



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



December 14, 2004

**Control Number
ED-OIG/A02-E0009**

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) Special Education Program Services*. The objectives of our audit were to determine if (1) special education students in Puerto Rico received evaluation, therapy, and transportation services that PRDE contracted and paid for with U.S. Department of Education (ED) funds; and (2) PRDE followed Federal and State laws and regulations in procuring special education program services. We found that evaluation, therapy, and some transportation services that PRDE contracted and paid for with ED funds were provided to special education students in Puerto Rico. However, in the Bayamón region, PRDE approved payments for transportation services without verifying whether these services were provided to special education students. The transportation contracts awarded to that region totaled \$5,935,988 for the period July 1, 2002, through June 30, 2003. In addition, we found that PRDE followed Federal and State laws and regulations in procuring special education program services.

We provided a draft of this report to PRDE. In its response, dated November 8, 2004, PRDE disagreed with the conclusion of the audit. PRDE stated that the identified costs were fully supported because the services billed were provided only to special education students. PRDE also stated that its existing transportation policy addresses the issues of the student attendance lists. PRDE reported that it will monitor the Bayamón region over the next several cycles and will also provide additional training to the Island-wide and regional monitors. PRDE's response did not cause us to change our finding and recommendations. We have summarized PRDE's comments after the finding and have included PRDE's entire response as an Attachment.

BACKGROUND

The Office of Special Education Programs (OSEP), within the Office of Special Education and Rehabilitative Services (OSERS), administers the Individuals with Disabilities Education Act (IDEA). IDEA authorizes formula grants to states, and discretionary grants to institutions of higher education and other nonprofit organizations to support research, demonstrations, technical

assistance and dissemination, technology and personnel development, parent-training, and information centers. These programs are intended to ensure that the rights of infants, toddlers, children, and youth with disabilities and their parents are protected.

PRDE serves approximately 70,000 special education students in Puerto Rico. OIG has received numerous complaints from parents of children in need of special education who claim that PRDE did not provide services, such as transportation and therapy. During work on the last OIG audit of the Special Education Program,¹ PRDE officials stated that some schools did not submit the attendance list for transportation timely. As a result, PRDE paid transportation service providers the total amount stipulated in their contracts without knowing whether the students received the transportation services. In addition, parents have complained that PRDE lacked trained personnel and provided a poor quality of education in inadequate classroom facilities.

On May 29, 2002, ED designated PRDE as a "high-risk" grantee under 34 C.F.R. § 80.12, making the agency subject to special conditions in all of the Federal education programs that it administers. As a result, in both August 2002 and September 2003, ED placed special conditions on PRDE's grants because of problems with PRDE's fiscal and program accountability.

AUDIT RESULTS

Finding: *PRDE processed payments for transportation contracts totaling \$5.9 million without verifying whether the services were provided to special education students.*

During the period July 1, 2002, through June 30, 2003, PRDE processed payments for transportation services without verifying whether the services were provided to special education students. Specifically, PRDE made unsupported payments pursuant to transportation contracts in the Bayamón region totaling \$5,935,988. PRDE did not implement adequate controls to request the schools' attendance lists of special education students to verify the accuracy of transportation invoices prior to making payments. PRDE also did not implement adequate controls to review the attendance lists and make the appropriate payment adjustments based on student absences. As a result, PRDE cannot assure ED that funds were properly expended.

Pursuant to 34 C.F.R. § 76.702,² "A State and a subgrantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds."

According to 34 C.F.R. § 80.20(a), ". . . Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to: . . . (2) 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."

¹ Puerto Rico Department of Education's Special Education Expenditures for the period, July 1, 2002 to December 31, 2002 (ED/OIG A02-D0020) identified that PRDE could not provide supporting documentation for transportation services.

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

The regulations at 34 C.F.R. § 80.20(b)(3) provide that “[e]ffective control and accountability must be maintained” for all federal grant funds.

The regulations at 34 C.F.R. § 80.20(b)(6) state that, “Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.”

Pursuant to 34 C.F.R. § 80.36(a), “When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds.” Puerto Rico’s procurement regulations governing PRDE, Reglamento de Compras, Ventas y Subastas de Bienes, Obras y Servicios No Personales del Departamento de Educación (PRDE Procurement Regulations), § 68.1, require a PRDE official to certify that services have been received before processing a request for payment.

PRDE did not have an effective system of internal control in place to insure that PRDE determined required payment adjustments and paid only for transportation services actually received under the transportation contracts. Officials from the Bayamón region explained that schools have to submit absence reports in order for them to make the appropriate payment adjustments. The service provider receives only 50 percent of the amount stipulated in the contract when he/she arrives to pick up the student and the student is absent. If the service provider fails to pick up the student, or if he/she knows in advance that the student will be absent, no payment is made for that day. Even though there were several schools that did submit the absence reports, the payment adjustments were never made. We visited four schools that did not submit the absence report, and the school officials stated that they did not receive instructions from the region to submit an absence report. In contrast to the Bayamón region, Ponce, the other region that received Federal funds for transportation services, did verify the accuracy of invoices prior to approving payments.

Recommendations

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

- 1.1 Obtain supporting school attendance lists from the Bayamón region, or return to ED the \$5,935,988 PRDE paid without verifying whether the transportation services were provided to special education students. If supporting documentation is obtained, calculate the payment adjustments based on the absence reports, and return any excess payments to ED;
- 1.2 Establish controls to ensure schools submit special education student attendance lists for transportation services to verify the accuracy of invoices prior to approving payment; and
- 1.3 Establish controls to calculate the appropriate payment adjustments based on student absences prior to approving payment for special education transportation services.

PRDE's response

In its response, PRDE disagreed with the conclusion of the audit that it failed to implement sufficient controls to determine that services were provided to eligible students with disabilities. PRDE explained that it had procedures to: (1) award transportation contracts for special education students; (2) make contractual payments; and (3) make appropriate adjustments to the payments based on absence reports. PRDE stated that OIG's conclusion that all contractual payments should be returned is unsupported because the students were all eligible. PRDE requested the Bayamón region schools to provide their absence lists, but approximately 40 schools had not yet responded to this request. Central Office personnel matched the student attendance lists with the vendor contracts and route lists to determine the number of total absences and the related costs. A total of \$89,257 of adjustments was identified. PRDE planned to continue to gather information from the missing schools and planned to make any additional adjustments. These funds would be credited to the open 2003 Federal funds, as the obligation period for these funds has not yet lapsed.

In response to the recommendations, PRDE believes that the identified costs were fully supported because the services billed were only provided to special education students. Additionally, PRDE's existing transportation policy addresses the issues of student attendance lists. PRDE stated it will monitor the Bayamón region in particular for this issue over the next several cycles and will also provide additional training to the Island-wide and regional monitors. Furthermore, PRDE created a pilot program designed to streamline delivery of services to students with disabilities. The Caguas region instituted new procedures to verify transportation expenses. This pilot program will be instituted Island-wide as the pilot programs are phased in. PRDE planned to open five additional centers by December of 2004, and centers in the remaining regions in the following years.

OIG's reply

We reviewed PRDE's response and its numerous exhibits, but did not change our finding or recommendations. Although PRDE provided a schedule with the adjustments it planned to make, it did not include supporting documentation for those adjustments. As a result, we cannot determine whether these adjustments are sufficient to address the finding. PRDE will have the opportunity to provide the supporting documentation to the audit resolution team. PRDE's response to recommendation 1.1 did not address unsupported costs for \$612,429. This amount pertained to the previous Special Education report A02-D0020. Furthermore, contrary to what PRDE stated in its response to recommendation 1.1, we did not conclude that \$5.9 million in transportation contracts were unsupported based on student eligibility. We determined that the payments were unsupported because PRDE processed these payments without verifying the schools' attendance lists and did not make appropriate payment adjustments based on student absences. PRDE addressed recommendations 1.1 and 1.2, but did not formally address recommendation 1.3. PRDE's corrective action plan should help ensure that Special Education funds are used to pay only for services that were actually provided.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit were to determine if (1) special education students in Puerto Rico received evaluation, therapy, and transportation services that PRDE contracted and paid for with ED funds; and (2) PRDE followed Federal and State laws and regulations in procuring special education program services.

To accomplish the audit objectives, we interviewed officials from PRDE's Special Education Division, PRDE's school regions, and the contractors providing evaluation and therapy services. In addition, we reviewed student files to verify the supporting documentation for the services provided. We also reviewed the procurement procedures for evaluation, therapy, and transportation services. We performed our fieldwork at PRDE's offices in Hato Rey, Puerto Rico from February 18, 2004, through August 12, 2004, the date of our exit conference.

To verify the supporting documentation for the evaluation and therapy services provided, we made site visits to the contractors' offices from June 3, 2004, through June 30, 2004. Included in this review were the following contractors: Instituto de Enseñanza Individualizado, Centro Comunicológico de Arecibo, Pediatric Speech & Language Service, Inc., Colegio San Gabriel, Clínica de Terapias Pediátricas, Centro de Patología del Habla y Audición, Integra Therapy Centers, and MCG and the Able Child. To verify the supporting documentation for transportation services, we made site visits to the Ponce and Bayamón school regions on April 28, 2004, and May 6, 2004, respectively.

To achieve our audit objectives, we selected both statistical and judgmental samples from the list provided by PRDE of all contracts awarded with ED funds for evaluation, therapy, and transportation services for the award period July 1, 2002, through June 30, 2003. We stratified our samples by dollar volume. The universe of evaluation and therapy services included 61 contracts that totaled \$24,688,002. We statistically selected the contracts for evaluation and therapy services. We judgmentally selected the months to be tested for these contracts. For transportation services, only two of Puerto Rico's ten school regions received Federal funds. The universe of transportation services included 107 contracts totaling \$7,683,649. We statistically selected the transportation services contracts.

The sample of 8 evaluation and therapy contracts was stratified by dollar volume, omitting transactions under \$50,000 and using the following strata:

\$50,000 - \$2,999,999	5 contracts
\$3,000,000 plus	3 contracts

The sample of 20 transportation contracts was stratified by dollar volume, using the following strata:

\$30,000 - \$49,999	7 contracts
\$50,000 - \$199,999	6 contracts
\$200,000 plus	7 contracts

Our sample for evaluation and therapy services accounted for \$13,234,700 (54 percent) of the total contracts. For transportation services, our sample totaled \$3,029,685 (39 percent) of the total contracts.

We did not rely on any computer-processed data for any conclusions reached during this audit. For transportation services contracts, PRDE provided a list on a hard copy document. The list of evaluation and therapy contracts was provided in an electronic format; however, it was not generated from a computer database. 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

We did not review the internal control structure of PRDE because we previously reviewed the internal controls, policies, procedures, and practices applicable to PRDE's administration of contracts in recent ED/OIG audits (A01-90006, A01-90007, A01-A0004, A02-B0012, A02-C0017, A02-D0014, and A02-D0020). PRDE has yet to implement our major recommendations, such as properly reviewing supporting documentation prior to payment of invoices. Based on previous knowledge, we determined the level of control risk, that is the risk that material errors, or irregularities, or illegal actions may occur, to be high.

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 the audit:

Troy R. Justesen
Acting Deputy Assistant Secretary
Office of Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Ave., SW
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. Please review this draft report and provide us with your written comments on the finding and recommendations within 30 days of the date of this letter.

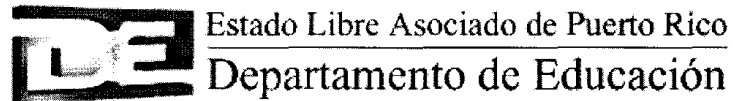
In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

/s/

Daniel P. Schultz
Regional Inspector General
for Audit

Attachment



November 8, 2004

Daniel P. Schultz
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
75 Park Place, Room 1207
New York, NY 10007

Dear Mr. Schultz,

The Puerto Rico Department of Education (PRDE) appreciates the opportunity to submit comments regarding Draft Audit Report Control Number ED-OIG/A02-E0009. Enclosed please find our comments.

If you have any questions, please feel free to contact us at (787) 759-2000 or 759-8910.

Sincerely,

/s/
Ileana I. Fas-Pacheco
Director
Federal Affairs

/s/
Sonia Rosario Rodríguez
Assistant Secretary
Special Education

Attachment

OIG DRAFT AUDIT REPORT PRDE'S SPECIAL EDUCATION PROGRAM SERVICES AUDIT CONTROL NO. ED-OIG/A02-E0009

The PRDE appreciates the opportunity to respond to the Office of Inspector General (OIG) findings set out in its October 6, 2004, draft audit report. The draft audit report was developed to determine if (1) special education students in Puerto Rico received evaluation, therapy, and transportation services that PRDE contracted and paid for with ED funds; and (2) PRDE followed Federal and State laws and regulations in procuring special education program services.

OIG Auditors interviewed officials from the Special Education Division, school regions and contractors providing evaluation and therapy services. OIG officials also interviewed contractors and made site visits to the Ponce and Bayamon school districts to review documentation for transportation services.

The PRDE has worked to provide a comprehensive response within the OIG's timeframe. However, PRDE is continuing to review and develop data demonstrating alternate documentation to support the expenditures identified by the OIG findings. PRDE has identified those issues for which PRDE intends to submit additional documentation below (see attachments).

Finding No. 1 – PRDE processed payments for transportation contracts totaling \$5.9 million without verifying whether the services were provided to special education students.

Finding 1 states that \$5,935,988.00 of Special Education grant money was used to pay for transportation services without verifying the services were provided to special education students. The audit alleges that the payments were unsupported because PRDE failed to implement existing monitoring policies to make appropriate payment adjustments of transportation expenditures against attendance records for students with disabilities.

During its audit, OIG reviewed a sample of 20 transportation contracts, totaling 39% of the total contracts in only two regions, the Bayamon and Ponce regions. The audit concluded that during the period July 1, 2002 through June 30, 2003, PRDE processed payments for transportation services without verifying whether services were provided to special education students because the Bayamon Region did not verify the schools' attendance lists to determine the accuracy of individual transportation payments.

PRDE disagrees with the conclusion of the audit that PRDE failed to implement sufficient controls to determine that services were provided to eligible students with disabilities. While the attendance verification procedures may not have been uniformly applied in Bayamon, in actuality, the expenditures were paid to vendors that provide transportation services only to students with disabilities to transport them to and from school and to the students' related service providers.

Attachment

These vendors, listed in Exhibit 1, enter into contracts for transportation exclusively of special education students. These contracts are distinct from those used for transportation of regular education students. Contracts are negotiated at the regional level. In order to enter into a transportation contract, the Region must design a route for the eligible students with disabilities. Each school submits a document to the region entitled, "Solicitud de Servicios de Transportación" that is created during the student's IEP meeting. The form must include the student's personal information, school, the transportation services called for on the student's IEP. The form is signed by the IEP team leader and the parent during the IEP meeting. See Exhibit 2, 3.

After receiving the requests for transportation for individual students with disabilities the Region generates the Route list and enters into a contract with the appropriate vendor. Each contract is denoted on its face as a Special Education Contract to be paid for with special education funds. The route list of students assigned to the vendor is attached to the contract. In this way, only eligible students with disabilities receive the special education transportation services. See Exhibit 4.

To obtain payment as a vendor, each vendor is required to submit a reimbursement request to the District Office designated for transportation. This request identifies the vendor's name, social security or tax identification number and date the transportation expenditure was incurred. After receipt of the payment request or invoice, an official then completes a certification document to authenticate the expenditures as valid expenditure for a child with a disability.

To verify whether students with disabilities receive the services for which the vendors are contracted, PRDE's policy requires school districts to complete a form that tracks the absences of students with disabilities. See Exhibit 5, p. 3, 20. This policy is circulated to schools and regions on an annual basis. The audit itself noted that several schools submitted the absence reports, specifically in the Ponce region.

The conclusion that all contractual payments should be returned is unsupported, because the students are all eligible. PRDE however, submits the following documents (see attachments) to support expenditures made in the Bayamon Region. We intend to document the school attendance for students with disabilities during the audit period in order to make appropriate adjustments.

To gather the necessary supporting documentation for the attendance adjustments, PRDE utilized the following procedure. First, the Regional Director for Special Education in the Bayamon Region sent correspondence to the Superintendents, auxiliary Superintendents, Special Education supervisors, and school directors, that the Central Office would collect the attendance data for special education students for the 2002-2003 school year. See Exhibit 6.

Attachment

Central Office personnel then audited the individual schools in the region and created an absence list for each individual school. Each form was signed and certified as correct by the School Directors. See Exhibit 7. A sample of these lists is included in Exhibit 7. All original documentation is available for review at the PRDE Central Office. Approximately 40 schools have not yet responded to the September 29th request. A list of these is included in Exhibit 8. However, Central Personnel will continue to collect the necessary information from the schools.

Central Office personnel then matched the student attendance lists with the vendor contracts and route lists to determine the number of total absences and the related costs. A copy of the spreadsheet with a total of \$89,257.36 of adjustments is attached. See Exhibit 9. This spreadsheet indicates several vendors for which evidence regarding absences has not been completely collected. PRDE will continue to gather this information from the missing schools and districts. PRDE will make the adjustments contained in the spreadsheet, and any additional adjustments identified through the data collection process. These funds will be credited to the open 2003 Federal funds, as the obligation period for these funds has not yet lapsed.

RECOMMENDATIONS:

1.1 – Obtain supporting school attendance lists from the Bayamon region or return to ED, the \$5,935,988 PRDE paid without verifying whether the transportation services were provided to special education students. If supporting documentation is obtained, calculate the payment adjustments based on the absence reports, and return any excess payments to ED. Return to ED \$612,429 in unsupported costs or provide supporting documentation of costs expended.

PRDE believes that the identified costs are fully supported because the services billed were only provided to special education students. In deference to the OIG's request, PRDE has obtained school attendance lists for the majority of vendors. PRDE will submit the additional documentation to the OIG.

1.2 – Establish controls to ensure school submit special education student attendance lists for transportation services to verify the accuracy of invoices prior to approving payments.

PRDE's existing transportation policy addresses the issues of the student attendance lists. In addition, PRDE circulated a reminder letter to schools, districts and regions on October 7, 2004, regarding the policy. PRDE will monitor the Bayamon region in particular for this issue over the next several cycles, and these issues will be a consideration in determining Bayamon's compliance status. PRDE also monitors transportation expenditures as part of its ongoing continuous improvement policy. PRDE shall also provide additional training to the Island-wide and regional monitors regarding compliance with this issues and appropriate procedures for verification of payment of invoices.

Attachment

In addition, PRDE created a pilot program designed to streamline delivery of services to students with disabilities and consolidate much of the central administrative functions at the local level. As part of the pilot program, the Caguas Region has designated an official responsible for provision of appropriate transportation to students with disabilities and instituted new procedures to verify transportation expenses. These procedures include:

- Verification of Attendance of students with disabilities
- Periodic Targeted monitoring of vendor's routes
- Certification by school directors of each date of attendance

This pilot program, including the revised procedures for processing transportation expenses, will be instituted Island-wide as the pilot programs are phased in. PRDE plans to open 5 additional centers by December of 2004, and open centers in the remaining regions in the following years. PRDE will also review and, if necessary, revise the new procedures regarding processing of transportation expenses for private vendors.

Finally, pursuant to the Compliance Agreement, PRDE is instituting a new grants management system that will further enhance the system of internal controls for all federal expenditures.

Attachment

List of Exhibits

1. Portadores Programa Educación Especial
2. Solicitud de Servicios de Transportación
3. Declaracion Jurada, Maria M. Figueroa Centeno
4. Enmienda Al Contrato de Tres Años Sobre Servicio Para La Transportación de Escolares
5. Carta, dated 7/21/2004
6. Letter dated 9/29/2004
7. Informe de Ausencias de Estudiantes Con Impedimentos Que Reciben Transportación Escolar Por Porteador
8. Lista De Escuelas No Entregaron Informe de Ausencias
9. Informe de Ausencia, Año Fiscal 2002-2003