



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

August 24, 2007

Control Number
ED-OIG/A19G0006

Lawrence Warder
Acting Chief Operating Officer
Federal Student Aid
Union Center Plaza III
830 First Street, N.E.
Washington, DC 20002

Dear Mr. Warder:

This **Final Audit Report**, entitled *Controls Over Contract Monitoring for Federal Student Aid Contracts*, presents the results of our audit. The purpose was to determine whether Federal Student Aid's (FSA) contract monitoring process ensures (1) contractors adhere to the requirements of the contract, and (2) FSA receives the products and services intended. Our review included evaluation of the 10 FSA contracts for which the highest amount of payments were made during Fiscal Year (FY) 2005.

BACKGROUND

In April 2005, the Secretary of Education delegated procurement authority to the Chief Operating Officer (COO) in FSA, to procure property and services in the performance of functions managed by FSA as a performance based organization. Even though FSA has its own procurement authority, it is obligated to follow the Department of Education's (Department) policies and procedures, in addition to its own FSA-specific policies and procedures.

Contract management staff includes the Contracting Officer (CO), Contract Specialist (CS), and the Contracting Officer's Representative (COR). The CO has overall responsibility for contract management. However, the contract monitoring process is a team effort between the CO, CS, and COR. Contract monitoring is based on the terms and conditions in each contract, the requirements set forth in the *Federal Acquisition Regulation* (FAR), and the Department's and FSA's policies and procedures.

For FY 2005, payments under Department contracts totaled \$1,474,385,045. Payments to FSA contracts totaled \$843,696,458.09 (57 percent). During the year, FSA was responsible for 95 of 519 total active contracts (18 percent). FSA was the Principal Office (PO) with the highest

amount of contract payments for FY 2005, and was responsible for the second highest amount of active contracts during the year.

AUDIT RESULTS

We found FSA's contract monitoring process did not always ensure contractors adhered to contract requirements and FSA received the products and services intended. FSA staff did not always follow established regulations, policies or procedures in 9 out of 10 contracts reviewed. Specifically, we found FSA staff did not always ensure appropriate review and approval of invoices, appropriately communicate acceptance/rejection of deliverables, issue modifications for contract changes, and appropriately issue or sign COR appointment letters. This occurred because FSA staff were not always familiar with applicable policies and procedures, and due to resource limitations.

In its response to the draft audit report, FSA concurred with the recommendations. The complete text of the response is included as Attachment 3 to this report.

FINDING - Improvements Were Needed in Monitoring of FSA Contracts

We noted at least one area where improvements were needed in contract monitoring for 9 of the 10 contracts reviewed. Specifically, we noted that FSA staff did not always:

1. Ensure appropriate review and approval of invoices (9 contracts),
2. Appropriately communicate acceptance/rejection of deliverables (5 contracts),
3. Issue and/or sign modifications for contract changes (3 contracts), and
4. Appropriately issue and/or sign COR appointment letters. (2 contracts)

FAR Section 1.602-2 states,

Contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.

Department Directive (Directive) OCFO [Office of the Chief Financial Officer]:2-108, *Contract Monitoring for Program Officials*, dated September 16, 2004, Section II, states,

The policy of the Department is: (a) to monitor every contract to the extent appropriate to provide assurance that the contractor performs the work called for in the contract; and (b) to develop a clear record of accountability for performance.

Details on the issues noted in each area follow. Attachment 2 includes details of issues noted for each contract.

Issue 1 – FSA Staff Did Not Ensure Invoices Were Properly Reviewed and Approved

In 9 out of the 10 contracts reviewed, we noted the COs and/or COR staff did not follow applicable policies and procedures for processing invoices. Specifically, we found FSA staff did not ensure invoices were reviewed and approved by the COs, and incentive payments were verified by appropriate staff.

Invoices Were Not Properly Reviewed and Approved by Contracting Officers

In 9 out of 10 contracts reviewed, we found the COs were not properly involved in the invoice approval process. (*ED99DO0002, ED01GS0002, ED03CO0102/0002, ED04CO0004, ED04GS0002, ED04PO0377, ED04PO1805, ED05CO0008, PM95009001*)¹

All of the COs for these contracts stated that the CORs, along with the FSA budget office, are responsible for processing invoices. Specifically, we found when invoices are received they are sent directly to the FSA budget office. The invoices are then routed to the responsible COR for proper verification. The COR verifies the invoice and creates a receipt in the Contracts Purchasing and Support System (CPSS).² The COR then sends the invoice and supporting documentation to the budget office, indicating that it is acceptable to proceed with approval and payment of the invoice. The budget office posts the receipt in CPSS and approves the invoice for payment in the Department's Financial Management System Software (FMSS).³

Directive Section VII.N.4 states,

The CO is responsible for approving a contractor's invoices for payment, but usually after review and advice from the COR in conjunction with the CO's own analysis concerning the contents of the invoice/voucher and the contractor's performance relative to what is being billed.

FSA stated the invoice approval process was transferred to FSA's budget office in 2002 as a result of resource and workload issues in the Acquisitions office. FSA agreed that COs should be involved in the invoice process and noted they were in the process of implementing a policy in which the COs would assume responsibility for both receipt and invoice approval. Warrants that were issued for the budget office to approve payments will be withdrawn.

Incentive Payments Were Not Verified by Appropriate Staff

In 1 of the 10 contracts reviewed, we found FSA did not ensure that incentive payments were verified by appropriate staff. (*ED04CO0004*) The COR directed Office of Inspector General

¹ Contract numbers are provided parenthetically for each issue area. See Attachment 1 for a list of the contracts reviewed, and Attachment 2 for details of the issues noted by contract.

² CPSS is a component system of the Department of Education Central Automated Processing System (EDCAPS).

³ Invoices are approved in both CPSS and FMSS.

(OIG) staff to a Program Analyst in the Contract Performance & Analysis Group to discuss how to verify the incentive payment from one of the invoices reviewed. The Program Analyst could not assist us and had to seek the assistance of the Independent Verification & Validation (IV&V) contractor to explain how the incentive payment was calculated. In addition, the IV&V contractor stated that she verified all of the incentive payments during our scope period, and that they were in the process of transitioning so that FSA will understand how to verify the payments when the IV&V contract ends.

Directive Section VII.G.2.d states,

There are many varieties of payment provisions that might be incorporated into contracts depending on the nature of the work and other factors. It is the responsibility of the COR to become familiar with the payment provisions applicable to each contract he or she must monitor. . . . The COR must review invoices individually and collectively as part of the responsibility to monitor the contractor's progress in performing under the contract.

FAR Section 7.503 (a) states,

Contracts shall not be used for the performance of inherently governmental functions.

Section 7.503 Part C.12.VII states inherently governmental functions include,

Determining whether contract costs are reasonable, allocable, and allowable....

FSA did not agree and stated that while the IV&V contractor did verify the formula and resulting calculations, the decision to make payment remained a COR recommendation and required budget office approval. OIG did not agree with FSA's response based on the fact that the COR stated he relies on his staff for proper review of invoices, which is the basis for his payment decision.

FSA did not fulfill its responsibility to ensure payments to contractors were appropriate. As a result, FSA lacks assurance that payments are proper and its interests are protected.

Issue 2 – FSA Staff Did Not Appropriately Communicate Acceptance/Rejection of Deliverables

In 5 out of the 10 contracts reviewed, we noted CORs did not adequately recommend acceptance/rejection of deliverables. (*ED01GS0002, ED03CO0102/0002, ED04CO0004, ED04GS0002, ED04PO0377*)

Directive Section VII.N.2 states,

Only a CO can formally accept or reject deliverables. However, with respect to deliverables which the contractor must send directly to the COR, the COR will recommend acceptance or rejection to be furnished in writing to the CO.

Directive Section V.I states,

The CO is the Government's exclusive agent as party to a contract—the contractor is the other party – and therefore the only person with the authority to enter into, administer, and terminate contracts and make related determinations and findings. The CO responsible for a particular contract is named in the contract.

FSA's *COR Contract Monitoring Handbook*, dated April 7, 2005, Section 28.0, Deliverable Acceptance/Payment, states,

The contractor may be required to send deliverables either to the COR or to the CO. For deliverables sent to the COR, the COR generally is responsible for conducting the inspection and recommending acceptance to the CO. Only a CO can formally accept or reject deliverables. However, with respect to deliverables which the contractor must send directly to the COR, the COR will recommend acceptance or rejection in writing to the CO.

FSA's *COR Contract Monitoring Handbook*, Section 28.0, also provides an example of a contract deliverable inspection worksheet, which the COR should use to communicate details of acceptance/rejection of deliverables to the CO.

In three contracts reviewed, the CORs stated they accept deliverables for the contracts, not the COs. (*ED03CO0102/0002*, *ED04GS0002*, *ED04PO0377*) In one of these contracts, the COR stated she returns deliverables to the contractor if necessary and has the contractor resubmit them with the changes made. (*ED04GS0002*) In another contract, the Program Manager indicated he was "informally" rejecting about one report per month, providing written comments to the contractor and asking them to resubmit with appropriate changes made. (*ED04PO0377*) By sending deliverables back to the contractor for correction, the COR and Program Manager were, in effect, rejecting the deliverables. The CO was not involved in the rejection of these deliverables in either contract.

In one contract reviewed, the COR stated he recommended acceptance of deliverables to an employee within FSA's budget office who is responsible for approving invoices. Specifically, recommendation of acceptance of deliverables is communicated to the "designated CO" in the budget office instead of the CO who actually administers the contract. (*ED04CO0004*)

In one of the contracts reviewed, the COR stated that acceptance of deliverables was indicated in CPSS. Prior to the payment of invoices, a receipt for the invoice is created in CPSS and a recommendation of acceptance is noted on the receipt. However, we found this process did not

specifically document the COR's recommendation for acceptance or rejection of specific deliverables. *(ED01GS0002)*

Without appropriate communication of deliverable acceptance/rejection, FSA may have difficulty pursuing action against a contractor for nonperformance. Acceptance or rejection of deliverables by unauthorized personnel may compromise efforts to enforce contract requirements.

FSA stated existing staffing levels limit the level of involvement from the COs. Specifically, the COs were involved in cases where the deliverables did not meet the standards in the contracts as identified by the COR. In cases where the COR recommended acceptance, no further action was required by the CO to demonstrate acceptance except by receipt approval in the system. However, this specific approval was made by FSA's budget office instead of the CO. FSA concurred it was not an effective procedure and stated they were in the process of implementing a policy where the Administrative Contracting Officer approves all receipts and therefore systemically accepts deliverables.

Issue 3- FSA Staff Did Not Appropriately Issue and/or Sign Modifications For Contract Changes

In 3 of the 10 contracts reviewed, modifications were not appropriately issued and/or signed for significant contract changes. Directive Section VII.I, "Initiating Changes to a Contract," states,

Few contracts go to completion without some type of change or modification. The COR should anticipate the likely need for modifications and be prepared to deal with a variety of situations which seem to call for a formal change to the contract. Only a CO can issue modifications to the contract. A modification can be accomplished in accordance with a contract provision or by mutual agreement between the Government and the contractor.

In 1 contract, 5 out of 72 bilateral modifications were not signed by the contractor. *(ED01GS0002)* In addition, the CO did not give proper notification regarding termination of Virtual Data Center (VDC) printing services that were no longer deemed necessary. FSA staff stated they verbally communicated to the contractor on February 18, 2005, that certain VDC printing services were no longer needed, effective February 28, 2005, however, this change was never incorporated into a written modification.

In another contract, the deliverables schedule was modified by the COR, without the CO issuing a modification. *(ED04GS0002)* As a result, nine deliverables were submitted past their official due dates. FSA agreed with this issue, and stated the CO did not delegate authority to the COR as it relates to changing the deliverable schedule(s). FSA also stated in this case, while fully within the COs authority for a unilateral modification, it appears that changes were made outside of the appropriate process.

In one contract, the modification assigning a new COR was not issued timely. (*ED04CO0004*) The COR was officially appointed on January 1, 2004. The modification was issued on November 28, 2005, which is almost two years later than the COR appointment date. Modifications are issued to ensure that all commitments of the contractor and the Government are met according to contract requirements. Without issuing modifications for relevant contract changes, the Government cannot ensure that its needs and interests are protected.

Issue 4- FSA Staff Did Not Appropriately Issue and/or Sign COR Appointment Letters Timely

In 2 of the 10 contracts reviewed, COR appointment letters were not issued and/or signed in a timely manner by the COR. Directive Section VI.C.2-3 states the CO,

2. Ensures that the COR is designated for each contract. 3. Issues to the COR for each contract a memorandum outlining the COR's basic contract monitoring responsibilities and limitations, and explains this information to the extent judged appropriate. COR appointment letters are issued not later than seven (7) days from the date of the contract award.

Directive Section VI.E.1 states the COR

Ensures receipt of appointment memorandum from the CO by no later than seven (7) days from the date of the award. Reads, signs and returns one copy of the original memorandum to the CO for inclusion in the official contract file within ten (10) days of receipt of the memorandum.

Specifically, we noted the following:

- In two contracts, a COR delegation letter was not found in the contract files for the original COR. (*ED03CO0102/0002, ED04CO0004*)
- In one contract, the current COR of the contract was officially appointed on January 1, 2004; however, the appointment letter was not signed until July 9, 2004. (*ED04CO0004*)

The COR appointment memorandum reminds the COR of his/her responsibilities and limitations in the monitoring process. The memorandum includes such things as training and certification requirements, monitoring and communication responsibilities, and actions the COR does not have the authority to perform. Without issuing and signing these documents timely, the CO does not have assurance that the COR understands the extent and limitations of his/her responsibilities and authority.

Summary

Improvements were needed in monitoring by FSA staff for 9 of the 10 contracts reviewed. FSA staff did not always follow established regulations, policies, and procedures. FSA staff did not appropriately review and approve invoices or appropriately communicate acceptance/rejection of deliverables. In addition, FSA staff did not always issue and/or sign modifications for contract changes. Finally, COs did not ensure COR appointment letters were issued and/or signed timely.

As a result, FSA lacks assurance that payments are proper and its interests are protected. Contract actions by unauthorized personnel may compromise efforts to enforce contract requirements. By not issuing modifications for relevant contract changes, the Government cannot ensure that its needs and interests are protected. Untimely issuance and/or signoff of COR appointment memoranda could result in confusion over the responsibilities and limitations of the COR's duties.

Recommendations

We recommend that the Acting Chief Operating Officer, take actions to:

- 1.1 Develop and implement a process to ensure COs conduct proper analysis and approval of invoices.
- 1.2 Ensure contract staff have the technical expertise needed to adequately verify payments.
- 1.3 Develop and implement a process to ensure acceptance/rejection of deliverables is appropriately communicated by the COR to the CO. Ensure the CORs provide written recommendations of deliverable acceptance/rejection to the COs. This could include the use of the deliverable inspection worksheet that is suggested in the *FSA COR Contract Monitoring Handbook*.
- 1.4 Ensure the CO is the only individual communicating acceptance/rejection to the contractor.
- 1.5 Ensure formal modifications are issued for relevant contract changes. Issue modifications for the contracts noted above with regard to deliverable termination and changes in deliverable due dates. (*ED01GS0002, ED04GS0002*)
- 1.6 Ensure COR appointment letters are issued timely by the CO, and signed and returned timely by the COR. Review all FSA contracts to ensure that all current CORs have received an appointment letter and that a signed copy is included in the contract file.

FSA Comments

In its response to the draft audit report, FSA concurred with the recommendations. FSA stated it has implemented an Acquisition Policy Letter that lays out the manner in which deliverable receipt and vendor invoices are to be processed. FSA stated that, in accordance with the new

policy, COs have assumed responsibility for approval of receipts and invoices, and are the only individuals that communicate acceptance and rejection of deliverables.

FSA stated that while it concurred with the recommendation to ensure formal modifications are issued for relevant contract changes, it did not believe that modifications for the noted contracts were appropriate. FSA stated the COR overstepped the authority delegated to them and the CO determined the changes were not reasonable. As a result, FSA stated the contractors would be held to the contract requirements as they exist.

FSA stated it reviewed contract files to ensure the appropriate COR was appointed in CPSS and that all had received delegations of their authority placed in the contract files.

The complete text of the response is included as Attachment 3 to this report.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit were to determine whether FSA's contract monitoring process ensures (1) contractors adhere to the requirements of the contract, and (2) FSA receives the products and services intended. To accomplish our objectives we performed a review of internal control applicable to the process for monitoring contracts within FSA. We interviewed FSA staff to obtain an understanding of the process. We evaluated prior audits and reviews relating to the contract monitoring process to determine possible vulnerabilities and any areas that required audit follow-up. We reviewed requirements in the FAR and Department and FSA policy and procedures related to the contract monitoring process. We reviewed contract files maintained by FSA staff, and other related materials that supported the contract monitoring process for a sample of contracts as further described below.

We focused our review on contracts that were active during the period October 1, 2004, through September 30, 2005. We obtained a listing of contract payments for FY 2005 for all principal offices from OCFO staff. The listing was extracted from FMSS, a component of EDCAPS. In order to focus our review on contracts with significant activity that were most likely to require active contract monitoring, we refined this list to eliminate payments that represented interagency, purchase orders, and other types of payments, and those that totaled less than \$100,000 for a particular contract during the year. In total, we identified 9,080 payments to 519 different contracts that totaled \$1,474,385,044 for the year.

We determined that FSA had the second highest number of payments of any PO (1,689 or 18.6 percent), the second highest number of active contracts (95 or 18 percent), and the highest amount of payments during the year (\$843,696,458.09 or 57 percent). We selected FSA for review because it represented a significant number of the active contracts and amount of payments during the scope period.

We selected for further review the 10 FSA contracts with the highest amount of contract payments for the year. These contracts totaled \$557,196,291.91 or 66 percent of the \$843,696,458.09 total payments to FSA contracts. These contracts were judgmentally selected for review to provide coverage of the highest amount of contract payments. See Attachment 1 for a list of the contracts selected for review, and the number and dollar value of FY 2005 payments to those contracts.

During our review, we relied on computer-processed data obtained from EDCAPS/FMSS representing contract payments for FY 2005. To assure ourselves of the completeness of this data, we compared the contracts listed with payments to lists of active contract awards from Contracts and Acquisition Management's (CAM) website as of November 2004 and November 2005 -- a total of 996 unduplicated items. We found that 629 of the active awards as of those two dates were included in the list of contracts with payments during FY 2005. For the 367 contracts in the two lists from CAM's website that were not included in the listing of contract payments, we found that 251 were multiple award task orders or blanket purchasing agreements under which separate orders would be placed. These awards would not have payments. Of the remaining 116 awards, 3 were small purchases and not considered contracts for the purposes of our review. Payments under these purchases in FY 2005 were not material. All other contracts were either awarded after or ended before FY 2005, or no payments were made under these contracts during FY 2005. Based on this analysis, we determined the listing of contract payments was complete for the purposes of our audit.

To evaluate the accuracy of the information contained in the contract payments listing received from OCFO for the 10 contracts reviewed, we confirmed the payment amounts with the hard copy invoices in the contract files, and with payment information included in CPSS, another component of EDCAPS. We did not note any exceptions. Based on these analyses, we determined the computer-processed data used was sufficiently accurate and reliable for the purposes of our review.

We conducted fieldwork at Department offices in Washington, DC, during the period June 7, 2006, through February 6, 2007. We held an exit conference with FSA staff on June 1, 2007. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

ADMINISTRATIVE MATTERS

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

necessary to implement final corrective actions on the findings and recommendation 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 audits that remain unresolved after six months from the date of issuance.

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. § 522), 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 provided to us during this review. Should you have any questions concerning this report, please call Michele Weaver-Dugan at (202) 245-6941. Please refer to the control number in all correspondence related to the report.

Sincerely,

George A. Rippey /s/
Acting Assistant Inspector General for Audit

cc: Patrick Bradfield, FSA Acquisition Group
Tony Magro, Audit Liaison Officer

Attachments

Attachment 1: Contracts Included in the Audit

Contract Number	Vendor Name	Number of FY 2005 Payments	Total Amount of Payments
ED99DO0002	ACCENTURE	102	\$90,825,120.17
ED00CO0038	NCS PEARSON	64	\$19,202,765.08
ED01GS0002	COMPUTER SCIENCES CORPORATION	40	\$54,184,007.93
ED03CO0102/0002	ELECTRONIC DATA SYSTEMS CORPORATION	25	\$3,054,909.51
ED04CO0004	ACS EDUCATION SOLUTIONS	54	\$234,015,577.64
ED04GS0002	APPLIED ENGINEERING MANAGEMENT CORP	87	\$7,964,179.22
ED04PO0377	PHOENIX PROGRAMMING SERVICES	27	\$4,214,148.04
ED04PO1805	NCS PEARSON	28	\$2,656,417.40
ED05CO0008	NCS PEARSON	28	\$128,949,557.92
PM95009001	NCS PEARSON	31	\$12,129,609.00
Total number/amount of FY 2005 payments		486	\$557,196,291.91

Attachment 2: Issues Noted by Contract

ED99DO0002 – Accenture, \$90,825,120.17⁴

1. *The CO was not involved in the invoice approval process.*

The COR stated the invoice is received in the budget office, and then sent to the COR for authorization and approval. The COR creates a receipt in CPSS, and sends an email to the budget office authorizing the payment to be made.

ED01GS0002 – Computer Sciences Corporation, \$54,184,007.93

1. *The CO was not involved in the invoice approval process.*

The CO stated that he was not really involved in the invoice process and that the contracts staff has very little involvement with invoicing. The CO said that he only hears from the COR regarding the invoice if there is a problem. The COR stated she and the budget office handled the invoices.

2. *The COR did not appropriately communicate acceptance/rejection of deliverables.*

The CO stated he did not receive a recommendation to accept deliverables from the COR. The COR stated acceptance of deliverables was indicated in CPSS. Prior to the payment of invoices, a receipt for the invoice is created in CPSS, and a recommendation of acceptance of deliverables is noted on the receipts in CPSS. However, we found this process did not specifically document the COR's recommendation for acceptance or rejection of specific deliverables.

3. *FSA staff did not issue and/or sign modifications for contract changes.*

Five out of 72 bilateral modifications were not signed by the contractor. The modifications resulted in material and non-administrative changes to the contract, which included increasing funding and extending the contract end date. In addition, one modification was never issued for a contract change. A brief description of each modification is noted below:

- Modification #65, dated 6/30/2005, de-obligated funds from the contract and reduced the dollar value of line item no. 91 of the contract by \$230,000. The CS faxed the modification signed by FSA to the contractor on 6/30/2005 and asked that the contractor sign and fax it back.
- Modification #58, dated 5/31/2005, incorporated proposal RGCA 2692. The CS faxed the modification signed by FSA to the contractor on 5/31/2005 and asked that the contractor sign and fax it back.
- Modification #70, dated 9/30/2005, revised the contract by reducing funding from line no. 91 by \$2,872,117.

⁴ Amounts listed represent the FY 2005 payments made under each contract.

- Modification #71, dated 9/30/2005, funded VDC operations in the amount of \$31,616,816.
- Modification #72, dated 10/25/2005, changed the contract expiration date.
- A modification was not issued regarding the termination of Pell/Central Processing System printing services. FSA stated the contractor was verbally informed during a meeting on February 18, 2005, however the termination notice was never issued in writing.

ED03CO0102/0002 – Electronic Data Systems Corporation, \$3,054,909.51

1. *The CO was not involved in the invoice approval process.*

The COR stated he recommended acceptance to and the invoice is paid by the budget office. The CO only finds out that the invoice has been paid after the invoice has been processed for payment. The CO also mentioned that the individual in the budget office was designated as a CO to approve all FSA invoices for payment.

2. *The COR did not appropriately communicate acceptance/rejection of deliverables.*

The COR stated that he was the final stop for deliverables. The CO confirmed that this was the process followed.

3. *FSA staff did not issue and/or sign COR appointment letters timely.*

The COR appointment letter for the original COR could not be located in the contract files. During the review, the new COR and the CO both stated they could not locate the original COR appointment letter.

ED04CO0004 – ACS Education Solutions, \$234,015,577.64

1. *The CO was not involved in the invoice approval process.*

The CO stated that the COR and budget office handle the invoices, and that she had no knowledge of the process.

2. *FSA did not ensure that incentive payments were verified by appropriate staff.*

The COR stated he relies on staff to properly validate invoices prior to his approval of payment. The COR directed OIG staff to a Program Analyst in the Contract Performance & Analysis Group to discuss how to verify the cohort incentive payment from one invoice during FY 2005. The Program Analyst had to seek the assistance of one of FSA's IV&V contractors to explain how the incentive payment was calculated. The contractor stated that she verified the incentive payment during our scope period, and that they were in the process of transitioning so that FSA will understand how to verify the payment when the IV&V contract ends.

3. *The COR did not appropriately communicate acceptance/rejection of deliverables.*

The COR stated he recommended acceptance of deliverables to a "designated CO" within the

budget office who is responsible for approving invoices instead of the CO who administered the contract. The COR noted he thought this accelerated the process.

4. FSA staff did not issue and/or sign modifications for contract changes.

The modification assigning a new COR was not issued timely. It was effective on November 28, 2005, almost two years later than the COR appointment date.

5. FSA staff did not issue and/or sign COR appointment letters timely.

The COR Appointment Letter for the current COR was signed on July 9, 2004. The current COR officially replaced the previous COR on January 1, 2004. The COR appointment letter was signed approximately six months later.

In addition, a COR delegation letter could not be located for the original COR of this contract. FSA stated that a COR delegation letter was issued, but was apparently misplaced.

ED04GS0002 – Applied Engineering Management Corporation, \$7,964,179.22

1. The CO was not involved in the invoice approval process.

The CO stated that he was not involved with the invoice process. The invoices are submitted to the COR who reviews the invoices and approves them for payment by entering a receipt in CPSS. Once the COR clears the invoice for payment in CPSS, the invoice is processed through the budget office.

2. The COR did not appropriately communicate acceptance/rejection of deliverables.

The COR stated she accepted deliverables for this contract instead of the CO. The COR also stated that she returns deliverables with comments if necessary and has the contractor resubmit them with the changes made. By doing this, she is in essence inappropriately rejecting the deliverables. The CO stated that since this is a smaller contract compared to the others he is the CO for, he delegated the majority of the monitoring to the COR.

3. FSA staff did not issue modifications/task orders for contract changes.

The deliverable schedules for the contract were modified by the COR without the CO issuing a formal modification. Also, as a result of the COR informally changing the deliverable schedule, nine deliverables were submitted past their original due dates. Details are included in the table below:

Deliverable Name	Original Due Date	Received Date	Days Late
NSLDS Maintenance Plan	Quarterly update	Annually received; submitted on 7/5/05 and 8/2/05(final)	N/A-see footnote ⁵ below.
Application Software Maintenance Plan	Quarterly update	Annually received; last submitted on 7/5/05	N/A-see footnote below.

⁵ Based on the fact that the contract did not have an exact due date for quarterly submissions, we were unable to determine how many days the deliverable was late.

System Performance Monitoring Plan	Quarterly update	Received semi-annually; last submitted on 3/5/06	N/A-see footnote 5 on page 15.
TO2- Application Software	12/31/2004	3/26/2005	85
TO2- Final Detail Design Document	10/26/2004	3/25/2005	150
TO2- Final System Intergration Test Plan	10/26/2004	3/25/2005	150
TO6- Application Software	12/31/2004	5/21/2005	141
TO6- Final Detail Design Document	10/8/2004	11/12/2004	35
TO6-Final Integration Test Plan	10/8/2004	11/12/2004	35

ED04PO0377 – Phoenix Programming Services, \$4,214,148.04

- The CO was not involved in the invoice approval process.***
The CO stated that although he was not involved in the process, he was aware that this was supposed to be his responsibility. Invoices are submitted to the COR, who reviews and approves them through CPSS, and the invoices are then processed through the budget office.
- The COR did not appropriately communicate acceptance/rejection of deliverables.***
The COR stated she accepted deliverables for this contract and not the CO. Furthermore, the Program Manager indicated he was “informally” rejecting about one report per month, providing written comments to the contractor and asking them to resubmit with appropriate changes made. Neither acceptance nor rejection was ever communicated to the CO.

ED04PO1805 – NCS Pearson, \$2,656,417.40

- The CO was not involved in the invoice approval process.***
The CO stated that he and the CS did not receive invoices. Invoices are sent to the COR, who enters them into CPSS and approves them for payment. The COR confirmed this information and stated that she and the budget office process the invoices.

ED05CO0008 – NCS Pearson, \$128,949,557.92

- The CO was not involved in the invoice approval process.***
The CO stated that the budget office receives the invoices and sends them to the COR for review and approval. The CO also stated that contract staff have not been involved in the approval process, and that it is the COR’s and budget office’s function.

PM95009001 – NCS Pearson, \$12,129,609.00

1. *The CO was not involved in the invoice approval process.*

The CO stated that contract staff are not involved with the invoice process. He stated that this is a function of the COR and the budget office. The COR creates a receipt in CPSS, and the budget office approves the invoice for payment.



CHIEF OPERATING OFFICER

TO: Michelle Weaver-Dugan
Director, Operations Internal Audit Team
Office of Inspector General

AUG 8 2007

FROM: Lawrence A. Warder
Acting Chief Operating Officer

SUBJECT: Response to Draft Audit Report – *Controls Over Contract Monitoring for Federal Student Aid Contracts* Control Number ED-OIG/A19-G0006

Thank you for the opportunity to respond to Draft Audit Report, Control Number ED-OIG/A19-G0006, entitled *Controls Over Contract Monitoring for Federal Student Aid Contracts*. We concur with your recommendations for improvements in the contract monitoring process and provide the following responses to the individual recommendations.

OIG Recommendations

1.1 Develop and implement a process to ensure COs conduct proper analysis and approval of invoices.

Federal Student Aid Response – Federal Student Aid concurs with this recommendation. Although the Administrative Contracting Officer (ACO) is responsible for all facets of contract performance, ACOs were not approving payment in the financial system, which ultimately demonstrates acceptance of deliverables and authorization to release payment. In most cases, the individual with the knowledge about the contract requirements and acceptability of the invoice, the ACO, was not involved in the invoice process. Federal Student Aid Acquisitions has implemented Acquisition Policy Letter 07-001, effective February 16, 2007, which lays out the manner in which deliverable receipt and vendor invoices are to be processed. ACOs assumed responsibility for approval of receipts and invoices on March 26, 2007.

1.2 Ensure contract staff has the technical expertise needed to adequately verify payments.

Federal Student Aid Response – Federal Student Aid concurs with this recommendation. The Contracting Officer's Representative (COR) delegations for all identified contracts clearly identify the limits of the authority assigned to them. The CORs shall continue to enter receipts into the Oracle system and have received training prior to their appointments. CORs recommend acceptance and the Contracting Officer (CO) accepts/rejects the deliverables. COs will communicate to vendors in cases where final deliverables do not meet the standards in the

contracts as identified by the COR. In cases where the COR recommends acceptance, no further action is required by the CO to demonstrate acceptance except by receipt approval in the system. All COs have received training in the Oracle receipts and invoice modules to ensure that they can both accept receipts for deliverables that meet contract requirements and process the appropriate payments through the Department's finance system. This training was conducted on March 6, 2007. ACOs assumed responsibility for approval of receipts and invoices for their contracts on March 26, 2007.

1.3 Develop and implement a process to ensure acceptance/rejection of deliverables is appropriately communicated by the COR to the CO. Ensure the CORs provide written recommendations of deliverable acceptance/rejection to the COs. This could include the use of the deliverable inspection worksheet that is suggested in the FSA COR Contract Monitoring Handbook.

Federal Student Aid Response – Federal Student Aid concurs with this recommendation. Federal Student Aid Acquisitions has implemented Acquisition Policy Letter 07-001 effective February 16, 2007 that lays out the manner in which deliverable receipt and vendor invoices are to be processed. This process includes the requirement for the COR to email the CO upon completing a receipt for goods or services in the Oracle system. ACOs assumed responsibility for approval of receipts and invoices on March 26, 2007. A Federal Student Aid working group has reworked the *COR Contract Monitoring Handbook* into the *Acquisition Process Handbook*. The next release will incorporate the revised deliverable receipt process. COR training currently being established within the Department will include all aspects of COR responsibilities.

1.4 Ensure the CO is the only individual communicating acceptance/rejection to the contractor.

Federal Student Aid Response – Federal Student Aid concurs with this recommendation. The Department does not require formal acceptance of deliverables except through the approval of invoices. Effective April 1, 2007, only the ACO communicates acceptance through invoice approval. Rejections of deliverables/invoices are handled exclusively by the ACO per Acquisition Policy Letter 07-001.

1.5 Ensure formal modifications are issued for relevant contract changes. Issue modifications for the contracts noted above with regard to deliverable termination and changes in deliverable due dates. (ED01GS0002, ED04GS0002)

Federal Student Aid Response – Federal Student Aid concurs with this recommendation. However, Federal Student Aid does not believe that contract modifications for the noted contracts are appropriate. In these contracts, the COR overstepped the authority delegated to them. In such a situation, if the CO determines the action reasonable, a modification will be issued to reflect the change. In cases where the CO determines the change was not reasonable, as in these two contracts, the contractor will be held to the contract requirement, as they exist. COs are responsible for maintaining their assigned contracts, which include the issuance of contract modifications for all contract actions regardless of size or dollar value. This has always been the case.

- 1.6 *Ensure COR appointment letters are issued timely by the CO, and signed and returned timely by the COR. Review all FSA contracts to ensure that all current CORs have received an appointment letter and that a signed copy is included in the contract file.*

Federal Student Aid Response – Federal Student Aid concurs with this recommendation. Federal Student Aid undertook the task of reviewing contract files to ensure that the appropriate COR was appointed in the Contract and Purchasing Support System (CPSS) and that all had received delegations of their authority placed in the contract files. The Director of Contracts, with all COs, began this review on March 13, 2007. We are currently analyzing the system data and comparing it to the actual appointments. The system should correctly reflect COR appointments by July 31, 2007.

Attachment
Policy Letter 07-001