
**Puerto Rico Department of Education
Did Not Administer Properly Three Contracts
With R.V. Research and Management Group, Inc.**

FINAL AUDIT REPORT



**Audit Control Number ED-OIG/A02-B0025
September 2002**

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
New York Audit Region
San Juan, PR Area Office



U.S. DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL
75 Park Place, 12th Floor
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September 12, 2002

Honorable César A. Rey
Secretary of Education
Puerto Rico Department of Education
Calle Teniente González, Esq. Calle Calaf – 12th Floor
Urb. Tres Monjitas
San Juan, Puerto Rico 00919

Dear Secretary Rey:

Attached is our report entitled *Puerto Rico Department of Education Did Not Administer Properly Three Contracts With R.V. Research and Management Group, Inc.* The report incorporates the comments you provided in response to the draft audit report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on the audit:

Susan B. Neuman
Assistant Secretary for Elementary and Secondary Education
U.S. Department of Education
400 Maryland Ave., SW Room 3W315
Washington, D.C. 20202

Office of Management and Budget Circular A-50 directs Federal agencies to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued to the Department's grantees and contractors are made 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.

Sincerely,

Daniel P. Schultz
Regional Inspector General for Audit

Attachment

Notice

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 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.

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Executive Summary

Puerto Rico Department of Education (PRDE) failed to award properly two Elementary and Secondary Education Act, Technology Literacy Challenge Funds (Title III) and one Goals 2000: Educate America Act (Goals 2000)¹ fixed-price contracts totaling \$4,597,935 for the purchase of computer software learning videos and to establish learning centers in five Puerto Rico schools. PRDE awarded the contracts to R.V. Research and Management Group, Inc. (RV Research) in June 1997, May 1998, and March 2000 without open competition. Because PRDE did not competitively bid the contracts, PRDE and the U.S. Department of Education (ED) could not be assured that the highest quality services and products were received at competitive prices or that certain vendors were not given preferential treatment or arbitrarily excluded. PRDE also did not monitor the terms of the contracts. For example, PRDE did not adequately review RV Research's invoices for supporting documentation of costs claimed prior to payment. As a result, PRDE paid \$1,774,275 in unsupported costs and \$371,748 in questioned costs to RV Research.

On January 23, 2002, the former Secretary and Associate Secretary of PRDE, as well as, the president of RV Research were indicted on charges of conspiracy to interfere with commerce by extortion (in violation of 18 U.S.C. § 1951 and § 1952), theft concerning program receiving Federal funds (18 U.S.C. § 666); conspiracy to commit money laundering (18 U.S.C. § 1956(h); and money laundering asset forfeiture (18 U.S.C. § 982). On February 6, 2002, PRDE's former Secretary and Associate Secretary pled guilty to various felony charges involving extortion, program fraud, and money laundering. Additionally, on April 5, 2002, the president of RV Research pled guilty to extortion, program fraud, and money laundering. He further agreed to criminal asset forfeiture of not less than \$800,000.

In March 2001 and September 2001, we issued audit reports regarding PRDE's Title I contract administration for the school years 1998/1999 through 2000/2001 that contained similar findings and recommendations. We again recommend that the Assistant Secretary for Elementary and Secondary Education require PRDE to establish controls to ensure all procurement transactions involving Federal funds provide for full and open competition; maintain records justifying the lack of competition; enforce the requirement of obtaining a breakout of each element of cost and document the cost analysis performed to ensure prices obtained on contracts are fair and reasonable; and establish controls to ensure payments are made to contractors only after proper documentation is obtained and review is conducted. In addition, PRDE should review all current contracts using Federal funds to determine whether competition and cost analysis were performed. Lastly, PRDE should return to ED \$1,774,275 in unsupported costs and \$371,748 in questioned costs.

¹ PRDE is awarded an allotment of Federal funds under the Elementary and Secondary Education Act, Title III –Technology Literacy Challenge Grants (Public Law 103-382) and the Goals 2000: Educate America Act (Public Law 103-227). The Technology Literacy Challenge Fund supports the development and implementation of systemic technology plans at state, local, and school levels to improve teaching and learning of all children. The Goals 2000: Educate America Act helps states and communities realize the national commitment to improving education and ensuring that all children reach high academic standards.

PRDE stated it issued corrective action letters to inform, among others, PRDE personnel, contractors, and vendors of the new procurement and monitoring procedures. On June 19, 2001, the Puerto Rico Secretary of Education issued the “Procedures for Contracting Professional and Consulting Services Funded with Federal Funds.” Also, on July 30, 2001, the Secretary issued strict guidelines to be followed before the award or renewal of any type of contract. PRDE revised the “Procedures for Awarding Competitive Federal Funds,” in order to reinforce the requirements established by the Federal programs in the evaluation of proposals. PRDE does not fully agree with the questioned costs for finding number 3, but PRDE does share the concerns of the OIG with regards to compliance with Federal procedures. However, PRDE stated that the current leadership and administration is taking the necessary steps to improve the PRDE controls over all applicable Federal laws, regulations, and requirements. We added recommendations to our report to require PRDE to conduct an independent assessment of its new corrective actions to ensure they are sufficient. PRDE’s response is attached as Exhibit D.

AUDIT RESULTS

Finding 1

PRDE awarded fixed-price contracts totaling \$4,597,935 to RV Research without full and open competition

PRDE awarded RV Research two Title III and one Goals 2000 fixed-price contracts totaling \$4,597,935 without full and open competition. PRDE also did not maintain in its procurement records a justification for the lack of competition for the three contracts. ED generally permits States, including Puerto Rico, to use their procurement policies and procedures for procuring property. Puerto Rico's procurement regulations governing PRDE require that any acquisition of goods, works, and services in excess of \$25,000 must utilize formal competitive procedures. PRDE could not provide evidence that the contracts were competitively bid because the contracts were under a prior administration. Because PRDE did not competitively bid the contracts, it could not be assured products and services were obtained at competitive prices or that certain vendors were not given preferential treatment or arbitrarily excluded.

Procurement standards are detailed in 34 C.F.R. § 80.36 (a)² as follows: "When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations."

Puerto Rico's procurement regulations governing PRDE, Reglamento de Compras, Ventas y Subastas de Bienes, Obras y Servicios No Personales del Departamento de Educación, (PRDE Purchasing Regulations) Article 37, requires that any acquisition of goods, works and services in excess of \$25,000 must use formal competitive procedures.

On June 1, 1997, PRDE entered into a contractual agreement with RV Research totaling \$998,750 to provide "Computer Software Learning Videos" to 1,000 schools selected by PRDE. According to the agreement, the services to be provided by RV Research included the following:

- Purchase and delivery of videos; and
- Provide training to 100 school districts for implementation of the videos.

On May 29, 1998, PRDE entered into a contractual agreement with RV Research for a second contract totaling \$499,375 to provide "Computer Software Learning Videos" to 500 intermediate schools and high schools selected by PRDE. According to the agreement, the services to be provided by RV Research included the following:

² Unless otherwise specified, all regulatory citations are to the July 1, 1998, volume.

- Purchase and delivery of videos; and
- Training of regional personnel in charge of the project.

On March 7, 2000, PRDE entered into a contractual agreement totaling \$2,999,810 with RV Research to establish five MultiCenters. The MultiCenters are learning centers located at the schools that utilize computers, specialized software, and tactical equipment for instruction. On November 2, 2000, PRDE and RV Research signed an amendment to the March 2000 contract, increasing the contract amount to \$5,099,810. On May 25, 2001, PRDE and RV Research signed a second amendment to the contract reducing the contract amount to \$3,099,810.

Our audit disclosed that PRDE issued the three contracts without open competition. PRDE officials stated that the contracts were not competitively bid because PRDE's prior administration considered the contracts as "professional services" contracts, and under Puerto Rico laws, these types of contracts were not subject to open competition. As evidenced by the three contracts, the majority of the amounts invoiced were for the purchase and delivery of learning videos and the purchase and installation of MultiCenters. As a result, PRDE should have utilized formal competitive procedures.

By not issuing the contracts with full and open competition, PRDE did not provide alternatives to determine the most economical and practical procurement for the Federal government that maximized the services provided. In addition, the lack of competition in its procurement transactions with RV Research prevented PRDE from assuring that equipment, materials, and services were obtained in an effective manner, selecting the best vendor for best price and quality of services.

Recommendations:

We recommend that the Assistant Secretary for Elementary and Secondary Education require PRDE to:

- 1.1 Establish controls to ensure all procurement transactions in excess of \$25,000 involving Federal funds provide for full and open competition;
- 1.2 Maintain records justifying the lack of competition when competitive bids are not obtained, as well as, the basis for contractor selection;
- 1.3 Review all current contracts using Federal funds to determine whether competition and cost analysis were performed; and
- 1.4 Conduct an independent assessment of the control procedures and guidelines implemented by PRDE to determine if the controls are sufficient.

PRDE's response:

PRDE stated it issued corrective action letters to inform, among others, PRDE personnel, contractors, and vendors of the new procurement and monitoring procedures. On June 19, 2001, the Puerto Rico Secretary of Education issued the "Procedures for Contracting Professional and Consulting Services Funded with Federal Funds." Also, on July 30, 2001, the Secretary issued strict guidelines to be followed before the award or renewal of any type of contract.

Additionally, a checklist will be developed to ensure that contracts received in the Payment Division have all the required documents before processing any payments.

OIG's reply:

We reviewed the procedures and guidelines implemented by PRDE. PRDE's corrective action should improve the procurement process. We added recommendation 1.4 to address the corrective action PRDE stated would be taken.

Finding 2

PRDE failed to determine that the costs of fixed-price contracts were fair and reasonable

PRDE did not obtain an itemized price list for any of its three contracts with RV Research. PRDE approved the proposals without determining each element of cost or completing a cost analysis of the proposals. As a result, PRDE did not ensure it received fair and reasonable prices in accordance with Federal and Puerto Rico laws and regulations for the three contracts.

OMB Circular No. A-87, Attachment A, paragraphs C.1, 2 provide that costs may be charged to a Federal award only if the costs are, among other requirements, reasonable. In determining the reasonableness of costs, consideration must be given to, among other requirements, market prices for comparable goods or services. PRDE's Purchasing Regulations, Articles 6.2 and 6.3, provide that austerity is the guiding principle for the procurement process and that the process be competitive, fair, reasonable and economical. Article 59.2 states if only one bid is received, it is understood that if its price is unreasonable, the bid must be rejected. Further, under PRDE procedures bids should be broken down by line item, and Article 50.6 states that if a global price is offered or discounted, that price or discount must be prorated among the various line items.

Our audit disclosed that PRDE did not perform a cost analysis on any of the three RV Research's fixed-price contracts totaling \$4,597,935. By not performing a cost analysis in its procurement procedures, PRDE could not ensure that prices obtained on the contracts were fair and reasonable.

Recommendations:

We recommend that the Assistant Secretary for Elementary and Secondary Education require PRDE to:

- 2.1 Establish effective procurement procedures to ensure it obtains fair and reasonable prices on future contracts;
- 2.2 Enforce the requirement of obtaining a breakout of each element of cost from future contractors;
- 2.3 Document in its procurement files the cost analysis performed to determine if prices obtained on future contracts are fair and reasonable; and
- 2.4 Conduct an independent assessment of the control procedures implemented by PRDE to determine if the controls are sufficient.

PRDE's reply:

PRDE revised the "Procedures for Awarding Competitive Federal Funds" in order to reinforce the requirements established by the Federal programs in the evaluation of proposals.

OIG's reply:

We reviewed the procedures implemented by PRDE. PRDE's corrective action should improve the procurement process. We added recommendation 2.4 to address the corrective action PRDE stated would be taken.

Finding 3

PRDE lacked controls to ensure compliance with the contracts and Federal regulations

PRDE did not enforce the terms of the contracts and therefore, paid \$371,748 in questioned costs and \$1,774,275 in unsupported costs to RV Research for three fixed-price contracts totaling \$4,597,935 awarded in June 1997, May 1998, and March 2000. (See Exhibits A, B, and C). This occurred because PRDE did not implement controls to oversee contract administration, including compliance with the contracts and Federal regulations, and to properly review the contractor's invoices for adequate and reliable supporting documentation prior to payment.

According to 34 C.F.R. § 76.702, "A State and a subgrantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds." Further, 34 C.F.R. § 80.20 (b)(6) provides that "Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant awards documents, etc."

\$998,750 Contract – "Computer Software Learning Videos"

PRDE did not ensure compliance with contract requirements and Federal regulations because it paid \$998,750 to RV Research for computer software learning videos without ensuring that RV Research submitted adequate and reliable supporting documentation of costs claimed. PRDE paid RV Research \$306,415 in questioned costs and \$436,500 in unsupported costs for the contract. RV Research did not submit to PRDE adequate supporting documentation for the purchase and delivery of videos to 1,000 schools and for training provided for the videos. We were able to obtain from RV Research its third party invoices for the purchase and delivery of the videos and one training course provided. RV Research billed PRDE \$515,750 for the purchase of the videos, yet its vendor's invoice totaled \$250,000, resulting in an overcharge of \$265,750 (106 percent). RV Research also billed PRDE \$45,000 for the delivery of the videos, but its costs for delivering the videos was \$4,335, resulting in an overcharge of \$40,665 (938 percent). RV Research also billed PRDE \$438,000 for training. We were able to obtain from RV Research one invoice totaling \$1,500 for training provided. As a result, we consider \$436,500 as unsupported costs. See Exhibit A for the details of the questioned and unsupported costs. We verified RV Research delivered the videos to PRDE, but were unable to determine if PRDE distributed the videos to the 1,000 schools.

\$499,375 Contract – "Computer Software Learning Videos"

PRDE did not ensure compliance with contract requirements and Federal regulations because it paid \$492,381 to RV Research for computer software learning videos without ensuring that RV Research submitted adequate and reliable supporting documentation of costs claimed. As of March 20, 2002, RV Research had not submitted additional invoices for payment. RV Research billed \$314,806 for "Professional Services" but did not submit supporting documentation to

PRDE or us. As a result, we consider this amount as unsupported costs. RV Research also billed PRDE \$152,806 for the purchase of the videos, yet its vendor's invoice totaled \$124,500, resulting in an overcharge of \$28,306 (23 percent). RV Research billed PRDE \$24,769 for the delivery of the videos, but its total costs for delivering the videos was \$4,069, resulting in an overcharge of \$20,700 (509 percent). See **Exhibit B** for the details of the questioned and unsupported costs. We verified that RV Research delivered the 498 videos to PRDE and that the videos were distributed to schools.

\$3,099,810 Contract - MultiCenters

PRDE did not ensure compliance with contract requirements and Federal regulations because it paid \$2,390,742 to RV Research for MultiCenters without ensuring that RV Research submitted adequate and reliable supporting documentation of costs claimed. RV Research submitted a total of 11 invoices to PRDE, of which eight were for "Professional Services." As of March 20, 2002, RV Research had not submitted additional invoices for payment. PRDE paid RV Research \$16,327 in questionable costs and \$1,022,969 in unsupported costs for the contract. We accepted costs totaling \$1,351,446 from documentation we were able to obtain from RV Research supporting payroll expenses, various training provided, and third party invoices supporting purchase of materials, software, and computer equipment for the MultiCenters. See **Exhibit C** for the details of the questioned and unsupported costs.

We made site visits to the five MultiCenters and found the learning centers were established but three were not being used because of lack of funding from PRDE. Two of the five MultiCenters were using other Federal funds (Title I and/or Special Education funds) to support the MultiCenters. The MultiCenters opened between the period August 2000 and January 2001. The five schools submitted proposals to PRDE to fund the MultiCenters for the 2001/2002 school year, but the funding was denied.

General non-compliance with contracts

Although required by the contracts, RV Research did not:

- Submit annual progress reports to PRDE for the 1997 and 1998 contracts; and
- Submit quarterly financial reports.

Recommendations:

We recommend that the Assistant Secretary for Elementary and Secondary Education require PRDE to:

- 3.1 Return to ED \$1,774,275 in unsupported costs and \$371,748 in questioned costs; and
- 3.2 Establish controls to ensure payments are made only after:
 - proper documentation (vendors' invoices, when appropriate) is obtained from subrecipients/contractors; and
 - review of payments and supporting documentation is conducted.

PRDE's response:

PRDE does not fully agree with the questioned costs for finding number 3, but PRDE does share the concerns of the OIG with regards to compliance with Federal procedures. PRDE stated that the current leadership and administration is taking the necessary steps to improve PRDE controls over all applicable Federal laws, regulations and requirements.

PRDE did not agree with the questioned costs related to the MultiCenters because all the services related to the MultiCenters were provided. PRDE understands that some changes must be made to the proposal process in order to separate the professional services from the purchase of equipment and materials, in order to improve the analysis of proposals and contracts, and to help determine if the prices obtained are fair and reasonable. PRDE believes that the rate charged by the contracted party for professional services rendered by the professionals working at the MultiCenters was not excessive (between \$15 and \$30 per hour) and that the amounts being questioned are related to the difference between the rate paid by the contracted party to their employees and the rate charged to PRDE. The questioned costs related to site visits are based on a number that PRDE believes is not clear in the finding.

For the Computer Software Learning Videos, PRDE does not consider the price for technical videos of this nature plus training and delivery excessive. PRDE stated that the services and materials are allowable under OMB Circular A-87. The PRDE is currently working to improve the filing system and is providing training to its personnel.

PRDE stated that they have no responsibility to obtain evidence, during the proposal evaluation process, of the costs to be incurred by the contracted parties to obtain the materials to be sold to PRDE. They do not agree with the questioned costs because they are based on the amount paid by the contracted third party to their supplier.

OIG's reply:

We reviewed PRDE's response, but our position and recommendations remain unchanged. PRDE provided no documentation to support the reasonableness of the questioned or unsupported costs detailed in the finding. The amounts overcharged by the contractor based on its actual costs represent questioned costs. We did make changes in the report to clarify the costs of site visits under the MultiCenters contract.

Background

RV Research is a private for-profit corporation located in Bayamón, Puerto Rico. RV Research was incorporated in January 1997, and began contracting with PRDE to provide educational services to Puerto Rico's schools in June 1997.

PRDE is both the State Educational Agency and Local Educational Agency in Puerto Rico. Beginning in June 1997, PRDE contracted with RV Research to provide learning videos for selected schools using Goals 2000 and Title III funds, and in March 2000 to install learning centers at selected schools utilizing Title III funds.

On January 23, 2002, the former Secretary and Associate Secretary of PRDE, as well as, the president of RV Research were indicted on charges of conspiracy to interfere with commerce by extortion (in violation of 18, U.S.C. § 1951 and 1952), theft concerning program receiving Federal funds (18 U.S.C. § 666); conspiracy to commit money laundering (18 U.S.C. § 1956h); and money laundering asset forfeiture (18 U.S.C. § 982). On February 6, 2002, PRDE's former Secretary and Associate Secretary pled guilty to various felony charges involving extortion, program fraud, and money laundering. Additionally, on April 5, 2002, the president of RV Research pled guilty to extortion, program fraud, and money laundering. In pleading guilty, he further agreed to criminal asset forfeiture of not less than \$800,000.

In March 2001, and September 2001, we issued audit reports regarding PRDE's Title I contract administration for the school years 1998/1999 through 2000/2001 that contained similar findings and recommendations contained in this report. On May 29, 2002, the Deputy Secretary of the U.S Department of Education designated PRDE as a "high-risk" grantee under 34 C.F.R. § 80.12, making the agency subject to special conditions in all of the Federal education programs that it administers.

Objectives, Scope, and Methodology

The purpose of our audit was to determine whether PRDE followed Federal laws in procuring services for its Goals 2000 and Title III contracts with RV Research and ensured that contract requirements were met prior to payment of contractor's invoices.

The period of our audit was from June 1, 1997 through October 31, 2001. We performed our fieldwork at PRDE's offices in Hato Rey, Puerto Rico, and RV Research's offices in Bayamón, Puerto Rico, from August 13, 2001 through February 27, 2002, the date of our exit conference. We also made site visits to the five MultiCenters: Vega Alta on November 14, 2001; Caguas and Guaynabo on November 15, 2001; Bayamón on November 20, 2001; and Carolina on November 21, 2001. We also made site visits to PRDE's warehouse in Bayamón, Puerto Rico to verify delivery of the learning videos.

To achieve the audit objectives, we interviewed officials from PRDE's Office of Federal Affairs, school teachers and principals, PRDE warehouse staff and RV Research's president. Lastly, we traced RV Research's supporting documentation of its expenses billed to PRDE for the Title III and Goals 2000 contracts. RV Research provided documentation to us that it did not provide to

PRDE upon submitting its invoices for payment. This information has been incorporated in the questioned and unsupported costs reported in Finding 3 of this report. To meet our objectives we did not use electronic data from PRDE, RV Research, or ED.

Except as discussed below, our audit was conducted in accordance with government auditing standards appropriate to the limited scope of the audit described above.

Qualification of Audit Results

PRDE failed to provide us with a management representation letter. PRDE stated that because of the Federal criminal investigation alleging wrongdoing in the previous administration's use of Federal grant funds, they were unable to provide the requested representation. Such a letter acknowledges that management has a responsibility for the fair representation of records and reports, and asserts that the auditors have been provided with complete and accurate records. It also states that, to the best of management's knowledge, there have been no irregularities or violations of law or regulation in connection with issues covered in the audit scope.

The failure of PRDE to sign a management representation letter prevents us from completing a required audit step and causes us to qualify any conclusions we have drawn on the basis of the data made available to us.

In addition, we found RV Research charged payroll for its employees to PRDE and at the same time charged the employee site visits to the learning centers as "Professional Services." As a result, we are unable to determine the total amount billed for professional services.

Management Controls

We did not review the management control structure of PRDE. In our report entitled *Puerto Rico Department of Education Did Not Administer Properly a \$9,700,000 Contract with National School Services of Puerto Rico*, dated March 28, 2001, we reviewed the management control structure. Our report herein, insofar as it relates to the system of management control structure is based solely on our report *Puerto Rico Department of Education Did Not Administer Properly a \$9,700,000 Contract with National School Services of Puerto Rico*.

Puerto Rico Department of Education/ RV Research 1997/1998 Computer Software Learning Videos Summary of Questioned Costs and Unsupported Costs					
Notes	Cost Category	Amount Invoiced to PRDE	Accepted Costs	Questioned Costs	Unsupported Costs
1.	Training	\$438,000	\$ 1,500	\$ 0	\$436,500
2.	Delivery - Materials	45,000	4,335	40,665	0
3.	Materials	515,750	250,000	265,750	0
Total		<u>\$998,750</u>	<u>\$255,835</u>	<u>\$306,415</u>	<u>\$436,500</u>

Notes:

- RV Research billed PRDE \$438,000 for training given to PRDE personnel on how to use the software. We were unable to obtain supporting documentation for \$436,500, the remaining amount of training billed during the contract period.
- RV Research billed PRDE \$45,000 for delivery of materials. RV Research provided evidence of delivery of 1,000 sets of 25 videos to PRDE. Vendor's invoices for delivery totaled \$4,335, resulting in an overcharge of \$40,665 (938 percent).
- RV Research billed PRDE \$515,750 for materials. RV Research provided an invoice from "Video Professor" for \$250,000 for 1,000 sets of 25 learning videos, resulting in an overcharge of \$265,750 (106 percent).

Puerto Rico Department of Education/ RV Research
 June 1998- December 1998
 Computer Software Learning Videos
 Summary of Questioned Costs and Unsupported Costs

Notes	Cost Category	Amount Invoiced to PRDE	Accepted Costs	Questioned Costs	Unsupported Costs
1.	Materials	\$152,806	\$124,500	\$28,306	\$ 0
2.	Delivery - Materials	24,769	4,069	20,700	0
3.	Professional Services	314,806	0	0	314,806
Total		<u>\$492,381</u>	<u>\$128,569</u>	<u>\$49,006</u>	<u>\$314,806</u>

Notes:

1. RV Research billed PRDE \$152,806 for materials. Although the supporting documentation reported a total of 510 sets of videos purchased at \$10 per video, the evidence provided for the delivery of the videos showed a total of 498 sets of videos delivered to PRDE's warehouse. As a result, the accepted costs for this category are \$124,500 (498 videos), resulting in an overcharge of \$28,306 (23 percent).
2. RV Research billed PRDE \$24,769 for delivery of materials. RV Research's vendor's invoice submitted as supporting documentation totaled \$4,069, resulting in an overcharge of \$20,700 (509 percent).
3. RV Research billed PRDE \$314,806 for professional services charges, yet did not submit any supporting documentation to PRDE or us for these charges.

Puerto Rico Department of Education/ RV Research 2000/2001 MultiCenters Summary of Questioned Costs and Unsupported Costs					
Notes	Cost Category	Amount Invoiced to PRDE	Accepted Costs	Questioned Costs	Unsupported Costs
1.	Professional Services	\$100,000	\$ 2,250	\$ 0	\$ 97,750
2.	Professional Services	250,000	70,851	0	179,149
	Materials	63,345	63,345	0	0
	Software	560,541	560,541	0	0
	Computer Equipment	402,600	402,600	0	0
3.	Professional Services	350,000	69,768	0	280,232
4.	Professional Services	350,000	22,950	0	327,050
5.	Professional Services	142,611	74,777	0	67,834
6.	Professional Services	46,419	24,797	0	21,622
7.	Professional Services	61,543	31,231	6,641	23,671
8.	Professional Services	63,683	28,336	9,686	25,661
	Total	<u>\$2,390,742</u>	<u>\$1,351,446</u>	<u>\$16,327</u>	<u>\$1,022,969</u>

Notes:

- RV Research billed PRDE \$100,000 for professional services. PRDE provided copies of nine site visits to learning centers. RV Research purchased the franchise for the MultiCenters from Degem Systems Ltd. Degem Systems Ltd. advised RV Research to charge between \$200 and \$300 per visit for professional services. We averaged these amounts and allowed \$250 per visit for professional services, resulting in accepted costs of \$2,250 (nine visits @ \$250) and unsupported costs of \$97,750.
- RV Research billed PRDE \$250,000 for professional services. RV Research submitted copies of attendance rosters, for nine training sessions for the MultiCenters staff. Additionally, RV Research provided several invoices totaling \$68,601 for services such as air conditioners, painting, and iron works, resulting in accepted costs of \$70,851 and unsupported costs of \$97,750.

3. RV Research billed PRDE \$350,000 for professional services. The supporting documentation provided by PRDE, as well as by RV Research, totaled \$69,768. This documentation consisted of site visits (\$10,500), payroll (\$42,735), and several invoices (\$16,533) for chairs and tables. As a result, RV Research did not provide supporting documentation for \$280,232.
4. RV Research billed PRDE \$350,000 for professional services. The supporting documentation provided by RV Research totaled \$22,950, which consisted of payroll. As a result, RV Research did not provide supporting documentation for \$327,050.
5. RV Research billed PRDE \$142,611 for professional services. Although this invoice was identified as professional service charges, RV Research included additional costs for communication services, technical services, equipment and educational programs in this amount. We accepted for costs totaling \$74,777 because RV Research provided payroll registers, and some documentation of communication, equipment and materials charges. Unsupported costs totaled \$67,834 because the documentation provided for technical services, development of educational material and training were narrative explanations.
6. RV Research billed PRDE \$46,419 for professional services. Although this invoice was identified as professional services charges, RV Research included additional costs for materials, communication services and technical services. We accepted costs supported by RV Research payroll registers, and supporting documentation of communication services totaling \$24,797. Unsupported costs totaled \$21,622 because supporting documentation was lacking or consisted of narrative explanations.
7. RV Research billed PRDE \$61,543 for professional services. Although this invoice was identified as professional services charges, RV Research included costs for communication services, materials, training and technical services. We accepted costs supported by RV Research payroll registers, and supporting documentation of communication services totaling \$31,231. The documentation presented for the training was considered questioned because the training was provided to RV Research staff. Additionally, RV Research submitted supporting documentation for the technical services' visits, but it was also considered a questioned cost because the technicians were included in other cost categories. Unsupported costs totaled \$23,671 because supporting documentation was lacking or consisted of narrative explanations.
8. RV Research billed PRDE \$63,683 for professional services. Although this invoice was identified as professional services charges, RV Research included costs for additional items such as communication services, technical services, equipment maintenance, and materials. We accepted costs supported by RV Research payroll registers, and supporting documentation of communication services and maintenance totaling \$28,336. The technical services, as well as the training sessions, were questioned because the technician was already included in the professional services category and the training was provided to RV Research staff. Unsupported costs

totaled \$25,661 because supporting documentation was lacking or consisted of narrative explanations.



Commonwealth of Puerto Rico
DEPARTMENT OF EDUCATION

César A. Rey Hernández, Ph.D.
Secretary

August 2, 2002

Mr. Daniel P. Schultz
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
65 Court Street, 12th floor
Brooklyn, NY 11201

Dear Mr. Schultz:

This letter is in response to the Preliminary Audit Report entitled: **Puerto Rico Department of Education Did Not Administer Properly Three Contracts with R.V. Research and Management Group, Inc. (ED-OIG/A02-B0025)** We received this report and per your instructions are forwarding our comments to you in response to the findings.

Finding #1:

PRDE awarded fixed price contracts totalling \$4,597,935 to RV Research without full and open competition.

Amount of questioned costs: None

Management Response:

As of January 23, 2000 Ms. Eileen Loiz, Esq., was appointed as Director for the Federal Affairs Office, and initiated a full review of the procurement process for all federal programs. Immediately thereafter, several corrective action letters were issued to inform, among others, PRDE personnel, contractors and vendors of the new procurement and monitoring procedures.

The Secretary of Education issued on June 19, 2001 the "Procedures for Contracting Professional and Consulting Services Funded with Federal Funds". These procedures emphasize the specific information that should be included in a contract. Also, on July 30, 2001 the Secretary issued strict guidelines to be followed before the award or renewal of any type of contract.

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A checklist will be developed to ensure that contracts received in the Payment Division have all the requirement documents before processing any payments. Many of these corrective actions have already been enacted for the fiscal year ending June 30, 2003, and all new procedures are in place to ensure the appropriate implementation of federal programs.

Finding #2

PRDE failed to determine that the costs of fixed-price contracts were fair and reasonable.

Amount of questioned costs: None

Management Response

PRDE revised the "Procedures for Awarding Competitive Federal Funds", in order to reinforce the requirements established by the federal programs in the evaluation of proposals. Some of the steps taken were the following:

- Established internal controls on all new procurement procedures.
- Coordinated and initiated trainings to all division directors and coordinators of federal programs on basic knowledge regarding all federal programs (purpose of the program, activities allowed, fiscal aspects of the law, etc.).
- Initiated a thorough review of all federal contracts with effective period starting on 2001, and
- Verifying that proponents provide a detail breakout of cost elements.

Finding #3

PRDE lacked controls to ensure compliance with the contracts and federal regulations.

Amount of questioned costs: \$2,146,023

Management Response

This finding is divided in two projects: 1) MultiCenters and 2) Computer Software Learning Videos. We have prepared our response individually for each project.

Multicenters:

The PRDE does not agree with the questioned costs related to the Multicenters because all the services related to the Multicenters were provided. The payments made in relation to the MultiCenters were made in accordance with the proposal and the contract with the provider.

The PRDE understands that some changes must be made to the proposal process in order to separate the professional services from the purchase of equipment and materials (which is already in effect during fiscal year 2003), in order to improve the analysis of proposals and contracts, and to help determine if the prices obtained are fair and reasonable.

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The PRDE understands that the majority of the questioned costs related to the MultiCenters are related to the professional services rendered by the supplier, including the hours worked by their employees and the site visits performed by them.

The PRDE believes that the rate charged by the contracted party for professional services rendered by the professionals working at the MultiCenters was not excessive (between \$15 and \$30 per hour) and that the amounts being questioned are related to the difference between the rate paid by the contracted party to their employees and the rate charged to the PRDE. The evidence of the payroll at the contracted party site should be the hours worked by their employees multiplied by the rate charged to PRDE for the level of each professional. The questioned costs related to the site visits are based on a number that it is not clear in the finding because the rate was \$250 per hour and was calculated as \$250 per visit for the purpose of calculating the questioned costs. There is a material difference between \$250 per hour vs. \$250 per visit. Nonetheless the \$250 is an arbitrary number and there is evidence that the site visits were performed as part of the worked to be provided for the MultiCenters and the amounts invoiced were within the amounts presented in the proposal for professional services. See the response to finding #1 for the changes made to the contracting process.

Computer Software Learning Videos:

The proposal presented for the Computer Software Learning Videos was to provide 1,000 sets of 25 videos at \$39.95 per video including delivery and training. The price is not considered excessive for technical videos of this nature plus training and delivery. There is evidence of the receipt of 992 sets of videos at the PRDE warehouse, plus one set at the Office of Federal Affairs. The evidence for the training provided was also included with the invoices. The PRDE contracted for services and materials that are allowable under OMB Circular A-87 and has evidence of the delivery of the materials and the services provided. The PRDE is currently working on the improvement of the filing system and is providing trainings to its personnel in order to improve the filing and maintenance of supporting evidence. The PRDE has also established a plan to submit the Reporting Packages including the Single Audit Reports on a timely manner starting on fiscal year 2003. The timely submission will help in finding more efficiently supporting evidence for any selected transaction.

The PRDE has no responsibility to obtain evidence, during the proposal evaluation process, of the costs to be incurred by the contracted parties to obtain the materials to be sold to the PRDE; the PRDE verifies if the prices presented in the proposal are fair and reasonable and the contracts are based on the proposed price which is then established in a contract with the third party. The PRDE has no control over the prices negotiated by those third parties with their suppliers. The amounts of the questioned costs for this finding are based on the amount paid by the contracted third party to their supplier; therefore we do not agree with the questioned costs.

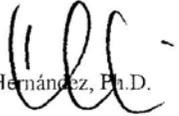
Although we do not fully agree with the questioned costs for finding number 3, we share the concerns by the Office of the Inspector General on the previous administration's actions with regards to compliance of federal funds expenditures and procedures. However, we would like to notice that the current leadership and administration is taking the necessary steps to improve the PRDE controls over all applicable federal laws, regulations and requirements.

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It is evident that the PRDE is committed to rectifying the past implementation of all federal programs in order to ensure that we can provide our children with an educational system that will provide them with academic excellence and high standards.

We would like to meet with you as soon as possible to discuss and resolve this matter, and to establish an efficient process that will allow our schools to implement successful programs of excellence fully compliant with all federal regulations. Furthermore, we wish to maintain this process for years to come in order to ensure future educational opportunities.

Cordially yours,


César A. Rey-Hernández, Ph.D.
Secretary

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