



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

FEB 28 2007

**Memorandum**

**TO:** Michell Clark  
Assistant Secretary for Management  
U.S. Department of Education

Lawrence Warder  
Chief Financial Officer  
U.S. Department of Education

**FROM:** Helen Lew *Helen Lew*  
Assistant Inspector General for Audit

**SUBJECT:** Final Inspection Report  
Review of the Department's Competitive Sourcing/A-76 Competition  
Control Number ED-OIG/I13-G0004

Attached is the final inspection report that covers the results of our review of the Department's Human Resources Services Competitive Sourcing/A-76 Competition. We received your comments on February 2, 2007, concurring with the findings and recommendations in our draft report. A copy of these comments in their entirety is attached.

Corrective actions proposed (resolution phase) and implemented (closure phase) will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System (AARTS). Department policy requires that you develop a final corrective action plan (CAP) for our review in the automated system within 30 days of the issuance of this report. The CAP should set forth the specific action items, and targeted completion dates, necessary to implement final corrective actions on the findings and recommendations contained in this final report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the reports that remain unresolved after six months from the date of issuance.

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

We appreciate the cooperation given us during this review. If you or your staff have any questions, please contact W. Christian Vierling, Director, Evaluation and Inspection Services at 202-245-6964.

Enclosure

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# Review of the Department's Competitive Sourcing/A-76 Competition

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## FINAL INSPECTION REPORT



**ED-OIG/I13-G0004**  
**FEBRUARY 2007**

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Our mission is to promote the efficiency,  
effectiveness, and integrity of the  
Department's programs and operations.



U.S. Department of Education  
Office of Inspector General  
Washington, DC

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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.

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

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## EXECUTIVE SUMMARY

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This report provides the results of our *Review of the Department's Competitive Sourcing/A-76 Competition*. Our inspection objectives were (1) to determine whether Human Resources Services is meeting the performance requirements in the Letter of Obligation and the Agency Tender, and (2) to determine whether Human Resources Services is meeting the cost savings identified in the Letter of Obligation and the Agency Tender (Agreement).<sup>1</sup>

We were unable to determine if the MEO was meeting the performance requirements in the Agreement. In the course of answering our first objective we found that:

- The Department of Education (Department) did not provide the MEO with the resources specified in the Agreement;
- The MEO does not generate adequate performance data to assess compliance with the performance standards in the Agreement;
- The Office of the Chief Financial Officer (OCFO) has not monitored MEO compliance with the performance standards in the Agreement; and
- Neither OCFO nor the MEO has sought a modification to the Agreement.

In answering our second objective, we found that although the Department has reported cost savings for its Fiscal Year (FY) 2005 competitive sourcing efforts to the Office of Management and Budget (OMB) and to Congress,<sup>2</sup> the actual MEO costs reported to the Contracting Officer, for competed functions<sup>3</sup> were understated by \$445,033 and the reported competitive sourcing cost savings were overstated by this same amount. Additionally, the Department Baseline cost used for determining Department-wide savings was overstated by \$5,147,322. Thus, while the Department spent \$1,247,456 less on Department-wide competed functions in FY 2005 than it spent in FY 2002; it also spent \$4,464,194 more on the competed functions than provided for in the Agreement.

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<sup>1</sup> The Agency Tender is the Most Efficient Organization's (MEO's) proposal to the Department for performing the competed human resources and training functions. The Letter of Obligation notes the Department's acceptance of the Agency Tender and it constitutes the Agreement between the Department and the MEO. The Letter of Obligation includes references to the Agency Tender and the Request for Proposal. For purposes of this report, we will refer to the Letter of Obligation and all of the documents referenced within in it as the Agreement.

<sup>2</sup> The Department is required to report to Congress on its annual Fiscal Year competitive sourcing efforts under Section 647(B) of Division F of the Consolidated Appropriations Act, FY 2004, P.L. 108-199. The Department prepared the report for Congress and OMB in accordance with OMB Memorandum M-06-01, dated October 7, 2005. The Contracting Officer provides the report, competitive sourcing worksheets, and Department-wide costs to OMB for clearance before the summarized information is sent to Congress.

<sup>3</sup> For the purposes of this report, we use the term "competed functions" to encompass the Department-wide activities that were competed under the Human Resources and Training Services A-76 competition.

We recommend the Assistant Secretary for Management and the Chief Financial Officer work with Senior Management to –

- Re-consider how to best provide the competed human resources and training functions and determine whether the MEO should continue.

On December 18, 2006, we provided the Department with a copy of our draft report for comment. The Department provided its comments to the report on February 2, 2007. The Department concurred with our findings and first recommendation. The Department stated that it “will terminate the letter of obligation between the Department and the MEO not later than February 16.” The Department agreed that “the MEO was not properly resourced and the Quality Assurance Surveillance Plan was never implemented.” As a result, we eliminated recommendations that no longer apply. A copy of these comments in their entirety, are attached to this report.

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## BACKGROUND

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In 2002, the Department developed the “One-ED” project. According to the Department, the project was intended to create a more efficient and effective organization. As part of One-ED, an employee team studied human resources and training functions to determine the most cost efficient way to deliver quality services. The Executive Management Team (EMT) subsequently decided that these functions could benefit from competitive sourcing. Competitive sourcing is a process identified in the President’s Management Agenda (PMA) that opens commercial activities performed by the government to competition between the public and private sectors. The competitive sourcing process, formally described in the Office of Management and Budget (OMB) Circular A-76 (Circular A-76): Performance of Commercial Activities (Revised May 29, 2003), is intended to improve the performance and efficiency of federal government activities. Circular A-76 requires the federal government to hold a competition to select the best service provider for non-inherently governmental functions or commercial activities.

The Department held a standard competition under Circular A-76 and released solicitation ED-03-R-0016 for the competed functions on June 30, 2003. The scope of the work competed included selected human resources and training services performed by staff in the Office of Management (OM) and by staff in the other Principal Office Components (POCs). The Department competed the following functions: staffing and hiring, employee relations, and training and development.

The Agency Tender,<sup>4</sup> the proposal put forth by the Department’s Most Efficient Organization (MEO), proposed that it could perform the competed work for \$38,051,361 over five years and for \$7,472,121 during the first year of performance. The Agency Tender described how the MEO would be organized, implemented, and managed. Department officials selected the MEO as the service provider after they concluded that it offered the best value solution compared to private sector proposals.

The Contracting Officer signed the Letter of Obligation with the Director of Human Resources Services on October 20, 2004, establishing the requirements and obligations for the MEO. The Letter of Obligation describes the work to be performed and states that the MEO is required to perform within the specified requirements, such as workload, quality, timeliness, and cost. The Letter of Obligation also includes a provision, requested by the Director of Human Resources Services, that states:

In order for the MEO to meet the obligations described herein and to meet any applicable performance/implementation deadlines, the Government shall ensure that the MEO is provided the resources, staffing levels, and funds described in the Agency Tender.

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<sup>4</sup> For the purposes of this report, we use the term “proposal” when referring to the Agency Tender.

The Letter of Obligation, and all documents referenced therein, constitute the formal Agreement between the Department and the MEO for the competed functions.<sup>5</sup>

As part of the Agreement, the MEO proposed a Quality Assurance Surveillance Plan (QASP), which includes 12 performance standards that measure adequate performance on the requirements in the Department's Request for Proposal. The QASP is a management tool that encourages maximum performance, efficiency, and cost effectiveness. The QASP was developed to provide the Government Quality Assurance Evaluator, an independent evaluator, with a "guide to systematically and effectively monitor and evaluate the MEO's work performance." The QASP evaluation procedures ensure that the Quality Assurance Evaluator evaluates whether the MEO provided the required services and whether the MEO performed adequately.

During FY 2005, the Department began discussing whether the MEO would continue to be responsible for competed functions for Federal Student Aid (FSA). The Secretary signed a Delegation of Authority in January 2006, authorizing FSA to create its own Human Resources office to service FSA employees.

OMB gave the Department a GREEN Competitive Sourcing Scorecard ranking on the September 30, 2005, December 31, 2005, March 31, 2006, June 30, 2006, and September 30, 2006 Executive Branch Management Scorecards. An initial OMB GREEN Standards for Success requires that an Agency "[r]egularly reviews work performed once competitive sourcing studies are implemented to determine if performance standards in contract or agreement with agency provider are met and takes corrective action when provided services are deficient." However, OMB does not independently verify whether an Agency has taken these actions.

According to OMB Program Examiners, an Agency can achieve a GREEN Scorecard ranking if it explicitly states that it has or is completing the required tasks or if it explains the Agency's ongoing process and goals. The Department received a GREEN Scorecard ranking on this initial Scorecard Standard. Once an Agency obtains a GREEN scorecard ranking on this standard, OMB will not re-evaluate an Agency's compliance with the requirement or whether the goals of the MEO are being met. OMB will also not re-evaluate an Agency's progress on any of the other initial standards to obtain a GREEN Scorecard ranking.

OMB has not evaluated whether the Department reviews MEO performance since the Department obtained a GREEN Scorecard ranking on September 30, 2005. Once an Agency has obtained the initial GREEN Scorecard ranking, it must meet only the following two standards to maintain its GREEN Scorecard Status:

- Has expressly coordinated "green" competition plan and annual updates with agency's Chief Human Capital Officer, **AND** (emphasis in original)
- Through sampling, independently validates that savings to be achieved for the prior fiscal year were realized.

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<sup>5</sup> For purposes of this report, we will refer to the Letter of Obligation and all documents referenced therein, such as the Agency Tender and the Request for Proposal, as the Agreement, unless specifically stated otherwise.

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## INSPECTION RESULTS

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Our inspection objectives were (1) to determine whether Human Resources Services is meeting the performance requirements in the Letter of Obligation and the Agency Tender, and (2) to determine whether Human Resources Services is meeting the cost savings identified in the Letter of Obligation and the Agency Tender.

### **Objective 1: Determine whether Human Resources Services is meeting the performance requirements in the Letter of Obligation and the Agency Tender.**

We were unable to determine if the MEO was meeting the performance requirements in the Agreement.<sup>6</sup> During our inspection we found that:

- The Department did not provide the MEO with the resources specified in the Agreement;
- The MEO does not generate adequate performance data to assess compliance with the performance standards in the Agreement;
- OCFO has not monitored MEO compliance with the performance standards in the Agreement; and
- Neither OCFO nor the MEO has sought a modification to the Agreement.

### **Finding 1: The Department did not provide the MEO with the resources specified in the Agreement.**

The Agreement between the MEO and the Department provided for the competed functions to be performed for the entire Department using 56 full-time equivalents (FTEs). The MEO used the information in the Baseline Analysis of the competed functions to develop the MEO's proposal. The Baseline Analysis identified 122.8 FTEs performing the competed functions across the Department. The Baseline Analysis showed that 83 FTEs in the POCs were duplicating work performed by the 39.8 FTEs in OM. To implement the Agreement, the Department was to provide the MEO with 16.2 FTEs and displace 66.8 FTEs in the POCs.

The POCs were never formally notified about the proposed consolidation and Department officials in the POCs did not have the opportunity to read the MEO's proposal. Even if they had, the proposal did not clearly identify that the additional positions were to come from the POCs. The proposal stated that "[s]pecific requirements in staffing to achieve a fully trained and skilled workforce by the end of the phase-in-period include aligning current Department of Education

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<sup>6</sup> The Agency Tender is the MEO's proposal to the Department for performing the competed human resources and training functions. The Letter of Obligation notes the Department's acceptance of the Agency Tender and it constitutes the Agreement between the Department and the MEO. The Letter of Obligation includes references to the Agency Tender and the Request for Proposal. For purposes of this report, we will refer to the Letter of Obligation and all of the documents referenced within it as the Agreement.

personnel resources to the MEO.” The proposal further provided that Human Resources Services would review position descriptions for eliminated positions and either move employees into the MEO or “place the personnel not identified for the MEO into other Department of Education positions” or elsewhere in the Government. The Director of Human Resources Services explained that firewalls were in place to prohibit members of the MEO and the Agency Tender Official, the Director of Human Resources Services, from discussing the competition with Department Officials. As a result of the firewalls, it was the Director of Human Resources Services’ understanding that there was a prohibition from consulting with Senior Management about the MEO’s proposal.

Although the Agreement was based on the consolidation of OM and POC FTEs into a single MEO in the Human Resources Services office, the consolidation never occurred, and the Department did not provide the MEO with additional FTEs. The Assistant Secretary for Management explained that because non-OM employees performing competed functions also performed other POC-specific work, Department officials decided that non-OM employees could not be split between the MEO and the POC. The former Secretary, Under Secretary, and Assistant Secretary for Management also decided not to pursue a Reduction In Force for non-OM employees performing competed functions.

Due to the Department’s decision not to consolidate employees, the MEO requested additional FTEs from Budget Service to fill vacant positions. Unaware of decisions regarding MEO implementation, the Budget Service Director declined the MEO’s request for additional FTEs. The Budget Service Director did not understand how the MEO could require more FTEs to perform the competed work. The Budget Service Director also declined the Human Resources Services request for a separate MEO line item in the Human Resources Services budget.

According to the present Assistant Secretary for Management, staffing the MEO was further complicated when the Department began discussing whether the MEO would continue to provide services to FSA. Under the Agreement the MEO was to provide services to the entire Department, including FSA.

In addition to the failure to provide the MEO with adequate staff, throughout the competition and MEO implementation, Human Resources Services lost experienced employees due to frustrations with the A-76 process. As a result of these losses and the Department’s decisions surrounding the consolidation of employees, the MEO was never staffed consistent with the approved FTE levels in the Agreement.

**Finding 2: The MEO does not generate adequate performance data to assess compliance with the performance standards in the Agreement.**

The Agreement describes that “[t]he MEO is obligated to perform at the quality and timeliness standards specified in the RFP [Request for Proposal];” and that “[t]he MEO is obligated to comply with government performance monitoring activities, including quality assurance. . . .” The RFP includes the human resources activities listed in the Performance Requirements Summary. To evaluate the MEO’s performance on the competed functions listed in the

Performance Requirements Summary, the MEO designed a QASP with 12 performance standards (see Appendix for performance standards).

The Agreement states that the MEO will use one of its FTEs to hire a Quality Assurance Evaluator. The Quality Assurance Evaluator was to use the QASP as guidance to effectively monitor and independently evaluate the MEO's performance. According to the Agreement, the Quality Assurance Evaluator is responsible for evaluating the MEO's performance for each of the 12 performance standards and reporting the results to the Contracting Officer.

We found that the MEO did not hire the Quality Assurance Evaluator and does not generate performance data for 11 of the 12 performance standards. There has also been no evaluation of the MEO's performance. According to the Director of Human Resources Services, after MEO implementation, Department priorities shifted away from MEO performance standards to PMA measures. However, even if the Department's priorities did shift, that did not prevent the MEO from producing performance data and reporting the results to the Contracting Officer.

The only performance standard the MEO has adequate data for is the Course Design, Delivery, and Evaluation standard. This standard states that 95% of "[a]verage course/instructor evaluations will meet or exceed a score of 70%." Participants in both the MEO-produced courses and the subcontracted computer courses rated the courses at an average of 99% and 96% respectively. We determined that 100% of the training course evaluations exceed a score of 70%. The results from the training evaluations, however, are used only internally to ensure that training courses are meeting customer needs. The results of the training evaluations have not been reported to the Contracting Officer.

Human Resources Services has access to data for the Hiring Actions performance standard, but it has not produced this performance data. This standard provides that "[t]he Certificate of Eligibles is provided to appropriate Department of Education management within 45 work days of announcement opening." We did not evaluate the usefulness of the performance standards and measures, but according to a member of the MEO, the Hiring Actions performance standard is not a good measure of MEO performance. The performance measure cannot adequately measure the MEO's timeliness in preparing the Certificate of Eligibles because the hiring manager decides how long a vacancy announcement should remain open and that period varies from announcement to announcement. According to the member of the MEO, the Office of Personnel Management (OPM) requires Human Resources Services to report on a different aspect of the hiring cycle that better measures the timeliness of the MEO hiring cycle. This raises a question about the usefulness of the performance standards and measures, and suggests that the MEO should reevaluate them.

**Finding 3: OCFO has not monitored MEO compliance with the performance standards in the Agreement.**

The Contracting Officer, who works in OCFO, is responsible for overseeing Circular A-76 competitive sourcing competitions. According to the Post Competition Accountability for Streamlined and Standard Competitions section on Monitoring Performance in Circular A-76, OCFO, regardless of the selected service provider, is required to:

- (1) [M]onitor performance for all performance periods stated in the solicitation;
- (2) implement the quality assurance surveillance plan. . . (4) maintain the currency of the contract file, consistent with FAR [Federal Acquisition Regulation] Subpart 4.8, for contracts, MEO letters of obligation, and fee-for-service agreements. . . .

The Contracting Officer explained that due to an oversight, the Agreement did not establish a deliverable schedule requiring the MEO or the Quality Assurance Evaluator to report performance data to the Contracting Officer. Once this oversight was recognized, OCFO did not take steps to address the problem. The Contracting Officer has not requested or received performance data from the MEO. Though the Contracting Officer maintains contact with the Director of Human Resources Services and is aware of MEO activities, the Contracting Officer has not evaluated the quality or adequacy of the MEO's work against the performance standards to determine whether the MEO is meeting the performance requirements in the Agreement.

**Finding 4: Neither OCFO nor the MEO has sought a modification to the Agreement.**

The Agreement between the Department and the MEO includes the following provision:

In order for the MEO to meet the obligations described herein and to meet any applicable performance/implementation deadlines, the Government shall ensure that the MEO is provided the resources, staffing levels, and funds described in the Agency Tender.

The OCFO *Procedure for Modifying a Contract*,<sup>7</sup> requires a contract modification “[i]f the Government and/or contractor needs to change the terms or conditions of a contract . . . .” Furthermore, the Special Instructions inform the Contracting Officer to “[n]ote that you may not always receive a request for a modification, but you may become aware of circumstances where a modification should be requested and implemented.”

The Department did not supply the MEO with the FTEs provided for in the Agreement; however, there is no documentation in the Contracting Officer's Agreement file to show that the MEO raised this as an issue or sought a modification. Although the MEO did raise the lack of FTEs as an issue with the Contracting Officer in an email, it was never documented in the Agreement file and the MEO did not obtain or request a modification. Therefore, the MEO remained obligated to meet the requirements specified in the Agreement. Had a contractor won the competition, the Department would have been obligated to provide the resources agreed to in the contract or the contract would have been modified. Likewise, if there were any changed conditions affecting a contract, either the Contracting Officer or the contractor (i.e., the MEO) would need to initiate a modification.

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<sup>7</sup> The [OCFO Procedures That Work Website](#) is an online library on the Department's intranet that provides Department staff with useful standard operating procedures to assist in carrying out the financial functions of the Department. The Contracting Operations category includes the *Procedure for Modifying a Contract* (CO-42).

Because the MEO was not staffed at the FTE level in the Agreement, the Director of Human Resources Services verbally informed the former Assistant Secretary for Management that the Agreement should be modified. According to the Director of Human Resources Services, the former Assistant Secretary declined the modification and told the MEO to perform the work regardless of any changed conditions. The former Assistant Secretary left the Department on July 29, 2005, but the MEO has still not sought a modification to the Agreement. Although the Contracting Officer is aware of the MEO's staffing limitations, he also has not proposed a modification to the Agreement.

In addition to not being provided the resources called for in the Agreement, the MEO has experienced changed conditions, which also should have prompted it to seek a modification. For example, personnel performing work under the MEO also perform non-MEO activities because of new workload assigned to them by the Director of Human Resources Services. This new workload, the result of new OPM directives, was not considered in the Agreement. Had a contractor been awarded the Human Resources and Training Competition, contractor personnel would perform only the work specified in the contract. Under a contract, a modification would be needed before contractor personnel would assume any additional duties. The Contracting Officer was also aware of these changed conditions.

Though the MEO was never staffed in accordance with the FTE level in the Agreement, the MEO could have requested a modification of the Agreement to reflect the changed staffing levels. After the Agreement was signed, the Director of Contracts and Acquisitions Management (CAM) informed the Director of Human Resources Services that the MEO could modify its implementation plan to create a network that directly interfaced non-OM competed functions with the MEO and change policies to streamline these functions within the Department. The Director of CAM informed us that the alternative solution was never implemented and the issue was never discussed again between the Directors. The MEO has not restructured its organization or sought a modification to the Agreement.

**Objective 2: Determine whether Human Resources Services is meeting the cost savings identified in the Letter of Obligation and the Agency Tender.**

During our inspection we found that the Department reported overstated cost savings for its FY 2005 competitive sourcing efforts to OMB and Congress.<sup>8</sup> The Department is also spending more on Department-wide competed functions than the total costs established in the Agreement.

**Finding 5: The Department is not meeting the cost savings identified in the Agreement and is overstating its cost savings to OMB and Congress.**

Consultants working with the Department developed a Baseline cost of \$18,331,093 for Department-wide competed functions. The consultants used FY 2002 Department-wide

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<sup>8</sup> The Department of Education is required to report to Congress on its annual Fiscal Year competitive sourcing efforts under Section 647(B) of Division F of the Consolidated Appropriations Act, FY 2004, P.L. 108-199. The Department prepared the report for Congress and OMB in accordance with OMB Memorandum M-06-01, dated October 7, 2005. The Contracting Officer provides the report, competitive sourcing worksheets, and Department-wide costs to OMB for clearance before the summarized information is sent to Congress.

expenses for the competed functions to develop the Baseline cost. The Contracting Officer is required to report to OMB and Congress on annual Department cost savings for competitive sourcing efforts in relation to the Baseline cost. According to OMB reporting requirements for the annual report on competitive sourcing efforts, “*Savings* is generally defined as the cost of performing the function or providing the service ‘as is’ (the baseline) minus the cost of performing the function or providing the service under the winning bid, over the performance period.” [Emphasis in original.]

According to the Agreement, “[t]he total amount which the Government intends to budget for the MEO’s functions and the amount which the MEO’s performance is expected to actually cost the Government is not more than \$38,646,176.00. . .” for a period of five years. Additionally, the first year of MEO performance should cost no more than \$7,472,121. With the implementation of the MEO, costs for competed functions across the Department should have been the same or less than the costs identified in the Agreement.

Since the consolidation of personnel performing competed functions did not occur as described in the MEO’s proposal, Department personnel costs for competed functions were not streamlined. The Contracting Officer took this into consideration by using information from the Baseline Analysis and Circular A-76 to estimate personnel costs for non-OM employees performing the competed functions when reporting savings to OMB. The Contracting Officer reported Department-wide costs for competed functions of \$11,491,282 to OMB. The Contracting Officer also reported to OMB that actual Department savings were \$6,839,811.<sup>9</sup>

MEO overhead costs were not reported to the Contracting Officer in the MEO Costs chart. As a result, MEO overhead costs were not reported to OMB, resulting in overstated cost savings. The Contracting Officer stated that he did not notice that the MEO did not include overhead costs in the MEO Costs chart. According to the Contracting Officer, MEO overhead should have been 12% of the MEO personnel costs. Using this percentage, we determined that actual MEO costs reported to the Contracting Officer were understated by \$445,033 for FY 2005. The understatement of MEO actual costs resulted in an overstatement of MEO and Department savings by the same amount when these costs were reported to OMB. When MEO overhead is included in the costs reported to OMB, the actual cost for the competed functions should have been \$11,936,315 for FY 2005.

The savings reported to OMB were further overstated because the Department Baseline cost of \$18,331,093 for competed functions includes more cost categories than were used to develop the amounts reported as actual costs for FY 2005. Non-OM Baseline costs include categories such as personnel compensation and benefits, contracts, rent, equipment, communications and utilities, travel, supplies and materials, and transportation. As a result, the FY 2005 non-OM actual personnel costs and the non-OM Baseline costs cannot be directly compared because the cost categories are not the same. We recalculated the Department Baseline cost to develop a comparable Baseline cost for FY 2002. The recalculated Baseline cost, excluding those non-OM costs not used to develop the actual costs reported to OMB, is \$13,183,771.

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<sup>9</sup> The Department’s report to Congress on its FY 2005 competitive sourcing efforts stated that actual Department savings were \$6,840,000.

When we compared the recalculated Baseline cost (\$13,183,771) to the Baseline used by the Department for reporting to OMB (\$18,331,093), we found that the Department-wide savings reported to OMB were overstated by \$5,147,332. The \$5,147,332 includes the \$445,033 in MEO overhead costs previously identified as overstated. This means that the Department only spent \$1,247,456 less on Department-wide competed human resources services during FY 2005 than it spent in FY 2002, not the \$6,839,811 reported to OMB.

Although the Department appears to have achieved some savings as a result of the MEO, it has not achieved the Department-wide savings envisioned in the MEO's proposal. While the Agreement called for a cost of \$7,472,121 in the first year of performance, the actual cost for the Department-wide competed functions was \$11,936,315 during that year, which is \$4,464,194 more than proposed by the MEO.

## **Conclusion**

Human resources is a critical component of the Department of Education. Human Resources Services and the MEO are responsible for providing valuable policies and programs that promote efficient and effective personnel management within the Department. However, the MEO did not receive the support or resources needed to provide appropriate services to the Department. This has hindered MEO performance and implementation under the Agreement to the detriment of the services the MEO was intended to provide.

Although the Department estimated cost savings for the MEO, these savings were overstated. Further, cost information (savings) without performance data cannot be used to evaluate the effectiveness or efficiency of the MEO.

## **Recommendation**

We recommend the Assistant Secretary for Management and the Chief Financial Officer work with Senior Management to –

1. Reconsider how to best provide the Department with the competed human resources and training functions and determine whether the MEO should continue.

On December 18, 2006, we provided the Department with a copy of our draft report for comment. The Department provided its comments to the report on February 2, 2007. The Department concurred with our findings and first recommendation. The Department stated that it “will terminate the letter of obligation between the Department and the MEO not later than February 16.” The Department agreed that “the MEO was not properly resourced and the Quality Assurance Surveillance Plan was never implemented.” As a result, we eliminated recommendations that no longer apply. A copy of these comments in their entirety, are attached to this report.

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## OTHER MATTERS

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### **Subsequent Events Concerning the Federal Student Aid Human Resources Office.**

The Secretary signed a Delegation of Authority in January 2006 authorizing FSA to create its own Human Resources office to serve the 1,012 FSA employees of the 4,190 total Department employees. According to the Delegation of Authority, within 210 days FSA was to establish an implementation action plan and then coordinate with OM to transition human resources activities to FSA for delegation implementation. Though the OM Human Resources Services office will retain sole responsibility for functions such as Informal Dispute Resolution, the Senior Executive Service Program, and benefits programs, the FSA Human Resources office will be responsible for performing general human resources and training functions for the 1,012 FSA employees. Human Resources Services in OM will now be responsible for serving approximately 3,178 Department employees.

Although the FSA Human Resources office became a functional unit in May 2006, FSA and OCFO have not established a cost ceiling for the office. According to the Director of CAM, FSA and OCFO have also not established performance metrics or a performance-reporting schedule. Furthermore, the Department has not determined how the FSA Human Resources office will impact the MEO.

### **Lack of Consequence in A-76 for an MEO's Failure to Perform or an Agency violation of an Agreement with MEO.**

Under the Federal Acquisition Regulation, the consequences and remedies in the event of non-performance by either a contractor or the government are well defined. For example, if the government fails to provide specified resources or changes the scope of work, the contractor may submit a claim or refuse to perform work outside the scope of the contract. If the contractor fails to perform, the government may terminate the contract or stop payment.

Under Circular A-76, however, there are no defined or clear consequences if the MEO or the government fails to perform. If an Agency fails to provide resources or assigns additional work to an MEO, there is no defined remedy available to the MEO. If an MEO fails to perform, an Agency may terminate an Agreement. However, the MEO employees do not cease to be federal employees and it is anticipated that they will perform the competed functions until the functions are re-competed or the Agency chooses to discontinue the A-76 competition. The limited remedies available to an Agency or MEO for non-performance make it difficult to ensure that the desired performance or savings are achieved.

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## OBJECTIVES, SCOPE, AND METHODOLOGY

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The objectives of our inspection were to:

1. Determine whether Human Resources Services is meeting the performance requirements in the Letter of Obligation and the Agency Tender.
2. Determine whether Human Resources Services is meeting the cost savings identified in the Letter of Obligation and the Agency Tender.

We began our primary fieldwork on March 8, 2006, and concluded it on September 8, 2006. We focused our inspection on the obligations and requirements in OMB Circular A-76 and the Agreement<sup>10</sup> related to the MEO's performance and cost savings. We reviewed documents such as the Request for Proposal, the Letter of Obligation, the Agency Tender, the Baseline Analysis, and MEO and Department costs for competed functions. As a result of the subsequent events concerning the FSA human resources office, we also reviewed the January 2006 Delegation of Authority. We interviewed Department employees from OCFO, OM, Office of the General Counsel (OGC), Budget Service, the MEO, and a Department employee who was formally involved with the EMT. We also interviewed officials from the OMB Office of Federal Procurement Policy.

To determine whether the MEO was meeting the performance requirements in the Agreement, we requested performance data and evaluations for the 12 MEO performance standards. We did not receive the requested performance data or evaluations for 11 of the 12 performance standards because the MEO does not generate this information. We were able to evaluate the MEO's performance for the Course Design, Delivery, and Evaluation standard. Due to the unavailability of adequate performance data for the other performance standards, we were unable to determine if Human Resources Services is meeting the performance goals stated in the Agreement.

To determine whether the MEO was meeting the cost savings identified in the Agreement, we reviewed the FY 2005 MEO Costs chart, the Department Baseline costs, the Standard Competition Form, and the Human Resources MEO Actual Costs spreadsheet compiled by the Contracting Officer and reported to OMB. To determine whether the provided MEO cost data was accurate, we conducted a number reliability analysis of the FY 2005 MEO Costs chart against Human Resources Services budget documents. Though discrepancies were identified during the reconciliation process, the discrepancies were immaterial.

We compared the cost of the first year of Agency performance in the Agreement with the total cost for competed functions across the Department. Because the FY 2005 MEO Costs chart did

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<sup>10</sup> The Agency Tender is the MEO's proposal to the Department for performing the competed human resources and training functions. The Letter of Obligation notes the Department's acceptance of the Agency Tender and it constitutes the Agreement between the Department and the MEO. The Letter of Obligation includes references to the Agency Tender and the Request for Proposal. For purposes of this report, we will refer to the Letter of Obligation and all of the documents referenced within in it as the Agreement.

not include MEO overhead expenditures, we estimated MEO overhead at 12% of personnel costs. We determined that FY 2005 MEO overhead costs were \$445,033. To confirm our overhead calculation, the Contracting Officer verified during an interview that the MEO estimated overhead at 12% of MEO personnel costs.

During our review of the Baseline Analysis, we determined that the original non-OM Baseline costs cannot be directly compared with the reported non-OM personnel costs because the actual non-OM costs are not inclusive of the number of cost categories used in the Baseline. The actual non-OM costs only included personnel costs for POC employees performing competed functions. The non-OM Baseline costs included categories such as personnel compensation and benefits, contracts, rent, equipment, communications and utilities, travel, supplies and materials, and transportation. We verified that the MEO Costs chart includes all MEO costs for OM and only non-OM e-Learning costs. We also verified that the Contracting Officer added personnel costs for non-OM employees performing competed human resources activities for the purpose of reporting to OMB.

To account for the non-comparable (non-OM) Baseline costs, we recalculated the Department's Baseline by only including non-OM e-Learning and personnel compensation and benefit Baseline costs. We determined that prior to MEO implementation, the Department spent approximately \$13,183,771 on all OM expenditures and non-OM E-Learning and personnel and benefits costs for the competed functions.

Our inspection was performed in accordance with the 2005 President's Council on Integrity and Efficiency Quality Standards for Inspections appropriate to the scope of the inspection described above.

**APPENDIX**

Table: MEO Quality Assurance Surveillance Plan with 12 Performance Standards

Function	Required Service or Output	#	Standard	Accepted Quality Level (AQL)	Method of Surveillance
Staffing/ Hiring	Hiring Actions	1	The Certificate of Eligibles is provided to appropriate Department of Education management within 45 work days of announcement opening	90%	Planned Inspections
Staffing/ Hiring	Staffing Actions	2	Non-pay actions processed within one pay period of receiving a properly documented request	95%	Random Inspection of staffing actions processed
Staffing/ Hiring	Staffing Actions	3	Pay actions processed within two pay periods of receiving a properly documented request	95%	Random Inspection of staffing actions processed
Staffing/ Hiring	Formulate and Implement Reorganizations	4	The formulation of HR implementation of reorganization will be completed within the timeframes negotiated before each reorganization	95%	Planned Inspection of reorganization milestones
Employee Relations	Adverse Actions, Administrative Grievances, Within Grade Increase Denials, and Performance-based Actions	5	Customer (Department managers) satisfaction with advice and services provided	92%	Affected Management Official Survey
Employee Relations	Accommodations Process	6	Advise management of appropriate actions within 30 days of receiving medical information requested by the agency from the attending physician	90%	Planned Inspection
Employee Relations	Retirement and Retirement Disability Process	7	Process all retirement related actions within 5 working days	95%	Planned Inspection
Training and Development	Competency Development Plans	8	Competency and development plans are at mid-completion point no longer than 5 months after initiation date	97%	Planned Inspection
Training and Development	Electronic Registration and e-Learning	9	Learning management system, including e-Learning courseware will be fully operational and available to employees	97%	Random Inspection
Training and Development	Course Design, Delivery, and Evaluation	10	Average course/instructor evaluations will meet or exceed a score of 70%	95%	Planned Inspection
Training and Development	Course Design, Delivery, and Evaluation	11	Class participants will pass course post-tests for all learning activities	93%	Random Inspection
Training and Development	Individual Learning Accounts (ILA)	12	Reconcile ILA funding accounts with Department funding authority on a monthly basis	95%	Planned Inspection

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## ATTACHMENT: DEPARTMENT RESPONSE TO DRAFT INSPECTION REPORT

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UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D. C. 20202- \_\_\_\_\_

**MEMORANDUM**

**FEB 02 2007**

**TO:** Helen Lew  
Assistant Inspector General for Audit

**FROM:** Michell Clark  
Assistant Secretary for Management

Lawrence Warder  
Chief Financial Officer

**SUBJECT:** Draft Inspection Report—Review of Department's Competitive Sourcing/A-76 Competition (Control Number ED-OIG/I13-G0004)

In response to the memorandum of December 18, 2006 from Cathy H. Lewis, former Assistant Inspector General for Investigations, we offer the following comments on your inspection results and recommendations: we concur with the results and accept your principal recommendation, i.e., that "[w]e reconsider how to best provide the Department with the competed human resources and training functions and determine whether the M[ost] E[fficient] O[rganization] should continue."

**Corrective Action:** We will terminate the letter of obligation between the Department and the MEO not later than February 16. As you note in your findings, the MEO was not properly resourced and the Quality Assurance Surveillance Plan was never implemented. Taking the lack of implementation together with the changed environment, we have decided to terminate for reasons other than failure to perform (OMB Circular A-76, Attachment B—E(6)(b)). The assumptions underlying the initial competition, both in the Department's organization and in the Federal Human Capital landscape, have changed such that implementation of the MEO does not provide the necessary support to the Department in becoming a high-performing organization.

We intend to provide these human resource services using government employees in a traditional government organization, and we remain committed to improving the strategic management of human capital at the Department. Specifically, through improved automation and data reporting, we will drive accountability for reducing time-to-hire and enhancing customer service. By involving senior leadership and strengthening communication between Human Resources Services and the principal offices and focusing on recruiting, we will improve the quality of candidates. We aim to transform Human Resources Services from a transaction-based organization to a strategic partner for the Department's leadership and all of its hiring managers.

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