



JUN -8 2001

Memorandum

Date Deputy Inspector General
From for Audit Services

Subject Review of the Office for Civil Rights' Fiscal Year 1999 Government Performance and Results Act Report (A-12-00-00009)

To Robinsue Frohboese
Deputy Director
Office for Civil Rights

Attached are two copies of our final report entitled, "Review of the Office for Civil Rights' (OCR) Fiscal Year (FY) 1999 Government Performance and Results Act (GPRA) Report". The FY 1999 was the initial reporting year for OCR. The objectives of our review were to determine the reliability of the performance results reported and to evaluate the process used to validate this information.

We found that OCR did not accurately report FY 1999 performance results and did not have an adequate system for validating the information presented in its performance report. Our conclusion was based on the exceptions we found in a judgmental sample of 63¹ of 209 review or investigation dockets.

We recommended that OCR: (1) issue guidance to its regional offices to ensure that performance results are accurately and consistently reported; (2) enhance its data validation process to ensure that future performance results are reliable; and (3) review and, where appropriate, clarify the explanations and descriptions of performance measures and reported results in future performance plans.

In its response to our report, which is included as an Appendix to the final report, the OCR detailed steps it had taken to improve the accuracy and verification of data in the FY 2000 GPRA report and subsequent years reports. We agree with the actions OCR has taken in response to our recommendations.

Although OCR generally agreed with our recommendations, it expressed concern that our review had not sufficiently taken into account its long term methods of counting casework and that many of the exceptions noted were due to differences in interpreting OCR data. While OCR may have had different methods of measuring performance for internal management

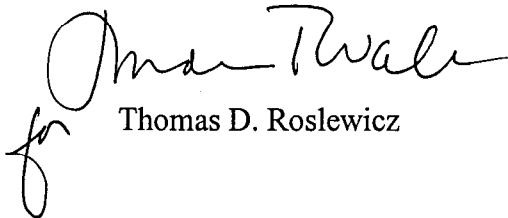
¹The 63 sampled dockets related to 67 reported outputs. Several of the dockets related to more than one measure, e.g., failure of a managed care provider to make interpreters available to persons with limited-English proficiency.

purposes, we believe that the criteria we used to verify OCR's GPRA results was reasonable and was consistent with OCR's explanations of its reported results in the FY 1999 GPRA report.

The OCR also noted that it had revised how it measures performance by combining several activities, such as providing technical assistance, with reviews and investigations. We are not commenting on the revised measure since we do not have information on whether these activities take similar levels of effort or produce documented, auditable results.

Please advise us within 60 days on additional actions taken or planned on our recommendations. If you have any questions, please call me or have your staff contact Donald L. Dille, Assistant Inspector General for Administrations of Children, Family, and Aging Audits, at (202) 619-1175.

To facilitate identification, please refer to Common Identification Number A-12-00-00009 in all correspondence relating to this report.


for Thomas D. Roslewicz

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF THE OFFICE FOR CIVIL
RIGHTS' FISCAL YEAR 1999
GOVERNMENT PERFORMANCE AND
RESULTS ACT REPORT**



**JUNE 2001
A-12-00-00009**

INTRODUCTION

BACKGROUND

The Government Performance and Results Act (GPRA) of 1993 requires that each Federal agency develop and submit to Congress a strategic plan every 3 years, an annual performance plan with measurable goals and objectives, and an annual report on actual performance compared to goals.

The Department of Health and Human Services (HHS), Office for Civil Rights (OCR) promotes and ensures that people have equal access to and opportunity to participate in and receive services in all HHS programs without facing unlawful discrimination. Through prevention and elimination of unlawful discrimination, OCR helps HHS carry out its overall mission of improving the health and well-being of all people affected by its many programs.

For Fiscal Year (FY) 1999, OCR developed four performance objectives focused on high priority areas related to HHS's Strategic Plan--adoption and foster care, managed care, services for limited-English proficient (LEP) persons, and welfare reform--and a fifth objective to increase operational efficiency by focusing its resources on high priority areas. These performance measures directly support several HHS strategic objectives including improving the safety and security of children and youth, protecting and improving beneficiary health and satisfaction in Medicare and Medicaid, reducing disparities in the receipt of quality health care services, and increasing the economic independence of families on welfare. The OCR identified ten output measures to evaluate its performance. These measures will be discussed in detail beginning on page 4 of this report.

The results OCR used to measure its performance relate to the compliance reviews and complaint investigations it conducts. An OCR review or investigation may be conducted on-site at a HHS grantee's or provider's office or through a desk review of data submitted by the grantee or provider. A review may focus on a single issue, referred to as a limited scope review, or may be a broader, in-depth analysis of issues, referred to as a full scope review. For performance reporting purposes, OCR does not differentiate between desk and on-site reviews or between limited and full scope reviews. At the conclusion of a review or investigation, OCR prepares a letter of findings to communicate its determination of whether the HHS grantee or provider was in compliance with applicable laws and regulations.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our objectives were to (1) determine the reliability of the FY 1999 performance results OCR reported and (2) evaluate the process OCR used to validate this information.

Scope

To assess the reliability of performance results OCR reported in FY 1999, we reviewed letters of findings and other OCR documentation that related to compliance reviews or complaint investigations. Although the purpose of our review was not to determine whether reviews or investigations were conducted in accordance with OCR policies and procedures or whether an HHS grantee or provider implemented a corrective action plan, we did examine case files supporting results reported by OCR's Philadelphia office. We did not evaluate the relevance or appropriateness of the performance measures OCR used.

Our review was conducted in accordance with generally accepted government auditing standards. We began our review in mid-August 2000 and finished our field work in January 2001. Field work was conducted at OCR's Headquarters and at the Philadelphia Regional Office.

Methodology

To accomplish our objectives, we:

- reviewed the Government Performance and Results Act of 1993;
- reviewed OCR's FY 1999 revised performance plan and performance report;
- reviewed OCR policy and procedures manuals;
- interviewed OCR Headquarters officials and staff and visited a regional office to gain an understanding of the process OCR used to collect data used to prepare the FY 1999 performance report;
- obtained a listing of 209 docket numbers (cases) that OCR identified as being the reviews and investigations used to prepare the FY 1999 performance report. We selected a judgmental sample of 48 cases for review. Because letters of findings for some of these cases covered multiple dockets, we reviewed letters of findings or other documentation related to 63¹ of the 209 high priority cases OCR reported.
- reviewed letters of findings or other documentation indicating the scope and extent of the OCR review or investigation to test the accuracy of the high priority measure results.

¹ The 63 sampled dockets related to 67 reported outputs. Several of the dockets related to more than one measure, e.g., failure of a managed care provider to make interpreters available to persons with limited-English proficiency.

- For purposes of determining whether a HHS grantee or provider was in compliance with applicable laws and regulations, we used the following criteria: (1) OCR made a determination of whether the grantee or provider was in compliance with specified laws or regulations and (2) if corrective actions were necessary, the provider or grantee completed these actions by the end of FY 1999 and OCR had concluded its monitoring activities.
- For purposes of determining whether OCR completed a review, we used the following criteria: (1) OCR initiated a compliance review and (2) issued a letter documenting its determination of whether the grantee or provider was in compliance with specified laws or regulations.

C recomputed the operational efficiency measures reported.

FINDINGS AND RECOMMENDATIONS

We found that OCR did not accurately report FY 1999 performance results. Our conclusion is based on the exceptions we found in the sampled items summarized below. Although the error rates, which are based on a judgmental sample of reported results, cannot be statistically projected or assumed to exist in the untested results, they indicate that OCR did not have an adequate system for validating the information presented in its FY 1999 performance report.

High Priority Area	Performance Measure	Reported Results	Sample	Sample as % of Reported Results	OIG Identified Exceptions	OIG Exceptions as % of Sample
LEP	a. Increased number of corrective action/no violation findings	146	35	24%	16	46%
	b. Increased number of reviews	132	29	22%	13	45%
TANF	a. Increased number of corrective action/no violation findings	23	15	65%	12	80%
	b. Increased number of reviews	19	14	74%	12	86%
Managed Care	a. Increased number of corrective action/no violation findings	27	12	44%	5	42%
Adoption	a. Increased number of corrective action/no violation findings	20	5	25%	0	0%
	b. Increased number of reviews	13	4	31%	0	0%

Detailed explanations of the performance measures and the results of our audit follow.

LEP Measures

The OCR conducts reviews and complaint investigations of HHS-funded programs to ensure that persons of limited-English proficiency are not denied equal access to or an equal opportunity to benefit from health and social services programs on the basis of national origin.

The OCR reported on two measures related to LEP:

- C **Increased number of corrective actions and no violation findings.** The OCR explained this measure as indicating the number of HHS grantees and service providers that are in compliance with Title VI, Civil Rights Act of 1964 (Title VI), either because they made changes in their policies and procedures in order to bring them into compliance or because OCR found that there were no violations. This measure reflects the results of OCR compliance reviews and complaint investigations.

- **Increased number of reviews.** The OCR is separately reporting the number of self-initiated LEP compliance reviews it conducted as an indicator of its efforts to focus resources on potentially noncompliant HHS grantees and service providers.

As detailed in the chart on page 4, OCR reported that it completed 146 cases, 132 of these were reviews. We sampled 35 cases and found that 16, or 46 percent, should not have been included for performance reporting purposes. Thirteen of the exceptions related to reviews.

Following is an explanation of the 16 exceptions:

- Seven reviews or investigations were improperly classified as LEP reviews. The most common error was improperly including reviews related to a provider's failure to supply a sign language interpreter. (01-99-7012;03-98-7002;03-99-3021;04-98-7409;06-98-7025;06-98-7031;06-98-7036)
- Three planned reviews, which were not undertaken, were counted as completed reviews. In two of these cases, the reviews were canceled because providers notified OCR that they were voluntarily relinquishing their Medicare or Medicaid certification. (08-99-7003; 08-99-7010; 07-98-7028)
- Three reviews, which were completed in FY 2000, were incorrectly reported as being completed in FY 1999. (01-03-99-3020;03-99-7007;05-98-7039)
- One limited scope review was closed without a determination of compliance being made when OCR concluded that additional work would be necessary. The OCR indicated that it planned to conduct a full scope review in FY 2000. (10-99-7021)
- One investigation of a home health care provider as a result of two complaints was counted as two completed investigations. (01-98-3096;01-98-3090)
- One provider did not complete corrective actions until the subsequent FY. The OCR did issue its letter of findings in FY 1999. (01-98-7009)

TANF Measures

A variety of Federal laws require that federally assisted programs be administered in a nondiscriminatory manner. The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 specifically incorporates Title VI, Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990 (ADA). These statutes apply to States and other public and private entities that receive Federal financial assistance related to the Temporary Assistance for Needy Families (TANF) provisions of PRWORA.

The OCR conducts reviews and complaint investigations of State TANF agencies and other service providers to ensure that work assignments, training, and education programs are implemented in a nondiscriminatory manner.

The OCR reported on two measures related to TANF:

- C **Increased number of corrective actions and no violation findings.** The OCR explained this measure as indicating the number of State and local welfare agencies and service providers that are in compliance with Title VI, Section 504, and ADA either because they made changes in their policies and procedures in order to bring them into compliance or because OCR found that there were no violations. This measure reflects the results of OCR compliance reviews and complaint investigations.

- C **Increased number of reviews.** The OCR is separately reporting the number of self-initiated TANF compliance reviews it conducted as an indicator of its efforts to focus resources on potentially noncompliant State or local welfare agencies or service providers.

As detailed in the chart on page 4, OCR reported that it completed 23 cases, 19 of these related to reviews. We sampled 15 cases and found that 12 or 80 percent, should not have been included in the performance report because the reviews were not completed.

In July 1998, OCR initiated limited scope reviews of 6 New York counties and 6 New Jersey counties (12 separate dockets) to examine the policies, practices, and procedures each county's Department of Social Services developed and implemented to ensure that the civil rights of TANF clients were not violated. As part of these reviews, OCR requested specific information concerning TANF clients for the purpose of performing statistical analysis and made a number of attempts to obtain the necessary data. In March 1999, OCR concluded that the data provided by the States was formatted in a manner which was not accessible to use as a tool for analysis. The OCR notified the States that the reviews were being administratively closed and would probably be reopened at a later date. (02-98-7022-7027 and 02-98-7028-7033)

Although we understand that OCR expended resources in these reviews, the reviews were not completed and OCR did not reach a documented determination as to compliance or noncompliance with Title VI, Section 504 and ADA. For this reason, we do not believe that OCR should have included these reviews in its FY 1999 performance report.

Managed Care Measure

The OCR conducts reviews and investigates complaints to ensure that managed care plans provide access for racial and national origin minorities and persons with disabilities.

The OCR reported on one measure related to managed care:

- C **Increased number of corrective actions and no violation findings.** The OCR explained this measure as indicating the number of managed care providers that are in compliance with Title VI, Section 504, and the ADA either because they

made changes in their policies and procedures in order to bring them into compliance or because OCR found that there were no violations. This measure reflects the results of OCR compliance reviews and complaint investigations.

As detailed in the chart on page 4, OCR reported that it completed 27 cases relating to managed care. We sampled 12 cases and found that 5, or 42 percent of the sample, should not have been counted for performance reporting purposes.

Following is an explanation of the five exceptions:

- C Four limited scope reviews, three of which involved one provider, were closed when OCR determined that full scope investigations would be initiated. Four new dockets were opened. The OCR completed reviews for three of these dockets and reported the completed reviews in FY 1999. However, OCR also included the four closed cases as completed reviews in its performance report. (10-99-7006;10-99-7007;10-99-7008; 10-99-7021)
- C One planned review, which was not undertaken, was counted as a completed review. This docket was also reported as a completed LEP review and also affected the results of that measure. (08-99-7003).

Adoption Measure

The OCR conducts reviews and compliant investigations to ensure that State and local adoption agencies are in compliance with the civil rights requirements under the inter-ethnic adoption provisions of the Small Business Job Protection Act of 1996 (SBJPA). These provisions are intended to prevent racial and national origin discrimination in foster care and adoption placements.

The OCR reported on two measures related to adoption providers:

- C **Increased number of corrective actions and no violation findings.** The OCR explained this measure as indicating the number of recipients that are in compliance with the nondiscrimination provisions of the SBJPA either because they made changes in their policies and procedures in order to bring them into compliance or because OCR found that there were no violations. This measure reflects the results of OCR compliance reviews and complaint investigations.
- C **Increased number of reviews.** OCR is separately reporting the number of self-initiated compliance reviews it conducted as an indicator of its efforts to focus resources on potentially noncompliant recipients.

As detailed in the chart on page 4, OCR reported that it completed 20 cases, 13 of these related to reviews. We reviewed five cases and found no exceptions.

Operational Efficiency Measures

The OCR's FY 1999 performance plan included three measures relating to operational efficiency:

- C **High Priority Closures.** The OCR described this measure as increasing the percentage and/or number of closures that are focused on high priority issues. The OCR reported that its actual number and percentage of high priority closures was 209 or 32.6 percent. Its target was 233 or 30 percent.

Using the OCR supplied database, we identified 664 cases that had a closure date between October 1, 1998, and September 30, 1999. When the total case closures and the priority case closures are adjusted to reflect the exceptions discussed earlier in this report, the number of high priority case closures is 177 or 27.7 percent of all case closures.

- C **Corrective Actions/No Violation Findings in High Priority Areas.** The OCR described this measure as increasing the percentage and/or number of corrective action or no violation findings that are focused on high priority issues. The OCR's target was 191 cases or 28 percent. The OCR reported its actual number and percentage was 204 or 31.8 percent. When this measure is adjusted to reflect exceptions discussed earlier in this report, the results are 171 cases or 26.8 percent.

Some results for this measure, as well as other measures, which are focused on implementation of corrective actions by a HHS grantee or provider, are dependent on factors outside the control of OCR. Namely, OCR does not control the implementation of corrective actions by a HHS grantee or provider. However, for FY 1999, this was not a significant factor in the cases we reviewed. Only one exception we identified was attributable to a provider not completing corrective actions by the end of FY 1999.

- C **Decrease Average Age of Priority Case Closures.** The OCR described this measure as decreasing the number of days a complaint investigation or review is open, e.g., days from the receipt of a complaint to issuance of a letter of findings.

The OCR reported the actual average age of priority case closures was 247 days. Its target was 238 days. We determined that, when the exceptions identified earlier in this report are eliminated from the computation, the average age of priority case closures would be 235 days.

Data Validation

The GPRA requires that a performance plan describe the method used to verify and validate measured data. Following is OCR's description of its data validation process from the FY 1999 performance plan:

“...OCR uses a number of techniques in order to validate data collected. These include conducting additional on-site reviews/investigations, examining files and other records ... Data on the number of reviews, corrective actions, and no violation findings ... are reported by each region to OCR headquarters. These numbers are reviewed against Annual Operating Plans and where there are variances from planned activities, OCR program operations staff contact the regions to verify such differences. Where data reported for comparable activities across several regions appears to be skewed in a given region or two, program staff follows up to identify reasons for such discrepancies. In addition, OCR continues to validate all regionally-reported data as it has in the past through periodic management reviews or evaluations of Civil Rights Plan implementation.”

As part of our audit, we assessed the process OCR used to collect and validate performance data.

The OCR collects data on reviews and investigations using its Compliance Activity Tracking System (CATS). In FY 1998, OCR modified the CATS system to capture information needed to prepare its annual performance report. While OCR implemented a process to collect performance data, it did not provide adequate guidance to regional offices to ensure that performance results were accurately and consistently reported. We believe that lack of specific guidance contributed to the inconsistencies among OCR regional offices in reporting performance results.

There was a clear audit trail, based on assigned docket numbers, from the information in the CATS system to letters of findings supporting the reported results. However, OCR's database of issued letters of findings was not complete and copies of some letters had to be obtained from regional offices. A complete file of letters of findings would facilitate periodic data validation by headquarters staff. Further, based upon our discussions with OCR staff, there was limited review of the data reported in FY 1999. For example, because annual operating plans were discontinued, OCR was not able to use these plans to identify variances from planned activities for follow up.

We understand that OCR has since taken steps to enhance its data validation process and its review of FY 2000 performance data.

Other Matters

In performing this review, one unexpected challenge was in determining what should be counted as a reported result. For example, several OCR measures used “reviews completed” as the metric to compare goals to actual results but the performance plan did not define what was a completed review. On occasion, our perception of a completed review was different from the reported results. In several instances, OCR offices stopped limited scope reviews to open full scope reviews. For performance reporting purposes, OCR counted both the limited scope and full scope reviews as completed reviews. Whereas, we believe that the limited scope reviews had not been completed and should not be counted. Another example was how to count reviews that involved multiple locations, e.g., a review of a managed care provider with several offices. We believe that, if the review included unique work at several locations, then results could be counted for each location. However, if the scope of the review was limited to policies and procedures that applied to all offices, then it should be reported as a single review.

Since FY 1999 was the first year performance results were reported, it is understandable that different views of what should be reported could occur and that there could be different interpretations of what was being reported. We have shared our views on the FY 1999 performance report with OCR for consideration in the development of future performance plans.

RECOMMENDATIONS

We recommend that OCR:

- C issue additional guidance to its regional offices to ensure that performance results are accurately and consistently reported;
- C enhance the data validation process to ensure that future performance results are reliable; and
- C review and, where appropriate, clarify the descriptions of measures and reported results in performance plans and reports.

OCR'S RESPONSE AND OIG COMMENTS

In its response to our report, which is included as an Appendix, the OCR detailed steps it had taken to improve the accuracy and verification of data in the FY 2000 GPRA report and subsequent years reports. We agree with the actions OCR has taken in response to our recommendations.

Although OCR generally agreed with our recommendations, it expressed concern that our review had not sufficiently taken into account its long term methods of counting casework and that many of the exceptions noted were due to differences in interpreting OCR data. While OCR may have had different methods of measuring performance for internal management purposes,

we believe that the criteria we used to verify OCR's GPRA results was reasonable and was consistent with OCR's explanations of its reported results in the FY 1999 GPRA report. The OCR also noted that it had revised how it measures performance by combining several activities such as providing technical assistance with reviews and investigations. We are not commenting on the revised measure since we do not have information on whether these activities take similar levels of effort or produce documented, auditable results.

APPENDIX



May 2, 2001

TO: Thomas D. Roslewicz
Deputy Inspector General
for Audit Services

FROM: *Robinsue Frohboese*
Robinsue Frohboese
Deputy Director
Office for Civil Rights

SUBJECT: Office for Civil Rights Response to the Office of the Inspector General's Fiscal Year 1999 Government Performance and Results Act (GPRA) Report

Thank you for the opportunity to respond to the Health and Human Services' Office of the Inspector General draft report (common identification number A-12-00-00009) on the Office for Civil Rights Fiscal Year 1999 Government Performance and Results Act Report (GPRA).

We appreciate the opportunity to review and comment on the draft report. Before noting our concerns, we want to thank you for identifying several areas in which we can correct, and in fact already have corrected, performance reporting and validation deficiencies. OCR is committed to improving our GPRA reporting so that it accurately and fully represents the significant work that we accomplish to help vulnerable populations have non-discriminatory access to critical health and human services.

We recognize the importance of accurate reporting as a means of supporting our mission --- protecting the civil rights of the public. We appreciate the opportunity to benefit from your insights into how we can improve our reporting of results. With both our commitment to our program and to effective reporting of our results in mind, we have reviewed the draft report and offer our comments for your consideration and inclusion along with your final report.

General Comments

Your audit found that OCR did not accurately report Fiscal Year (FY) 1999 performance results and did not have an adequate system for validating the information presented in its performance report. This finding was based on the exceptions that your staff identified from a random selection of docketed cases. We recognize that the sample included cases that were reported as a result of errors in entering case closure data in our Compliance Activity Tracking System (CATS). However, we are concerned that the report presents its findings without taking sufficiently into account OCR's long-term methods of counting casework. These methods were the basis for our reporting data in our 1999 GPRA Report.

We therefore believe that the report findings will be enhanced if OCR's perspective and past norms of case reporting are provided as background explanation. As detailed below, where changes in definition are appropriate to capture more accurately what we are measuring, we have made these adjustments. The remainder of this memorandum is divided into two parts: (1) our response to exceptions noted in your draft report; and (2) steps that we have taken to respond to your recommendations.

I. Response to Exceptions Noted in the Draft Report

The audit noted several categories of exceptions in OCR's reporting of results associated with objectives related to: services for limited-English proficient (LEP) persons, welfare reform (*i.e.*, Temporary Assistance to Needy Families (TANF), and managed care. The audit did not note any exceptions in our reporting of our objectives related to adoption and foster care. Although, in some instances, OCR and OIG have different views about what should be counted as a performance result, fundamentally, we accept the basis for the exceptions noted for the sampled dockets. There were several exceptions noted for the LEP objective that were also common to the TANF and managed care objectives. These exceptions basically fall into the following two categories: (1) cases that were improperly classified; and (2) cases in which OIG believes that OCR should clarify our definitions to measure our accomplishments with greater precision.

• Improperly Classified Cases

We recognize that several data entry errors resulted in overstatements of accomplishments. The most common error was improperly classifying reviews or investigations as involving LEP issues when they actually had involved providers' failure to provide a sign language interpreter for persons who were deaf or hard of hearing. We have taken steps to ensure that the same or similar errors did not occur in our FY 2000 GPRA report (see Tab A).

• Definition Clarifications

Many of the exceptions OIG noted were based on differences in views about OCR's use of key terms such as "completed" reviews and investigations and "corrective action". In our initial GPRA reporting, OCR used the broad definition of these terms (see below) that we have used to report all initiated and completed cases during the past two decades. In FY 2000 (and in the future), based on the OIG findings, OCR has revised several key definitions for case closures so that they will be more stringent and finite for reporting of Results Act performance data. The former definitions and our new more stringent definitions are noted below:

"Completed" Reviews and Investigations

A review or investigation is reported in OCR's data system only when it has been initiated. The definition of "initiated" is that a data request has been made to a recipient of HHS funds. Once a review has been started, it has to be closed, even in instances in which a determination was not made. Your audit introduces the term "completed" and from our perspective, distinguishes "completion" from closure of a case. From staff discussions with your auditors, we understand

that your term includes only those cases in which a finding has been made. When we established our measure focused on closing an increased number of reviews, we did not make this distinction. Therefore, our data included some review closures that you believe should not have been counted.

Compliance review activities include: limited scope reviews which are a single issue, desk or on-site reviews to audit a recipient's policies and procedures; and, full scope reviews that are an in-depth analyses of several issues. In most instances, we agree that for GPRA reporting purposes we should count only those reviews that are closed with a corrective action or a no violation finding. However, because of the differences between the types of reviews and investigations that OCR can initiate, there may be some rare circumstances in which a review should be counted even if it has been closed without a determination.

For example, a limited scope review is intended to be a general audit. Even though, often the only finding is that further investigation is required in order to make a final compliance determination, in OCR's lexicon, the limited scope review itself has been completed. With respect to FY 1999 performance reporting, we used case closure data consistent with this prior institutional practice, even though an actual finding or corrective action had not been achieved.

We accept that in the GPRA reporting context, a strict one-to-one (open/closed) reporting relationship may not be the best way to report accomplishments. For FY 2000 reporting, OCR did not count limited scope reviews that were closed with a need for further investigation as "completed" for GPRA performance reporting purposes. OCR will continue this practice in future years. Further, for purposes of determining whether OCR completed any review, in our FY 2000 report OCR used and will continue to use in the future a more stringent definition as follows: (1) OCR initiated a compliance review; and (2) OCR issued a letter determining whether the grantee or provider was in compliance with specific laws or regulations.

"Corrective Action" and Monitoring

As my staff noted in exit interviews with your auditors, we have a difference of opinion about the most appropriate way to measure "corrective action". In OIG's view, the term corrective action should have a finite definition limited only to cases in which all corrective actions are completed during the year in question. That is, we should not count cases in which a review or investigation has been completed during the year and a provider has made changes and agreed to make further changes that will continue to be implemented and monitored in future years.

We understand your perspective, and your related audit methodology, that corrective action should be counted in the fiscal year in which all of the actions necessary for a provider to come into compliance are completed. We are concerned, however, that if this definition and methodology are applied across-the-board to our compliance activities, it will exclude significant numbers of positive OCR results. Given the nature of our work, many corrective actions, particularly those involving wide-spread systemic reform, may require more than one year of monitoring to ensure that reforms are fully implemented and that they are achieving their intended result. In such cases, compliance may be achieved in phases. As such, we need a mechanism for reflecting this circumstance.

Therefore, the definition that we believe is appropriate to use for reporting purposes is as follows: “corrective action” includes cases in which the review and investigation phase of the case has been completed and recipients have made changes, even though additional monitoring may be required.

Administrative Closures

The rule that we applied for FY 2000 reporting and will apply in the future, is that OCR will not count reviews or investigations that were administratively closed. This would include cases that were not pursued or were terminated. In the past, OCR has routinely counted cases which have been opened by an official data request but were closed without a finding as an “investigated” case closure, rather than an “administrative” case closures. In the future, consistent with your audit finding, unless a determination has been made, OCR will not count such cases. The only exceptions to this rule will be the rare instance in which a Regional Manager determines, justifies, and documents, that special circumstances (*i.e.*, a review involved significant staff time on investigative activity) warrant the inclusion of such a case in the CATS data base for performance reporting. As an extra safeguard, headquarters will review documentation and, if necessary, discuss the case with the Regional Manager, and decide whether it is appropriate to retain the data in CATS for reporting as a completed review/investigation.

Multiple Dockets for Multiple Locations of Single Grantees/Providers

Your audit questioned why OCR counted cases involving a single entity with multiple service locations individually for each location when a letter of findings (LOF) does not document that the scope and extent of the investigative work completed was substantially separate, unique or distinct for each location. For example, there were cases in the sample in which the LOF indicated that there was a finding with respect to a parent organization/entity involving several sub-recipients, but the region had docketed each sub-recipient individually without documenting the scope and extent of the investigative work completed for each sub-recipient. For FY 2000 reporting, OCR counted cases with multiple service locations as more than one case only when the LOF fully documented that an on-site was conducted at each site, or that there were analyses of data or findings that were specific to each individual sub-recipient. OCR will continue to follow this practice.

II. Steps Taken to Address the Report Recommendations

In response to the three recommendations in your audit report, we have taken several steps to improve the accuracy and verification of the data we collect and report. We have also taken steps to ensure that definitions of what we collect and report and how we explain the data are consistent with effective results reporting. Specifically, OCR has:

- **Issued additional guidance to its regional offices to ensure that performance results are accurate and consistently reported.**

OCR issued detailed instructional guidance to our regional offices to strengthen our management controls for ensuring that data entered into CATS for FY 2000 reporting and future reporting are correct and properly coded (see Tab A for the guidance). This instructional guidance was designed to clarify key terms and prevent replicating in FY 2000 (and the future) exceptions noted by your auditors in exit interviews prior to release of your draft report. The guidance was used to conduct a national quality control self-audit of the data already entered into the CATS tracking system and for entering new data.

As a further step to reinforce the instructional guidance, headquarters staff provided on-site technical assistance in several regions on the collection and input of GPRA performance data. In completing our FY 2000 reporting, we provided either on-site or telephone technical assistance to our regional staff on the collection and input of performance data. We will continue to work with staff through regional training and further guidance, to enhance their ability to validate and correctly code the data reported in CATS for GPRA activities.

- **Enhanced the data validation process to ensure that future performance results are reliable.**

This year, based on preliminary results from your audit and our experience in reviewing data, we conducted a quality control data verification process prior to generating final FY 2000 data. In fact, the data reported in OCR's FY 2000 GPRA Performance Report as part of our FY 2002 budget submission was completed based on the enhanced data verification process we conducted in February 2001, subsequent to the guidance your staff provided during the exit interview conducted at the close of your audit.

The purpose of the intensive national quality control regional self-audit was to make sure that our letters of findings or other documentation in fact included references to high priority activities thereby substantiating that they were appropriately reported as priority activities for GPRA results reporting purposes. The framework for the quality control self-audit process was the same criteria used by your auditors during the development of the audit report. That is, cases were counted if: (1) OCR made a determination of whether the grantee or provider was in compliance with specific laws or regulations; and (2) if corrective actions were necessary, the provider or grantee either completed these actions by the end of the fiscal year (*i.e.*, in this case FY 2000) or agreed to changes that required subsequent monitoring. We are also taking steps to make certain that we have electronic copies of all LOFs that have been issued and that the letters contain all of the documentation necessary to substantiate their inclusion in GPRA reports.

Briefly, OCR headquarters provided each regional office a template for all docketed activities. The template showed the data reported in CATS for each of the data sets under the six priority areas in OCR's GPRA plan -- adoption, managed care, LEP, TANF, nondiscriminatory quality health care, and most-integrated setting. Each region was required to review their GPRA data entries consistent with the instructional guidance, verify the accuracy of the data, make the necessary corrections, and certify that the data had been audited. Headquarters reviewed the data entries and noted any discrepancies and questions regarding the accuracy of the data. Where there were questions about the validity of the data, headquarters staff contacted the regions to

verify further the accuracy of the data. Where data reported appeared to be incorrect or inconsistent with definitions and the guidance, headquarters staff followed up to check the data, identify reasons for such discrepancies, secure written justifications as appropriate, and made changes as necessary. As a further follow-up measure, OCR will periodically use this quality control audit technique throughout the year to closely monitor data reported in our tracking system and validate all regionally-reported data.

- **Reviewed and, where appropriate, clarified the descriptions of measures and reported results in performance plans and reports.**

Although, your audit did not comment on the efficacy of OCR's performance measures, we would like to take this opportunity to notify you that, as a part of the FY 2002 planning process, OCR modified its output indicators. We did so by combining multiple output indicators for FY 2001 and FY 2002 into a single indicator that includes outreach, technical assistance, consultation and partnership activities in addition to case investigations and reviews. In our view, the combined indicators more accurately reflect OCR's flexible approach to increasing compliance (preventing and correcting unlawful discrimination) by tailoring our activities to address the unique circumstances of HHS grantees/providers rather than adhering to a strictly prescribed set of activities.

We appreciate having the opportunity to comment on the draft report. As noted previously, OCR is committed to improving our GPRA reporting so that it accurately and fully represents the significant work that we accomplish to help vulnerable populations have non-discriminatory access to critical health and human services. As such, we have already implemented actions to respond to your recommendations. The work of your staff and the report recommendations have been very helpful to us in improving the accuracy of our data base for performance reporting. If you have any questions about this response to your audit report, please contact Steve Melov at (202) 619-0503 or Marva Street at (202) 619-2420.

Attachment

Guidance for Validation of Data for the FY 2000 GPRA Report

In early February 2000, OCR Regional Managers were sent a breakout of docketed activities and a template showing the data that their region reported in the Case Activity Tracking System (CATS) for each of the data sets under the six priority areas in OCR's GPRA plan -- adoption, managed care, LEP, TANF, nondiscriminatory quality health care, and MIS. An example of the template begins on the next page. Any discrepancies or questions regarding the data were noted and the Regional Managers were asked to review the data carefully to verify their accuracy. They were asked to make any necessary changes in the data and to return the template and certify that all of the data were verified, corrected as appropriate, and were accurate.

The Regional Managers were asked to answer the questions listed below and, in doing so, to review letters of findings (LOFs) as a quality control means to verify that what was reported in the system was reflected in the letters and was correct.

- Does each case/activity listed involve the GPRA priority issue reported in CATS?
- Are all cases/outreach activities that involved work on a GPRA priority issue included? (If any cases/activities involving GPRA issues have been omitted, please add them.)
- Were all of the listed complaints, investigations and reviews closed in FY 2000?
- Are all closure codes correct?
- If a case/activity involved more than one GPRA priority area, were each of the appropriate GPRA priority areas checked/reported in the CATS data base?
- Are there any cases that may represent an "over count" of the work your region has done? (e.g., the LOF indicates that there is a finding with respect to a parent organization/entity, and the region has docketed cases involving sub-recipients, but there is no indication in these additional cases that an on-site was conducted or that there was analysis of individual sub-recipient data.)
- Did you count as a completed review for GPRA purposes any review that was closed with an administrative closure but did not involve considerable staff time spent on investigative casework? (Unless you included a note in the comments section in the data base and also noted on the template you send back to us that such a review entailed considerable investigative time, it will not be counted and reported for GPRA purposes. OIG has questioned our counting as completed reviews last year any reviews for which a data request had been sent but no actual finding was made.)

Region I

Below is a list of your case "counts". They are broken down by complaints, reviews and SP/SA and if they are GPRA related.

Please look at all the "NOTES" and answer any questions raised.

Complaints

Total closures in FY 2000 = 109

No Violation Findings = 19

Corrective Actions = 15

Admin Closures = 75

Total of GPRA related Complaints = 6

No Violation Findings = 2

01003077

01003076

Corrective Actions = 4

01003074

01003075

01003080

01003107

Reviews

Total closures in FY 2000 = 16

No Violation Findings = 9

Corrective Actions = 7

Total of GPRA related Reviews = 10

No Violation Findings = 5

01997040

01997041

01997042

01997050

01997053

Corrective Actions = 5

01997006
01997026
01997029
01997035
01997037

Special Projects/Significant Activities

Total closures in FY2000 = 20

Total of GPRA related SP/SAs = 15

01006001
01006002
01006003
01006004
01006005
01006007
01006009
01006011
01006013
01006014
01006015
01006018
01996008
01996016
01996021

The following is a breakdown by GPRA category:

Adoption

Total GPRA Adoption Docket Numbers = 1

Complaints

Total # of GPRA Adoption Complaints = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request sent) = 0

Reviews

Total # of GPRA Adoption Reviews = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request) = 0

Special Projects/Significant Activities

Total # of GPRA Adoption SP/SA = 1

01996016

Number of Partnerships = 0

LEP

Total GPRA LEP Docket Numbers = 21

Complaints

Total # of GPRA LEP Complaints = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request) = 0

Reviews

Total # of GPRA LEP Reviews = 10

No Violation = 5

01997040

01997041

01997042

01997050

01997053

Corrective Action = 5

01997006

01997026

01997029

01997035

01997037

Admin Closure (data request sent) = 0

Admin Closure (no data request) = 0

Special Projects /Significant Activities

Total # of GPRA LEP SP/SA = 11

01996008

01996016

01996021

01006001

01006002

01006003

01006004

01006005

01006007

01006015

Number of Partnerships = 0

Managed Care (Mgd Care)

Total GPRA Mgd Care Docket Numbers = 5

Complaints

Total # of GPRA Mgd Care Complaints = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request) = 0

Reviews

Total # of GPRA Mgd Care Reviews = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request sent) = 0

Special Projects/Significant Activities

Total # of GPRA Mgd Care SP/SA = 5

01996008

01996016

01006004

01006005

01006011

Number of Partnerships = 0

TANF

Total GPRA TANF Docket Numbers = 5

Complaints

Total # of GPRA TANF Complaints = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request sent) = 0

Reviews

Total # of GPRA TANF Reviews = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request) = 0

Special Projects/Significant Activities

Total # of GPRA TANF SP/SA

01996011

01996016

01006001

01006002

01006009

Number of Partnerships = 0

MIS

Total GPRA MIS Docket Numbers = 11

Complaints

Total # of GPRA MIS Complaints = 6

No Violation = 0

Corrective Action = 4

01003074

01003075

01003080

01003107

Admin Closure (data request sent) = 2

01003076

01003077

NOTE: These two cases did not have a data request sent, but they both have onsite visits.

Admin Closure (no data request sent) = 0

Reviews

Total # of GPRA MIS Reviews = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request) = 0

Special Project/Significant Activities

Total # of GPRA MIS SP/SA = 5

01996016

01006011

01006013

01006014

01006018

Number of Partnerships = 0

Nondiscriminatory Quality Health Care/Race Disparities (NDQHC/RD)

Total GPRA NDQHC/RD Docket Numbers = 4

Complaints

Total # of GPRA NDQHC/RD Complaints = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request) = 0

Reviews

Total # of GPRA NDQHC/RD Reviews = 0

No Violation = 0

Corrective Action = 0

Admin Closure (data request sent) = 0

Admin Closure (no data request) = 0

SP/SA

Total # of GPRA NDQHC/RD

Special Projects/Significant Activities = 4

01996016

01006004

01006005

01006011

Number of Partnerships = 0

The following is a list of all Partnerships

Partnership

Adoption	-	None	
LEP	-	01996008	Partner with HCFA
		01006001	Partner with ACF
		01006004	Partner with HCFA
		01006005	Partner with HCFA
		01006011	Partner with HCFA
TANF	-	01006001	Partner with ACF
		01006009	Partner with ACF
		01006011	Partner with HCFA
Mgd Care	-	01996008	Partner with HCFA
		01006004	Partner with HCFA
		01006005	Partner with HCFA
		01006011	Partner with HCFA
MIS	-	01003074	Partner with OS
		01003075	Partner with OS
		01003076	Partner with OS
		01003077	Partner with OS
		01006011	Partner with HCFA
NDQHC/RD	-	01006004	Partner with HCFA
		01006005	Partner with HCFA
		01006011	Partner with HCFA