



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

THE INSPECTOR GENERAL

DEC 31 2008

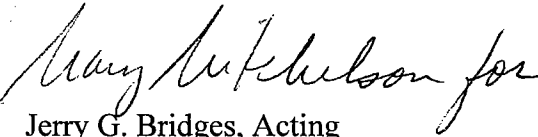
The Honorable Henry Waxman
Chairman, Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Waxman:

In response to your December 15, 2008, request for an updated total of the number of recommendations made by the Office of Inspector General from 2001 through 2008 that the U.S. Department of Education has not yet implemented, enclosed please find the results of our review.

If you have any questions or require any additional information, please do not hesitate to contact myself or Catherine Grant, our Congressional Liaison, at (202) 245-7023.

Sincerely,


Jerry G. Bridges, Acting

Enclosure

OVERVIEW

On December 15, 2008, the U.S. House of Representatives Committee on Oversight and Government Reform (Committee) requested that the U.S. Department of Education (Department), Office of Inspector General (OIG), provide information on OIG recommendations made that remain unimplemented. The information was requested to include recommendations made from January 1, 2001, to present. Specifically, the Committee requested the following information:

1. The total number of open recommendations, by year issued, 2001 through 2008;
2. The total potential monetary benefit of open recommendations, by year issued, 2001 through 2008;
3. A brief description of the three open recommendations with the highest potential monetary benefit; and
4. The total number of recommendations made, by year issued, 2001 through 2008.

BACKGROUND

The Inspector General Act of 1978, as amended, Title 5 U.S.C., Appendix, states, “The head of a Federal agency shall make management decisions on all findings and recommendations set forth in an audit report of the inspector general of the agency within a maximum of six months after the issuance of the report...The head of a Federal agency shall complete final action on each management decision...within 12 months after the date of the inspector general’s report.”

OMB Circular A-50 (Circular), *Audit Followup*, require agencies to establish systems to assure the prompt and proper resolution and implementation of audit recommendations. The Circular states, “Resolution shall be made within a maximum of six months after issuance of a final report...Corrective action should proceed as rapidly as possible.”

The Circular provides definitions as follows:

- **Audit Resolution** – The point at which the audit organization and agency management or contracting officials agree on actions to be taken on reported findings and recommendations.
- **Corrective Action** – Measures taken to implement resolved audit findings and recommendations.

OIG provides information in its *Semiannual Reports to Congress* (SARs) on audit reports issued, those reports that are not yet resolved (open), and those reports that have been resolved, but for which corrective actions have not been implemented for at least a year after issuance of the final audit report.

The Department tracks audit resolution and the implementation of corrective actions related to OIG products in its Audit Accountability and Resolution Tracking System (AARTS). The Office of the Chief Financial Officer (OCFO) maintains this system, which includes input from OIG and responsible program officials. AARTS includes recommendation-level detail for all reports where the Department is directly responsible for implementing corrective action (internal audits). The system includes less detailed information on the status of individual recommendations made to non-federal entities, such as state educational agencies, local educational agencies, participants in the student financial assistance programs, contractors, or grantees (external audits).

We relied on information in AARTS and published in our SARs to prepare this response. We did not confirm the status of audits and recommendations reported by the Department in AARTS. All potential monetary benefits included in this response are based on the amounts of the recommendations in OIG's audit reports, and include questioned and unsupported costs, as well as identified better uses of funds, as detailed in our SARs.

Periodically, OIG evaluates the effectiveness of the Department's audit followup system and corrective actions taken to address audit recommendations. The last such audit was issued February 27, 2006, and can be found on OIG's website at the following link: <http://oigmis3.ed.gov/auditreports/a19e0017.pdf>. The Department stated it has implemented all corrective actions related to that audit. During FY 2009, OIG plans to conduct another evaluation of the Department's audit follow up system.

PRIOR COMMITTEE REQUEST

On December 7, 2007, the Committee requested OIG to compile a list of recommendations made that had not yet been implemented by the Department or by Congress. That response was provided to the Committee on January 31, 2008, and can be viewed on our website at the following link:

<http://www.ed.gov/about/offices/list/oig/misc/notyetimplemented20012007.pdf>

Because the Committee's prior request asked for substantial information on each report's objectives, findings, and unimplemented recommendations and focused on cost savings, OIG's prior response was limited to internal audits of the Department for which such detailed information is available. The current request does not include requirements for such detailed information and requests information on all potential monetary benefits. Because most of the monetary benefits identified by OIG are in our external audits, and summary-level data could be compiled on the Committee's timeline, this response includes summary information on open recommendations from both internal and external OIG audits.

OPEN OIG RECOMMENDATIONS
January 1, 2001, through September 30, 2008

Internal Audits:

ED OIG generally does not estimate monetary benefits in its internal audits of the Department's management of its programs and operations, other than to identify better uses of funds. AARTS includes recommendation-level detail for internal audit reports. A total of 271 internal audits were issued during the period. Of those, 229 audits with 1,397 recommendations were reported as closed. 34 audits were reported as resolved, and 8 audits were reported as unresolved. The 42 resolved and open audits included a total of 379 recommendations, 190 of which have not yet been implemented.

Year of Report Issue	Total Number of Internal Audit Recommendations Made in Period	Number of Internal Audit Recommendations Still Open	Potential Monetary Benefits from Internal Audit Open Recommendations
2001	389	0	\$0
2002	260	0	\$0
2003	175	0	\$0
2004	200	2	\$0
2005	236	12	\$0
2006	179	19	\$0
2007	160	23	\$799,500
2008	177	134	\$0
Total	1,776	190	\$799,500

External Audits:

Because the Department does not maintain recommendation-level detail for external audits in AARTS, the number of open recommendations and recommendations that have been implemented cannot be determined without an in-depth review of each audit report and confirmation of the status of corrective actions taken by the external entities. However, to respond to this request, the information in our latest SAR was updated to include all external audits issued through September 30, 2008, for which the Department had not reached a management decision – resolved the audit – as of that date.¹

Since the Department has not resolved the audits and instructed the external entities as to the corrective actions needed, all recommendations for these audits are considered open.

¹ Audits are not considered overdue for resolution (issuance of the management decision), until six months after the final report date. The additional recommendations for audits issued through September 30, 2008, include audits that are not yet overdue for resolution.

The total number of recommendations made column includes all recommendations made for external audits in the period, including those recommendations that the Department has reported as resolved or closed. The open recommendations column includes only those audits for which the Department has not yet resolved the audit.

A total of 298 external audits were issued during the period. Of those, 123 audits with 553 recommendations were reported as closed. 116 audits with 659 recommendations were reported as resolved, and 59 audits with 449 recommendations were reported as open.

Since recommendation-level detail is not available for external audits, our response is understated for any open recommendations for the 116 external audits that have been resolved, but for which corrective action has not been reported as completed for all recommendations. With currently available information, in the time provided for this response, we have no means by which to determine which of the 659 recommendations in resolved audits have not yet been implemented.

Year of Report Issue	Total Number of External Audit Recommendations Made in Period	Number of External Audit Recommendations Still Open	Potential Monetary Benefits from External Audit Open Recommendations
2001	208	15	\$6,014,275
2002	227	32	\$38,292,071
2003	311	34	\$24,600,776
2004	223	31	\$6,240,612
2005	227	40	\$95,879,339
2006	175	86	\$219,801,872
2007	163	89	\$417,123,290
2008	127	122	\$74,689,703
Total	1,661	449	\$882,641,938

The Department of Education, unlike other agencies, has various legal requirements that it must apply before it can require the return of funds as a result of an audit finding. For many of its programs, under the General Education Provisions Act, the Department has “the burden of establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest.” This means presenting a level of evidence and analysis in a determination letter to establish the law and the facts supporting recovery of funds that, unless rebutted, will sustain the recovery of funds. As a result, external audits with potential monetary recoveries require additional work and can require more time to resolve than external audits with only non-monetary findings or internal audits.

Summary:

The following total numbers of recommendations, open recommendations, and amounts of potential monetary benefits from open recommendations, resulted for both internal and external reports issued from January 1, 2001, through September 30, 2008:

Year of Report Issue	Total Number of Recommendations Made for All OIG Audits in Period	Number of Recommendations for All OIG Audits Still Open	Potential Monetary Benefits for All OIG Audits from Open Recommendations
2001	597	15	\$6,014,275
2002	487	32	\$38,292,071
2003	486	34	\$24,600,776
2004	423	33	\$6,240,612
2005	463	52	\$95,879,339
2006	354	105	\$219,801,872
2007	323	112	\$417,922,790
2008	304	256	\$74,689,703
Total	3,437	639	\$883,441,438

OPEN RECOMMENDATIONS WITH THE HIGHEST POTENTIAL MONETARY BENEFIT

The Committee requested information on the three open recommendations deemed by OIG to have the highest potential monetary benefit. Because many of OIG’s recommendations are related to the same findings or issues, we summarized the three audit reports, and the monetary recommendations in those reports, with the highest potential monetary benefits.

1. *Bureau of Indian Affairs (BIA) Administration of Individuals with Disabilities Education Act (IDEA), issued 3/28/2007* – We recommended that Assistant Secretary for Special Education and Rehabilitative Services obtain an assurance from BIA officials that the \$111 million of IDEA, Part B funds were used to deliver educational assistance to the children with disabilities at all of the BIA funded schools and return any funds not used for those purposes to the Department, to the extent authorized by law. We also recommended that the Deputy Secretary coordinate with the Department of Interior to require BIA to account for the remaining \$217 million in other Department of Education funds it received during the audit period or return those funds to the Department of Education to the extent authorized by law. (Total potential monetary benefit \$328 million.)

Report Links: <http://www.ed.gov/about/offices/list/oig/auditreports/a06f0019.pdf> (to BIA), <http://www.ed.gov/about/offices/list/oig/auditreports/a06g0002.pdf> (to the Deputy Secretary)

2. ***Illinois State Board of Education's (ISBE's) Compliance with the Title I, Part A, Comparability of Services Requirement, issued 6/7/2007*** – ISBE did not adequately monitor Local Educational Agencies' compliance with the Title I, Part A, Comparability of Services requirement in the 2004-2005 and 2005-2006 program years. We recommended that the Assistant Secretary for Elementary and Secondary Education require ISBE to return \$16,809,020 in Title I, Part A, funds that Chicago Public Schools (CPS) allocated to non-comparable schools in the 2004-2005 and 2005-2006 program years. We also recommended that ISBE return that portion of \$529,514,390 in Title I funds received by additional schools that ISBE determines to be non-comparable, based on CPS' promised recalculation of its 2004-2005 and 2005-2006 program years' comparability determinations.

Report Link: <http://www.ed.gov/about/offices/list/oig/auditreports/a05g0033.pdf>

3. ***Educational Credit Management Corporation's (ECMC) Administration of the Federal Family Education Loan Program Federal and Operating Funds, issued 3/18/2003*** – We recommended that the Chief Operating Officer for Federal Student Aid (FSA) require ECMC to return \$14.6 million, plus imputed interest, to the Federal Fund for unauthorized sources of income placed in the Operating Fund. We also recommended that FSA require ECMC to return to the Federal Fund any additional repurchase interest transfers made after December 2001 until this finding is resolved, plus imputed interest. We also recommended that FSA require ECMC to return \$65,832 to the Federal Fund and allocate future expenses in accordance with its cost allocation plan. In addition, we recommended that FSA require ECMC to return \$430,324 to the Federal Fund for supplemental preclaims assistance payments from the Department and imputed interest through August 31, 2002. We further recommended that additional imputed interest earned until the date this issue is resolved also be returned. (Total potential monetary benefit is \$15.1 million plus imputed interest since December 2001.)

Report Link: <http://www.ed.gov/about/offices/list/oig/auditreports/a05c0014.pdf>