



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE INSPECTOR GENERAL

December 15, 2004

Control Number
ED-OIG/A02-E0016

Jack Martin, Chief Financial Officer
Office of the Chief Financial Officer
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Mr. Martin:

This is our Final Audit Report entitled *Puerto Rico Department of Education's (PRDE) Repeated Single Audit Findings*. The objective of our audit was to identify to the U.S. Department of Education (ED), repeated single audit findings not incorporated in the special conditions placed on PRDE's grants for fiscal year 2003-2004.

We determined that the following single audit repeated findings were not incorporated in the special conditions that ED placed on PRDE's grants for fiscal year 2003-2004. These findings should be considered when placing special conditions on PRDE's future grants:

- Property and Equipment
- Accounting Records
- Accounting Records of the Community Schools Administration
- Cash Management Test at the Public Schools Level

A draft of this report was provided to ED's Office of the Chief Financial Officer (OCFO) for comment. In its response, dated December 2, 2004, the OCFO agreed with our finding and recommendations. The OCFO stated that it included the repeated single audit findings mentioned in the report in the special conditions placed on PRDE for fiscal year 2004. We have summarized OCFO's comments after the finding and have included OCFO's entire response as an Attachment.

BACKGROUND

On May 2002, ED designated PRDE a "high-risk grantee" under 34 C.F.R. § 80.12, making the agency subject to special conditions in all Federal education programs it administers. In August 2002, ED placed special conditions on PRDE's grants because of problems with PRDE's fiscal and program accountability. In September 2003, ED again placed special conditions on PRDE's grants to help ensure that awards were expended in accordance with applicable legal requirements and with appropriate fiscal accountability measures, management practices, and controls. The special conditions included the strengthening of PRDE's Internal Audit Office, reporting on liquidations and purpose of expenditures, implementing an appropriate procurement

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1510

www.ed.gov

Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.

system, and assuring that only Title I employees would be paid with Title I funds.

PRDE must comply with the audit requirements of the Single Audit Act. PRDE's single audit auditors must:

- Determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;
- Determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;
- Evaluate internal controls pertaining to the compliance requirements for each major program; and
- Determine whether the entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

AUDIT RESULTS

Our review of PRDE's single audit repeated findings, disclosed that the findings related to Property and Equipment, Accounting Records, Accounting Records of the Community Schools Administration, and Cash Management were not incorporated in the special conditions ED placed on PRDE's grants for fiscal year 2003-2004. These repeated findings were the result of inadequate completion of corrective action plans in response to PRDE's single audit reports. Additionally, ED had not closely monitored PRDE's implementation of the corrective action plans. As a result, ED could not ensure that PRDE adequately managed Federal funds.

Property and Equipment

Since 1998, PRDE's controls over property and equipment acquired with ED funds have been questioned in single audit reports. Recent OIG work has also revealed that PRDE did not maintain required documentation related to property and equipment acquired with ED funds, and did not perform a physical inventory of the property.¹

The 2003 single audit report stated that PRDE's Property and Equipment Division (the Property Division) lacked internal controls over property and equipment acquired with Federal funds. Specifically, the Property Division did not maintain an effective property and equipment system that would support the preparation of a current and complete subsidiary ledger. Each item of acquired property and equipment was recorded on a handwritten index card. The filing system used to file these cards was inadequate because property and equipment items could not be easily located. In addition, the Property Division had not established adequate procedures to ensure that all property and equipment acquired under different Federal programs were recorded. Also, there were no established procedures to update the property records when an item of property or equipment was transferred from one location to another or was discarded. Furthermore, the Property Division's records did not identify the percentage of Federal participation in the cost of

¹ *Puerto Rico Department of Education Did Not Administer Properly a \$9,700,000 Contract With National School Services of Puerto Rico* (ED/OIG A01-A0004) identified that PRDE did not inventory materials, equipment, and property purchased with ED funds under the subject contract.

property partially acquired with Federal funds, and a physical inventory was not performed at least annually.

Total equipment purchased with ED funds during PRDE's fiscal year 2002-2003, as recorded on PRDE's accounting records, totaled \$17,668,823. This amount excludes equipment purchased through the Community Schools Administration and the community schools. The actual amount of funds transferred to the community schools for the acquisition of property and equipment was not readily determinable because all transfers were recorded as miscellaneous transfers. During fiscal year 2002-2003, Federal funds amounting to \$71,024,932 were transferred to the community schools to acquire, among other things, property and equipment. The same deficiencies were also reported in the 2001 and 2002 single audit reports.

PRDE's single audit auditors stated that there was a high incidence of equipment theft at PRDE. The auditors explained that three laptop computers had been stolen from their office at PRDE. When they filed a police report, they noticed that there were numerous cases of PRDE property theft waiting to be resolved. In addition, the auditors stated that the majority of this equipment was unaccounted for in PRDE's inventory records. The auditors considered the property and equipment issues to be a serious problem.

According to 34 C.F.R. § 80.32(b),² a State will use, manage, and dispose of the equipment acquired under a grant in accordance with State laws and procedures.

Section XII of Puerto Rico Treasury Department's (Hacienda)³ Ruling #11: "Basic Guidelines for the Control and Accounting of Fixed Assets" establishes that State agencies shall perform a physical inventory on an annual basis of all the property under their jurisdiction. An officer not in charge of the controls and accounting of the property should compare the results with the property records. Differences should be reconciled and property records adjusted, as applicable. In addition, it states that the inventory must specify the property number, the serial number, the location of the property, description of the property, and the cost.

Also, 34 C.F.R. § 80.20(b)(3) establishes that effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

Since 2000, PRDE has stated in its corrective action plans that it has been developing regulations to improve its management of property. However, because the finding continues to appear in subsequent single audit reports, adequate progress has not been made. The Property Division must establish adequate procedures to ensure that all property and equipment acquired under different Federal programs are recorded and properly accounted for.

² Unless otherwise specified, all regulatory citations are to the July 1, 2002 volume.

³ Hacienda is the State agency responsible for the administration and disbursement of Federal funds.

Accounting Records

The "Accounting Records" finding has been reported in PRDE's single audit reports since 1991. For the year ended June 30, 2003, the auditors noted that PRDE had inappropriate and/or incomplete cut-off procedures, as well as incomplete month-end and year-end closing procedures. Many transactions were posted months after the applicable closing, with a retroactive effect. Also, the filing procedures followed by PRDE's personnel and the lack of communication and appropriate coordination did not permit the prompt retrieval of payments and other requested documents. Additionally, various payment documents and other important data were maintained and filed without any logical sequence. Furthermore, PRDE lacked an automated mechanized payroll system to account for compensated absences.

The same deficiencies noted above were reported in the 2001 and 2002 single audit reports. The 2002 single audit also reported that the accounting procedures followed by PRDE did not provide for the recording of expense adjustments related to amounts paid to suppliers and employees. These adjustments were later determined to be inappropriate, overpaid, and/or unallowable. Even though this deficiency was not reported in 2003, recent OIG audits have found that accounting procedures used by PRDE to record payroll and other adjustments are inappropriate and are the principal cause for lapsed funds.⁴

According to PRDE's single audit auditors, Puerto Rico law does not require PRDE to maintain reporting policies in accordance with generally accepted accounting principles, but it is highly recommended. The auditors recommended that Hacienda establish a position regarding this issue. Concerning the deficiencies associated with accounting procedures, the auditors stated that the problems related to adjusting entries persisted and worsened every year. In addition, the auditors contended that the continuation of posting expenditures late in the Puerto Rico Integrated Financial Accounting System (PRIFAS),⁵ presented a problem because these expenditures were misrepresented in PRDE's accounting records.

Pursuant to 34 C.F.R. § 76.702, a State and a subgrantee shall use fiscal control and fund accounting procedures that insure proper disbursement and accounting for Federal funds.

34 C.F.R. § 80.20(a) and (b)(1)-(2) establish that:

- a. A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as those of its subgrantees and cost-type contractors, must be sufficient to:

⁴ *Puerto Rico Department of Education's Special Education Expenditures for the period, July 1, 2002 to December 31, 2002* (ED/OIG A02-D0020) and *Puerto Rico Department of Education's Title I Expenditures for the period, July 1, 2002 to December 31, 2002* (ED/OIG A02-D0014) identified that PRDE's recording of untimely adjusting entries caused Title I and Special Education funds to lapse.

⁵ PRIFAS is Hacienda's central accounting electronic system, implemented on July 1, 1998.

- Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.
- b. The financial management systems of other grantees and subgrantees must meet the following standards:
- Financial reporting - Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.
 - Accounting records - Grantees and subgrantees must maintain records that adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

OMB Circular A-87, Attachment A (C)4a, states that applicable credits for receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs, shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate. Examples of such transactions are: purchase discounts, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges.

PRDE stated in its response to the 2003 single audit report that it has been working with ED's Cooperative Audit Resolution and Oversight Initiative (CAROI)⁶ to revise the internal policies and procedures to improve the controls and accountability over PRDE's assets and funds. However, the situation still persists because the finding continues to appear in single audit reports.

Accounting Records of the Community Schools Administration

The "Accounting Records of the Community Schools Administration (CSA)" finding has been reported in PRDE's single audit reports since 2000. The public educational system of PRDE is based on community schools with academic, fiscal, and administrative autonomy. The CSA is a division at PRDE that acts as a pass-through entity that transfers State and Federal funds to the community schools. Regarding the banking procedures of the CSA, after Federal funds are deposited in a bank account with the Puerto Rico Government Development Bank (GDB), these funds are then transferred to the CSA account at Santander Bank (Santander). Electronic transfers are then made to the bank account of each community school. Each community school makes the final disbursement of Federal funds. For the fiscal year ended June 30, 2003, PRDE transferred \$71,024,932 in Federal funds from the GDB account to the CSA account.

⁶ CAROI is a collaborative method that provides alternative and creative approaches to resolve audit findings as well as their underlying causes.

During the evaluation of the procedures followed by the CSA, it was noted that PRDE's accounting records did not provide for the accounting distribution of the funds actually disbursed by the community schools. The amounts transferred to the CSA were recorded as transfers of funds to the Special Disbursement Agent of the CSA, and did not identify the purpose of the Federal funds. This condition prevented the auditors from determining compliance with allowable cost principles, equipment and real property management, earmarking, and period of availability.

The auditors also noted that the accounts at the GDB and Santander maintained balances at the end of each month and earned interest. The interest earned at the GDB represents interest earned on Federal programs. The Santander account is used to transfer State and Federal funds to each community school's account. Therefore, part of the interest earned at the Santander account also represents interest earned on Federal programs. These same deficiencies were also noted in the 2001 and 2002 single audit reports.

The Puerto Rico Office of the Comptroller performed several audits of the CSA and reported major exceptions and deficiencies related to internal controls and management of funds. These audits included findings related to lack of segregation of duties, lack of accounting records, lack of compliance with policies and procedures related to purchases with Federal funds, and supporting documentation not available for examination.

The criteria relevant to this finding is the same criteria discussed in the previous "Accounting Records" finding.

Since 2000, PRDE has stated in its corrective action plans that it is in the process of designing an appropriate monitoring program. However, because the finding continues to appear in single audit reports, more improvement is needed.

Cash Management Test at the Public Schools Level

The "Cash Management Test at the Public Schools Level" finding has been reported in PRDE's single audit since 2002. However, cash management issues have been reported in PRDE's single audit reports since 1991, depending on the program. The finding stated that PRDE did not have a formally structured cash management system at the schools level to effectively manage the timing between receipt of Federal funds and the ultimate disbursement of these funds. For the fiscal year ended June 30, 2003, PRDE transferred \$71,024,932 in Federal funds to the community schools. The auditors visited 20 schools and tested 191 disbursements. They noted 179 instances of noncompliance with cash management requirements. The time elapsed from the transfer date through the disbursement date ranged from 4 to 292 days. The transfer of these funds was recorded as an expenditure in PRDE's accounting records, but the funds accumulated interest in the schools' bank accounts until the funds were actually disbursed to suppliers. The same deficiencies were also reported in the 2002 single audit report.

The regulations at 31 C.F.R. § 205.15(a), establish that a State will incur an interest liability to the Federal Government if Federal funds are in a State account prior to the day the State pays out funds for program purposes. A State interest liability will accrue from the day Federal funds are

credited to the State account to the day the State pays out the Federal funds for program purposes.

According to 34 C.F.R. § 80.20(b)(7), procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. In addition, the PRDE was not in compliance with the "Users Guide for the Grant Administration and Payment System" issued by ED, which requires that Federal funds must be expended within three business days after they are available. Funds held for more than three days are considered excess cash and must be returned to the Federal Government.

Since 2000, PRDE has been stating in its corrective action plans that it is trying to implement some corrective actions to minimize these deficiencies. However, because the finding continues to appear in single audit reports, inadequate progress has been made.

Recommendations

We recommend that the Chief Financial Officer:

- 1.1 Consider the deficient areas discussed above when placing special conditions on PRDE's grants; and
- 1.2 Closely monitor PRDE's implementation of the corrective action plans presented to ED on prior single audit reports.

OCFO's response

In its response, the OCFO agreed with our finding and recommendations. The OCFO stated that it had included the repeated single audit findings mentioned in the report in the special conditions placed on PRDE for fiscal year 2004. Specifically, the special conditions included a requirement that PRDE prepare corrective action plans in the four areas referenced in this audit report and submit these plans to ED by February 15, 2005. Also, the OCFO stated that ED would closely monitor PRDE's implementation of corrective action plans presented to ED in response to prior single audit reports.

OIG's reply

We reviewed OCFO's response and determined that it fully addressed our finding and recommendations.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to identify to ED repeated single audit findings not incorporated in the special conditions placed on PRDE's grants for fiscal year 2003-2004.

To achieve the audit objective, we interviewed PRDE's single audit auditors. We also reviewed the workpapers and audit reports issued by PRDE's single audit auditors for the years 2001 through 2003. To select the repeated findings for analysis, we reviewed the 2003 single audit

schedule of prior year audit findings and reviewed all 11 repeated findings that had not been corrected by PRDE or considered by ED for the special conditions placed on PRDE's current grants.

The scope of the audit included repeated findings in the single audit report for the year ended June 30, 2003, not included in the special conditions ED placed on PRDE's current grants. We performed our fieldwork at the single audit auditor's worksite, located within PRDE in Hato Rey, Puerto Rico from May 5, 2004, through July 28, 2004, the date of our exit conference.

We did not rely on any computer-processed data for any conclusions reached during this audit.

Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

STATEMENT ON INTERNAL CONTROL

As part of this audit, we did not assess the adequacy of internal control applicable to PRDE or ED's Office of the Chief Financial Officer because our work was limited to an informational review of PRDE's repeated single audit findings.

ADMINISTRATIVE MATTERS

Corrective actions proposed (resolution phase) and implemented (closure phase) by your office will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System (AARTS). ED policy requires that you develop a final corrective action plan (CAP) for our review in the automated system within 30 days of the issuance of this report. The CAP should set forth the specific action items, and targeted completion dates, necessary to implement final corrective actions on the finding and recommendations contained in this final audit report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved after six months from the date of issuance.

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 the general public to the extent information contained therein is not subject to exemptions in the Act.

We appreciate the cooperation given us during this review. If you have any questions, please call Daniel P. Schultz, Regional Inspector General for Audit, at (212) 637-6271.

Sincerely,

/s/

Helen Lew
Assistant Inspector General for Audit

Attachment



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE CHIEF FINANCIAL OFFICER

THE CHIEF FINANCIAL OFFICER

DEC - 2 2004

Mr. Daniel P. Schultz
Regional Inspector General
Office of Inspector General (OIG)
U. S. Department of Education
75 Park Place
12th Floor
New York, NY 10007

Dear Mr. Schultz:

This letter responds to the OIG draft audit report, "Puerto Rico Department of Education's (PRDE) Repeated Single Audit Findings," Control Number ED-OIG/A02-E0016, dated October 6, 2004. In that report, OIG determined that repeated single audit findings for the PRDE were not incorporated in the special conditions placed on PRDE's grants for fiscal year 2003-2004. These repeated findings were in the following areas: property and equipment, accounting records, accounting records of the Community School Administration, and cash management test at the public schools level.

The Office of the Chief Financial Officer shares your concerns regarding the issues identified in your draft audit report, and has confirmed that the Department has taken action to address the audit's findings and suggestions. We are pleased to inform you that the FY 2004 special conditions for PRDE specifically address the above referenced repeated single audit findings. An August 2, 2004 letter to PRDE's Secretary of Education from C. Todd Jones, Associate Deputy Secretary for the Budget and Strategic Accountability, transmitted the FY 2004 PRDE special conditions. Included in that transmittal is a requirement (see enclosed, section II.A.2) that PRDE prepare corrective action plans in the four above referenced areas "that have been the subject of a number of findings in audits under the Single Audit Act" and submit these plans to the Department by February 15, 2005. The Department will closely monitor PRDE's compliance with these special conditions, and will closely monitor PRDE's implementation of corrective action plans presented to the Department in response to prior single audit reports.

We thank you for your continuing assistance in ensuring that the Department's funds are spent properly and for the purposes for which they were intended. Blanca Rosa Rodriguez of the Grants Policy and Oversight Staff (GPOS) will be happy to address any further questions you have or assist in any matter discussed in this response.

Sincerely,


Jack Martin

Enclosure

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202 4300

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Attachment

Daniel Schultz - Page 2

Electronic Distribution to:

C. Todd Jones, OUS
Raymond Joseph Simon, OESE
Troy R. Justesen, OSERS
Susan Sclafani, OVAE
Sally L. Stroup, OPE
Deborah Price, OSDFS
Maria Hernandez Ferrier, OELA
Nina Shokraii Rees, OII
Phil Maestri, OUS
Phil Rosenfelt, OGC
Harold Jenkins, OGC
Susan Craig, OGC
Bill McCabe, OCFO
Karl Lahring, OGC
Ron Petracca, OGC
Kamina Pinder, OGC
Tina Otter, OUS

Attachment



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

August 2, 2004

Honorable Cesar Rey Hernandez
Secretary of Education
Puerto Rico Department of Education
Post Office Box 190759
San Juan, Puerto Rico 00919-0759

Dear Secretary Rey:

We appreciate the cooperation and the progress that the representatives of our two agencies have been making on grant management and accountability issues that your agency has been facing with regard to the administration of Federal education grants. Among the issues we have been discussing are the special conditions that would be attached to the Department grants to be made to the Puerto Rico Department of Education (PRDE) because of its status as a "high-risk grantee" under 34 C.F.R. §80.12. We appreciate the suggestions you and your representatives made on the special conditions, and we can assure you that we have fully considered them and included those suggestions wherever possible. Enclosed are the special conditions that will be incorporated in the grant awards that will be made by this Department to PRDE for all of the Federal education programs it administers.

You will note that much emphasis is given in the special conditions to the corrective action plans your agency is continuing to work on. It is essential that these plans fully address the problems cited in audit findings in the subject areas covered by the plans. We look forward to receiving the plans in final form and seeing the progress your agency will make in implementing the plans, and in addressing all of the special conditions.

We know that we take seriously our mutual responsibilities to ensure that Federal program funds are being spent properly to assist students, and we look forward to continuing to work with you to improve the delivery of Federal education services so that no child in Puerto Rico is left behind.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Todd Jones".

C. Todd Jones
Associate Deputy Secretary for
Budget and Strategic Accountability

Enclosure

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-0500
www.ed.gov

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Attachment

Commonwealth of Puerto Rico Department of Education – Special Conditions

PREAMBLE: These special conditions are imposed on the Puerto Rico Department of Education's (PRDE's) program grants made available by the Department on or after the date of these special conditions, and will affect other funds under all other grants still available for obligation by PRDE. These program grant awards from the U.S. Department of Education (Department) to the PRDE are made in accordance with the Department's regulations governing "high risk" grantees in 34 CFR §80.12. The special conditions are imposed to help ensure that the PRDE awards are expended in accordance with applicable legal requirements and with appropriate fiscal accountability measures and management practices and controls.

I. EXPLANATION OF HIGH-RISK STATUS

Under the authority of the Education Department General Administration Regulations (EDGAR), 34 CFR §80.12, the Department has determined that PRDE is a "high-risk" grantee for purposes of these grant awards because of problems in PRDE's fiscal and program accountability and related areas. Our conclusion is based on the following:

- A. The Department, in previous communications, has identified many compliance issues with PRDE's administration of Federal education grants. These problems with lack of proper accountability controls have resulted in many audit findings under the Single Audit Act and in audits done by the Department's Office of Inspector General, and resulted in the conviction of the former Secretary of Education and other colleagues. Puerto Rico is currently working on corrective action plans for payroll, grants management, and procurement to address problems of accountability that have affected PRDE's efforts to administer Federal education programs for a number of years. Some corrective actions are currently being implemented, but much work needs to be done by PRDE to fully address these issues.
- B. While PRDE has submitted more timely single audits, the audits contain many findings that show a continuation of certain problems. For example, significant problems have been identified with the *community schools and the unallowable payment of employees' salaries using Title I and other Federal program accounts*. All of these significant problems raise concerns about Puerto Rico's ability to deliver quality education services to its students with Federal education funds.

II. SPECIAL CONDITIONS

A. Reporting Requirements

1. PRDE shall prepare its corrective action plans in final form in the three areas named in Section I-A above by September 15, 2004, and each of the plans shall indicate specifically how the actions to be taken by PRDE in accordance with these plans will correct the underlying problems found in audit findings in these areas. Based on the plans, the Department will consider modifications to the special conditions and whether any other administrative actions should be taken. PRDE shall report to the Department for the first quarter ending on October 30, 2004, and every three months thereafter, on the progress PRDE is making in implementing the action steps in its action plans.
2. PRDE shall prepare corrective action plans in an additional four areas that have the subject of a number of findings in audits under the Single Audit Act—property and equipment management, weaknesses in accounting records generally, weaknesses in accounting records with regard to community schools administration, and cash management at the school level--and submit them to the Department by February 15, 2005. Each of the plans shall indicate specifically how the actions to be taken by PRDE in accordance with these plans will correct the underlying problems found in audit findings in these areas. Based on these plans, the Department will consider modifications to the special conditions and whether any other administrative actions should be taken. PRDE shall report to the Department for the quarter ending on

Attachment

April 30, 2005, and quarterly thereafter, on the progress PRDE is making in implementing the action steps in its action plans.

3. The quarterly report will also include progress reports on each of the major programs being implemented by PRDE that is funded by Department funds. The Department may identify other programs to be covered in a quarterly report. The submission of the written reports shall be preceded by a meeting or conference call between representatives of PRDE and the Department within two weeks of the end of the quarter, to discuss PRDE's progress and what level of detail and subjects the Department wants PRDE to cover in its written quarterly report. PRDE must then submit each quarterly report within four weeks after the call or meeting. The Puerto Rico Secretary of Education or other authorized official of PRDE shall certify the completeness and accuracy of the reports. The Internal Audit Office shall verify the accuracy of the reports and audit the implementation of the action steps in the Action Plans and issue a report to PRDE and the Department by June 30, 2005.

B. Internal Audit Office and Audit and Financial Oversight Committee

All Department grant recipients are required to provide assurances that grant funds are being spent according to program and legislative requirements. The Department relies on these assurances to approve grant applications. The Department recognizes that the successful implementation of PRDE's initiative to strengthen the PRDE Internal Audit Office and the establishment of an independent Audit Oversight Committee will help PRDE provide the needed assurances. As part of the quarterly reports required under these special conditions, PRDE shall provide the Department confirmation of PRDE's progress on fully staffing and training its Internal Audit Office, and on the activities of the independent Audit Oversight Committee.

C. Prompt Access to Records

PRDE shall promptly provide the Department or its representatives any requested records and information.

D. Failure to Comply with Conditions

If a plan, report or documentation under Section II, A, B, and C above, is not provided by PRDE on a timely basis or is not considered acceptable to the Department (for example, it does not show substantial promise of correcting the problems found in the audits), it may be considered as a failure to comply with the special conditions and be subject to the remedies outlined below or to the terms in Section III A below. If the Department determines that the PRDE has not made substantial progress in meeting the objectives of the program, or has not met program requirements or the special conditions contained in Section II, A, B, and C, the Department may consider not continuing the grants or taking further enforcement action steps, or apply additional conditions such as the following:

1. PRDE would receive no further funds under one or more grant awards or would receive funds only on a reimbursement basis;
2. The Department would impose further conditions;
3. The Department would seek the recovery of misspent funds; and
4. PRDE would be required to contract (on a competitive basis) with a third party, who must be approved by the Department, to provide the services or financial management under a grant award or awards. The third party would, at a minimum, assist in preparing the vouchers to be submitted to

Attachment

the Department for reimbursement, and would verify their accuracy and legitimacy as an appropriate expenditure under a grant award or awards.

III. OTHER TERMS

A. Enforcement

If PRDE fails to meet any of the above special conditions, the Department is authorized to take other appropriate enforcement action. These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement or other actions at any time.

B. Submission of Reports

All reports, that are required to be submitted by PRDE to the Department under these special conditions, shall be submitted to:

Mark Robinson
400 Maryland Avenue, SW
FB-6, Room 4E108
Washington, DC 20202

C. Reconsideration and Modifications

At any time, PRDE may request reconsideration of the above special conditions by contacting the Department and stating reasons why PRDE believes particular conditions are no longer needed. Additionally, the Department may impose additional special conditions or modify these special conditions as appropriate. The Department will remove the special conditions at such time as PRDE meets, to the Department's satisfaction, the conditions mentioned above.

Dated: _____