
Audit of FSA's Modernization Partner Agreement



FINAL AUDIT REPORT
ED-OIG/A07-B0008
November 2002

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U.S. Department of Education
Office of Inspector General
Kansas City, Missouri Office

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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 action to be taken will be made by the appropriate Department of Education officials.

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UNITED STATES DEPARTMENT OF EDUCATION

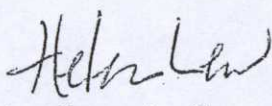
OFFICE OF INSPECTOR GENERAL

MEMORANDUM

NOV 20 2002

TO: Theresa S. Shaw
Chief Operating Officer
Federal Student Aid

Jack Martin
Chief Financial Officer
Office of the Chief Financial Officer

FROM: Helen Lew 
Acting Assistant Inspector General for Audit

SUBJECT: FINAL AUDIT REPORT
Audit of FSA's Modernization Partner Agreement
Control No. ED-OIG/A07-B0008

Attached is our subject final report presenting our findings and recommendations resulting from our review of FSA's Modernization Partner Agreement. The report identifies areas for improvement and provides recommendations. We received your comments, which basically concurred with the findings in our draft audit report.

Please provide the Supervisor, Post Audit Group, Office of Chief Financial Officer and the Office of Inspector General with quarterly status reports on promised corrective actions until all such actions have been completed or continued follow-up is unnecessary.

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

We appreciate the cooperation given us in the review. Should you have any questions concerning this report, please call William Allen at (816) 268-0501. Please refer to the above audit control number in all correspondence relating to this report.

Attachment

Audit of FSA's Modernization Partner Agreement

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Audit of FSA's Modernization Partner Agreement

Executive Summary

The Modernization Partner Agreement is a Blanket Purchase Agreement between the Department of Education (Department) and Accenture (ED-99-DO-0002). Federal Student Aid (FSA) uses the Modernization Partner Agreement to implement its Modernization Blueprint. As of August 9, 2002, the Modernization Partner Agreement obligated nearly \$244 million under 112 task orders, four of which are share-in-savings task orders.

We reviewed the FSA Modernization Partner Agreement to (1) determine the adequacy of the performance indicators established to measure contractor performance, (2) assess the agreement's compliance with laws and regulations, and (3) determine the accuracy of the costs incurred for the products and services provided. We found that FSA payments to the Modernization Partner were accurate and in accordance with the terms of the authorizing task orders. However, we found that

- *Contract performance measures were inadequate.* Of the 47 task orders reviewed, 36 included deliverables with inadequate performance measures because those measures could not be used effectively to measure the usability of the deliverables or to determine that the contractor's performance was in accordance with contract terms. We recommend that FSA ensure that future performance-based contracts or task orders include effective performance measures to evaluate the contractor's performance.
- *The required review of the agreement to ensure continued best value was not completed.* FSA has not reviewed the Modernization Partner Agreement to ensure that the agreement continues to represent the best value. We recommend that FSA ensure that the annual review of the agreement is completed as required and that the review include a comparison of costs under the agreement to an outside market in determining whether the agreement continues to provide the best value for contracted services.
- *The share-in-savings task order baseline was overstated.* In August 2001, we reported that the baseline used to measure the FSA Modernization Partner's performance and to calculate payments under a share-in-savings task order was overstated. An overstatement creates a larger contractor payment than is actually earned. The baseline was overstated because it did not reflect savings from a prior, separate FSA initiative. Although FSA disputed the amount that the baseline was overstated, it agreed that our recommendations represent good business practice and agreed to implement them in future share-in-savings agreements. We continue to

recommend that FSA use the most current and relevant data available when it establishes a baseline for a share-in-savings contract or task order.

The Department generally agreed with our findings. We have incorporated their comments, where appropriate, and have summarized the comments and OIG's response at the end of each respective finding. The full text of the Department's comments is included as an Appendix.

Audit of FSA's Modernization Partner Agreement

Background

The Higher Education Amendments of 1998 established a Performance-Based Organization (PBO) – a discrete management unit responsible for managing the operational functions supporting the programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA). The Amendments gave the PBO independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The responsibilities of the PBO included integrating the information systems supporting the Federal student financial assistance programs; implementing an open, common, integrated system for the delivery of student financial assistance under Title IV; and developing and maintaining a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity. Federal Student Aid (FSA), the PBO, developed the Modernization Blueprint as its plan for changes necessary to meet modernization goals.

Using GSA’s schedule of contractors, the Department of Education (Department) competed its requirements for a “Modernization Partner” to assist in implementing the Department’s Modernization Blueprint. In September 1999, the Department issued a Blanket Purchase Agreement (BPA: ED-99-DO-0002) with Accenture (formerly known as Andersen Consulting) as the FSA Modernization Partner. The BPA’s scope of work indicates that the overall intent of the Modernization Partner Agreement is to assist in implementing the Department’s Modernization Blueprint.

The Blueprint explains how and when FSA will modernize and includes the FSA Modernization Business Requirements, a Functional and Technical Architecture, as well as a Sequencing Plan to migrate from FSA’s current working environment to the target architecture. FSA released the first Modernization Blueprint on September 30, 1999; the second is dated July 15, 2000; the third was completed in 2001; and the fourth edition of the Blueprint was completed in March 2002. The Department has not yet approved the last two updates to the Blueprint for public release.

According to the Modernization Partner Agreement, the planned outcome of the Modernization Blueprint is to reduce and retire redundant data and systems, through a planned and systematic process of transitioning to the modernized system and the elimination of waste and inefficiencies in manageable steps. The Modernization Partner is responsible and accountable for the on-time quality

delivery of projects within the Blueprint and other modernization projects that FSA may require in the future. The Modernization Partner is required to accomplish two primary outcomes:

- Manage the execution of the Modernization Blueprint
- Develop, test, deploy, and maintain information systems

Under the BPA, work is to be authorized by task orders, with each task order under the BPA considered a separate award. All task orders are to include performance objectives that support FSA's Modernization objectives, as well as performance measurements to be used to evaluate the contractor's performance. As of August 9, 2002, the agreement included nearly \$244 million obligated under 112 task orders, including four share-in-savings task orders: Central Data System (CDS), Title IV – Wide Area Network (TIVWAN), E-Servicing, and Common Originating Disbursements (COD).

Audit of FSA's Modernization Partner Agreement

Audit Results

We reviewed the FSA Modernization Partner Agreement to (1) determine the adequacy of the performance indicators established to measure contractor performance, (2) assess the agreement's compliance with laws and regulations, and (3) determine the accuracy of the costs incurred for the products and services provided. We found that

- Performance measures in 36 of the 47 task orders reviewed were not adequate to assess whether contractor performance was in accordance with contract terms and to assure the performance, reliability, and usability of all deliverables;
- FSA has not completed an annual review of the Modernization Partner Agreement to ensure that the agreement continues to represent the best value for products and services; and
- The baseline used to measure the contractor's performance and calculate contractor payments in the share-in-savings task order was overstated.

Except as discussed in this report, nothing came to our attention to indicate that the contract was not administered in accordance with laws and regulations. However, we had some concerns about whether share-in-savings pricing is fully authorized under the pricing provisions of the GSA Schedule 70 contract. We plan to continue reviewing this share-in-savings issue in a subsequent audit. The Other Matters section of this report contains a discussion of a system control weakness not specifically related to the Modernization Partner Agreement and a general discussion of our concerns with the share-in-savings pricing issue.

Finding No. 1 – Task Orders Include Inadequate Performance Measures

We reviewed 47 performance-based task orders that included 452 deliverables, issued under the FSA Modernization Partner Agreement. We found that 36 of the 47 task orders reviewed included 230 deliverables with inadequate performance measures. The performance measures were inadequate because the measures did not provide sufficient quantifiable or qualitative information to determine if the contractor's performance was in accordance with the terms of the contract and that the deliverables were usable and reliable.

Section 142(c)(1) of the HEA requires the Chief Operating Officer to use performance-based contracts to the extent practicable. It states

The Chief Operating Officer shall, to the extent practicable, maximize the use of performance-based servicing contracts . . . to achieve cost savings and improve service.

Accordingly, the Modernization Partner Agreement states

All Task Orders shall be performance based. Each Task Order shall include performance objectives that reflect and support the Modernization objectives of [FSA] for that Task Order.

Each Task Order shall include performance measurements that will be used to evaluate the contractor's performance under the Task Order and determine if the required outcomes have been achieved.

The Modernization Partner Agreement includes a Quality Assurance Plan that describes the quality review methods used to evaluate the Modernization Partner's system projects. Under the Modernization Partner Agreement, the Modernization Partner is required to develop indicators to measure the Modernization Blueprint's accomplishments and to ensure that all deliverables contribute to FSA's performance goals.

The Clinger-Cohen Act¹ requires that agencies provide a process to furnish a means for measuring performance. Section 5122(b)(6) of the Clinger-Cohen Act states

The process of an executive agency shall . . . provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system . . . on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

Under Federal Acquisition Regulation (FAR) § 37.601

Performance-based contracting methods are intended to ensure that required performance quality levels are achieved and that total payment is related to the degree that services performed meet contract standards.

¹ Previously referred to as the Information Technology Management Reform Act of 1996, Division E of Public Law 104-106, 110 Stat. 679 (1996).

Among other requirements for performance-based task orders, FAR § 37.602-1(b) states

When preparing statements of work, agencies shall, to the maximum extent practicable . . . (1) Describe the work in terms of “what” is to be the required output rather than either “how” the work is to be accomplished or the number of hours to be provided . . . [and] (2) Enable assessment of work performance against measurable performance standards

We found that 230 of the 452 deliverables reviewed under the Modernization Partner agreement (over 50 percent) included inadequate performance measures. For example, we found that

- The only acceptance criteria for 35 of the deliverables reviewed were the on-time delivery of the products or services and their acceptance by the user. These criteria are not adequate performance standards because they do not provide for testing or include product-specific indicators that effectively measure the contractor’s performance or the reliability and usability of the deliverables.
- The only acceptance criterion for 11 of the deliverables reviewed was that the deliverable is delivered and accepted by the user. Several of these deliverables were manuals of instructions for performing new procedures. The task orders did not include performance measures to evaluate the usability of the instructions.

The absence of adequate performance indicators limits FSA’s ability to determine that contractor performance is in accordance with contract terms or that the deliverables are useable and reliable. In addition, without adequate performance measures, FSA lacks assurance that the contractor-provided deliverables contributed to FSA’s performance goals.

Recommendation

- 1.1 For future performance-based contracts, we recommend that the Chief Operating Officer for FSA ensure that the contract or task order includes performance measures to
- Evaluate the contractor’s performance throughout the performance period.
 - Test the performance, reliability, and usability of all deliverables.
 - Assure that all deliverables contribute to FSA’s performance goals.

Department Comments

The Department concurred with the basic finding and recommendations in the audit report. The Department stated that it recognized the need to develop performance measures that focus on outcome and that it had implemented, or planned to implement, actions to develop effective and quantifiable performance measures. However, the Department indicated that it did not agree that the report's recommendations should apply to all deliverables. The Department stated that performance measures were appropriate for systems development and maintenance, but not for other deliverables like status reports or plans.

OIG Response

We commend the Department's initiation of actions to improve performance measures and reiterate that performance measures are a necessary part of performance-based contracting regardless of the nature of the deliverable. We disagree with the suggestion that performance measures are not appropriate for all deliverables. For example, a status report would be of little value if it were not timely, accurate, and useful for implementing the larger modernization effort. Any effective status report or plan, if necessary to the modernization effort, could be evaluated according to specific and appropriate performance measures related to content, accuracy, timeliness, cost-effectiveness, and/or usefulness.

Finding No. 2 – FSA Has Not Reviewed the Modernization Partner Agreement to Ensure that FSA Receives the Best Value

FSA has not reviewed the Modernization Partner Agreement to assess whether the agreement represents the best value for contracted services. FSA is required to conduct an annual review to determine that the Modernization Partner Agreement continues to represent the best value for products and services.

- The Modernization Partner's Schedule 70 contract states, "When establishing BPAs ordering offices shall . . . [r]eview BPAs periodically. Such reviews shall be conducted at least annually. The purpose of the review is to determine whether the BPA still represents the best value. . . ."
- The Modernization Partner Agreement states, "The Contracting Officer will review this BPA on an annual basis to ensure the competitive nature of the services to be provided are consistent with the market place."

According to an FSA official, FSA’s review of the Modernization Partner Agreement was limited to assessing progress in its modernization effort. FSA’s focus was on the task orders awarded and the forecast of initiatives that were going to be included in subsequent task orders. FSA has not compared the pricing for deliverables under the Modernization Partner Agreement to an independent marketing source, which would be necessary to make a determination regarding the competitive nature of the services provided and whether the BPA continues to represent the best value.

The nature of the work being performed by the Modernization Partner reinforces the need for the annual review. The Modernization Partner is the exclusive, prime contractor for FSA’s modernization effort to carry out its statutory tasks of improving service, reducing costs and integrating information systems. Under the agreement, the Modernization Partner is tasked to

- Perform modernization management;
- Complete and maintain the Modernization Blueprint;
- Provide contract management;
- Develop, integrate, test, deploy, and maintain information systems; and
- Enforce the use of standards and technology tools.

As a result, the Modernization Partner may propose, develop, and then seek to implement a project under the modernization effort.

The Office of Federal Procurement Policy’s Policy Letter 92-1, “Inherently Governmental Functions,” provides instructive guidance:

When they are aware that contractor advice, opinions, recommendations, ideas, reports, analyses, and other work products are to be considered in the course of their official duties, all Federal Government officials are to ensure that they exercise independent judgment and critically examine these products.

* * * * *

It is the policy of the Executive Branch to ensure that Government action is taken as a result of informed, independent judgments made by Government officials who are ultimate [sic] accountable to the President. When the Government uses service contracts, such informed, independent judgment is ensured by . . . providing greater scrutiny and an appropriate enhanced degree of management oversight . . . when contracting for functions that are not inherently governmental but closely support the performance of inherently governmental functions

Given the relationship of the Modernization Partner to FSA and the scope of duties under the agreement, FSA should be providing significant scrutiny and an enhanced degree of management oversight as it uses the services of the Modernization Partner to carry out its statutory responsibilities. A properly conducted annual review should help FSA ensure that it receives the best value for products and services under the Modernization Partner Agreement.

Recommendation

We recommend that the Chief Operating Officer for FSA ensure that

- 2.1 FSA conduct the required annual review of the Modernization Partner Agreement, including a cost and benefit and/or external market analyses, to assure that FSA receives the best value for products received.

Department Comments

The Department concurred with the finding and recommendation in the audit report. The Department stated that, in September 2002, it initiated a review to determine if the agreement continues to represent the best value for products and services. The Department also stated that because of the breadth and complexity of the agreement, it has not determined when that review will be completed.

Finding No. 3 – The Baseline FSA Used for Its Share-in-Savings Task Order Is Overstated

During the course of our review, we reported that FSA needed to use more accurate baseline information and maintain documentation that showed that it considered alternatives to the share-in-savings type contract. Accurate baseline information is crucial to the success of share-in-savings contracting. We also reported that FSA did not provide documentation supporting a consideration of alternatives to the share-in-savings task order for the Central Data System (CDS) simplification.

Under the CDS share-in-savings task order (Task Order No. 26), the Modernization Partner incurred up-front expenses in return for a potentially higher payoff, based on how well it streamlined CDS operations and reduced associated costs. The Modernization Partner's performance is measured through the reduction in system operational cost after the elimination of the CDS. The payment to the Modernization Partner is calculated by comparing the operational costs for CDS and its migrated functions after elimination to the baseline of the operational costs before the elimination.

We found that, even though FSA's payments to the Modernization Partner were made in accordance with the terms of the contract, the \$20.3 million baseline used to measure the contractor's performance and to calculate contractor payments for the share-in-savings task order was overstated by about \$5.4 million. The overstatement in the baseline information occurred because FSA did not use the most current information available, at the time, to establish the CDS operational cost baseline. The established baseline did not reflect the reduction in CDS costs that resulted from FSA's previous decision to migrate CDS's data to the Virtual Data Center (VDC). Since the CDS data was migrated to the VDC in November 1999, at least five months of cost data related to the VDC was available when the share-in-savings task order was signed in July 2000.²

The Contracting Officer for the share-in-savings task order acknowledged that the baseline did not reflect the savings generated by the migration of CDS's data to the VDC. The Contracting Officer stated that FSA adjusted for the omission of the VDC savings by negotiating a reduced percentage for the Modernization Partner's share of the future savings. However, since FSA did not take the available data into account, there is no assurance that the adjustment to the contractor's percentage of the share of savings adequately adjusted for savings that resulted from the migration of data to the VDC.

We reported our findings to FSA during our audit and provided the recommendations that are included in this report. FSA's response indicated that it agreed that our recommendations represent good business practices and that it would implement the recommendations in future share-in-savings contracts. FSA did not dispute that the baseline was overstated but disagreed with our calculation of the amount of the baseline overstatement. According to FSA's response the baseline was overstated by about \$1.3 million compared to our calculation of about \$5.4 million. The response stated that the costs of continuing to provide the functionality for the CDS functions migrated to the VDC should offset the savings from that decision. We reviewed FSA's response and additional cost information and see no reason to change our recommendations.

We also reported that FSA did not provide documentation supporting a consideration of alternatives to the share-in-savings task order for the CDS simplification. FSA should have performed a cost and benefit analysis, including an analysis of alternatives for system continuation, in-house elimination, share-in-savings task order or fixed-price for contractor-assisted elimination, or expiration of the existing contract. Such an analysis could have provided decision-makers with valuable information on cost and performance to use in support for the share-in-savings task order or an alternative selection. Though FSA responded that it had considered alternatives to the share-in-savings task order, FSA did not state that it documented its consideration, which was consistent with our review. FSA agreed that such analysis represents good business practices, and that it would ensure that alternatives to share in saving arrangements are documented as part of the business case and contract files.

² Because of delayed receipt of invoices, FSA generally receives the complete monthly operational cost data about two months after the costs are incurred. FSA had complete operational cost data up through at least April 2000.

Recommendations

We continue to recommend that the Chief Operating Officer for FSA ensure that

- 3.1 The most current and relevant information is used to develop baselines used to determine payments under share-in-savings task orders and contracts.
- 3.2 Share-in-savings task orders and contracts provide a mechanism for adjustment (such as a contract clause), when the established baseline is found to be substantially different than the actual baseline.
- 3.3 Documentation is maintained in the contract file to demonstrate that FSA considered alternatives to share-in-savings type contracts.

Department Comments

The Department concurred with the finding and recommendations in the audit report. Although the Department agreed that the baseline was overstated, it did not agree with our calculation of the amount of the overstatement. However, the Department stated that rather than debate the issue it would like to implement a process by which the OIG is involved in the negotiations of future share-in-savings contracts, to help ensure an accurate baseline calculation and avoid possible overstatements.

OIG Response

We commend the Department in its desire to improve its process for share-in-savings and will evaluate any request for assistance in terms of our workload and independence standards.

Audit of FSA's Modernization Partner Agreement

Other Matters

During the course of our review, we reported a system control weakness over the obligation of funds. Specifically, contracting officers were able to obligate contract funds in excess of their delegated authority. In addition, we have some general concerns about the legality of issuing share-in-savings task orders under the Modernization Partner Agreement.

Inadequate Controls over the Obligation of Funds

During our audit, we discovered that contracting officers were able to override the Department's Contracting and Purchasing Support System (CPSS) controls and obligate contract funds in excess of their delegated authority. We found that contracting officers provided a justification statement on the system and were permitted to obligate funds in excess of their delegated authority. Although CPSS can generate a report of contracting officers' obligations exceeding the delegated authority, the Department was experiencing problems in generating this report.

Under FAR § 1.602-1(a), "Contracting officers may bind the Government only to the extent of the authority delegated to them." The ability to bypass a system control can render that control ineffective and allow a contracting officer to potentially bind the government to obligations over the contracting officer's limit of authority. As a result, the Department does not have the necessary management controls to safeguard contract funds, and contracting officers could be liable for obligations authorized in excess of their authority. We reported this issue to FSA in May 2001.

Department Comments

The Department concurred with the finding and stated that, to monitor and prevent future occurrences of this type, the Department's Contracts and Purchasing Operations (CPO) is performing periodic reviews of procurement obligations to ensure that procurement obligations are made by Department officials within their delegated warrant authority.

OIG Response

Although we did not test CPO's new monitoring efforts, they should address our concerns for strengthening controls over the obligation of funds.

Share-in-Savings Contract Pricing Conflict with the Modernization Partner Agreement

Pricing for the share-in-savings contract appears to be in conflict with the hourly rate schedule included in the Modernization Partner Agreement. Under a share-in-savings contract, the Modernization Partner incurs up-front expenses in return for a potentially higher payoff, calculated as a percentage share of the savings resulting from the contractor's work. However, the Modernization Partner Agreement uses GSA's schedule of contractors and provides for the pricing of tasks using an hourly rate. While the GSA contract also authorizes and encourages the use of fixed price or incentive prices, the contract also says that these alternatives are to be based on the scheduled labor rates. As such, we will evaluate the use of share-in-savings pricing under the GSA Schedule 70 contract in a subsequent audit.

Audit of FSA's Modernization Partner Agreement

Objectives, Scope, and Methodology

The objectives of our audit were to

- Evaluate the performance indicators established to measure contractor performance to determine the adequacy of those measures in assessing whether contractor performance is in accordance with contract terms.
- Assess the Modernization Partner Agreement's compliance with laws and regulations.
- Determine the accuracy and reasonableness³ of the costs incurred for the products and services provided.

To accomplish our objectives, we reviewed applicable FSA policies and procedures, as well as laws, regulations, and agency guidelines addressing system modernization and contracting. We reviewed prior OIG audit reports, along with General Accounting Office reports, applicable to this area. We obtained and reviewed FSA's Modernization Blueprint, the BPA for FSA's Modernization Partner (Modernization Partner Agreement), and task orders issued under the BPA. Our audit focused on the objectives listed above, but at this time, we plan to perform additional work and to issue subsequent audit reports concerning FSA's Modernization Partner Agreement. This includes a review of the legality of issuing share-in-savings task orders under the Modernization Partner Agreement given the mechanism used for pricing – a percentage share of the resulting savings as opposed to the Modernization Partner Agreement's pricing schedule.

To assess whether performance indicators for measuring contractor performance were included, we reviewed a judgmental sample of 47 task orders from the 67 task orders in effect as of May 2001. The 47 task orders reviewed provided for 452 deliverables under the BPA. The specific task orders reviewed were task orders 1 through 23, 25, 26, 28 through 35, 37, 38, 39, 41, 42, 43, 44, 48, 49, 50, 52, 57, 58, and 67. We did not review other task orders because they either had not been issued or

³ Although our initial objectives included addressing the reasonableness of costs incurred, we did not conduct tests related to that portion of the objective because it would have required a subjective comparison of like products and/or services between contractors. Therefore, we did not determine the reasonableness of contractor prices for the products and/or services included in the task order, only that the costs were within the terms of the contract and that contractor invoices were supported by appropriate documentation, reviewed, and approved.

were being modified at the time of our request. For the 47 judgmentally selected task orders, we reviewed invoices for accuracy of payments made to Accenture, analyzing supporting documentation for the invoices, and ensuring that the invoices were consistent with the authorizing task order.

We analyzed baseline cost data and assumptions used to support the share-in-savings task order for Central Data System simplification. We interviewed personnel from various areas within FSA, including the Contracting Officer and Contracting Officer Representative for the BPA with Accenture, as well as, personnel in FSA Channels (business units), FSA's Office of Chief Financial Officer, and the Department's Contracts and Purchasing Operations.

We conducted work at FSA's offices in Washington, DC, and our OIG office in Kansas City, MO, during the period January 2001 to February 2002. During our audit, we issued two Action Memorandums to FSA:

- **SFA Action Memorandum No. 01-05**, dated May 31, 2001, reported that contracting officers were able to obligate contract funds in excess of their delegated authority and to override the Contracting and Purchasing Support System (CPSS) controls.
- **SFA Action Memorandum No. 01-06**, dated August 1, 2001, reported that FSA needed to use more accurate baseline information and maintain documentation that showed that it considered alternatives to the share-in-savings type contract.

We held an exit conference with FSA officials on September 17, 2002. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

Audit of FSA's Modernization Partner Agreement

Statement on Management Controls

As part of our review, we gained an understanding of the Department's management control structure over the Modernization Partner Agreement. We also reviewed the policies, procedures, and practices applicable to the scope of the review. For the purpose of this report, we assessed and classified the significant management controls related to the Department's Modernization Partner Agreement into the following categories:

- Award of task orders
- Acceptance of deliverables
- Contract payments
- Compliance with laws and regulations
- Procedures to evaluate contract performance

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment identified management control weaknesses as set out in the Audit Results and Other Matters sections of this report.

APPENDIX: Auditee Comments on the Draft Report

UNITED STATES DEPARTMENT OF EDUCATION



NOV - 6 2009

MEMORANDUM

TO: Thomas A. Carter
Assistant Inspector General for Audit Services

FROM: *for* Theresa S. Shaw *Theresa S. Shaw*
Chief Operating Officer
Federal Student Aid

Jack Martin *Jack Martin*
Chief Financial Officer
Office of the Chief Financial Officer

SUBJECT: Response to Draft Audit Report—*Audit of FSA's Modernization Partner Agreement*, ACN A07-B0008

Thank you for providing us with an opportunity to review and respond to your draft report entitled, *Audit of FSA's Modernization Partner Agreement* (Audit Control Number A07-B0008).

We were pleased that your draft audit report states that the contract is generally being administered in accordance with federal laws and regulations, and that FSA's payments to the Modernization Partner have been accurate and in accordance with the terms of the authorizing task orders. However, your report also states that your audit found the following: 1) the task orders included inadequate performance measures; 2) FSA had not reviewed the Modernization Partner Agreement to ensure that FSA receives the best value; and 3) that the baseline FSA used for the Central Data System (CDS) share-in-savings task order was overstated.

As you know, FSA previously responded to the recommendations your office made during the course of the audit regarding the use of the most current and relevant information to develop baselines in determining payments under share-in-savings task orders and contracts. While we agree the baseline used was overstated, we cannot agree with your calculation to indicate by what amount. However, rather than continue to debate the amount by which the baseline was overstated, we would like to implement a process by which the OIG is involved in the negotiations of our future share-in-savings contracts to help ensure an accurate baseline calculation, and avoid possible overstatements.

In addition, FSA is now contracting services from independent consulting firms to conduct independent reviews of baseline information to further ensure that the baselines developed for future modernization projects are reasonable and accurate.

The concept of share-in-savings contracts is a new and innovative approach to government contracting that provides the government with increased flexibilities, and the potential for tremendous opportunities for savings. The Department is one of the first government agencies to experiment with this type of contract. Negotiating these types of contracts can be challenging because they are so new to the government's way of doing business, and require explicit and measurable beginning baselines and target performance criteria to establish that savings have, in fact, been realized. We acknowledge that FSA is learning valuable lessons as it works to refine the contract process for future negotiations. However, we are pleased to report that we have implemented, or are well on our way to implementing, many of the recommendations contained in this audit report.

Enclosure 1 contains the Department's response to each finding. Again, we appreciate the opportunity to review and comment on the draft report.

Enclosures

cc: Pat Howard, OIG
Glenn Perry, OCFO
Candace Hardesty, FSA
Victoria Bateman, FSA

Finding No. 1 – Task Orders Include Inadequate Performance Measures

We concur with this finding and recommendations, with one minor exception: We believe that Recommendation 1.1 should be amended as follows: *As appropriate, test the performance, reliability, and usability of all deliverables.* The recommendations are intended to address system development and maintenance deliverables, but they don't apply to other types of deliverables. Therefore, "all deliverables" does not apply. For example, how would we measure the "performance" of a status report? Why would we want to evaluate the contractor's performance throughout the performance period if he/she was only preparing a report or a plan for us?

FSA recognizes that it needs to develop performance measures that focus on outcomes. We have implemented, or plan to implement, the following actions to develop effective and quantifiable performance measures:

1. Acquisitions and Contracts Performance staff attended a three-day training session on October 1, 3, and 4 on the "Seven Steps to Performance Based Acquisition."
2. The project manager will attend a training program this fall on performance-based contracting.
3. We will amend the Accenture Blanket Purchase Agreement to require the use of FSA's Solution Lifecycle process on all applicable task orders. The Solution Lifecycle process has entrance and exit criteria for each phase of system development.
4. We will require performance metrics in all new proposals.
5. We will measure performance throughout the contract to further improve results.

Finding No. 2 –FSA Has Not Reviewed the Modernization Partner Agreement To Ensure that FSA Receives the Best Value

We concur with this finding, and the recommendation that FSA conduct an annual review of the Modernization Partner Agreement, including a cost and benefit and/or external market analyses, to assure that FSA receives the best value for products received.

In September 2002, FSA began a review of the Blanket Purchase Agreement (BPA) to determine if the Accenture agreement continues to represent the best value for products and services. The breadth and complexity of the agreement through the tasks which have been issued to date are vast and while this review will be done with urgency, it has not

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yet been determined when that effort will be completed. However, prior to the award of any future task orders under the BPA, more comprehensive efforts will be undertaken to obtain services that are of best value to the Department and FSA.

Finding No. 3 –The Baseline FSA Used for Its Share-in-Savings Task Order Is Overstated

As we mentioned during the audit, we concur with this finding and the recommendations, but cannot come to agreement with the amount overstated. However, rather than continue to debate the amount by which the baseline was overstated, we would like to propose and implement a process for moving forward on future share-in-savings contracts.

For all future share-in-savings contracts, we would like to involve the OIG at the beginning of negotiations to review the calculation to help ensure an accurate baseline and avoid possible overstatements.

Other Matters--Inadequate Controls over the Obligations of Funds

The OCFO Contracts and Purchasing Operations (CPO) Director discussed the incident with the FSA contracting officer. The contracting officer was advised that she had exceeded her authority and that she was not authorized to do so. To monitor for the prevention of future occurrences of this type, CPO performs periodic reviews of procurement obligations recorded in EDCAPS to ensure that procurement obligations are made by Department officials within their delegated warrant authority. CPO will also continue to review individual authorities periodically to ensure that they are in accordance with the requirements of FAR Subparts 1. 6—Career Development, Contracting Authority, and Responsibilities.

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