with the U.S. Department of Education toward that goal. However, PRDE believes that the questioned expenditures at the targeted assistance schools fail to establish harm to the federal interest.

The Draft Audit Report concludes that expenditures made at two targeted assistance schools impermissibly supplanted state funds. Although the Draft Audit Report treats these two schools as targeted assistance schools, both schools meet the qualifications for schoolwide program schools under section 1114 of the Elementary and Secondary Education Act (ESEA). They should be treated as such for purposes of determining whether the expenditures resulted in any harm to the federal interest. Because funds in a schoolwide program may be used to benefit all students in a school, and the funds lose their programmatic identity at the "schoolhouse door" so long as the underlying intent and purposes of each federal program are met, the expenditures in this case would have been allowable had the two schools been treated as schoolwide program schools.

Under section 1114 of the ESEA, an eligible school may operate a schoolwide program by consolidating and using funds to upgrade the entire educational program of the school. In order to operate a schoolwide program, a school must serve an eligible attendance area. Further, for the initial year of the program at least forty percent of the children in the school's attendance area, or forty percent of the children actually enrolled in the school, must be from low-income families. Schools that satisfy these eligibility requirements may operate schoolwide programs.

A school wishing to operate such a program must comprehensively assess the needs of all children and develop a plan to improve academic achievement throughout the school. This planning process must ensure the school's program incorporates strategies to provide all students with opportunities to achieve proficiency on state academic achievements, use effective methods to strengthen the core academic program, provide an enriched and accelerated curriculum, increase the amount and quality of learning time, meet the educational needs of historically underserved populations, and involve parents.

Both schools discussed in the Draft Audit Report, the Republic de El Salvador School and Sotero Figueroa, are eligible schools running programs that satisfy the requirements of a schoolwide program. Both schools serve eligible attendance areas and serve a sufficient percentage of children from low-income families. The Republic de El Salvador school serves 172 students, 77.18 percent of which are from low-income families. Sotero Figueroa serves 243 students, 41.27 percent of which are from low-income families.

In addition, both schools have undertaken activities to ensure that the academic achievement of all children is improved. Both the Republic de El Salvador school and Sotero Figueroa school devote resources to strengthening core academic programs, meeting the needs of historically underserved students, providing high-quality and ongoing professional development for school staff, and increasing parental involvement. All of these elements are included in section 1114 of ESEA and its accompanying regulations.

An eligible school operating a schoolwide program may consolidate federal, state, and local funds. The consolidated funds may be spent to benefit all children in the school. Therefore, schoolwide program schools are not required to show that federal funds are used only for specific target populations. While the Draft Audit Report questioned costs at the two schools because they were targeted assistance schools, because these schools meet the prerequisites for schoolwide status, PRDE believes they should be treated as such for purposes of determining the harm to the federal interest in this case.

Both the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR) require the U.S. Department of Education to use proportionality when requiring funds be returned to the federal government. In determining proportionality, the USDE must follow the principle that:

> A recipient that made an unallowable expenditure or otherwise failed to account properly for funds shall return an amount that is proportional to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which it received the grant or cooperative agreement. 34 C.F.R. §81.32(a)(1).

The expenditures questioned in the Draft Audit Report would have been allowable had the schools been treated as schoolwide program schools. Since both schools are eligible to operate schoolwide programs and both have engaged in planning efforts that satisfy the components of such a program, there is no harm to the federal interest in this case. PRDE should not be required to return the questioned funds.