



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

January 6, 2004

MEMORANDUM

TO: Jack Martin
Chief Financial Officer
Office of the Chief Financial Officer
Lead Action Official

Brian W. Jones
General Counsel
Office of the General Counsel

FROM: Helen Lew /s/
Assistant Inspector General for Audit

SUBJECT: Final Audit Report
Audit of Funds Not Recovered Due to the Statute of Limitations
Control Number ED-OIG/A19-C0004

Attached is the subject final audit report that covers the results of our audit of funds not recovered due to the expiration of the statute of limitations. An electronic copy has been provided to your Audit Liaison Officers. We received your comments generally agreeing with the recommendations in the audit report.

Corrective actions proposed (resolution phase) and implemented (closure phase) by your offices will be monitored and tracked through the Department's automated audit tracking system. Department policy requires that you develop a proposed Corrective Action Plan (CAP) in the automated system within 60 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 audit 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 number of audits unresolved. In addition, any reports unresolved over 180 days from the date of issuance will be shown as overdue in our reports to Congress.

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 have any questions, please call Michele Weaver-Dugan at (202) 863-9526.

Attachment

Audit of Funds Not Recovered Due to the Statute of Limitations

FINAL AUDIT REPORT



ED-OIG/A19-C0004
January 2004

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
Operations Internal Audit Team
Washington, DC

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

Under the General Education Provisions Act, when the Department of Education (Department) determines that funds have been inappropriately expended, it must provide written notice to the recipient of those funds. This notice is provided through a Program Determination Letter (PDL). A statute of limitations applies, however, in that the Department may not seek recovery of funds that have been expended more than five years prior to receipt of the PDL.

The objectives of our audit were to: (1) determine the amount of recommended recoveries that were lost or reduced for audits due to the expiration of the statute of limitations, and (2) determine the reason the statute of limitations expired prior to the issuance of the PDL.

Overall, we found improvements were needed in the Department's management of the audit resolution process. Our audit revealed that funds totaling \$7.4 million were lost due to the expiration of the statute of limitations. This occurred because audits were not received timely, audits were not resolved timely, and *prima facie*¹ evidence could not be established. We also found that an effective process had not been developed to ensure audits were submitted, and audit resolution was not tracked or reported accurately. As a result, funds were not available to the Government for other uses and the Department had no assurance on the appropriateness of expenditures by entities that did not submit audits. Improvements in the areas noted will enhance a culture of accountability within the Department for obtaining and resolving audits timely, and demonstrate that the Department holds its grantees accountable for appropriate expenditures of funds and compliance with audit requirements. To correct the weaknesses we identified, we recommend that the Department:

- Develop a recurring training program for Department staff involved in the audit resolution process.
- Collaborate with the Office of Inspector General (OIG) to perform outreach activities to inform and educate the nonfederal audit community of *prima facie* requirements.
- Ensure the new audit resolution tracking system includes a means to identify and prioritize audits with monetary findings subject to the statute of limitations.
- Determine whether the Federal Audit Clearinghouse is performing follow-up activities as required by Office of Management and Budget guidelines. Coordinate Department activities to avoid duplication of effort.
- Formalize the process for tracking audit reports that are not submitted by establishing and implementing appropriate policies and procedures.
- Develop and implement a policy on sanctions to be taken against entities that continually do not comply with single audit requirements.

¹ Title 34 of the Code of Federal Regulations, § 81.34(b)(2) provides the following definition: "A *prima facie* case is a statement of the law and the facts that, unless rebutted, is sufficient to sustain the conclusion drawn in the notice." In the Department, the "notice" is the PDL.

- Ensure Post Audit Group staff accurately track audit resolution and report audits overdue for resolution using the date of receipt for non-federal audits and the final audit report date for federal audits.

The Department was in general agreement with our recommendations and provided information on actions taken, or in progress, to address the issues. The response from the Office of the Chief Financial Officer (OCFO) cited the poor quality of audits as a primary reason why findings could not be sustained and funds recovered. As a result, OCFO stated that the amount cited in our report as being lost due to the expiration of the statute of limitations is likely to be significantly overstated.

In our report, we noted three primary reasons that affected the Department's ability to resolve audits timely, including *prima facie* requirements. In all 18 audits cited in our report, the Department had *sustained* the findings but had not issued the PDLs until after the statute had expired. The PDLs for only 4 of the 18 audits noted *prima facie* evidence requirements as the cause of not recovering the funds prior to the statute of limitations expiring. For the audits reported, we held discussions with applicable program office audit resolution staff and reviewed audit resolution files. Audit resolution staff noted reasons other than *prima facie* for audits not being resolved, or stated that, due to the age of the audits, they could not recall why the audits were not resolved timely. The audit resolution files did not document that the audits were of poor quality and that findings could not be supported.

We did not include any amounts related to unresolved and unsustainable audit findings in audit reports where the statute had already expired. Had we done so, up to 10 additional audits and \$2.1 million would have been added to the amounts included in our report.

OIG is currently managing an interagency project to assess the quality of Single Audits government-wide. This project expects to provide a statistically reliable estimate of the extent that Single Audits conform to applicable requirements, standards, and procedures. The project will make recommendations to address noted audit quality issues as indicated by the results of the project. This project will provide an objective analysis of the extent of any problems with the quality of Single Audits.

The Department also stated that they believe significant improvements in timeliness are not fairly reflected in the report and, thus, impact on the report's balance. OCFO stated that significant improvements in audit resolution should be more prominently included in the report. We believe that we have fairly reflected the improvements in timeliness for audit receipt and resolution by providing updated statistics. While OCFO enumerates a number of steps taken to make improvements in the handling and resolution of audits, five of the six steps are very recent initiatives, one of which has apparently not yet been implemented. Therefore, the effectiveness of these steps cannot yet be determined.

The full text of the Department's response, and OIG's detailed comments to the response, are provided in the attachments to this report.

BACKGROUND

The General Education Provisions Act (GEPA) requires that when the Department of Education (Department) determines a recipient must return funds that were inappropriately expended, the Department must provide written notice to the recipient of the preliminary department decision to that effect. The Department provides this notice by issuing a Program Determination Letter (PDL). A statute of limitations applies to the recovery of funds in that no recipient is required to return funds expended more than five years before the written notice is received. GEPA does not apply to Federal Student Aid (FSA) programs authorized under the Higher Education Act of 1965, or to contracts entered into by the Department.

GEPA places the burden of establishing a *prima facie* case for the recovery of funds on the Department. The *prima facie* case should include an analysis reflecting the value of the program services actually obtained in a determination of harm to the federal interest. The facts that serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence.

One way the Department determines that funds were inappropriately expended is through audits. Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," requires all non-federal entities that receive \$300,000 or more in federal funding to submit audits of the expenditures of those funds. These audits are generally known as single audits. State and local auditors, and independent public accountants, known collectively as non-federal auditors, generally perform these audits.

Single audits are submitted to the Federal Audit Clearinghouse (FAC). The FAC processes the reports and distributes information to federal agencies that have provided funds to the entities. The FAC sends an electronic file to the Department that includes information on all audits of entities who received funds directly from the Department. For audits with findings in Department programs, the FAC also provides a hard copy of the audit report for resolution.

OMB Circular A-133 requires the Department to issue its management decision, including the determination of any funds to be returned, on findings in non-federal audits within six months of receipt of the audit. OMB Circular A-50, "Audit Followup," also echoes this requirement.

Federal auditors, such as those employed by the Office of Inspector General (OIG), also conduct audits of Department programs. Audit reports by federal auditors are submitted directly to the Department. OMB Circular A-50 requires that these audits be resolved within six months after issuance of a final report. Federal audits of GEPA programs are also subject to the statute of limitations requirements.

OMB Circular A-50 requires each agency head to designate an Audit Follow-up Official (AFUO). The AFUO has personal responsibility for ensuring that systems of audit follow up, resolution, and corrective action are documented and in place, and that timely responses are made to all audit reports. The Chief Financial Officer is the Department's AFUO.

The Post Audit Group (PAG) within the Office of the Chief Financial Officer (OCFO) coordinates audit resolution activities for the AFUO. PAG is responsible for the processing and distribution of audit reports with GEPA findings for resolution. For each audit report received from the FAC, PAG enters applicable information into the automated Common Audit Resolution System (CARS). PAG is responsible for managing the operations of CARS, and through this database, tracking audit resolution. Information on the status of audits overdue or potentially overdue for resolution is included in the database. PAG also resolves all audit findings pertaining to discretionary grants.

Assistant Secretaries (or equivalent office heads) are designated as the Action Officials for resolving audit findings within their program areas. The Action Official is responsible for determining the action to be taken, and the financial adjustments to be made in resolving findings, within the statutory six-month resolution time frame. Audit Liaison Officers (ALOs) and audit resolution specialists within a Principal Office (PO) assist the action officials in resolving audit findings and issuing PDLs.

The Department of Education has also developed a program called the Cooperative Audit Resolution and Oversight Initiative (CAROI) to resolve recurring audit findings. CAROI is a collaborative effort that provides alternative and creative approaches to resolve audit findings as well as their underlying causes. The goal of CAROI is to improve education programs and student performance at state and local levels through better use of audits, monitoring, and technical assistance. The Department and the states work together to help solve recurring problems identified through single audits as well as audits from the OIG.

AUDIT RESULTS

Overall, we found improvements were needed in the Department's management of the audit resolution process. Our audit revealed that funds were lost due to the expiration of the statute of limitations. This was due to three primary factors – audits were not received timely, audits were not resolved timely, and *prima facie* evidence could not be established. We also found that an effective method was not in place to ensure audits were submitted, and audit resolution was not tracked or reported accurately. As a result, funds were not available to the Government for other uses, and the Department had no assurance on the appropriateness of expenditures by entities that did not submit audits. Improvements in the areas noted will enhance a culture of accountability within the Department for obtaining and resolving audits timely, and demonstrate that the Department holds its grantees accountable for appropriate expenditures of funds and compliance with audit requirements.

The Department was in general agreement with our recommendations and provided information on actions taken or in progress to address the issues. A summary of the response follows each finding. The full text of the response, and OIG's detailed comments to the response, are provided in the attachments to this report.

Finding No. 1 – Funds Were Not Recovered Due to the Expiration of the Statute of Limitations

The Department was not able to recover funds for 18 audits totaling \$7,383,859 due to the expiration of the statute of limitations. According to determinations made in PDLs, the Department sustained findings but was not able to recover funds as follows:

- In 14 audits, funds totaling \$6,501,764 could not be recovered due to the expiration of the statute of limitations.
- In four additional audits, the Department did not issue PDLs until after the statute expired, preventing recovery of \$882,095. In these latter cases, the PDLs did not state that funds were lost due to the statute of limitations, but stated that *prima facie* evidence requirements could not be met to request the return of funds.

We reviewed 59 audits with funds expended in fiscal years (FY) ending in 1986 through 2000. The PDLs for these audits were issued between September 30, 1993, and September 20, 2002. Our review included 33 closed audits with amounts listed as not recovered in CARS, and 26 audits that were not yet closed, but where monetary findings were recorded and more than 5 years had elapsed since the beginning of the audit period.

GEPA, under “Recovery of Funds,” requires that:

Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision² and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation. (20 U.S.C. § 1234a(a)(1))

In a preliminary departmental decision, the Secretary shall have the burden of establishing a *prima facie* case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence.... (20 U.S.C. §1234a(a)(2))

GEPA also states that, “No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.” (20 U.S.C. § 1234a(k))

OMB Circular A-50 requires each agency to assign a high priority to the resolution of audit recommendations and to corrective action. Systems for resolution and corrective action must meet the following standard:

Require prompt resolution and corrective actions on audit recommendations. Resolution shall be made within a maximum of six months after issuance of a final report or, in the case of audits performed by non-Federal auditors, six months after receipt of the report by the Federal Government. Corrective action should proceed as rapidly as possible. (Paragraph 8(a)(2))

OMB Circular A-133 requires federal awarding agencies to, “Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate corrective action.” (Subpart D, § 400)

We found that 18 of the 59 audits were not resolved in time to ensure the recovery of funds and the statute of limitations expired before the PDL was issued. We identified three primary factors that affected the Department’s ability to resolve these audits where funds were not recovered – the audits were not received timely, the audits were not resolved timely, and *prima facie* evidence could not be established.

² The preliminary departmental decision or management decision is issued through the PDL.

Audits Were Not Received Timely

PAG received the 18 audits where funds were not recovered an average of 29 months after the end of the audit period, and an average of 45 months after the beginning of the audit period. (The 18 audits included 14 non-federal audits and 4 federal audits. The non-federal audits were received an average of 29 months after the end of the audit period and 43 months after the beginning of the audit period. The federal audits were received an average of 31 months after the end of the audit period and 53 months after the beginning of the audit period.) Since funds can only be recovered up to 60 months after they were expended, late receipt of the audit reports significantly impacted the Department's ability to recover funds. Complete information was not available for three of these audits to determine if delays were in the initial receipt of the audits by the applicable OIG regional office³ or the FAC, or in processing of the reports for the Department. However, where information was available to make this determination, we found that an average of 8 months elapsed from receipt by the OIG or FAC to receipt by PAG.

We also evaluated more recent activity and found that generally audits were received in much less time. We evaluated 313 non-federal audits where PDLs were issued between October 1, 1999, and April 24, 2002, and found that the audits were submitted to the FAC an average of 13 months after the end of the audit period. An average of three months elapsed between receipt by the FAC and receipt by PAG for these audits. For 15 federal audits with PDLs issued in the same period, an average of 21 months elapsed between the end of the audit period and receipt by the Department.⁴

Audits Were Not Resolved Timely

Once received by PAG, an average of 29 months elapsed before the 18 audits were resolved – nearly 5 times the 6-month resolution time period specified by OMB. (The non-federal audits were resolved in an average of 32 months. The federal audits were resolved in an average of 17 months.) Audit resolution staff stated that audits were not resolved timely in three cases because the audits were included in a CAROI effort, and in one case because the audit required responses from multiple principal offices. In some cases, due to the age of the audits, resolution staff could not recall why the audits were not resolved timely. In addition, PAG staff stated that most audit resolution specialists are not dedicated full-time to such activities.

Analysis of more recent activity noted that for the 313 non-federal audits with PDLs issued between October 1, 1999, and April 24, 2002, an average of 9 months elapsed from receipt of the audit by PAG and issuance of the PDL – still 3 months in excess of the 6-month resolution time period specified by OMB. For the 15 federal audits with PDLs issued in the same period, an average of 15 months elapsed between receipt and the PDL.

³ OIG regional offices were responsible for receiving and processing single audit reports until July 1995, prior to establishment of the FAC. OIG regional offices processed 6 of the 18 audits where funds were not recovered.

⁴ For the federal audits, complete information was not available on the actual report date or on the date the audit was received by PAG. The audit issue date recorded in CARS was used to make this comparison.

The Department's *Post Audit Users Guide* (PAUG), Section III, Chapter 4, Part C, requires that audits affected by the statute of limitations should be given priority for resolution. However, these audits were not highlighted in reports of audits pending or overdue for resolution and reminders were not sent to audit resolution staff to warn them that expiration of the statute of limitations was approaching. PAG staff stated that the new audit resolution system currently being implemented will include flags for audits with monetary findings and those affected by a statute of limitations, and that the new system will generate reminder notices to audit resolution staff when the statute is approaching.

Prima Facie Evidence Could Not Be Established

Department staff in PAG and the Office of the General Counsel (OGC) cited difficulty in developing *prima facie* evidence as a factor in resolving audits timely. Four of the PDLs we reviewed cited the lack of *prima facie* evidence as the reason funds were not requested back, although these PDLs were also issued after the statute of limitations had expired, preventing the recovery of any funds.

PAG staff stated that the audit report and working papers alone may not provide sufficient evidence to satisfy the requirements. In a written response to the exit conference, PAG staff reiterated their concern over the quality of audits to support an effective case for resolution, and further stated,

Audit resolution staff are not trained to be auditors or attorneys. To require them to retrace the audit process to try and find the appropriate supporting data and reevaluate the auditors' efforts and then to establish a *prima facie* case is, without question, outside the areas of their expertise.

PAG and OGC staff stated that training for audit resolution staff on the requirements of *prima facie* evidence is also needed. In 1995, OGC issued a memorandum on *prima facie* requirements. An audit resolution workshop/teleconference held in June 2001 included discussion of the 1995 memorandum, but a recurring training program on the audit resolution process, and specifically on *prima facie* requirements, had not been developed. In addition, the Department has not developed detailed guidelines to assist resolution staff in meeting *prima facie* requirements.

The Department lost the opportunity to recover funds that had been misspent by its grantees. These funds could have been available to the Government for other uses. In total, our audit identified \$7,383,859 in funds that were not recovered and available for other uses. In addition, the fact that misspent funds were not requested back does not provide a deterrent for inappropriate expenditures in the future.

Recommendations

We recommend that the Chief Financial Officer, in conjunction with the General Counsel:

- 1.1 Issue guidelines that include sufficient information to assist audit resolution staff in meeting *prima facie* evidence requirements and resolving audits in a timely manner.
- 1.2 Develop a recurring training program for Department staff involved in the audit resolution process. Ensure training includes requirements for development of *prima facie* evidence.
- 1.3 Collaborate with OIG and key program offices to discuss causes for deficiencies in *prima facie* evidence. If appropriate, develop recommendations to bodies that establish applicable audit standards and procedures to address gaps between existing standards and *prima facie* requirements.
- 1.4 Collaborate with OIG to perform outreach activities to inform and educate the nonfederal audit community of *prima facie* requirements.
- 1.5 Collaborate with OIG to work with OMB to include *prima facie* guidance in the OMB Compliance Supplement used by auditors in conducting audits under the Single Audit Act.

We also recommend that the Chief Financial Officer:

- 1.6 Ensure the new audit resolution tracking system includes a means to identify and prioritize audits with monetary findings subject to the statute of limitations, that such audits are tracked and included in management reports, and that reminder notices are sent to audit resolution specialists as the statute of limitations approaches to ensure funds are recovered.

See related recommendations under Finding 2 regarding ensuring audits are submitted, and Finding 3 on tracking and reporting audit resolution.

Department of Education Response

The Department generally agreed with the recommendations made and provided information on activities taken or planned to implement corrective actions. With regard to recommendation 1.4, OCFO stated that they are deferring to the Inspector General, with collaboration from the General Counsel, to determine the best course of action to take and develop a corrective action plan, as appropriate.

Office of Inspector General Comments

While OGC and OIG are important to the performance of outreach activities noted in recommendation 1.4, the CFO, as the Department's Audit Followup Official, and OCFO staff, as the group that coordinates audit resolution, should remain involved in the process.

Finding No. 2 – An Effective Process Had Not Been Developed to Ensure Audits Were Submitted

The Department did not have an effective process in place to ensure audits were submitted. We identified 63 entities for which FY 1999 audit reports had not been received by the Department or the FAC. These entities received over \$334 million directly from the Department for that year.⁵

We also noted discrepancies between FY 1999 audits in the FAC database and those contained in the Department's CARS database as follows:

- Three audits in the FAC database were not in CARS. These entities each received at least \$300,000 directly from the Department, and in total, received nearly \$10 million in direct Department funding for that year.
- Twelve audits were in CARS, but not in the FAC database. These entities each received at least \$300,000 directly from the Department, and in total, received \$204 million in direct Department funding for that year.

OMB Circular A-133, Subpart B, § 200, states, "Non-Federal entities that expend \$300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year...." In addition, the circular states:

The Federal awarding agency has responsibility to perform the following for the Federal awards it makes...(2) Advise recipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements...(3) Ensure that audits are completed and reports are received in a timely manner.... (Subpart D, § 400(c))

OMB Circular A-133 generally requires audit reports to be submitted no later than nine months after the end of the audit period. For fiscal years beginning on or before June 30, 1998, the audit had to be submitted no later than 13 months after the end of the audit period. Audits are to be submitted to the Federal clearinghouse. The clearinghouse distributes the reporting packages to

⁵ We identified these 63 audits from a universe of 224 entities that had received at least \$300,000 from the Department in FY 1999, were not recipients of FSA funds, and for which an audit was not readily identifiable in CARS or at the FAC. In total, the 224 entities received nearly \$4 billion from the Department for that year.

applicable Federal agencies, and is responsible for following up with known entities that have not submitted the required reporting packages. (Subpart C, § 320, paragraphs (a), (d), and (h))

OMB Circular A-133, Subpart B, § 225, states,

In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

- (a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;
- (b) Withholding or disallowing overhead costs;
- (c) Suspending Federal awards until the audit is conducted; or
- (d) Terminating the Federal award.

We found that a formal system for tracking audits not submitted had not been developed, audits were not appropriately processed by the FAC, and sanctions were not imposed against entities that did not submit audits.

A Formal System for Tracking Audits Not Submitted Had Not Been Developed

The Department had not established a formal system for tracking audits reports that were not submitted. No policy or procedural guidelines had been developed in this area. While PAG staff received a file that matched CARS audits to financial records of funds provided to identify entities that did not submit audits, appropriate documentation of follow-up activities was not maintained. PAG staff were not familiar with the follow-up activities performed by the FAC, and had not coordinated activities to prevent duplication of effort. PAG staff also stated that they had limited staff available to follow up on audits that were not submitted.

In June 2001, PAG staff first began sending follow-up letters to entities that did not submit audit reports. Prior to that time, limited follow up was performed by the FAC. At that time, PAG staff followed up on audits that were not submitted for FY 1997, FY 1998, and FY 1999. PAG staff sent letters to entities, but these letters were not sent with proof of delivery required, so receipt by the entity cannot be verified. Where a facsimile number was known, the letters were faxed and copies of the fax receipt maintained. However, receipt by an appropriate party at the entity could not be verified. PAG staff stated that if there was no response to the letters, they followed up by telephone in an attempt to obtain the audit reports.

At the time of our review, PAG was following up on FY 2000 audits not submitted. PAG staff stated that they did not send any letters for these audits since they did not think that the letters sent in the prior year were effective. Instead, PAG staff has been contacting the entities by telephone. Informal worksheets were maintained to document the telephone contacts.

We reviewed PAG's records of follow up activities and found for the 66 FY 1999 audits identified in our review as not received by the Department, (63 audits not at the FAC or in CARS, plus 3 audits at the FAC but not in CARS), PAG staff had documented attempts to obtain 14 of the audits. PAG staff had not documented attempts to obtain the other 52 audits.

Audits Were Not Appropriately Processed by the FAC

PAG staff also stated that if they found an audit on the FAC website that had not been processed and sent to the Department, but for which there were no findings in Department programs, PAG staff did not ask the FAC to process the data because no resolution action would be required by the Department. Instead, PAG staff annotated their records with the comment “At CH.” PAG staff provided us with a listing of 78 FY 1999 audits and 121 FY 2000 audits that they had designated “At CH.”

We reviewed these 199 audits on the FAC website and found that 17 audits with direct Department funding actually had findings in Department programs and should not have been designated as “At CH.” We noted that 5 of these audits had been processed by the FAC and were now included in the CARS database, but the remaining 12 audits had not been provided. We also found that 17 audits without findings were in CARS. In total, 22 of the 199 audits that PAG had originally designated as “At CH” were subsequently processed by the FAC and provided to the Department.

Sanctions Were Not Imposed Against Entities that Did Not Submit Audits

PAG staff stated they did not mention potential sanctions the Department could impose under OMB Circular A-133 in the letters that were sent to entities that did not submit audits. In fact, PAG staff stated that the Department had never imposed sanctions solely because the entities continually failed to submit their audits in a timely manner. PAG management explained withholding funds until audits are received ends up affecting the children who are the ultimate beneficiaries of Department funding. However, without requiring entities to submit required audits, the Department does not have any assurance that any funds provided the entity were appropriately spent.

The Department depends on audits as one method to obtain assurance that funding provided to grantees is being appropriately spent. When audits are not provided, or not provided timely, that assurance is compromised. For FY 1999, the Department did not have assurance that \$344 million in funds directly provided to 66 entities were appropriately spent. As discussed in Finding 1, late receipt of audits significantly hampers the Department’s ability to recover funds from sustained monetary findings prior to the expiration of the statute of limitations. More than three years of the five-year statute of limitations has already elapsed for the FY 1999 audits not yet submitted.

In addition, by not maintaining appropriate documentation of follow-up efforts for audits that were not submitted, the Department’s position in future efforts to impose sanctions would be significantly impaired since it cannot prove that entities received reminders to submit the audits. Historical data is not available to identify entities that have consistently failed to submit audits, or that have only submitted audits once contacted by the Department. Failure to impose sanctions against entities that continually fail to submit their audits timely allows the practice to continue.

By not requiring the FAC to process all audits of Department programs, the Department is paying the FAC for a service it is not receiving. CARS does not include complete information since the FAC has not sent a data file for all audits received. Audit resolution staff in the PO would not know that an entity had submitted a report to the FAC. Further, for the audits received by the FAC with findings in Department programs, but for which the report was not provided, audit resolution has not yet begun.

Recommendations

We recommend that the Chief Financial Officer:

- 2.1 Determine whether the FAC is performing follow-up activities for reports not received in accordance with OMB guidelines. Coordinate Department activities with the FAC to eliminate duplication of effort.
- 2.2 Formalize the process for tracking audit reports that are not submitted by establishing and implementing appropriate policies and procedures, including requirements for maintaining adequate records of follow-up efforts and ensuring that letters are sent with proof of receipt required.
- 2.3 For the specific audits identified:
 - a. Determine why the FAC received the audits, but did not provide the audits to the Department as required.
 - b. Provide the FAC with information on the audits identified that were not processed for the Department, and those audits received by the Department that had not been received by the FAC, so that corrective action may be taken.
- 2.4 Provide regular feedback to the FAC on audits found on its website that were not appropriately processed and provided to the Department. Keep records of these contacts with the FAC to track whether the audits are later transmitted for Department records and so that a determination may be made as to the extent of the problem and corrective actions taken by the FAC.

We recommend that the Deputy Secretary:

- 2.5 Develop and implement a policy on sanctions to be taken against entities that continually do not comply with single audit requirements.

Department of Education Response

The Department agreed with the recommendations made in this area and provided information on activities taken or planned to implement corrective actions. The Department noted that it does impose sanctions on entities that continually fail to submit audits.

Office of Inspector General Comments

With respect to sanctions, OCFO staff stated during our review that no sanctions had yet been imposed on entities solely because of the continued failure to submit their audits timely. Rather, sanctions had only been imposed in cases of entities with significant management issues and/or repeat findings that may also have had a history of untimely audits. Sanctions recently imposed on the entities cited in the Department's response resulted from OIG's suggestion to the Department to consider appropriate action to protect federal interests in these cases.

The Department does not have a policy that addresses the OMB Circular A-133 requirement that agencies take appropriate actions using sanctions in cases of continued inability or unwillingness to meet single audit requirements. Our recommendation is that such a policy be developed and consistently applied.

Finding No. 3 – Audit Resolution Was Not Tracked or Reported Accurately

PAG staff tracked audit resolution time requirements using an "issue date" established during the resolution process, rather than the date of receipt of the audit by the Department for non-federal audits, or the final audit report date for federal audits.

We evaluated the variance between the dates non-federal audits were received and the issue date established by PAG and entered into CARS. We identified 313 non-federal audits for which PDLs were issued between October 1, 1999, and April 24, 2002. We found that CARS data for 309 of the non-federal audits included both dates so that we could evaluate the elapsed days. For these audits, we found that the issue date was an average of 63 days later than the date the audit was received by the Department. In 27 of these audits, the issue date was more than 90 days after the receipt date.

Since CARS does not provide a field for the final audit report date for federal audits, we were unable to determine a variance between receipt date and issue date for these audits.

We also found that PAG staff did not provide all required information in a semiannual report of unresolved audits required to be provided to Department management. A statistical report was provided quarterly, but this report did not meet OMB Circular A-50 requirements since it did not include the following information:

- The reasons the audits were not yet resolved,
- A timetable for resolution,
- The number of reports or recommendations resolved during the period,
- The amount of disallowed costs, and collections, offsets, write-offs or demands for payment or other monetary benefits resulting from the audits, and
- An update on the status of previously reported unresolved audits.

As discussed in Finding 1, OMB Circular A-50 requires resolution of audits within six months after issuance of a final report, or in the case of audits performed by non-federal auditors, within six months after receipt of the report by the Federal government. OMB Circular A-133 also requires that a management decision be issued on audit findings within six months of receipt of an audit report.

OMB Circular A-50, Paragraph 8(a)(8), also requires that audit follow-up systems:

Provide semi-annual reports to the agency head on the status of all unresolved audit reports over six months old, the reasons therefore, and a timetable for their resolution; the number of reports or recommendations resolved during the period; the amount of disallowed costs; and collections, offsets, write-offs, demands for payment and other monetary benefits resulting from audits. These reports should include an update on the status of previously reported unresolved audits.

The Department's Post Audit User Guide (PAUG), Section III, Chapter 1, Part E, states, "OMB Circular A-50 requires federal agencies with audit resolution responsibility to resolve audit reports within six months after issuing the audit for resolution"⁶

The PAUG states:

PAG/OCFO coordinates the processing and distribution of audit reports with GEPA findings for resolution. For each audit report received from the Clearinghouse, PAG/OCFO enters into the automated CARS: (1) the PAG/OCFO receipt date (the date PAG/OCFO receives the audit report), (2) the issue date (the date which starts the six month clock), and (3) the triage date (generally the date of the next regularly scheduled triage meeting). The issue date and the triage date are generally the same. (Section III, Chapter 2, Part A)

For audits performed by the OIG, the PAUG, Section III, Chapter 2, Part B, states that, "The date of the transmittal letter is the issue date for tracking timely resolution of the audit report."

The PAUG defines the triage process as follows:

"Triage" refers to the process by which the Department assesses the seriousness of each audit finding to determine the amount of attention needed for resolution. The purpose of

⁶ As of March 31, 2003, an updated Post Audit Users Guide was issued. The updated guide includes the same language as in the draft version used throughout our audit and cited in this report.

the triage process is to promote the most efficient use of external audits to assist management in achieving program goals and discharging its fiduciary responsibilities. Specifically, ALOs, who represent the individual POs, and staff from OGC, ED-OIG, and PAG/OCFO meet on a monthly basis to discuss and reach agreement on the actions to be taken to resolve each audit finding that needs resolution. (Section III, Chapter 3, Part A)

We found that OCFO policy does not accurately represent the requirements of OMB Circular A-50. The Circular states that, “Resolution shall be made within a maximum of six months after issuance of a final report or, in the case of audits performed by non-federal auditors, six months after receipt of the report by the Federal government.” OCFO policy states that the circular “requires federal agencies with audit resolution responsibility to resolve audit reports within six months after issuing the audit for resolution.” (Emphasis added.)

OCFO’s policy provides for the establishment of an audit issue date to start the resolution clock, rather than use of the receipt date. OCFO’s policy does not mention the OMB requirement to resolve non-federal audit reports within six months of receipt. The issue date is generally the same as the triage date, according to the OCFO policy. We found, however, that triage meetings were not held on a monthly basis as stated in OCFO policy. For the two-year period ended September 30, 2002, we found that only 9 of 24 monthly triage meetings were held. During the six-month period December 2001 through May 2002, no triage meetings were held. Linking the issue date to the triage date resulted in delays before the audit was tracked for resolution.

PAG staff stated that the issue date has traditionally been used to give staff time to develop issues prior to attending triage meetings. PAG staff also stated that using the date of receipt would result in more audits on the report of overdue audits provided to the Secretary.

With respect to the report on unresolved audits, PAG staff agreed that the information required by OMB Circular A-50 was not currently provided. PAG staff stated that they had believed they were in compliance with the requirements, but after review based on our findings, determined that the specific requirements of the circular were not met. PAG staff stated they would develop a plan to meet these requirements.

By establishing an issue date to track audit resolution, PAG staff effectively extended the required resolution period by an average of two months. PAG staff did not accurately identify audits that had not been resolved within six months since reports were based on the issue date. Since CARS does not provide a field for the final audit report date for federal audits, the Department is not able to accurately track the six-month audit resolution period for these audits.

Reports of audits overdue for resolution that were provided to agency officials understated the number of audits that had not been resolved within six months as required by OMB policy. Department managers did not receive required information to allow review and evaluation of the reasons for overdue audits. In addition, PAG did not have information to evaluate trends or to identify problems in audit resolution.

Recommendations

We recommend that the Chief Financial Officer:

- 3.1 Ensure PAG staff accurately track audit resolution, and report audits overdue for resolution, using the date of receipt of non-federal audits and the final audit report date for federal audits. Revise the Post Audit User Guide to accurately reflect these requirements.
- 3.2 Ensure the new audit resolution system includes a field for recording the actual final audit report date for federal audits so that these audits may be tracked in compliance with OMB requirements.
- 3.3 Ensure PAG staff provide the required elements in a semiannual report of unresolved audits in compliance with OMB Circular A-50.

Department of Education Response

The Department agreed with the recommendations made in this area and provided information on activities taken or planned to implement corrective actions.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit were to:

1. Determine the amount of recommended recoveries that were lost or reduced for audits due to the expiration of the statute of limitations, and
2. Determine the reason the statute of limitations expired prior to the issuance of the PDL.

To accomplish our objectives, we obtained an understanding of the controls in place at the Department over the audit resolution process. We reviewed applicable laws and regulations, Department policies and procedures, training documents provided to audit resolution staff, and the General Accounting Office's *Standards for Internal Control in the Federal Government*.

We conducted interviews with OCFO, OGC, and PO management and officials responsible for audit resolution. We reviewed audit reports, program determination letters, audit resolution files, and other documentation available at the Department to determine whether funds were lost or reduced due to the expiration of the statute of limitations, and if so, to determine the reasons the funds were not recovered.

To perform our audit, we obtained access to the CARS used by PAG to track the audit resolution process. We downloaded all CARS records as of April 24, 2002. We eliminated records that represented FSA programs, as those programs are not subject to the statute of limitations. We identified and reviewed the following GEPA-related audits:

- **Closed Audits with Funds Not Recovered** – We identified a total of 1,540 audits of non-FSA programs with a status of “closed,” and for which monetary findings in Department programs were reported. We found that 77 of these had an amount reported as not recoverable. The total amount recorded as not recoverable for these 77 audits was \$60.5 million. These audits had closure dates ranging from March 31, 1990, through April 1, 2002.

We reviewed the 33 available records⁷ to determine whether funds were lost due to expiration of the statute of limitations. The 33 audits reviewed had a total amount of \$22.8 million in Department funds recorded as not recoverable.

- **Open Audits with Monetary Findings** – We identified 146 audits of non-FSA programs with a status of other than closed (including records with no status recorded) and for which monetary findings in Department programs were recorded. We found that for 26

⁷ Of the 44 total records that were not available, 41 had been retired and destroyed in accordance with the Department's records management policy, 1 record could not be located, 1 audit was not applicable to the statute of limitation requirements, and the findings for 1 audit were not sustained.

of these audits the beginning of the audit period was five or more years ago. These audits had total finding amounts in Department programs of \$30.3 million. We reviewed all 26 audits to evaluate the impact of the statute of limitations on audits that had not yet been resolved.

We also extracted all audits of GEPA programs with PDL dates between October 1, 1999, and April 24, 2002, to evaluate the timeliness of the audit resolution process in a more current period of time. We identified a total of 328 audits with PDLs issued during this period – 313 nonfederal audits and 15 audits performed by federal auditors.

We obtained a file from the Grants and Administrative Payment System (GAPS) for FY 1999 that showed all direct recipients of Department funds for that year. (FY 1999 was the first year where complete information in this area was available. As such, we could not determine if audits were required and not received for prior years.) We filtered this file to identify those entities that received at least \$300,000 from the Department to ensure that the entities we identified were subject to the requirements for single audits.⁸

We also downloaded data from the FAC website. We downloaded all FY 1999 audits that included Department programs as of April 24, 2002. We filtered this file to identify those entities that received at least \$300,000 from the Department to ensure that the entities we identified were subject to the requirements for single audits.

We did not perform any sampling during the course of this audit. We reviewed all audits meeting the criteria specified in the preceding paragraphs.

In order to assure ourselves of the reliability of the data downloaded we tested the accuracy and authenticity of data by comparing data in the CARS database with hard copy documentation in audit resolution files obtained from Department officials. We also evaluated the accuracy, completeness, and reasonableness of data in six fields containing dates significant to the audit resolution process. We compared audits for FY 1999 in CARS with audits for that same year in the FAC database. We also matched entities receiving over \$300,000 in Department funds for FY 1999 according to GAPS data with audits submitted for that year in CARS and in the FAC database. Based on these tests and assessments, we concluded that the data were sufficiently reliable to be used in meeting the audit's objectives.

We performed our fieldwork at applicable Department of Education offices in Washington, DC, during the period April 2002 through June 2003. We held an exit conference with Department management on July 1, 2003. Our audit was performed in accordance with generally accepted Government Auditing Standards appropriate to the scope of the review as described above.

⁸ A single audit is required for any entity that receives \$300,000 in combined federal funds from all federal sources. Since we could not determine the amounts received from other agencies, we limited our review to entities that received at least \$300,000 from the Department. Our results are therefore conservative.

STATEMENT ON MANAGEMENT CONTROLS

As part of our review, we assessed the system of management controls, policies, procedures, and practices applicable to OCFO's administration of the audit resolution process. Our assessment was performed to determine the level of control risk for determining the nature, extent, and timing of our substantive tests to accomplish the audit objectives.

For the purpose of this report, we assessed and classified the significant controls into the following categories:

- Tracking and Receipt of Audit Reports, and
- Monitoring Audit Resolution.

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed significant management control weaknesses that adversely affected OCFO's ability to administer the audit resolution process. These weaknesses and their effects are fully discussed in the AUDIT RESULTS section of this report.

OIG Comments to OCFO Response

In this attachment, OCFO's response, without attachments, is presented in italics. OIG's comments to OCFO's response are presented in standard type. OCFO's entire response and attachments are provided in Attachment 2.

OCFO Response

Memorandum

*To: Michele Weaver-Dugan, Director
Operations Internal Audit Team
Office of Inspector General*

From: Jack Martin

*Subject: Response to Draft Audit Report
Audit of Funds Not Recovered Due to Statute of Limitations
ACN: ED-OIG/A19-C0004*

We appreciate the opportunity to respond to the above referenced Office of Inspector General (OIG) draft audit report. Overall, your findings and recommendations provide some useful steps to make additional improvements in the Department's efforts to address the Statute of Limitations (SOL) issue. We appreciate the fact that some of our comments dated July 9, 2003, to the OIG Findings Point Sheets for this audit were considered and included in the draft report.

We have previously discussed with you our concerns about the quality of a number of the single audits we receive for resolution and have been working with the OIG to determine the extent of these issues and possible remedies. We have also discussed with your office concerns about the fairness and balance of this draft report. We recognize that the issues OIG includes in its draft report are not simple. Our Department (ED) is unique throughout the Federal Government in having a particularly "strict" SOL requirement and the additional burden of "establishing a prima facie case" in the recovery of questioned costs contained in federal (OIG) and non-federal external audit reports. It seems clear that the ultimate "recovery" of auditor questioned costs is subject to the final test of whether the audit report can support this higher level of evidence and legal scrutiny that is mandated by the Congress. This is why the final management decision to sustain OIG or non-federal questioned costs is often far less than that contained in the audit report.

There are many reasons for this, including the quality of the audit report and management's ultimate determination in weighing the evidence provided by the auditor and the auditee. One of the primary reasons why audit determinations are not always timely is due to the poor quality (e.g., insufficient information to issue a legally sufficient determination) of the audits and/or the auditors' work papers and supporting documentation. Additional training on what constitutes

prima facie evidence may assist staff to some degree, but if the appropriate information and evidence to sustain the findings are not available in the audit report or the auditor's work papers, no amount of training or skill in being able to establish a *prima facie* case will change that fact.

The Department, with the help of your office, has brought these quality problems to the attention of the American Institute of Certified Public Accountants (AICPA) to include a "risk alert" (see Attachment A) on this set of problems as part of the AICPA's annual "Audit Risk Alert" for Audits of State and Local Governments. Because of this problem with the quality of the audits, we believe that the estimate in the draft report of the amount of funds lost due to the statute of limitations is likely to be significantly overstated. Based on the general problems with the quality of the single audits, it would be a faulty assumption that a large percentage of questioned costs in a single audit are actually recoverable under current conditions.

Beyond this and the appeals process available to ED grantees, most auditees have the ability to be approved for a "Grantback" -- another requirement unique to ED which allows the "granting back" of up to 75% of the funds returned as a result of a Program Determination Letter (PDL) -- that further reduces the amount actually collected and "available for other uses." Thus, the statement in the draft report that \$7.4 million identified in 18 audits (of 59 reviewed) "were lost due to the expiration of the statute of limitations," overstates the real impact of your conclusion.

OIG Comments

During our review, OCFO and OGC staff discussed problems with the quality of audits and the difficulty in obtaining evidence to support *prima facie* requirements for the recovery of funds. In our report, we noted three primary reasons that affected the Department's ability to resolve audits timely, including *prima facie* requirements. In all 18 audits cited in our report, the Department had *sustained* the findings but had not issued the PDLs until after the statute had expired. The PDLs for only 4 of the 18 audits noted *prima facie* evidence requirements as the cause of not recovering the funds prior to the statute of limitations expiring. For the audits reported, we held discussions with applicable program office audit resolution staff and reviewed audit resolution files. Audit resolution staff stated that the audits were not resolved timely in three cases because the audits were included in a CAROI effort, and in one case because the audit required responses from multiple principal offices. In some cases, due to the age of the audits, resolution staff could not recall why the audits were not resolved timely. In addition, PAG staff stated that most audit resolution specialists are not dedicated full-time to such activities. The audit resolution files did not document that the audits were of poor quality and that findings could not be supported.

The amounts reported in the audit report are for sustained findings for the 18 audits. Had we included all finding amounts included in the audits where the statute had expired, the amount would have been much higher. We based our review on the findings sustained by the Department as reported in the PDLs. We agree that not all findings are sustained, and did not evaluate the appropriateness of the Department's determinations as to whether or not a finding was sustained.

OCFO acknowledges in its response (see below) that timeliness of receipt of audits, "...is one of the key contributing factors to not being able to conduct timely audit resolution, and, thus, sustain or not sustain audit findings, including monetary recovery prior to the expiration of the statute of limitations." We believe that if the Department was ensuring timely receipt of audits and acting upon them expeditiously, there would be sufficient time to resolve findings, even where *prima facie* evidence may be a problem, before the statute of limitations expired.

Our analysis of updated statistics included in the report shows that non-federal audit reports were received by the Department an average of 16 months after the end of the audit period. Since most audits cover a one-year period, the Department has nearly three years to resolve the audits and recover funds for the entire audit period before the expiration of the statute. Since OCFO policy in the PAUG states that audits subject to the statute of limitations are to be given priority for resolution, we believe that this amount of time is sufficient to determine whether findings can be sustained and *prima facie* evidence requirements can be met to recover funds. Further efforts to improve the timeliness of receipt of audits will provide additional time for resolution. Additional training for audit resolution staff on *prima facie* requirements as recommended in the audit report should further improve audit resolution timeliness.

During our audit, OCFO staff cited the grantback provisions as an issue in that grantees may be able to receive back funds that were disallowed in an audit. We asked OCFO staff for information on appeals and numbers of grantbacks to assess the frequency of this process, but OCFO staff were not able to provide us with any data. Instead, we were told that a database is being developed in this area, but is not yet in place. As such, we could not determine an average amount of funds that were returned to grantees, or include such an estimate in our audit report. We also checked with OIG managers, since the grantback policy states that OIG will review grantback proposals and recommend concurrence or nonconcurrence. OIG staff stated that in the last few years, they have received very few grantback proposals. Recently, OIG determined from Budget Service and OCFO that no grantbacks were provided in FY 2003.

Further, the amount presented in our report actually understates the total funds we identified that were lost due to the expiration of the statute of limitations. As previously stated, we only included sustained findings in our analysis. We did not include any amounts related to unresolved and unsustainable audit findings in audit reports where the statute had already expired. Had we done so, up to 10 additional audits and \$2.1 million would have been added to the amounts included in our report.

In Attachment E to its response, OCFO agreed with our recommendations related to these areas.

OCFO Response

Your period of review was 59 audits with funds expended in FYs 1986 through 2000. A couple of balancing points to consider. ED recognizes, and you acknowledge in the draft report, that timeliness of receipt of audits, both non-federal and federal, is one of the key contributing factors to not being able to conduct timely audit resolution and, thus, sustain or not sustain audit findings, including monetary recovery prior to the expiration of the SOL. We are pleased to note

that the figures in your report show that ED has significantly improved its overall timeliness in receiving and resolving audits for the more current period of your review—1999 through 2002. This is important since our improvement efforts and actions were during the more recent years, and ED-OIG's ability to get reports in timely prior to 1995 was also similar to our earlier record. However, we feel these significant improvements in timeliness are not fairly reflected in the report and, thus, impact on the report's balance.

Timeliness in Receiving Audits. *Of the 18 audits in your review where the SOL became a factor, you reported that these audits were received on an average of 29 months after the end of the audited period vs. 13 months for the 313 audits reviewed from 1999-2002. This is a 55% improvement in timeliness. (Prior to 1997, Office of Management and Budget (OMB) Circular A-133 required auditees to submit audits no later than 13 months from the end of the audited period. Since 1997, auditees are required to submit audits no later than 9 months from the end of the audited period.)*

Timeliness in Resolving Audits. *When you analyze the actual numbers and timelines presented in your draft report, the improvement since 1999 in issuing PDLs is very significant and also deserves more recognition in the report. As the draft report states, ED is issuing PDLs on an average of 9 months vs. 22 months in prior years. While this is, as you state, "still 3 months in excess of the 6-month resolution time...", considering the legal roadblocks only ED, as a federal agency, faces, this is an enormous accomplishment and one we doubt any other agency would be able to match with similar restrictions.*

OIG Comments

We believe that we have fairly reflected the improvements in timeliness for receipt of audits and resolution by providing an analysis of the more recent data.

In Attachment E to its response, OCFO agreed with our recommendations related to these areas.

OCFO Response

Your draft report raises a number of issues regarding audits not processed, audit delays and tracking issues. We have researched the audits you have listed as missing in the Federal Audit Clearinghouse (FAC) database or in the Department's former Common Audit Resolution System (CARS) or both databases over your 14-year review period.

For details about the 63 entities in our Grants and Administrative Payments System (GAPS) shown as having received payments of \$300,000 or more in FY 1999 and apparently not having FY 1999 audits either in CARS or at the FAC, see the attached spreadsheet (Attachment B) entitled: Audits Not in FAC or CARS with PAG Comments as of 09-09-03. In summary, our analysis shows that 45 of the 63 have been identified as follows: 24 of the entities were included in audits of States or other entities; 17 entities have audits showing at FAC and ED and are in process or closed; and 4 have indicated that they expended less than \$300,000 in FY 1999.

For details about the 12 audits that were found in CARS and not found at the FAC, see the attached spreadsheet (Attachment C) entitled: Audits in CARS not in FAC with PAG Explanations. In summary, 6 of the 12 entities are included in a Texas statewide audit, and the other 6 were obtained by PAG directly from the auditee when efforts to have the audits sent to the FAC produced no results. We will ensure that the FAC has these audits on record.

For details about the three FY 1999 audits that were in the FAC database but were not in CARS, see the attached document (Attachment D) on Three Audits in FAC Not in CARS with PAG and FAC Comments. In summary, 1 of the audits had no findings and 1 was processed under a different entity identification number (EIN).

OIG Comments

During an audit, OIG has to rely upon the responses received from the auditee in issues referred during the course of the review. To evaluate the completeness of the CARS database and the processing performed by the FAC, we performed a number of matches between the databases. On March 17, 2003, we referred a number of analyses to OCFO regarding audits that were found in the FAC but not in CARS, audits that were found in CARS but not in FAC, and audits that were not in the FAC or CARS. We asked OCFO for comments on the analyses, indications of any issues that we had missed in performing the analyses, and documentation of any missing audits that they were currently following up on to have entities submit. OCFO responded on March 31, 2003, with a number of comments, information on reports that they had located in CARS or on the FAC under different ID numbers, and with worksheets of audits they were currently pursuing. Based on the responses from OCFO at that time, we refined our analyses to the information that was presented in the audit report. We also provided PAG with updated detailed listings at the exit conference on July 1, 2003. The response to the draft report was the first indication that OCFO had additional information on the data we originally referred in March 2003.

At this point, we cannot validate the responses received from OCFO with the draft report comments against the reported audit results, as several months have elapsed and records that were previously not in CARS or at the FAC may now be there. Followup activities performed by OCFO staff on the data originally provided may have resulted in the FAC now processing the reports and the data being provided to CARS. OCFO has commented that some audits were under different identification numbers or included in audits of larger entities. This information was not provided when we first referred the data in March 2003.

In Attachment E to its response, OCFO agreed with our recommendations related to these areas.

OCFO Response

Our goal and the spirit of your findings are to continually improve our timeliness in receiving audits and the ultimate resolution of the findings. Another important balancing point is the overall record the Department has in ensuring that the bulk of single audits and federal audits are actually received and acted upon. The Post Audit Group (PAG) received the audit

processing responsibilities from the OIG in 1995 without a commensurate staff resource increase. We did, however, take on this responsibility by initiating a creative and economical interagency agreement with the Bureau of Census Federal Audit Clearinghouse. This has not been perfect, and we recognize that we will need to make some improvements in this approach as noted in your draft report.

Overall, it is important to note that the Department received close to 2000 audits and issued thousands of decisions and PDLs during the period covered by this audit. We agree, however, that our goal should be to get all audits owed the Department processed and handled timely, including effective tracking and follow-up. This is unfortunately also a matter of resources, as well as effective actions by all parties, including the FAC, OCFO, OIG, OGC, and the program offices. We also see an increased role for the OIG in helping us receive audits and ensuring their ultimate quality to improve our ability to meet the higher level of evidence required.

OIG Comments

In the Objectives, Scope, and Methodology section of the audit report we provided statistics on the volume of audits resolved by the Department during our audit period. We disclosed, based on our download of CARS records, that there were a total of 1,686 audits of GEPA programs with monetary findings. There were 1,540 audits with a status of closed, and 146 audits with a status of other than closed. We then narrowed these universes further to identify closed audits where funds were not recovered (77 of the 1,540) and audits that were not closed and for which the audit period began more than 5 years ago (26 of 146). We reviewed all available records for these audits (records for 44 of the 77 closed audits were retired and not available for review).

Audit closure dates for the closed audits ranged from March 31, 1990, through April 1, 2002, indicating that on average, the Department resolved 128 audits of GEPA programs with monetary findings each year during this period (1,540 closed audits/12 years = 128 audits/year).

OCFO Response

Within the OCFO and the Department, we have taken significant steps to make improvements in our handling and resolution of audits, and we believe that these should be more prominently included in your draft report. Department improvements include: (1) establishing a triage process to prioritize and coordinate audit resolution across organizational lines, focusing on the oldest and most egregious of findings. It is a model for other federal agencies and should be recognized in the report for its innovation and practicality in effectively managing the post audit process; (2) building an improved, state-of-the-art automated database system, the Audit Accountability and Resolution Tracking System (AARTS), to help us manage the audit workload and improve actions on audits, including notifications when SOL is approaching; (3) issuing earlier this year an updated Post Audit Users Guide that is on the intranet for ease of use and application to all audit-related links; (4) providing additional reports to senior management on audits, with monetary findings, that are in danger due to the SOL lapsing; (5) identifying competencies and knowledge needed to resolve the Department's various internal and external audit reports, which will result in a learning program for all audit-related ED staff; and (6) creating within PAG a quality control review role to enhance our oversight responsibility. The

quality control reviewer is charged with reviewing all single audits submitted by the FAC to ensure that audit findings are properly identified and coded for resolution.

OIG Comments

OCFO enumerates a number of significant steps taken to make improvements in the handling and resolution of audits. OCFO believes that these steps should be more prominently included in the draft report. We believe that we have reflected improvements that the Department has made by providing updated statistics for timeliness of receipt and resolution of audits. OCFO cites the Department's triage process as a model for other agencies. However, as noted in our report, monthly triage meetings were held for only 9 of the 24 months for the period ended September 30, 2002. During one six-month period, no triage meetings were held. We noted that the Department did not have an effective process to ensure that audits were submitted as required. We also noted that the Department was not effectively tracking or accurately reporting audits that were overdue for resolution. These are significant deficiencies in the Department's processes, and we believe that we have presented the issues fairly.

The other activities enumerated by the Department are all very recent initiatives, the effectiveness of which cannot yet be determined.

- The AARTS program went on line in July 2003.
- The Post Audit User Guide update, which was in draft status for many years, was issued in March 2003. We did indicate through a footnote in our report that this guide had been updated.
- Additional reports to management on audits with monetary findings and SOL impact are linked to the implementation of AARTS. OCFO staff informed us in an email on October 7, 2003, that "The plan to prepare quarterly reports to senior management on audit findings affected by the five year Statute of Limitations has not yet been implemented due to the transition period from CARS to AARTS. PAG staff are presently gathering the data from AARTS and will be preparing the report for [the CFO] to issue as soon as possible."
- Identification of competencies and knowledge for audit resolution began in September 2003.
- With respect to the quality reviewer function, on October 7, 2003, OCFO staff provided in an email that, "There has been a Quality Reviewer for PAG since we assumed the responsibility from OIG 8 years ago. However, it was done in a limited fashion. In February 2003, PAG enhanced and documented the role of Quality Reviewer."

In Attachment E to its response, OCFO agreed with our recommendations related to this area.

OCFO Response

Additionally, the Department has made significant efforts in recent years to address the problems of those grantees that have the most serious problems in submitting timely audits, by placing “special conditions” on their grants. These efforts have generally resulted in these grantees taking constructive and sometimes dramatic steps to improve the timeliness of their audits. The draft audit report does not recognize these positive steps taken by the Department.

OIG Comments

With respect to sanctions, OCFO staff stated during our review that no sanctions had yet been imposed on entities solely because of the continued failure to submit their audits timely. Sanctions have only been imposed in cases of entities with significant management issues and/or repeat findings that may also have a history of untimely audits. We are, of course, aware of the Department’s activities with respect to long-standing problems with certain grantees, and the history of the Department’s participation with OIG in CAROI efforts. As previously stated, we did not include funds not recovered due the statute of limitation on the audits for these entities that had not yet been closed but for which the statute had already expired.

In September 2003, subsequent to the issuance of our draft report, the Department designated some grantees as high-risk due to their failure to submit timely and complete single audits, and imposed special conditions upon all of the Federal education programs they administer.

OCFO Response

Please see Attachment E for a discussion of how we plan to address each of the recommendations contained in the draft report. We note that some of the recommendations included in your draft report involve the Office of Inspector General, given their role in informing and educating the non-federal audit community on auditing issues and requirements unique to the Department; the Office of the General Counsel, given their key role in training audit resolution staff and others on legal matters and in establishing prima facie evidence; and the Office of the Deputy Secretary, given their role in coordinating sanction policy for the Department. We appreciate your recognition that these offices, along with OCFO, have pivotal roles in the audit process from ensuring the quality of audit reports received to issuing timely and effective management decisions to ensuring our grantees submit audits on time, all factors which can impact the Statute of Limitations.

The findings and recommendations included in your report will help the Department continue to build an improved framework for accountability. Should you have any questions regarding this response, please contact Chuck Miller at 401-1773.



UNITED STATES DEPARTMENT OF EDUCATION

Attachment 2

OFFICE OF THE CHIEF FINANCIAL OFFICER

THE CHIEF FINANCIAL OFFICER

December 17, 2003

Memorandum

To: Michele Weaver-Dugan, Director
Operations Internal Audit Team
Office of Inspector General

From: Jack Martin /s/

Subject: Response to Draft Audit Report
Audit of Funds Not Recovered Due to Statute of Limitations
ACN: ED-OIG/A19-C0004

We appreciate the opportunity to respond to the above referenced Office of Inspector General (OIG) draft audit report. Overall, your findings and recommendations provide some useful steps to make additional improvements in the Department's efforts to address the Statute of Limitations (SOL) issue. We appreciate the fact that some of our comments dated July 9, 2003, to the OIG Findings Point Sheets for this audit were considered and included in the draft report.

We have previously discussed with you our concerns about the quality of a number of the single audits we receive for resolution and have been working with the OIG to determine the extent of these issues and possible remedies. We have also discussed with your office concerns about the fairness and balance of this draft report. We recognize that the issues OIG includes in its draft report are not simple. Our Department (ED) is unique throughout the Federal Government in having a particularly "strict" SOL requirement and the additional burden of "establishing a *prima facie* case" in the recovery of questioned costs contained in federal (OIG) and non-federal external audit reports. It seems clear that the ultimate "recovery" of auditor questioned costs is subject to the final test of whether the audit report can support this higher level of evidence and legal scrutiny that is mandated by the Congress. This is why the final management decision to sustain OIG or non-federal questioned costs is often far less than that contained in the audit report.

There are many reasons for this, including the quality of the audit report and management's ultimate determination in weighing the evidence provided by the auditor and the auditee. One of the primary reasons why audit determinations are not always timely is due to the poor quality (e.g., insufficient information to issue a legally sufficient determination) of the audits and/or the auditors' work papers and supporting documentation. Additional training on what constitutes *prima facie* evidence may assist staff to some degree, but if the appropriate information and evidence to sustain the findings are not available in the audit report or the

auditor's work papers, no amount of training or skill in being able to establish a *prima facie* case will change that fact.

The Department, with the help of your office, has brought these quality problems to the attention of the American Institute of Certified Public Accountants (AICPA) to include a "risk alert" (see Attachment A) on this set of problems as part of the AICPA's annual "Audit Risk Alert" for Audits of State and Local Governments. Because of this problem with the quality of the audits, we believe that the estimate in the draft report of the amount of funds lost due to the statute of limitations is likely to be significantly overstated. Based on the general problems with the quality of the single audits, it would be a faulty assumption that a large percentage of questioned costs in a single audit are actually recoverable under current conditions.

Beyond this and the appeals process available to ED grantees, most auditees have the ability to be approved for a "Grantback" -- another requirement unique to ED which allows the "granting back" of up to 75% of the funds returned as a result of a Program Determination Letter (PDL) -- that further reduces the amount actually collected and "available for other uses." Thus, the statement in the draft report that \$7.4 million identified in 18 audits (of 59 reviewed) "were lost due to the expiration of the statute of limitations," overstates the real impact of your conclusion.

Your period of review was 59 audits with funds expended in FYs 1986 through 2000. A couple of balancing points to consider. ED recognizes, and you acknowledge in the draft report, that timeliness of receipt of audits, both non-federal and federal, is one of the key contributing factors to not being able to conduct timely audit resolution and, thus, sustain or not sustain audit findings, including monetary recovery prior to the expiration of the SOL. We are pleased to note that the figures in your report show that ED has significantly improved its overall timeliness in receiving and resolving audits for the more current period of your review—1999 through 2002. This is important since our improvement efforts and actions were during the more recent years, and ED-OIG's ability to get reports in timely prior to 1995 was also similar to our earlier record. However, we feel these significant improvements in timeliness are not fairly reflected in the report and, thus, impact on the report's balance.

Timeliness in Receiving Audits. Of the 18 audits in your review where the SOL became a factor, you reported that these audits were received on an average of 29 months after the end of the audited period vs. 13 months for the 313 audits reviewed from 1999-2002. This is a 55% improvement in timeliness. (Prior to 1997, Office of Management and Budget (OMB) Circular A-133 required auditees to submit audits no later than 13 months from the end of the audited period. Since 1997, auditees are required to submit audits no later than 9 months from the end of the audited period.)

Timeliness in Resolving Audits. When you analyze the actual numbers and timelines presented in your draft report, the improvement since 1999 in issuing PDLs is very significant and also deserves more recognition in the report. As the draft report states, ED is issuing PDLs on an average of 9 months vs. 22 months in prior years. While this is, as you state, “still 3 months in excess of the 6-month resolution time...,” considering the legal roadblocks only ED, as a federal agency, faces, this is an enormous accomplishment and one we doubt any other agency would be able to match with similar restrictions.

Your draft report raises a number of issues regarding audits not processed, audit delays and tracking issues. We have researched the audits you have listed as missing in the Federal Audit Clearinghouse (FAC) database or in the Department’s former Common Audit Resolution System (CARS) or both databases over your 14-year review period.

For details about the 63 entities in our Grants and Administrative Payments System (GAPS) shown as having received payments of \$300,000 or more in FY 1999 and apparently not having FY 1999 audits either in CARS or at the FAC, see the attached spreadsheet (Attachment B) entitled: *Audits Not in FAC or CARS with PAG Comments as of 09-09-03*. In summary, our analysis shows that 45 of the 63 have been identified as follows: 24 of the entities were included in audits of States or other entities; 17 entities have audits showing at FAC and ED and are in process or closed; and 4 have indicated that they expended less than \$300,000 in FY 1999.

For details about the 12 audits that were found in CARS and not found at the FAC, see the attached spreadsheet (Attachment C) entitled: *Audits in CARS not in FAC with PAG Explanations*. In summary, 6 of the 12 entities are included in a Texas statewide audit, and the other 6 were obtained by PAG directly from the auditee when efforts to have the audits sent to the FAC produced no results. We will ensure that the FAC has these audits on record.

For details about the three FY 1999 audits that were in the FAC database but were not in CARS, see the attached document (Attachment D) on *Three Audits in FAC Not in CARS with PAG and FAC Comments*. In summary, 1 of the audits had no findings and 1 was processed under a different entity identification number (EIN).

Our goal and the spirit of your findings are to continually improve our timeliness in receiving audits and the ultimate resolution of the findings. Another important balancing point is the overall record the Department has in ensuring that the bulk of single audits and federal audits are actually received and acted upon. The Post Audit Group (PAG) received the audit processing responsibilities from the OIG in 1995 without a commensurate staff resource increase. We did, however, take on this responsibility by initiating a creative and economical interagency agreement with the Bureau of Census Federal Audit Clearinghouse. This has not been perfect, and we recognize that we will need to make some improvements in this approach as noted in your draft report.

Overall, it is important to note that the Department received close to 2000 audits and issued thousands of decisions and PDLs during the period covered by this audit. We agree, however, that our goal should be to get all audits owed the Department processed and handled timely, including effective tracking and follow-up. This is unfortunately also a matter of resources, as well as effective actions by all parties, including the FAC, OCFO, OIG, OGC, and the program offices. We also see an increased role for the OIG in helping us receive audits and ensuring their ultimate quality to improve our ability to meet the higher level of evidence required.

Within the OCFO and the Department, we have taken significant steps to make improvements in our handling and resolution of audits, and we believe that these should be more prominently included in your draft report. Department improvements include: (1) establishing a triage process to prioritize and coordinate audit resolution across organizational lines, focusing on the oldest and most egregious of findings. It is a model for other federal agencies and should be recognized in the report for its innovation and practicality in effectively managing the post audit process; (2) building an improved, state-of-the-art automated database system, the Audit Accountability and Resolution Tracking System (AARTS), to help us manage the audit workload and improve actions on audits, including notifications when SOL is approaching; (3) issuing earlier this year an updated Post Audit Users Guide that is on the intranet for ease of use and application to all audit-related links; (4) providing additional reports to senior management on audits, with monetary findings, that are in danger due to the SOL lapsing; (5) identifying competencies and knowledge needed to resolve the Department's various internal and external audit reports, which will result in a learning program for all audit-related ED staff; and (6) creating within PAG a quality control review role to enhance our oversight responsibility. The quality control reviewer is charged with reviewing all single audits submitted by the FAC to ensure that audit findings are properly identified and coded for resolution.

Additionally, the Department has made significant efforts in recent years to address the problems of those grantees that have the most serious problems in submitting timely audits, by placing "special conditions" on their grants. These efforts have generally resulted in these grantees taking constructive and sometimes dramatic steps to improve the timeliness of their audits. The draft audit report does not recognize these positive steps taken by the Department.

Please see Attachment E for a discussion of how we plan to address each of the recommendations contained in the draft report. We note that some of the recommendations included in your draft report involve the Office of Inspector General, given their role in informing and educating the non-federal audit community on auditing issues and requirements unique to the Department; the Office of the General Counsel, given their key role in training audit resolution staff and others on legal matters and in establishing *prima facie* evidence; and the

Office of the Deputy Secretary, given their role in coordinating sanction policy for the Department. We appreciate your recognition that these offices, along with OCFO, have pivotal roles in the audit process from ensuring the quality of audit reports received to issuing timely and effective management decisions to ensuring our grantees submit audits on time, all factors which can impact the Statute of Limitations.

The findings and recommendations included in your report will help the Department continue to build an improved framework for accountability. Should you have any questions regarding this response, please contact Chuck Miller at 401-1773.

Attachments (5)

2003 Audit Risk Alert Submission by U.S. Department of Education

Program officials of the U.S. Department of Education have reported problems resolving audit findings included in audit reports. The causes have been that findings and supporting audit documentation did not contain all required information.

This is a critical problem because provisions of the Federal law pertaining to most U.S. Department of Education ED programs require the demonstration of a *prima facie* case when ED officials must seek recoveries of questioned costs as part of audit resolution. ED officials must obtain complete information about the questioned costs. Thus, they often must request and review audit documentation (working papers) to supplement information not contained in the audit report.

The U.S. Department of Education (ED), OIG conducts approximately 100 Quality Control Reviews of audits annually, including Single Audits. QCRs have also disclosed these problems, and as a result of their adverse effect on audit resolution, the U.S. Department of Education (ED), OIG is considering ways to increase its emphasis in the QCR process on practitioner non-compliance with requirements applicable to audit finding content, and supporting documentation.

Practitioners should review and adhere to standards and requirements pertaining to audit finding content and supporting audit documentation.

Audit Finding Content

It is important that auditors ensure that reports contain all required information in audit findings.

The AICPA's Statement of Position (SOP) 98-3 is entitled "Audits of States, Local Governments, and Not-for-Profit Organizations Receiving Federal Awards". SOP 98-3 is entirely included as an appendix to the AICPA Audit and Accounting Guide, *Audits of State and Local Governments* (GASB 34 and Non-GASB 34 Editions). Chapter 10 of SOP 98-3 covers audit reporting requirements. Paragraphs 10.55 through 10.70 are especially pertinent to the concerns raised by ED program officials concerning audit findings, and refer to applicable provisions of OMB Circular A-133. Practitioners are expected to conform to these criteria in their reporting.

Audit Documentation

Significant audit documentation problems encountered by the Department of Education include lack of information in the working papers to enable

identification of the specific transactions tested, and the transactions for which exceptions were found.

At paragraph 4.35 *Government Auditing Standards (1994 Revision)*, which are applicable to all Single Audits, as well as other audits required by the U.S. Department of Education, contain the following standard:

Working papers should contain sufficient information to enable an experienced auditor having no previous connection with the audit to ascertain from them the evidence that supports the auditors' significant conclusions and judgments.

Paragraphs 4.36 through 4.38 provide additional guidance, including:

Working papers should contain documentation of the work performed to support significant conclusions and judgments, including descriptions of transactions and records examined that would enable an experienced auditor to examine the same transactions examined.

In 2002, the AICPA issued SAS No. 96, *Audit Documentation*, which significantly strengthened generally accepted auditing standards audit documentation requirements. A noteworthy requirement of SAS No. 96 is set forth in Paragraph 8:

Audit documentation should include abstracts or copies of significant contracts or agreements that were examined to evaluate the accounting for significant transactions. Additionally, audit documentation of tests of operating effectiveness of controls and substantive tests of details that involve inspection of documents or confirmation should include an identification of the items tested.

Based on these standards requirements, auditors are expected to have audit documentation (working papers) that provide for a clear identification of which specific transactions were tested, and to which transactions findings of noncompliance and questioned costs pertain. Copies or abstracts of documentation relating to significant transactions should also be included.

Attach.B-Audits Not in FAC or CARS with PAG comments as of 09-09-03

Attachment B					
TIN	PAYEE_NAME	In FAC?	In CARS?	ST	
000310054	Puerto Rico Council On Higher	No	No	PR	Entity says 99 audit exists and will send same to FAC and PAG
060646683	Consoldted Schl Dst New Britain	No	No/Yes	CT	ACN 019908115 (City of New Britain)
066001870	City of Hartford	No 1999	No	CT	ACN 019931001.
100000216	Labor & Humn Resources PR Dept	Yes	No	PR	ACN 029918614. In FY 99 this entity was part of the PR Dept of the Family. It is actually the PR Vocational Rehabilitation Administration and administers funds received from RSA.
216000264	Plumsted Twp School Dist	No 1999	No	NJ	Auditor sent letter stating that 99 audit was done but fed expenditures for that year were only \$251,486 so no single audit required.
221494434	Fairleigh Dickinson University	No 1999	No	NJ	Package sent to FAC but did not meet Circular requirements. Would have expected FSA to follow up with this entity.
226002266	Rockaway Borough Board Educatn	No	No	NJ	Entity says they expended less than 300 K in FY 99.
236003113	Blindness & Visual Svcs Bur	No	No	PA	In statewide audit ACN 109908221
251519537	Vitac Corporation	No	No		For Profit
330268852	Media Captioning Services	No	No		For Profit
362782711	State of Illinois	No	No	IL	ACN 059909175, IL St Bd of Education
362787211	State Police Illinois State	No	No	IL	ACN 059918447
450001056	Public Instruction ND Dept	No 1999	No	ND	ND does biennial audits. In 00 statewide
456000113	Fort Totten School District 30	No 1999	No	ND	Do biennial audits. In 00 audit
456002493	Vocational & Tech Ed	No	No	ND	In ND statewide audit for 00 (since ND does biennial audits)
460851980	Special School District No 12	No	No		Cannot identify. Can't find in FY 99 GAPS file
521470907	Jack F Tolbert Inc	No	No	MD	For Profit
546001517	Porthsmouth City School Board	No	No	VA	ACN 039908281
550490397	Military Affrs & Public Safety	No	No	WV	ACN 039908344
550517092	Central Office State College	No	No	WV	ACN 039908344
580603146	Georgia Tech Research Corp	No	No	GA	ACN 049908517 (Included in audit of Georgia Institute of Technology; confirmed by phone with Joel Hercik, Assoc VP for Business and Finance)
610444640	American Pmntg House F/T Blnd	No	No	KY	Entity says doesn't have to do. Quotes chapter & verse. Named in appropriation. In 2003 ED Budget Office involved in trying to write language to require entity's compliance but was unsuccessful. Hugh Monaghan had been concerned in previous years, but when informed that entity again in 2003 protested that they are not required to do an A-133 audit, he did not respond.
620714744	Clarksville-Montgomery County	No	No	TN	ACN 049908502
620717138	Metropolitan Nashville Schools	No	No	TN	ACN 049908656

TIN	PAYEE_NAME	In FAC?	In CARS?	ST	
630435160	Alabama AVI Technical College	No 1999	No	AL	FSA Responsibility.Our understanding with FSA is that FSA goes after missing audits of all entities that receive FSA funds.
710422536	Human Services Arkansas Dept	No	No	AR	ACN 069918320
710582119	Human Services Arkansas Dept	No	No	AR	ACN 069918320
720591742	Governors Spcl Comm Ed Svc	No	No	LA	ACN 069908533
731340650	Companion Enterprises Inc	No	No	OK	For Profit
742715016	Early Childhood Intervention	No	No	TX	ACN 069908765
760390005	American Weld Testing Inc	No	No	TX	For Profit
841132732	Meeting The Challenge Inc	No	No	TX	For Profit
850197413	Indian Affairs Bureau of	No	No	AZ	ACN 099928022
850278577	Zuni Public School District	No	No	NM	Audit exists and on Jon Kucholtz's spreadsheet as having no findings. (NM Dept of Ed sent NM school district FY 99 and FY 00 audits to Jon rather than ro FAC. Jon reviewed audits and sent spreadsheet to PAG providing details.)
860204532	Bureau of Indian Affairs Schoo	No	No	AZ	ACN 099908696
860583303	Pinon Unified School Dst 4	No 1999	No	AZ	ACN 099931003
900001929	San Juan Bautista Medical Ctr	No	No	PR	ACN 029908766. Full name Universdad de Ciencias Medicas San Juan Bautista Inc.
910754974	North Kitsap School Dst 400	No 1999	No	WA	In ACN 109908324 WA ED System
910761272	Mount Adams School District	No 1999	No	WA	In ACN 109908324 WA ED System
910785144	Washington Higher Ed Coord Brd	No	No	WA	In statewide audit ACN 109908221
910896842	Social and Health Svcs Dept	No	No	WA	In statewide audit ACN 109908221
910911819	Inchelium School District 70	No 1999	No	WA	In ACN 109908324 WA ED System
910923099	La Conner School District	No 1999	No	WA	In ACN 109908324 WA ED System
910923400	North Central Eductl Svc Dst	No	No	WA	In ACN 109908324 WA ED System
910948293	Educational Service Dst 101	No 1999	No	WA	In ACN 109908324 WA ED System
911461166	Medical & Industrial Labs	No	No	WA	For Profit
916001297	Manson School District 19	No 1999	No	WA	In ACN 109908324 WA ED System
916001372	Wellpinit School District 49	No 1999	No	WA	In ACN 109908324 WA ED System
916001540	Vancouver School District 37	No 1999	No	WA	In ACN 109908324 WA ED System
916001550	Yakima School District 7	No 1999	No	WA	In ACN 109908324 WA ED System
916001553	Tacoma School District 10	No 1999	No	WA	In ACN 109908324 WA ED System
916001615	Toppenish School District 202	No	No	WA	In ACN 109908324 WA ED System
916001620	Wapato School District	No	No	WA	In ACN 109908324 WA ED System
916001656	Bremerton School Dst 100-C	No 1999	No	WA	In ACN 109908324 WA ED System

TIN	PAYEE_NAME	In FAC?	In CARS?	ST	
916006768	Central Kitsap School Dst 401	No 1999	No	WA	In ACN 109908324 WA ED System
916017493	Oak Harbor School District 201	No 1999	No	WA	In ACN 109908324 WA ED System
919001516	Washington DC Public Schools	No	No	DC	ACN 039928002
940676900	Summit Medical Center	No	No	MT	Just over 300K; FY end Sept but GAPS shows June; prob under 300K
943244537	AMERICAN SAMOA GOVERNMENT	No	No	AS	Auditor currently working on. Most recent audit we have is FY 1997.
943254410	Adecco Inc	No	No	MA	For Profit
953630868	Science Applications Intl Corp	No	No	CA	For Profit
956005609	Eastern Serra Unified Schl Dst	No	No	CA	GAPS shows payments of only 80,888 in FY 99
970000676	AMERICAN SAMOA DEPARTMENT OF EDUCATION	No	No	AS	Will be in '99 audit of American Samoa Government. Scheduled to be submitted fall 2003.

Attach.C-Audits Not in FAC with PAG Explanations

								Attachment C
AMOUNT OF FUNDING PER GAPS	OPEID	TIN		END_DT	PAYEE_NAME	Audit in FAC?	Audit in CARS?	PAG Comments
\$4,412,553	99999999	042104397	7/1/1998	6/30/1999	WGBH Educational Foundation	No 1999	Yes	Note that the CH website says Status W5 which translates to form errors, audit forwarded to Fed agencies for follow up. Believe we had the CH send us a copy of the audit. However, they couldn't process it because it wasn't status C. So PAG gave the audit an ACN, issued it, and resolved it. ACN 019921001.
\$2,170,000	99999999	131623848	1/1/1999	12/31/1999	National Council Economic Ed	No 1999	Yes	The entity was sent letters, then called several times about sending their 99 audit to the CH. When they failed to do this, we asked that they send the audit to us. We gave the audit an ACN, issued it, and resolved it. ACN 029931001.
\$590,994	99999999	232990830	7/1/1998	6/30/1999	Michiana College Education	No	Yes -- College	TIN in GAPS is for the corporate office in KY. (GAPS says For Profit). Michiana College, a proprietary school, is in IN and uses TIN 351547861. Its FSA audits are in CARS.
\$686,426	99999999	480941796	7/1/1998	6/30/1999	Kickapoo Nation School	No	Yes	Letters and phone calls to get audits to CH did not produce results. So PAG had the entity send us the audit. We gave it an ACN, issued it, and resolved it. ACN 079921001.
\$393,859	99999999	736021044	7/1/1998	6/30/1999	Briggs School District	No 1999	Yes	In CARS. ACN 069908634. Uses TIN 731145088. Is at Clearinghouse but shows as Status P since July 02. However, the CH processed the audit for ED on 05/02/00.
\$461,212	99999999	736026802	7/1/1998	6/30/1999	Tahlequah Public Schools	No	Yes	Again letters and phone calls to get audits to CH did not produce results. So PAG had entity send us the audit. We gave it an ACN, issued it, and resolved it. ACN 069931003.
\$142,858,846	99999999	741647061	7/1/1998	6/30/1999	Rehabilitation Comm Texas	No 1999	Yes -- State	These six entities could be considered to be "At FAC" since they are all included in the Texas Statewide Audit for FY 1999. ACN is 069908765.
\$377,670	99999999	741974733	7/1/1998	6/30/1999	Texas Engineering Experiment S	No 1999	Yes -- State	These six entities could be considered to be "At FAC" since they are all included in the Texas Statewide Audit for FY 1999. ACN is 069908765.
\$36,806,101	99999999	746000086	7/1/1998	6/30/1999	Commission For Blind Texas	No 1999	Yes -- State	These six entities could be considered to be "At FAC" since they are all included in the Texas Statewide Audit for FY 1999. ACN is 069908765.
\$9,314,325	99999999	746000100	7/1/1998	6/30/1999	Executive Office State of TX	No 1999	Yes -- State	These six entities could be considered to be "At FAC" since they are all included in the Texas Statewide Audit for FY 1999. ACN is 069908765.
\$5,644,055	99999999	746016766	7/1/1998	6/30/1999	Higher Edcatn Crdinating Bd TX	No 1999	Yes -- State	These six entities could be considered to be "At FAC" since they are all included in the Texas Statewide Audit for FY 1999. ACN is 069908765.
\$323,424	99999999	760267719	7/1/1998	6/30/1999	Criminal Justice Texas Dept	No 1999	Yes -- State	These six entities could be considered to be "At FAC" since they are all included in the Texas Statewide Audit for FY 1999. ACN is 069908765.

Three FY 1999 audits in the FAC database that were not in CARS, that PAG staff had not annotated as “At CH”, and that had received funding from programs other than FSA

1. **Mount Sinai School of Medicine of CUNY (EIN 136171197), \$1,846,665 for FY 1999 per GAPS – Research funding (84.RD \$1.27 million) and FSA funding (84.033, 84.038)**

The FAC reports: This audit was processed by the FAC as ACN 02-99-08443, City University of New York System.

However, though the Mount Sinai School of Medicine is indeed part of the University of New York System, in FYs 1998 and 1999, it filed separate A-133 audits. The FAC had processed the FY 1998 Mount Sinai audit, but not the FY 1999 audit. PAG has requested that they now process the 1999 Mount Sinai audit (which has no findings).

2. **Iowa Valley Community College District (EIN 420626714), \$808,094 for FY 1999 per GAPS – OVAE (84.048, 84.243, 84.002), OSERS (84.126) and FSA funding (84.063, 84.007, 84.033, 84.038, 84.268, 84.032)**

The FAC reports that this audit was processed by the FAC under EIN 420926714 as ACN 79908432, Iowa Valley District.

3. **Morris College (EIN 576000734), \$7,004,374 for FY 1999 per GAPS – OPE (84.031, 84.047, 84.042, 84.120), and FSA funding (84.007, 84.033, 84.063, 84.038, 84.268)**

The FAC reports that this audit was received by the FAC on 11/16/01 and closed on 01/10/02 with no findings. The FAC further reports that the audit was not processed for ED by the FAC per the Memorandum of Understanding between Census and ED. PAG has asked the FAC for specifics as to what in the MOA indicates that this audit should not have been processed for ED. Neither PAG nor FSA can think of anything that would so indicate.

Response to Recommendations
Draft Audit of Funds Not Recovered Due to Statute of Limitations
ACN: ED-OIG/A19-C0004

We are in general agreement with the thrust of the recommendations as a means to help the Department improve its timeliness and handling of audits. As you will read below, numerous actions have already been taken and are in progress to improve the process.

1.1 The CFO, in conjunction with the General Counsel, issue guidelines that include sufficient information to assist audit resolution staff in meeting *prima facie* evidence requirements and resolving audits in a timely manner.

Working with OGC, we will review available guidance on *prima facie* evidence requirements and issue clearer guidelines, if it is determined to be necessary, that are helpful in resolving findings.

1.2 The CFO, in conjunction with the General Counsel, develop a recurring training program for Departmental staff involved in the audit resolution process. Ensure training includes requirements for development of *prima facie* evidence.

As the agency's Audit Follow-Up Official, the CFO has organized over the years a variety of training opportunities for audit resolution staff in headquarters and the region. Most recently, Post Audit, along with staff from OESE, OGC, OM/CIO, OSERS, OVAE and SFA, met on September 9-10, 2003, to identify competencies and knowledge needed to resolve the Department's various internal and external audit reports. The competencies/knowledge inventory will be used to pinpoint skill gaps, plan for training (including sessions on *prima facie*), and, over the next year or so, develop a learning program for ED staff involved in resolving the Department's internal and external audits.

Also, in July 2003, the new, state-of-the-art Audit Accountability and Resolution Tracking System (AARTS) was launched, and staff from across the Department were trained. Because AARTS is process driven, it served as a refresher course of the audit resolution process for both internal and external audits.

1.3 The CFO, in conjunction with the General Counsel, collaborate with OIG and key program offices to discuss causes for deficiencies in *prima facie* evidence. If appropriate, develop recommendations to bodies that establish

applicable audit standards and procedures to address gaps between existing standards and *prima facie* requirements.

In the Spring 2003, the OIG, with collaboration from OGC, asked the AICPA on behalf of the Department to issue an alert memo to non-federal auditors regarding *prima facie* issues (see Attachment A). We will continue to look at this issue and work with OIG and OGC with follow-up efforts.

1.4 The CFO, in conjunction with the General Counsel, collaborate with OIG to perform outreach activities to inform and to educate the non-federal audit community of *prima facie* requirements.

As stated above, OIG and OGC collaborated earlier this year to issue an alert on this topic to the AICPA community. Because of the legal complexities involved, we believe that OGC continues to be the appropriate ED office to collaborate with OIG in educating the non-federal community of *prima facie* requirements. We, therefore, defer to the Inspector General, with collaboration from the General Counsel, to determine the best course of action to take and develop a corrective action plan, as appropriate.

1.5 The CFO, in conjunction with the General Counsel, collaborate with OIG in working with OMB on including *prima facie* evidence in the OMB Compliance Supplement used by auditors in conducting audits under the Single Audit Act.

We support inclusion of *prima facie* requirements in the OMB Compliance Supplement to the extent that it is consistent with audit standards and procedures and the requirements of the Single Audit Act. Efforts to include this requirement in the Compliance Supplement have been made in the past, but they have been unsuccessful. Discussions among OIG, OGC and OCFO are taking place, however, to recommend including information on *prima facie* requirements in future compliance supplements.

1.6 The Chief Financial Officer (CFO) ensure the new audit resolution tracking system includes a means to identify and prioritize audits with monetary findings subject to the Statute of Limitations, that such audits are tracked and included in management reports, and that reminder notices are sent to audit resolution specialists as the Statute of Limitations approached to ensure funds are recovered.

The new Audit Accountability and Resolution Tracking System (AARTS), which was launched in June, does accomplish the activities as cited in the recommendation. The PAG External Administrator and the PO Specialist have the capability to input SOL information. This information is available for audits with affiliated programs that necessitate the need to track the SOL timeframe. An additional section is available on the Audit Detail Screen. This section is titled

“Statute of Limitations.” The audit period is displayed. The Statute of Limitations timeframe is initially calculated as five years from the beginning of the audit period. Electronic notifications are sent monthly to the OGC Specialist and the Audit Liaison Officer assigned to the audit.

2.1 The CFO determine whether the FAC is performing follow-up activities for reports not received in accordance with OMB guidelines. Coordinate Department activities with the FAC to eliminate duplication of effort.

ED’s Memorandum of Agreement with the FAC does not now require that they perform follow-up activities for audits not received in accordance with OMB guidelines. In the past, the FAC has not received payment data from ED that would have enabled them to do this. Starting immediately, OCFO will provide the FAC with appropriate ED payment data that will indicate the entities whose A-133 audits should be processed for ED. (See response under 2.4.)

2.2 The CFO formalize the process for tracking audit reports that are not submitted by establishing and implementing appropriate policies and procedures, including requirements for maintaining adequate records of follow-up efforts and ensuring that letters are sent with proof of receipt required.

Although for some years OCFO has had a system for tracking and following up on audit reports that have not been submitted, OCFO will establish and implement more formal policies and procedures for tracking such audit reports. OCFO will also ensure that complete records of follow-up efforts are kept and that letters are sent with proof of receipt required.

2.3 For the specific audits identified in the report a) determine why the FAC received the audits but did not provide the audits to the Department as required, and b) provide the FAC with information on the audits identified that were not processed for the Department, and those audits received by the Department that had not been received by the FAC, so that corrective action may be taken.

As noted in the body of our response, an analysis of the audits identified by your office as not being processed appropriately has been done. For the most part, FAC has processed audits for the Department according to the terms of the Memorandum of Agreement between the FAC and ED. The Memorandum of Agreement for FY 2004 will be revised to provide for OCFO’s submission of payment data to the FAC and for the FAC’s processing of audits for all entities receiving direct payments from ED.

2.4 The CFO provide regular feedback to the FAC on audits found on its website that were not appropriately processed and provided to the Department. Keep records of these contacts with the FAC to track whether

the audits are later transmitted for Department records and so that a determination may be made as to the extent of the problem and corrective actions taken by the FAC.

Again, the FAC has for the most part followed the provisions of the current Memorandum of Agreement between ED and the FAC and appropriately processed the audits they were required to process. If certain audits were not processed for ED, it was most often because of errors made by the auditee on the data collection form as to whether payments were “direct.” Once OCFO provides the FAC appropriate ED payment data (see above under 2.1) and the Memorandum of Agreement for FY 2004 is revised to provide that the FAC process for ED the audits of all entities receiving ED payments in the years of the audits, the problem of audits of apparent ED grantees not being processed by the FAC will be resolved.

2.5 The Deputy Secretary develop and implement a policy on sanctions to be taken against entities that continually do not comply with single audit requirements.

We agree with the need to ensure that an effective policy is in place and is consistently applied. The OCFO and the Deputy Secretary’s staff are working together closely to ensure that this is done.

We are an agency taking a lead in “high risk” designation. The Department does impose sanctions on entities that continually fail to submit audits. For example, in 1999, the Department designated the Virgin Islands a ‘high-risk’ grantee and subsequently entered into a three-year compliance agreement with them. Puerto Rico also continues to be a high-risk grantee, and the Department is in the process of determining the special conditions to attach to their grant awards. The Deputy Secretary recently sent letters to Guam, American Samoa and the Commonwealth of Northern Mariana Islands designating them as high-risk grantees with special conditions that will be referenced in their grant awards. In addition, other notices have been sent to the Republic of the Marshall Islands and the Federated States of Micronesia asking them to address specific accountability issues.

3.1 The CFO ensure that PAG staff accurately track audit resolution, and report audits overdue for resolution, using the date of receipt of non-federal audits and the final audit report date for federal audits. Revise the Post Audit User Guide to accurately reflect these requirements.

OCFO will ensure ED’s compliance with this requirement. The Post Audit User Guide will be revised accordingly.

3.2 The CFO ensure the new audit resolution system includes a field for recording the actual final audit report date for federal audits so that these audits may be tracked in compliance with OMB requirements.

AARTS does include a field for recording the actual final audit report date for federal audits.

3.3 The CFO ensure PAG staff provides the required elements in a semiannual report of unresolved audits in compliance with OMB Circular A-50.

Beginning with the 6-month period ending September 30, 2003, the required semi-annual reporting requirements for agency management will be in compliance with Circular A-50.