



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF INSPECTOR GENERAL

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October 13, 2005

Control Number  
ED-OIG/A09F0009

Jack T. O'Connell  
State Superintendent of Public Instruction  
California Department of Education  
1430 N Street  
Sacramento, CA 95814

Dear Superintendent O'Connell:

This **Final Audit Report**, entitled *ARC Associates' and Oakland Unified School District's Compliance With Supplemental Educational Services Provisions*, presents the results of our audit. The purpose of the audit was to determine whether, for school years 2003-2004 and 2004-2005, (1) Oakland Unified School District (OUSD) contracts with Art, Research and Curriculum Associates (ARC) for providing supplemental educational services (SES) contained the elements specified in the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001, applicable Federal regulations, and U.S. Department of Education (ED) guidance, (2) ARC performed the services for which it received payment under the contracts, and that the services were provided in a manner consistent with the contract terms and Federal requirements, and (3) ARC maintains the data that will be used by the California Department of Education (CDE) to evaluate the quality and effectiveness of the services offered by the provider.

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## BACKGROUND

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Title I, Part A of the ESEA requires local educational agencies (LEAs) to offer SES to students from low-income families when the students attend a Title I school that is in the second year of school improvement or identified for corrective action or restructuring.<sup>1</sup> SES consists of tutoring, remediation, and other educational interventions that are designed to increase the academic achievement of students, and are in addition to instruction provided during the school day. State-approved SES providers, selected by the individual student's parent or guardian, provide the services to eligible students under agreements with LEAs. SES providers must align their

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<sup>1</sup> Under the No Child Left Behind Act of 2001, Title I schools that fail to make adequate yearly progress (AYP) for two consecutive years are identified for school improvement. Title I schools are identified for corrective action if they do not make AYP for four years, while Title I schools not making AYP for five years are identified for restructuring. The "low-income family" determination is usually based on the student's eligibility for free or reduced price lunch under the National School Lunch Program.

instructional programs with state academic achievement standards and tailor their services to the academic needs of individual students. CDE is the state educational agency responsible for administering the ESEA, Title I, Part A program, approving SES providers, and monitoring the quality and effectiveness of services offered by the approved providers.

ARC is a non-profit organization based in Oakland, California that provides SES to students in the San Francisco Bay Area and Los Angeles Area.<sup>2</sup> ARC, which was initially approved as a SES provider in California for school year 2002-2003, provides English-language arts and mathematics tutoring in small-group settings with a student-to-teacher ratio of four to one. The tutoring is provided after the regular school day at the school sites. ARC served about 280 OUSD students in school year 2003-2004 and about 200 OUSD students in school year 2004-2005.

In school year 2003-2004, OUSD had 18 schools that were required to offer SES. For that school year, OUSD allocated \$3.37 million of Title I funds for SES and reported that over 2,800 students received services from seven SES providers. OUSD allocated \$3.92 million of Title I funds for SES in school year 2004-2005.

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## AUDIT RESULTS

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We found that ARC's contracts with OUSD did not include elements required by the applicable ESEA provisions and Federal regulations. As a result, individual student plans were not developed and the contracts did not include information needed to monitor contract performance and ensure that Title I funds, used for contract payments, were expended for allowable costs. Based on our review of payments for selected billing periods, we concluded that ARC provided SES to OUSD students for which ARC received payment under the contracts. We also confirmed the SES were provided to students after the regular school day and the content of instructional material used by ARC for mathematics was aligned with California's student academic achievement standards. However, we were unable to determine if ARC provided the services in a manner consistent with contract terms and other Federal requirements because the contracts lacked the information needed to evaluate compliance with the requirements and did not require ARC to retain related documentation. We also found that OUSD's review of ARC invoices was not adequate to ensure that amounts charged were accurate.

The California State Board of Education adopted regulations in January 2005 that require SES providers to submit annual end-of-fiscal-year reports to CDE. The first report is due on October 1, 2006 and will cover services provided in school year 2005-2006. The state regulations list the information to be provided, including beginning and ending scores on national, state, district, or other assessments in English language arts and/or mathematics for the individual students served. CDE may remove a provider from its approved list if the provider fails to contribute to the increased academic achievement of a majority of students it has served, as demonstrated by the assessment scores, for two consecutive years. We concluded that ARC currently maintains the type of data that will be needed for future annual end-of-fiscal-year reports.

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<sup>2</sup> ARC Connections is the unit within ARC that operates the SES program.

CDE did not explicitly express concurrence with our findings in its comments to the draft report, but it did describe the corrective actions taken or planned to address each of our recommendations. CDE’s comments are summarized at the end of each finding and the full text of the comments is included as an attachment to the report.

**FINDING NO. 1 – OUSD’s Contracts With ARC Did Not Contain All Required Elements and Other Necessary Information**

For each school year we reviewed, OUSD entered into a professional services contract with ARC to provide SES to eligible students. The ESEA § 1116(e)(3) specifies that the LEA is responsible for entering into an agreement with an approved provider selected by a student’s parent. Thus, OUSD is responsible for ensuring that required elements and needed information are included in the contracts. Our review of OUSD’s contracts with ARC for the 2003-2004 and 2004-2005 school years found that the contracts did not include many of the elements required by the applicable ESEA provisions and Federal regulations. As a result, individual student plans were not developed and the contracts did not include information needed to monitor contract performance and ensure contract payments were allowable.

ESEA § 1116(e)(3) lists the elements an LEA must address in the agreements. The elements are reiterated in 34 C.F.R § 200.46(b)(2). The table below lists the required elements and identifies whether each element was included in OUSD’s contracts with ARC.

<b>Coverage of ESEA Elements in OUSD’s Contracts with ARC</b>		
<b>Contract Elements Required By ESEA And Relevant ESEA Citations</b>	<b>Element Included in Contract</b>	
	<b>2003-2004 Contract</b>	<b>2004-2005 Contract</b>
Requirement that the LEA, in consultation with parents and the provider, develop a statement of specific achievement goals for the student, how the student’s progress will be measured, and a timetable for improving achievement. Sec. 1116(e)(3)(A)	No	No
Description of how the student's parents and teacher(s) will be regularly informed of the student's progress. Sec. 1116(e)(3)(B)	Yes	Yes
Provisions for terminating the agreement if the provider fails to meet the goals and timetables. Sec. 1116(e)(3)(C)	Yes	Yes
Provisions with respect to the LEA making payments to the provider for SES. Sec. 1116(e)(3)(D)	Yes	No
Provision prohibiting the provider from disclosing to the public the identity of any student eligible for, or receiving, SES without the written permission of the student’s parents. Sec. 1116(e)(3)(E)	No	No

In addition, Question G-2 of ED's publication entitled *Supplemental Educational Services Non-Regulatory Guidance*, dated August 22, 2003, states that the agreement should include assurances that supplemental educational services will be provided consistent with applicable health, safety, and civil rights laws as required under ESEA § 1116(e)(5)(C).<sup>3</sup> Neither contract included these assurances.

The OUSD's legal and procurement office staff used the District's standard template for professional services contracts for the SES contracts. For the contract with ARC covering school year 2003-2004, the staff included a form entitled "Amendment to Contract for Professional Services for Title I – Supplemental Educational Service Provider" as part of the contract. The amendment contained a verbatim list of the required elements from ESEA § 1116(e)(3), as well as instructions for submitting invoices, the District's timeline for processing payments, and a requirement that the provider maintain daily records of services provided and permit District access to these records. However, the contract (inclusive of the amendment and other attachments) did not contain actual contract provisions for some of the ESEA requirements. OUSD did not include the above amendment in the contract with ARC for school year 2004-2005 nor did the contract specify actual provisions for most of the ESEA requirements.

Individual Student Plans Were Not Developed. The required element in ESEA § 1116(e)(3)(A) places the responsibility on LEAs to "develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 614(d) of the Individuals with Disabilities Education Act..." As we noted, OUSD's contracts with ARC did not address how this requirement would be met. Neither OUSD nor ARC developed such individual student plans. Officials in OUSD's Department of Accountability stated that the district does not have the time and resources to develop a statement of goals, description of how progress will be measured, and a timetable for improvement for each student. Because individual plans were not prepared, OUSD did not meet the requirements of ESEA § 1116(e)(3)(A) and there is no assurance that the SES were tailored to the academic needs of each student, and, in the case of a student with disabilities, consistent with the student's IEP.

Contracts Did Not Include Information Needed to Effectively Monitor Contract Performance.

While the ESEA and related regulations do not require any specific contract terms beyond those identified in the previous table, there is other information that should be in SES provider contracts to ensure that the District and SES provider understand the arrangements for delivery and payment of services. We concluded that OUSD's contracts with ARC did not contain the needed information.

- The contracts stated that ARC would deliver the SES using small group learning centers of four students to each tutor, the contract performance period, and that the services would be provided at the student's school site. However, the contract did not include information on the number of hours per day, days of the week, or number of weeks that ARC planned to provide services to the students. Also, the contract did not identify the schools where the services would be provided, if requested by a parent.

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<sup>3</sup> The same suggestion is contained in ED's June 2005 revised Supplemental Educational Services Non-Regulatory Guidance.

- The contract for school year 2003-2004 included the following requirement concerning records to be maintained by ARC:

The provider will maintain daily records using “Site Services Database”, including the name of the student, the name of provider’s employee who rendered the service, and the amount of time of such service. The provider will permit access to and/or a copy of such records to the District upon request.

However, the contract did not contain any references to the maintenance of other documents such as records of progress reports provided to parents or the results of student academic assessments. Furthermore, the contract for school year 2004-2005 did not require ARC to maintain any documentation related to its SES program.

The contracts should include requirements for the maintenance of records needed to evaluate the provider’s compliance with key contract terms and Federal requirements. For example, Section 1116(e)(3)(B) of ESEA requires that the contract describe how the student’s parents and teacher will be regularly informed of the student’s progress. ARC’s description of services, which was incorporated as part of the contract, states “[e]ach student will receive a periodic progress report corresponding to the school’s report card periods. A copy of the report will go to the student’s relevant teachers....” The documents also state that “[n]otification of student progress will be reported to parents at every report card period.” ARC staff informed us that progress reports were provided to parents about 4-6 weeks after the student began the program and then again at the end of the program, which is 6-8 weeks later. However, ARC staff could not provide copies of the reports or other documentation to show that the notifications were provided and provided timely. Thus, we were unable to confirm that ARC complied with the contract terms and ESEA § 1116(e)(5)(A) and OUSD complied with ESEA § 1116(e)(3)(B).<sup>4</sup>

The contracts also should include the retention period for records to ensure that records maintained by contractors will be available, when needed for reviews or other purposes. Title 20 U.S.C. § 1232f (a) requires that an LEA maintain records for three years after completion of the activity for which program funds were used.

- The contracts included the following provisions for making payments to ARC:

OUSD shall pay Contractor a total fee of \$770,000 for school year 2003-2004 and \$487,377 for school year 2004-2005, payable as follows: “pay as billed” for school year 2003-2004 and “as billed monthly” for school year 2004-2005. This sum shall be for full performance of this Agreement and includes all fees, costs and expenses incurred by Contractor including but not limited to labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs, and other costs. Receipts for costs/expenses must accompany invoice(s).

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<sup>4</sup> ESEA § 1116(e)(5)(A) requires that a provider must provide parents and LEAs with information on the progress of the student in increasing achievement.

The contract for school year 2003-2004 included the following additional provision:

The provider will submit to the [OUSD's] Department of Accountability monthly invoices itemized by name, services provided and actual numbers of hours for which services were provided, and amount owed. Such invoices will be submitted within thirty (30) days of the rendering of services. The District will process payments to providers within forty-five (45) days of submission of such invoices.

The contracts did not contain information on the expected number of students to receive instructional services for the total fee or the expected cost per student served. The ESEA § 1116(e)(6) establishes the amount that must be made available for instructional services for each student receiving SES.<sup>5</sup> The contracts also did not include information on the number of session hours expected to be delivered to each student based on the provider's hourly rate or District's per pupil SES allocation, and whether the costs would include scheduled session hours that students do not attend due to excused absences.

ED's publication entitled *Innovations in Education: Creating Strong Supplemental Educational Services Programs*, issued May 2004, provided LEAs and SES providers with information drawn from the experiences of implementing SES in five diverse districts from across the country. The publication states that districts and service providers emphasized that a contract between district and service provider that "leaves nothing to the imagination" provides a solid base for a smooth relationship. Without the required elements and sufficient information in the contracts, OUSD and SES providers may not have a clear understanding of the role each party has in meeting the requirements listed in ESEA § 1116(e)(3), the nature of the provider's instruction, the records that need to be maintained to demonstrate compliance with contract terms and Federal requirements, and how billing and payment will be handled. Also, OUSD may lack information it needs to monitor contract performance and take actions to address instances of non-performance.

## Recommendations

We recommend that the Assistant Secretary for Elementary and Secondary Education, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement, require CDE to take action to—

- 1.1 Ensure that OUSD's contracts with SES providers contain all elements required by the ESEA § 1116(e)(3) and Federal regulations.
- 1.2 Ensure that OUSD contracts with SES providers include information and terms that clearly communicate each party's roles in meeting the requirements listed in ESEA § 1116(e)(3), the nature of the provider's instruction, the records that need to be maintained to demonstrate compliance with contract terms and Federal requirements, and how billing and payment will be handled.

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<sup>5</sup> The ESEA § 1116(e)(6) sets the per-pupil cost for SES at the lesser of a local educational agency's per-pupil allocation under Part A of Title I, or the actual cost of services.

## CDE Comments

In its comments on the draft report, CDE stated that OUSD plans to use a Memorandum of Understanding (MOU) for SES provider agreements rather than its standard template for professional services contracts. CDE stated that it would review the MOU for all required elements, including retention of documents, and that CDE and OUSD will present the MOU at a meeting with SES providers. Additionally, CDE will provide technical assistance training during workshops and provide written communications to all LEAs on the requirements for implementing SES.

## **FINDING NO. 2 – OUSD Lacked Adequate Internal Controls Over the Review and Approval of ARC Invoices**

OUSD's reviews of ARC invoices did not detect a double billing as well as charges for services provided to ineligible students. The regulations at 34 C.F.R. § 80.20 contain the standards for financial management systems that apply to LEAs receiving Federal grant funds. Section 80.20(b)(3), which addresses internal control, states "[e]ffective control and accountability must be maintained for all grant and sub grant cash, real and personal property, and other assets." Thus, OUSD must have internal control procedures, such as reviews of invoices prior to payment, in place to ensure the appropriate use of Title I funds for SES.

Our review of ARC invoices for SES provided in March 2004 and the period March 14-25, 2005 found that ARC had original student attendance records to support the tutoring hours included in the invoices. However, we identified billing errors and weaknesses in OUSD's internal controls during our review of those invoices for school years 2002-2003 and 2003-2004.

- For school year 2003-2004, OUSD did not provide SES providers with a list of eligible students whose parents requested SES from the provider. Thus, ARC did not have the information needed to ensure that it only provided services to eligible students.

District staff stated that to ensure that OUSD only paid ARC for eligible students, staff compared the students included in ARC's first invoice for the school year with the individual parent SES applications. District staff stated no reviews were conducted of other ARC invoices paid for school year 2003-2004. Since OUSD only reviewed about 15 percent of the total amount that ARC billed for the school year for tutoring sessions, OUSD cannot be certain that the District only paid for services provided to eligible students. Also, because OUSD did not have a list identifying the eligible students for school year 2003-2004, we were unable to confirm that ARC invoices for SES provided in March 2004 covered only eligible students.

- For school year 2004-2005, OUSD provided ARC with a list of eligible students whose parents requested SES from ARC, but the list was provided late. ARC began providing SES on January 24, 2005, but OUSD did not provide the list until March 2005.

District staff stated SES provider invoices for school year 2004-2005 were reviewed prior to payment and, as part of its reviews, compared students included in the invoices with the District's list of eligible students. However, our review of invoices for services provided during March 14-25, 2005 found that ARC had double-billed for two students and

inappropriately billed for four other students who were not on the District's list of eligible students. OUSD staff had not detected the inappropriate charges and paid ARC for the full amount invoiced. As a result of the double billing and charges for ineligible students, ARC received overpayments totaling \$1,860 for services provided during the period March 14-25, 2005.

In summary, OUSD did not have the needed internal controls in place for school years 2003-2004 and 2004-2005 to ensure that Title I funds were appropriately used to pay SES costs. As stated above, we were unable to determine the appropriateness of payments to ARC in school year 2003-2004 because the District did not have a list of students eligible for SES in that school year. Our review for school year 2004-2005 was limited to invoices for one of the ARC billing periods. Since our review identified billing errors for the one billing period, there is no assurance that Title I funds were appropriately used for amounts paid to ARC for other billing periods.

### **Recommendations**

We recommend that the Assistant Secretary for Elementary and Secondary Education, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement, require CDE to—

- 2.1 Ensure that OUSD distributes to each SES provider a list of eligible students whose parents have selected that provider, OUSD provides the list prior to the date the provider begins delivering services to students for the school year, and OUSD promptly notifies providers of changes to the list.
- 2.2 Ensure that OUSD performs a second review of ARC invoices for school year 2004-2005 to identify any amounts paid for ineligible students and other billing errors, and return the identified amounts (including the \$1,860 for double billing and ineligible students identified in our review) to the appropriate Title I fund.
- 2.3 Ensure that OUSD strengthens its internal control over payment of SES provider invoices to provide reasonable assurance that Title I funds are used to pay for services provided to eligible students.

### **CDE Comments**

In its comments on the draft report, CDE stated that OUSD will distribute a list of eligible students to SES providers in a timely manner and establish internal controls for review of student eligibility. CDE stated that ARC's review of its records identified double billings of \$545 and that ARC was making arrangements to repay OUSD. CDE stated that OUSD plans to review ARC invoices to determine whether other double billing or charges for ineligible students exist. CDE also stated that, for school year 2005-2006, OUSD is establishing an internal screening control process to identify billings for ineligible students, has developed a detailed invoicing template, and will implement an internal system of double review and signature by October 2005.



## **OIG Response**

The double billings of \$545 were part of the \$1,860 of improper charges identified by our audit. ARC should also return to OUSD the remaining \$1,315 charged for services to students who were not eligible for SES.

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## **OTHER MATTER**

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During our review, we found that OUSD did not offer SES to all eligible students for school years 2003-2004 and 2004-2005. Under Title 34 C.F.R. § 200.45(b) and (c), students from low-income families attending Title I schools in improvement, corrective action or restructuring status are eligible for supplemental educational services. OUSD initially determined a students' eligibility for SES based on student performance on the prior year's standardized tests. Students scoring in the three lowest performance categories (far below basic, below basic, and basic) were identified as eligible for SES. The District then determined if these students were also on the list of students eligible for the Free and Reduced Price Lunch program (i.e. from low income families) before making a final eligibility determination. As a result, the District's list of eligible students did not include students from low-income families who scored above the basic level. These students were denied access to after-school tutoring services, even though the OUSD had funds available for the services. For the 2003-2004 school year, OUSD's accounting records showed that the District had budgeted about \$3.4 million for SES, while the District only expended about \$2 million on SES during the school year. In its comments on the draft report, CDE stated that all students at eligible school sites are provided with information regarding the availability of SES and that low achievement criteria will only be utilized if the number of eligible students applying for SES exceeds the number of available tutoring slots.

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## **OBJECTIVES, SCOPE, AND METHODOLOGY**

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The objectives of the audit were to (1) confirm that OUSD's contracts with ARC for providing SES contain the elements specified in ESEA § 1116(e)(3), applicable Federal regulations, and ED guidance; (2) determine whether ARC performed the services for which it received payment under the contracts and that the services were provided in a manner consistent with the contract terms and Federal requirements; and (3) determine whether ARC collects and maintains the data that will be used by the CDE to evaluate the quality and effectiveness of the services provided by ARC. Our audit covered school years 2003-2004 and 2004-2005.

To achieve our objectives, we gained an understanding of the ESEA sections, Federal regulations, ED guidance, and California regulations covering SES and interviewed officials and staff at ARC, OUSD, and CDE. We obtained OUSD's contracts with ARC for school years 2003-2004 and

2004-2005 and compared the contracts' terms to the elements specified in ESEA § 1116(e)(3). Our review of OUSD's internal control was limited to the procedures used to contract for SES and process provider invoices.

To assess whether ARC performed the services for which it received payment, we gained an understanding of ARC's internal control over collecting student attendance data used to prepare invoices. ARC's accounting records showed six invoices, totaling \$661,499, were submitted for school year 2003-2004 and seven invoices, totaling \$252,826, were submitted for school year 2004-2005 (as of April 2005). We judgmentally selected the billing period for each school year that had the largest dollar amount charged for the period – March 2004 and March 14-25, 2005 (invoices for these periods totaled \$147,926 and \$58,398, respectively). For each invoice, we reviewed student attendance data, confirmed that students were on the District's list of eligible students (for 2004-2005 only), and recalculated the invoice amount. In addition, we identified the invoiced amounts for program start up costs for school years 2002-2003, 2003-2004, and 2004-2005 and reviewed supporting documentation for the \$94,701 charged for 2002-2003 and 2003-2004.<sup>6</sup>

To determine if ARC's services were provided in a manner consistent with the contract terms and Federal requirements and to determine if ARC had data available for CDE to assess services, we gained an understanding of ARC's procedures for informing parents and teachers of students' progress and collecting student assessment data. We reviewed the provider application packages (2003, 2004, and 2005) that ARC submitted to CDE and available documentation at ARC related to the reporting of student progress, aligning of services to State content standards, and assessing the quality and effectiveness of services. Our review for determining whether ARC performed its services consistent with contract terms and Federal requirements was limited to the following areas:

- Developed a statement of specific achievement goals for each student, how the student's progress will be measured, and a timetable for improving achievement.
- Regularly informed student's parents and teacher(s) of the student's progress.
- Provided services that were in addition to the instruction provided during the school day.
- Used instructional materials that were aligned with State student academic achievement standards.<sup>7</sup>

However, we were unable to determine whether ARC complied with the contract terms for informing parents and teachers of student progress reports because ARC could not provide copies of the reports or other documentation to show that the student progress information was provided and provided timely.

We performed our fieldwork at ARC's corporate office and the administrative offices of OUSD in Oakland, California and CDE in Sacramento, California. An exit conference was held with officials from ARC and OUSD on July 11, 2005. An exit conference was held with CDE officials on August 10, 2005. We performed our audit in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

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<sup>6</sup> We did not review support for the invoiced amount of \$65,395 for school year 2004-2005 because OUSD had denied payment of program start up costs for that school year.

<sup>7</sup> ESEA § 1116(e)(5)(B) states that a provider must ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the LEA and State, and are aligned with State student academic achievement standards. Our review was limited to confirming that ARC's instructional materials were aligned with State standards.

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## ADMINISTRATIVE MATTERS

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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 actions to be taken will be made by the appropriate Department officials.

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 officials who will consider them before taking final Departmental action on this audit.

Henry Johnson  
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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.

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 under the Act.

Sincerely,

/s/

Gloria Pilotti  
Regional Inspector General for Audit

**ATTACHMENT**

**CDE Comments on the Draft Report**

OIG Note

Recommendation 2.3 was deleted in the final report and the subsequent recommendation was renumbered. Thus, CDE's comments on Recommendation 2.3 are not germane to the final report and its comments on Recommendation 2.4 related to Recommendation 2.3 in the final report.



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**JACK O'CONNELL**

State Superintendent of  
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September 26, 2005

Gloria Pilotti, Regional Inspector General for Audit  
United States Department of Education  
Office of Inspector General  
501 I Street, Suite 9-200  
Sacramento, CA 95814

Dear Ms. Pilotti:

This is the California Department of Education's (CDE) response to the United States Department of Education (ED) Office of Inspector General's (OIG) draft audit report entitled, "*ARC Associates' and Oakland Unified School District's Compliance With Supplemental Educational Services Provisions.*" This response incorporates information from the CDE, Oakland Unified School District (OUSD), and ARC Associates (ARC). State Superintendent of Public Instruction Jack O'Connell has asked me to respond on his behalf.

**Finding No. 1 – OUSD's Contract With ARC Did Not Contain All Required Elements and Other Necessary Information**

**Recommendation 1.1:**

Ensure that OUSD's contracts with SES providers contain all elements required by the Elementary and Secondary Education Act of 1965 (ESEA) § 1116(e)(3), Federal regulations, and ED guidance.

**Corrective Action Plan:**

By October 2005, OUSD plans to use a detailed Memorandum of Understanding (MOU) agreement, rather than the OUSD standard template, for professional services contracts. The CDE will review a copy of the MOU to ensure all the required elements are included, before it is submitted to the local school board for approval.

**Recommendation 1.2:**

Ensure that OUSD contracts with SES providers include information and terms that clearly communicate each party's roles in meeting the requirements listed in ESEA

§ 1116(e)(3), the nature of the providers' instruction, the records that need to be maintained to demonstrate compliance with contract terms and Federal requirements, and how billing and payment will be handled.

**Corrective Action Plan:**

Although ARC provided two achievement reports to the parents, and a final report to the student's teacher, copies were not maintained at ARC since it was not required in the contract. However, copies of the reports for 2004-05 are available in the ARC Oakland office.

When OUSD develops the MOU agreements for use with SES providers, it will clearly outline information and terms of compliance issues as listed in ESEA § 1116(e)(3), including the retention of documents. OUSD and CDE will present the MOU agreement to the SES providers in a meeting. Additionally, the CDE will provide regional technical assistance training via workshops that will address all aspects of providing SES, and provide written communications to all local educational agencies on the requirements for implementing SES.

**Finding No. 2 – OUSD's Review of ARC Invoices Did Not Ensure That Amounts Charged Were Allowable and Supported by Required Documentation**

**Recommendation 2.1:**

Ensure that OUSD distributes a list of eligible students to SES providers prior to the date the provider begins delivering services to student for the school year, and that OUSD promptly notifies providers of changes to the list.

**Corrective Action Plan:**

OUSD will distribute a list of eligible students to SES providers in a timely manner. Additionally, OUSD will establish internal controls for review of student eligibility by October 2005.

**Recommendation 2.2:**

Ensure that OUSD performs a second review of ARC invoices for school year 2004-05 to identify any amounts paid for ineligible students and other billing errors, and return the identified amounts (including the \$1,860 for double billing and ineligible students identified in our review) to the appropriate Title I fund.

Corrective Action Plan:

ARC reviewed their records, identified \$544.50 in double billed students, and is making arrangements to repay OUSD. Additionally, OUSD plans to review ARC invoices to determine whether other double billing, or charges for ineligible students exist. However, OUSD moved the SES program from the Accountability office to the Extended Day office, and all records have not been retrieved.

For the 2005-06 school year, OUSD is establishing an internal screening control process to identify billings for ineligible students. The Oakland Activities for Kids attendance tracking system will be maximized to assist with attendance billing discrepancies.

**Recommendation 2.3:**

Ensure that OUSD obtains and reviews ARC's supporting documentation for program start up costs for school year 2003-04, and return any amounts to the appropriate Title I fund that the District determines are unallowable or unsupported.

**Corrective Action Plan:**

If ARC documentation is available, OUSD will review and determine the appropriateness of the start up cost expenditures for school year 2003-04, and ensure any unallowable or unsupported amounts are returned to the appropriate Title I fund. The CDE will also provide technical assistance to OUSD to ensure the MOU agreement contains a retention schedule for fiscal records of not shorter than the term of the agreement.

**Recommendation 2.4:**

Ensure that OUSD strengthens its internal control over payment of SES provider invoices to provide reasonable assurance that SES costs paid with Title I funds are necessary, reasonable, and adequately documented.

**Corrective Action Plan:**

OUSD developed a detailed invoicing template, and will implement an internal system of double review and signature by October 2005. The CDE will ensure OUSD's billing process is accurate and meets auditing standards.

**Other Matters:**

OUSD did not offer SES to all eligible students for school years 2003-04 and 2004-05.

**Corrective Action Plan:**

All students at eligible school sites are provided with information regarding SES program availability. Requests will be accepted from all low income students attending those schools, based on Free or Reduced lunch status. Low achievement criteria will only be utilized if the number of eligible applicants exceeds the number of available tutoring slots. This policy was articulated in the Parent Letters sent home during the first week of school.

If you have any questions regarding CDE's response, please contact Kim Sakata, Audit Response Coordinator, Audits and Investigations Division, at (916) 323-2560 or by email at .

Sincerely,

/s/  
GAVIN PAYNE  
Chief Deputy Superintendent of Public Instruction

GP:ks