# **Puerto Rico Department of Education's Award and Administration of Personal Services Contracts**

### FINAL AUDIT REPORT



### ED-OIG/A04J0005 January 2011

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 Atlanta, Georgia

### **NOTICE**

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken, including the recovery of funds, will be made by the appropriate Department of Education officials in accordance with the General Education Provisions Act.

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#### UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

Audit Services Region IV

January 24, 2011

Control Number ED-OIG/A04J0005

Honorable Jesús Rivera Sánchez Secretary of Education Puerto Rico Department of Education Post Office Box 190759 San Juan, Puerto Rico 00919-1759

Dear Secretary Rivera:

Enclosed is our **final audit report**, Control Number ED-OIG/A04J0005, entitled *Puerto Department of Education's Award and Administration of Personal Services Contracts*. This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department officials, who will consider them before taking final Departmental action on this audit:

Thelma Meléndez de Santa Ana Assistant Secretary Office of Elementary and Secondary Education U.S. Department of Education 400 Maryland Avenue, S.W. Washington, DC 20202

Brenda Dann-Messier Assistant Secretary Office of Vocational and Adult Education U.S. Department of Education 400 Maryland Avenue, S.W. Washington, DC 20202

Kevin Jennings Assistant Deputy Secretary Office of Safe and Drug-Free Schools U.S. Department of Education 550 12<sup>th</sup> Street, S.W., 10<sup>th</sup> Floor Washington, DC 20202 Phillip Maestri Director Risk Management Service U.S. Department of Education 400 Maryland Avenue, SW Washington, DC 20202

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

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, including the recovery of funds, will be made by the appropriate Department of Education officials in accordance with the General Education Provisions Act.

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.

Sincerely,

/s/

Denise M. Wempe Regional Inspector General for Audit

**Enclosures** 

### TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY	1
BACKGROUND	3
AUDIT RESULTS	4
FINDING NO. 1 – PRDE Lacked Adequate Internal Controls to Ensure Compliance with State and Federal Laws	4
FINDING NO. 2 – PRDE Lacked Sufficient Controls to Ensure that Contract Services Were Allowable and Adequately Supported	12
FINDING NO. 3 – PRDE Did Not Maintain Adequate Information to Reconcile Data in its Financial Accounting and Payment Systems	20
OBJECTIVES, SCOPE, AND METHODOLOGY	22
ENCLOSURE 1 - Details of Errors in Contract Compensation Rates Paid	26
ENCLOSURE 2 - PRDE Comments	29

#### Acronyms/Abbreviations/Short Forms Used in this Report

ASF Auxiliary Secretariat of Finances

ASHR Auxiliary Secretariat of Human Resources

ASUME Administración para el Sustento de Menores

(Commonwealth of Puerto Rico Child Support Administration)

C.F.R. Code of Federal Regulations

Comptroller's Office Commonwealth of Puerto Rico Office of the Comptroller

Department U.S. Department of Education

ED-OIG U.S. Department of Education / Office of Inspector General

FLSA Fair Labor Standards Act

Hacienda Departamento de Hacienda del Estado Libre Asociado de Puerto Rico

(Treasury Department of the Commonwealth of Puerto Rico)

IP Irregular Personnel

OESE United States Department of Education, Office of Elementary and

Secondary Education

OFA Office of Federal Affairs

OSDFS United States Department of Education, Office of Safe and Drug-Free

Schools

OSIATD Oficina de Sistemas de Información y Apoyo Tecnológico a la Docencia

(Office of Information Systems and Technological Support to the Teaching

Personnel)

OVAE United States Department of Education, Office of Vocational and Adult

Education

PRDE Puerto Rico Department of Education

PRIFAS Puerto Rico Integrated Financial Accounting System

PSCs Personal Services Contracts

SEPI Sistema de Empleados Parciales e Irregulares

(System for Part-Time and Irregular Employees)

SES Supplemental Educational Services

SIFDE Sistema de Información Financiera del Departamento de Educación

(Financial Information System of the Department of Education)

TAL Time, Attendance and Licenses system

#### **EXECUTIVE SUMMARY**

The objectives of the audit were to determine whether the Puerto Rico Department of Education (PRDE) followed State and Federal laws in awarding personal services contracts and in ensuring that those services were allowable and adequately supported. Our review covered 61 personal services contracts (PSCs) and payments for services provided during the period of August 29, 2005, through June 30, 2009.

PRDE lacked sufficient controls to ensure compliance with State and Federal laws in awarding PSCs and in ensuring that those services were allowable and adequately supported. Further, PRDE did not provide the contracts and supporting documentation for 8 of the 61 PSCs selected for review and one contract amendment. As a result, we could not determine compliance with State and Federal laws for those eight contracts nor could we determine whether the services were for allowable purposes.

PRDE did not maintain sufficient documentation supporting compliance with the award process. Based on our review of PSCs, we found that PRDE did not—

- provide all requested contracts for review;
- sufficiently document compliance with the award process; and
- adequately safeguard contract documentation.

In addition, we found deficiencies in PRDE's contracts and amendments.

We identified a total of \$164,914 in questioned costs related to—

- inadequate support for \$147,652 of \$459,609 paid for services provided;
- payments totaling \$9,109 for services provided prior to contract approval;
- payments totaling \$3,650 for hours in excess of contracted hours; and
- payments totaling \$4,503 for errors in contract compensation rates paid.

Without adequate and reliable documentation in support of payments, PRDE cannot ensure that the services were allowable.

PRDE also did not maintain adequate information to reconcile data in its financial accounting and payment systems. Specifically, the total expenditures recorded in PRDE's financial accounting system<sup>1</sup> for PSCs paid with U.S. Department of Education (Department) funds were about \$15 million less than the total payments recorded in PRDE's paper-based payment system and the Part-Time and Irregular Employees System (SEPI). PRDE failed to provide reliable expenditure data that reconciled with payment data for \$161,527,366 in payments made during calendar years 2006 through 2008, and did not

<sup>&</sup>lt;sup>1</sup>PRDE's financial accounting system includes Puerto Rico Integrated Financial Accounting System (PRIFAS) and PRDE's Financial Information System (SIFDE). SIFDE is the acronym for the name of the system that replaced PRIFAS in August 20, 2007. "Sistema de Información Financiera del Departamento de Educación."

<sup>&</sup>lt;sup>2</sup> SEPI is the acronym for the name of a system implemented by PRDE to manage PSCs "Sistema de Empleados Parciales e Irregulares."

maintain a registry of PSCs corresponding to \$159,474,554 in payments made through its paper-based payment system. As a result, we could not validate the number of awarded PSCs associated with the total payments to reconcile the expenditure data.

Based on the results of our review, we consider PSCs a high-risk contracting vehicle. We recommend that the Assistant Secretary for the Office of Elementary and Secondary Education (OESE), in collaboration with the Assistant Secretary for the Office of Vocational and Adult Education (OVAE) and the Assistant Deputy Secretary for the Office of Safe and Drug-Free Schools (OSDFS), require PRDE to—

- Develop and implement internal controls over PSC records and related documentation that support compliance with regulations and payments.
- Either provide adequate and reliable documentation of unsupported payments and contracts or refund the unsupported amount to the Department.
- Return to the Department questioned costs related to services provided before the contract was approved, payment for hours in excess of contracted hours, and payment for errors in contract compensation rates.

We also recommend that the Director of the Department's Risk Management Service require PRDE to—

- Reconcile the \$15 million discrepancy between PSC expenditures paid with Department funds, recorded in PRDE's financial accounting system with payment data from its payments system and SEPI; have an independent audit office or CPA firm assess PRDE's reconciliation and issue an opinion on its accuracy; and return to the Department all of the amounts that cannot be reconciled.
- Record all PSCs awarded in a centralized registry of PSCs.

In response to our draft audit report, PRDE disagreed with Findings No. 1 and 2 and the related recommendations but concurred with Finding No. 3 and the related recommendations. PRDE contended that it has an adequate archiving system for PSCs and supporting documentation. According to PRDE, it recently implemented a new policy and process for the award of PSCs that strengthen internal controls over PSCs and ensures that PSCs are awarded in compliance with Federal and State laws. PRDE requested that the audit report's findings be reconsidered and revised and that the recommendations for repayment be withdrawn. We considered PRDE's response but did not significantly change our findings and recommendations. We maintain that without the proper implementation and enforcement of sufficient internal controls, PSCs are a high-risk contracting vehicle.

We summarized and responded to specific PRDE comments at the end of each finding. PRDE's written comments included two attachments – Attachment A and Attachment B. Except for Attachment B, which included personally identifiable information,<sup>3</sup> the entire narrative of PRDE's comments is included as Enclosure 2 to this report.

<sup>&</sup>lt;sup>3</sup> Personally identifiable information is protected under the Privacy Act of 1974 (5 U.S.C. § 552a).

#### **BACKGROUND**

Under various Puerto Rican laws, the Puerto Rico Department of Education (PRDE) is authorized to award personal services contracts (PSCs) to any individual including its employees, former employees, and employees from other agencies and from public corporations of the government of Puerto Rico. PRDE enacted Regulation Number 6820<sup>4</sup> to establish the criteria for awarding PSCs that provide certain services either not provided through regular work programs or required for exceptional situations. PSCs awarded for services that cannot be provided during regular work programs include those needed to carry out special projects such as after-school and summer school programs. PSCs awarded under exceptional situations include those needed to process backlogs of invoices from third-party contractors or to manage the relocation of administrative offices to another site.

On July 1, 2008, PRDE integrated a newly developed system known as the Part-Time and Irregular Employees System (SEPI), <sup>5</sup> to its existing Time, Attendance, and Licenses system (TAL) <sup>6</sup> to (1) store information on PSCs awarded and (2) calculate payments for services rendered based on time and attendance information recorded and approved electronically through TAL. To process the payments through SEPI, individuals with PSCs record their time and attendance in TAL by scanning their fingerprints in biometrical terminals located at their worksites. SEPI then calculated the payment information, which PRDE transferred electronically to the Puerto Rico Department of Treasury (Hacienda). <sup>7</sup> Hacienda then issued the corresponding payments to the contractors concurrently with the payments it made to PRDE's regular employees.

Before implementing SEPI, PRDE relied on paper-based processes to award PSCs and issue payments for services provided. Hard copy contracts were approved by officials with delegated responsibility from PRDE's Secretary. Upon approval, the contract information was recorded in a payment system developed by PRDE's Information Systems Division's Computer Center. Individuals with PSCs were required to sign hard copy time and attendance sheets that were approved by assigned supervisors who certified that the services were rendered.

According to payment data provided by PRDE, during the period of January 1, 2006, through December 31, 2008, PRDE paid about \$161,527,366 in PSCs funded with U.S. Department of Education (Department) funds— \$159,474,5549 paid through its paper-based payment system and \$2,052,812 paid through SEPI.

<sup>&</sup>lt;sup>4</sup> Regulation 6820, "Regulation for the Contracting of Personal Services of the Department of Education" as amended on June 3, 2004.

<sup>&</sup>lt;sup>5</sup> SEPI is the acronym for the name of a system implemented by PRDE to manage PSCs "Sistema de Empleados Parciales e Irregulares."

<sup>&</sup>lt;sup>6</sup> PRDE implemented TAL on September 1, 2007, to track the time and attendance of its employees, and on July 1, 2008, began to use it to track the time and attendance of contractors with PSCs with the implementation of SEPI.

<sup>&</sup>lt;sup>7</sup> Hacienda is the abbreviation for the agency's name, "Departamento de Hacienda,"

<sup>&</sup>lt;sup>8</sup> The Computer Center was a service unit ascribed to PRDE's information systems office known as OSIATD; which is the acronym for the office's name, "Oficina de Sistemas de Información y Apoyo Tecnológico a la Docencia," (Office of Information Systems and Technological Support to the Teaching Personnel).

<sup>&</sup>lt;sup>9</sup> This amount could be slightly understated because the payment data obtained from PRDE's paper-based payments system lacked gross payment data for 139 payments. To achieve a more accurate estimate of the actual payments made during the

#### **AUDIT RESULTS**

PRDE lacked sufficient controls in ensuring compliance with State and Federal laws in awarding PSCs and in ensuring that those services were allowable and adequately supported. PRDE did not provide the contracts and supporting documentation for 8 PSCs and for \$147,652 of the \$459,609 paid for services provided under the 61 PSCs selected for review. As such, we could not determine whether PRDE complied with State and Federal laws in awarding those contracts nor could we determine that the unsupported services were allowable. In our review of the remaining 53 PSC contracts, we identified an additional \$17,262<sup>10</sup> in questioned costs.

In addition, PRDE failed to provide reliable expenditure data that reconciled with payment data for \$161,527,366 in payments made during calendar years 2006 through 2008, resulting in a discrepancy of \$15 million. PRDE also did not maintain a registry of PSCs corresponding to \$159,474,554 paid through its paper-based payments system. As a result, we could not validate the number of awarded PSCs associated with the total payments to reconcile the expenditure data.

Based on the results of our review, we consider PSCs a high-risk contracting vehicle. The number and the significance of the deficiencies noted in our review of 61 PSCs are of considerable concern and result from a substantial lack of controls and accountability. As such, we have no assurance that the PSCs not reviewed, amounting to more than \$161 million, were in compliance with State and Federal laws nor that they were allowable and adequately supported.

## FINDING NO. 1 – PRDE Lacked Adequate Internal Controls to Ensure Compliance with State and Federal Laws

PRDE lacked sufficient controls to ensure compliance with State and Federal laws in awarding PSCs. Specifically, PRDE did not maintain sufficient documentation to be able to support compliance with the award process. Based on our review of PSCs, PRDE did not —

- provide all requested contracts for review;
- sufficiently document compliance with the award process; and
- adequately safeguard contract documentation.

In addition, we found deficiencies in PRDE's contracts and amendments.

period, we included the total net payment amount of \$69,058 related to the 139 payments with missing gross payment data in our estimate of the PSC total payments of \$159,474,554.

<sup>&</sup>lt;sup>10</sup> The \$17,262 in questioned costs include payments totaling \$9,109 for services provided prior to contract approval, payments totaling \$3,650 for hours in excess of contracted hours, and payments totaling \$4,503 for errors in contract compensation rates paid, as detailed in Finding No. 2.

#### **Contracts Not Provided for Review**

Despite OIG requests for audit documentation and follow-up, PRDE did not provide the final, approved contracts and documentation supporting the awarding process for 8 of the 61 PSCs selected, 4 of which were awarded after the implementation of SEPI. In addition, PRDE did not provide the approved copy for 1 of the 16 amendments made to 13 of the 61 PSCs selected. As a result, we could not determine whether PRDE complied with State and Federal laws in awarding those contracts nor whether the services were allowable. In the services were allowable as the services were allowable. In the services were allowable as the services were allowable. In the services were allowable as the services were allowable as the services were allowable. In the services were allowable as the services were allowable as the services were allowable. In the services were allowable as the services we

We judgmentally selected 61 PSCs awarded with Department funds and 16 amendments made to 13 of the contracts <sup>13</sup>–10 of the selected PSCs were awarded after PRDE implemented SEPI. Although the scope of the audit was PSCs, we reviewed an additional five Irregular Personnel (IP)<sup>14</sup> contracts to determine the effect of awarding multiple contracts to the same individuals, at the same time, on the level of services provided. The contract periods of the five IP contracts reviewed overlapped with the contract periods of four of the PSCs selected. We found that the overlapping IP and PSC contracts were for different times in the day and different purposes. As a result, the five IP contracts did not conflict with the level of services provided under the four overlapping PSCs.

PRDE ultimately provided 53 PSCs and supporting documentation. However, PRDE delayed the documentation for 30 of the 53 PSCs, providing them more than 50 days after the initial request.<sup>15</sup>

For discretionary grants, 34 Code of Federal Regulations (C.F.R.) § 75.730 states that

A grantee shall keep records that fully show... (b) How the grantee uses the funds; (c) The total cost of the project... (e) Other records to facilitate an effective audit.

For formula grants, 34 C.F.R. § 76.730 states that

A state and a subgrantee shall keep records that fully show... (a) The amount of funds under the grant or subgrant; (b) How the State or subgrantee uses the funds; (c) The total cost of the project; (d) The share of that cost provided from other sources; and (e) Other records to facilitate an effective audit."

In addition, 34 C.F.R. § 80.20(a) states that

... Fiscal control... must be sufficient to: (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

<sup>&</sup>lt;sup>11</sup> PRDE provided unapproved copies of two of the PSCs awarded before SEPI, and two PSCs were not provided. PRDE provided electronic documents of the contractual information stored within SEPI of the four PSCs awarded after SEPI, but not the actual approved copies of the contracts.

<sup>&</sup>lt;sup>12</sup> As detailed in the Finding No. 2, we questioned as unsupported \$27,716 paid for services provided under the eight PSCs and the amendment not provided for our review.

<sup>&</sup>lt;sup>13</sup> Three of the contracts had 2 amendments for a total of 16 amendments selected.

<sup>&</sup>lt;sup>14</sup> IP contracts are similar to PSCs but they are governed by the Puerto Rico Law 110 of June 26, 1958, as amended, with the main difference being individuals contracted under IP contracts receive certain fringe benefits, such as the accumulation of sick and annual leave.

<sup>&</sup>lt;sup>15</sup> We made requests of information on different dates. We used 50 days as the benchmark for determining whether PRDE submitted the PSCs timely. The time elapsed ranged from 9 to 285 days from the dates when we requested the PSCs and supporting documentation to the dates when PRDE made them available for our review.

According to 34 C.F.R. § 80.36(a),

When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds.

PRDE could not provide a reasonable explanation for why it could not submit the eight missing contracts, the missing contract amendment, and supporting documentation. Part of the reason for PRDE's not being able to provide the requested documentation is that it did not maintain an adequate archiving system to retrieve requested documents and did not record the PSCs in a registry of contracts. The lack of an adequate archiving system and registry of contracts may also have contributed to the substantial delays in providing 30 of the contracts.

#### **Insufficient Documentation Supporting Compliance with the Award Process**

PRDE did not maintain sufficient documentation supporting compliance with its regulations in awarding personal services contracts. Specifically,

- for 40 of the 61 PSCs, PRDE did not provide sufficient information regarding the qualification requirements for the positions contracted. As a result, we were unable to determine whether the individuals were qualified to perform the tasks for which they were contracted. PRDE did provide evidence of the qualification requirements for the remaining 21 PSCs, but of those, PRDE did not provide documentation to show that the individuals contracted met the qualification requirements for 14 PSCs.
- for 42 of the 61 PSCs, PRDE did not provide the required certification issued by the Puerto Rico Child Support Administration (ASUME) <sup>17</sup> to show that the individuals contracted were current on any child support payments before they were awarded the contracts. The ASUME certifications provided for 9 of the remaining 19 PSCs were issued after the contract period established in the contracts.
- for 43 of the 61 PSCs, PRDE did not provide documentation indicating that the contracted individuals submitted a certification of filing an income tax return for the most recent 4 years at Hacienda before they were awarded the contracts. The Hacienda certifications provided for 11 of the remaining 18 PSCs were issued after the contract period established in the contracts.

Article 6 of Regulation 6820 states that the people contracted should—

- have the qualifications necessary for the tasks that they are contracted to perform. The qualifications should be accredited through official documentation issued by the applicable educational institutions and governmental entities.
- be current on child support payments, accredited through a certification issued by ASUME.
- submit a certification of filing an income tax return for the last 4 years at Hacienda, or a certification that they were not required to file an income tax return, or in case of having a debt, provide evidence of a payment plan.

Of the 61 PSCs, PRDE awarded 47 for special projects, 10 for extraordinary needs, and 4 for developing proposals. In our review of the 10 PSCs awarded for extraordinary needs, we found that PRDE did not—

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<sup>&</sup>lt;sup>16</sup> As detailed in Finding No. 3.

<sup>&</sup>lt;sup>17</sup> ASUME is an acronym for the agency's name, "Administración para el Sustento de Menores."

- appropriately document the justification for an extraordinary and temporary need for one <sup>18</sup> PSC nor that the efforts needed to fulfill the services could not be met with existing resources;
- provide an analysis of the costs of four PSCs including the compensation and the corresponding employer's contributions; and
- provide a certification from PRDE's Budget Office certifying that funds were available in the budget of the program or office requesting the award of nine PSCs and that the services were allowable for the use of the funds.

According to item number 3 of an administrative memorandum issued by PRDE's Undersecretary of Administration,<sup>19</sup> in those cases when the contracting of personal services is inevitable because an educational program could be affected or because there could be a loss of public funds if the activity is not carried out, the contracting or program offices should submit a written request for authorization to the Undersecretary of Administration containing the following elements:

- Criteria justifying that the needs are extraordinary and temporary in character, taking into consideration the efforts carried out to fulfill the need for the services with existing resources;
- A cost analysis that includes compensation and the corresponding employer's contributions; and
- A corresponding certification from the Budget Office about the availability of funds in the budget assigned to the area requesting the contracts and the eligibility of such funds to pay for the services to be rendered.

PRDE awarded 33 of the 61 PSCs to its own employees, 11 of which were contracted to provide services during the employee's regular working schedule under authorized vacation time. Another 19 of the 61 PSCs were awarded to retired PRDE employees.<sup>20</sup> We found that –

- PRDE did not provide documentation to show that 2 of the 11 contracted employees were scheduled to be on authorized vacation time during the contract period before they were awarded the contracts. PRDE provide documentation to show that the remaining nine contracted employees were scheduled to be on authorized vacation time during the contract period.
- PRDE awarded 2 of the 19 PSCs to retired employees within 2 years of the employees' retirement from public service; however, PRDE did not provide evidence that the 2 retired employees obtained dispensation from the Ethics Office before being awarded the PSCs.

Article 6 of Regulation 6820 states that PRDE can only contract with its employees outside their regular working schedule or while they are on authorized vacation.

According to Article 3.7 (e) of the Ethics in Government Act of the Commonwealth of Puerto Rico of July 24, 1985, as amended, no executive agency shall contract with or for the benefit of persons who have been public officials or employees of said executive agency, within 2 years following the termination of

<sup>18</sup> We were provided sufficient information on the remaining 9 that provided a reasonable justification for the PSCs.

<sup>19</sup> PRDE's Undersecretary of Administration issued an administrative memorandum on September 27, 2006, to amend item

number 7 of the memorandum issued on February 5, 2003. According to the September 27, 2006 amendment, the remaining control measures, established in the administrative memorandum of February 5, 2003, are currently in effect.

<sup>&</sup>lt;sup>20</sup> The remaining 9 of the 61 were awarded to either non-PRDE employees or to PRDE irregular or transitory employees contracted to work outside their working schedule.

their employment. The Governor may issue a dispensation from this provision provided the dispensation is in the benefit of the public service. <sup>21</sup>

#### **Insufficient Controls to Adequately Safeguard Contract Documentation**

PRDE did not have an official policy on safeguarding PSC documentation while transferring it between offices during the awarding process and did not safeguard PSC documentation. As a result, unauthorized changes were made to two contracts. Had the changes not been identified before the payments were made, the Department's funds would have been improperly disbursed.

Two PSCs awarded to two individuals were changed without authorization. The identity of the person making the change could not be determined. The change to the contracts increased the rate per hour established in the contracts and changed the contracted positions to correspond to the increase in the hourly rates. The unauthorized changes occurred at some point when the contracts were transferred from the Office of Federal Affair's (OFA) Supplemental Educational Services (SES) Program office to the Auxiliary Secretariat of Human Resources (ASHR) for approval and then to the Payments Division of the Auxiliary Secretariat of Finances (ASF) for payment. According to the Coordinator of the SES Program, an individual that received one of the changed PSCs personally delivered the PSCs to the ASHR. However, none of the officials involved in the process of awarding the contracts acknowledged having changed the contracts.

The OFA noted the unauthorized changes in the two contracts when it received a copy of the contracts after they were approved by the ASHR. According to the Coordinator of the OFA's Human Resources Unit, the ASHR did not consistently provide OFA with copies of the PSCs after they were approved, and only did so at the request of OFA shortly before the unauthorized changes to the PSCs occurred. Though OFA identified the changes, PRDE did not have adequate safeguards to prevent unauthorized changes. PRDE withheld two payments that were processed at the unauthorized rates and amended the two contracts to reflect the correct contract rates. No payments were made at the unauthorized rates.

For one of the contracts, PRDE paid \$2,249 for 175 hours in services provided as an Administrative Auxiliary III at a rate of \$12.85 per hour. The unauthorized changes increased the rate to \$17.16 and changed the position to Auxiliary Director. Had OFA not noticed the unauthorized changes, PRDE could have paid a total of \$3,003, or \$754 more than the original amount contracted. For the second contract, PRDE paid \$1,393 for 137 hours in services provided as an Administrative Auxiliary I at a rate of \$10.17 per hour. The unauthorized changes increased the rate to \$17.16 and changed the position to Auxiliary Director. Had OFA not noticed the unauthorized changes, PRDE could have paid a total of \$2,351, or \$958 more than the correct amount.

<sup>&</sup>lt;sup>21</sup> The Governor of Puerto Rico delegated to the Executive Director of the Government Ethics Office the authority to grant the dispensations through Executive Order of March 1, 1998, Administrative Bulletin No. OE-1998-06.

<sup>&</sup>lt;sup>22</sup> The positions and hourly rates established originally in the contracts were covered with whiteout and the changes were hand written on top of the whiteout.

<sup>&</sup>lt;sup>23</sup> Were unable to determine at which office the unauthorized changes were made to the PSCs.

<sup>&</sup>lt;sup>24</sup> The officials involved in the process of awarding the contracts included the Coordinator of the SES program, the Coordinator of the OFA's Human Resources Unit, the Director of the OFA, a Human Resources Specialist who reviewed the contracts at the ASHR, and the Auxiliary Secretary of Human Resources who approved the contracts.

<sup>&</sup>lt;sup>25</sup> The Director of the Classification and Retribution Division of the ASHR acknowledged during an exit meeting held with PRDE officials on May 28, 2010, that as of the date of the meeting, the ASHR had not implemented the practice to routinely provide the contracting or program offices copies of the approved PSCs.

Table 1 – Summary	of	Unauthorized	Changes	Mad	e on	Two PSCs
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	A		В		
	Original	Changed	Original	Changed	
	Contract	Contract	Contract <sup>26</sup>	Contract	
Position	Administrative	Auxiliary	Administrative	Auxiliary	
rosition	Auxiliary III	Director	Auxiliary I	Director	
Hourly Rate	\$12.85	\$17.16	\$10.17	\$17.16	
Actual Number of Hours	175	175	137	137	
in Services Provided	173	173	157	157	
<b>Total Payments</b>	\$2,249	\$3,003	\$1,393	\$2,351	
Amount that Could Have Been	N/A	\$754	N/A	\$958	
Improperly Disbursed:	1 <b>\</b> / <i>A</i>	\$154	IN/A	\$730	

#### **Contract and Amendment Deficiencies**

In our review of the 53 PSCs for which contract information was provided, we found deficiencies in PRDE's contracts and amendments. Specifically, we found that—

- PRDE did not identify a control number on 30 PSCs despite the fact that the contracts provided a section for that purpose;
- the contracts did not indicate the date when the contracts were approved on 38 PSCs although the contracts provided a section for that purpose; and
- the contracts were missing information such as contract clauses detailing the tasks to be performed under the PSC, the contract schedule, and the employment status of the contractor for 13 PSCs.

Further, an administrative memorandum issued by PRDE's Secretary on April 17, 2007, states that the PSCs and their amendments cannot have cross-outs or erasures. If the contracts have any errors, a new contract must be prepared. However, 17 PSCs contained erasures, cross-outs, and hand-written changes, and of those 17 PSCs, 12 included initials next to the changes, but none included a date indicating when the changes were made. According to the Director of the Payments Division of the ASF, if the changes were initialed, the personnel of the Payments Division would process payments, presuming that the changes were made by an authorized official with initials provided indicating responsibility for the changes. Three of the 17 PSCs with manual changes were awarded after PRDE's Secretary prohibited the practice of manually changing the contracts with erasures or cross-outs.

None of the 15 contract amendments reviewed were identified with a unique control number or included the control number of the PSCs amended, 6 indicated amendments to professional services contracts instead of PSCs, and 2 did not include the approval date.

In summary, PRDE lacked sufficient controls including standardized written policies and procedures governing the awarding process and requirements for maintaining sufficient documentation supporting compliance with its regulations. PRDE also lacked an adequate archiving system to retrieve requested documents. As a result, PRDE could not provide sufficient documentation supporting compliance with

<sup>&</sup>lt;sup>26</sup> The position established in the original contract was Administration Technician I and the hourly rate was \$12.12. However, the position established in the amendment made to the PSC after it was changed without authorization was Administrative Auxiliary I and the hourly rate was \$10.17. All payments were made in accordance with the amendment.

<sup>&</sup>lt;sup>27</sup> Including the two PSCs that were changed without authorization.

the award process. Without such documentation, PRDE could not establish that it complied with State and Federal laws in awarding those contracts.

The lack of sufficient documentation supporting compliance with applicable regulations in awarding personal services contracts, along with the deficiencies noted in the contracts, amendments, and supporting documentation, reduced the level of assurance that Department funds were used for their intended purposes and increased the risk of misuse and abuse of the funds. For these reasons, we consider PSCs to be a high-risk contracting vehicle. Specifically, the number and the significance of the deficiencies noted are of considerable concern and result from a substantial lack of controls and accountability. As such, we have no assurance that the PSCs not reviewed, amounting to more than \$161 million, were in compliance with State and Federal laws, nor that they were allowable and adequately supported.

#### RECOMMENDATIONS

We recommend that the Assistant Secretary for the Office of Elementary and Secondary Education (OESE), in collaboration with the Assistant Secretary for the Office of Vocational and Adult Education (OVAE) and the Assistant Deputy Secretary for the Office of Safe and Drug-Free Schools (OSDFS), require PRDE to develop and implement—

- 1.1 An adequate archiving system for approved copies of PSCs and supporting documentation to facilitate document retrieval.
- 1.2 Controls to safeguard contract documents throughout the contracting process, including a policy to routinely provide to the contracting or program offices copies of the approved PSCs.
- 1.3 Standardized policies and procedures governing the award process and the requirements for maintaining sufficient documentation supporting compliance with regulations.

#### **PRDE Comments**

PRDE did not concur with our finding and stated that our recommendations are unnecessary because PRDE has taken corrective action. The following summarizes PRDE's comments related to each recommendation.

Recommendation 1.1: According to PRDE, the SEPI system is adequate for filing PSCs and supporting documentation and has improved PSC archives. PRDE acknowledged that, in addition to the PSC information stored in SEPI, it uses a paper-based archiving system to file the PSCs and supporting documentation. In its response, PRDE stated that it is committed to developing a system that will allow it to store scanned PSCs and supporting documents within SEPI or another electronic system. PRDE resubmitted electronic documents with contractual information of the four missing PSCs that it awarded after the implementation of SEPI. <sup>28</sup> It also stated that by December 15, 2010, it will submit alternative documentation for missing contracts as a supplement to its response. <sup>29</sup>

<sup>&</sup>lt;sup>28</sup> PRDE included the documents in Attachment B to its written comments.

<sup>&</sup>lt;sup>29</sup> Since PRDE did not provide any additional documentation as of January 11, 2011, we communicated to PRDE that any additional documentation that it is able to compile should be provided to the Department to be considered during audit resolution.

Recommendation 1.2: PRDE contended that at the time of the audit period it had sufficient controls in place to safeguard PSCs throughout the contracting process. According to PRDE, the controls allowed a PRDE Coordinator to identify the unauthorized changes made to two PSCs and withhold the payments. PRDE added that on June 12, 2010, it established a five-step process for awarding PSCs that further strengthen its internal controls to safeguard contract documentation. PRDE maintained that the new policy addresses Recommendation 1.2.

Recommendation 1.3: PRDE stated that the implementation of SEPI has improved its PSC archiving system, though it continues to use a paper-based system for filing PSCs and supporting documentation. PRDE also stated that it is committed to implementing an electronic system that will allow it to store scanned copies of PSCs and supporting documents within the system. PRDE added that the process enacted on June 12, 2010, also governs the PSC award process and includes the requirement for maintaining sufficient documentation in compliance with regulations. PRDE maintained that its corrective actions address Recommendation 1.3.

#### **OIG Response**

We considered PRDE's response but did not make significant changes to our finding; we did, however, modify Recommendation 1.1 as discussed below in our response to PRDE's comments to specific recommendations.

Recommendation 1.1: Although PRDE asserted that the SEPI system is an adequate archiving system that facilitates PSC and supporting documentation retrieval, it acknowledged its continued use of a paper-based system to file the PSCs. PRDE's paper-based filing system is inadequate as evidenced by PRDE's inability to locate the eight missing PSCs, including four PSCs awarded after the implementation of SEPI.

PRDE re-submitted electronic documents with its comments but not the actual signed and approved contracts for the four missing PSCs awarded after SEPI. Without evidence of the approved PSCs and supporting documentation, PRDE has not provided support that legitimate PSCs were awarded in compliance with Federal and State laws nor that the services were allowable. As such, PRDE needs to improve its archiving system to facilitate its retrieval of PSCs and the supporting documentation. However, we modified Recommendation 1.1 to clarify that PRDE should develop an adequate archiving system for approved copies of PSCs and supporting documentation. PRDE's plans for storing scanned copies of approved PSCs and supporting documentation within SEPI or an alternative electronic system should improve PRDE's archiving system.

Recommendation 1.2: We acknowledge in the finding that PRDE's Coordinator identified the unauthorized changes made to two PSCs and we commend the Coordinator for exercising due diligence by requesting the ASHR to provide copies of the approved PSCs. However, as we noted in the finding, ASHR did not consistently provide OFA with copies of the approved PSCs and did so only at the request of OFA shortly before the unauthorized changes to the PSCs occurred. PRDE's internal controls were insufficient to prevent (1) an individual who was awarded a PSC from personally transporting the PSC and related documentation from the OFA to the ASHR; and (2) payments for PSCs with erasures, crossouts, and hand-written changes. As a result, two PSCs were changed without authorization.

The five-step award process for PSCs described in PRDE's response, if fully and adequately implemented, could reduce the risk for unauthorized changes to PSCs. However, we did not modify Recommendation 1.2 because PRDE also should ensure that the ASHR consistently provides copies of

the approved PSCs to the contracting or program offices to further reduce the risk that unauthorized changes are made to PSCs during the award process.

Recommendation 1.3: PRDE did not provide sufficient evidence with its response for us to ascertain that the new award process for PSCs was officially enacted and approved. As a result, we did not change Recommendation 1.3. Without the proper implementation and enforcement of sufficient internal controls, PSCs are a high-risk contracting vehicle.

## FINDING NO. 2 – PRDE Lacked Sufficient Controls to Ensure that Contract Services Were Allowable and Adequately Supported

PRDE did not implement adequate controls to properly account for Department funds used for PSCs and maintain adequate and reliable documentation in support of PSC payments. In our review of 61 PSCs with a total value of \$459,609 in payments, we identified a total of \$164,914 in questioned costs related to the following—

- no supporting documentation provided for \$147,652 paid for services provided;
- payments totaling \$9,109 for services provided prior to contract approval;
- payments totaling \$3,650 for hours in excess of contracted hours; and
- payments totaling \$4,503<sup>30</sup> for errors in contract compensation rates paid.

Further, we found deficiencies in the attendance sheets and other documentation used by PRDE in support of payments made. Without adequate and reliable documentation in support of payments, PRDE could not sufficiently demonstrate that the PSC services were allowable.

#### **Inadequately Supported Payments**

We reviewed a total of \$459,609 in PRDE payments made with Department funds for services provided under the 61 PSCs selected for review – \$401,920 in payments processed through its paper-based payments system and \$57,689 processed through SEPI. PRDE could not support \$147,652 of the payments made—\$139,935 in payments processed through its paper-based payments system and \$7,717 processed through SEPI. As shown in Table 2, of the total \$147,652 without adequate support, \$27,716 was related to eight PSCs that PRDE did not provide for our review, \$119,880 was not supported with contractor's attendance sheets, and \$56 was for services not recorded in SEPI as being provided.

<sup>&</sup>lt;sup>30</sup> The \$4,503 in questioned costs include \$277 paid to a contractor more than what it should have paid had the compensation been established in accordance with PRDE regulations and \$4,226 paid to two contractors in excess of the contracts based on increased hourly rates without amending the contracts to reflect the increases.

**Table 2 – Detail of Unsupported Payments** 

Unsupported Payments	Missing Contracts	No Attendance Sheets	Services Not Recorded in SEPI but Paid	Total Unsupported
Paper- based Payments System	\$20,055	\$119,880	N/A	\$139,935
SEPI	\$7,661	N/A	\$56	\$7,717
Total:	\$27,716	\$119,880	\$56	\$147,652

In addition, we found deficiencies in the attendance sheets and other documentation used by PRDE to support \$311,957 of the \$459,609 in payments made. Specifically, PRDE did not properly identify the attendance sheets used to support the payments processed through its paper-based payments system with an identification number that referred to the specific contract or amendment under which the services were provided. With the implementation of SEPI, PRDE was able to partially correct the problem by eliminating the practice of making payments based on hard copy attendance sheets. However, when contractors were unable to use the biometric terminals at the worksite for recording time and attendance, contractors used an official form – "Request for Licenses and Adjustments in TAL System" (also known as form DE-14) – to document the number of hours in services provided. PRDE provided evidence of DE-14s prepared for payments made for two of the contracts reviewed, but the forms did not refer to the control number of the PSC under which the services were provided.

For discretionary grants, 34 C.F.R. § 75.730states that

A grantee shall keep records that fully show... (b) How the grantee uses the funds; (c) The total cost of the project... (e) Other records to facilitate an effective audit.

For formula grants, 34 C.F.R. § 76.730 states that

A state and a subgrantee shall keep records that fully show... (a) The amount of funds under the grant or subgrant; (b) How the State or subgrantee uses the funds; (c) The total cost of the project; (d) The share of that cost provided from other sources; and (e) Other records to facilitate an effective audit.

Further, 34 C.F.R. § 80.20(a) states that

... Fiscal control... must be sufficient to: (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

PRDE did not maintain an adequate archiving system to retrieve requested documents. The lack of an important control element such as this clearly contributed to its inability to provide contracts and supporting documents. PRDE also lacked sufficient controls including standardized written policies and procedures requiring that attendance sheets, DE-14s, and other documentation supporting payments made were properly identified to the contract or amendment under which the services were provided. Without adequate and reliable documentation supporting the payments made, we could not confirm that the services were actually provided and that Department funds were used for their intended purposes. The lack of sufficient controls contributed to the unsupported payments and increased the risk of misuse and abuse of the funds.

<sup>&</sup>lt;sup>31</sup> Based on the hours worked included in the form, PRDE made adjustments in TAL to input the number of hours worked that could not be registered biometrically.

#### **Payments Made for Services Provided Before Contract Approval**

PRDE paid at least \$9,109 in services provided under 10 PSCs and 1 amendment that had not been approved by all required officials. The contractors provided the services inside the contract periods established in the contracts and the amendment, but the contracts were authorized by the final approver after some of the services were provided. The correct contract periods should have begun on or after the dates the contracts were approved by all required officials. Had the contracts not received final approval, PRDE could have been held liable for any unauthorized services provided, and the contractors may not have received full payment for services rendered. In addition, we could not determine whether PRDE made payments for services provided before the approval date for 46 additional PSCs of the 61 selected because, as discussed in Finding No. 1, PRDE did not give us 8 of the contracts to review and an additional 38 did not have the approval date. The remaining 5 PSCs had the approval date, and the contractors provided services after the contracts were approved.

Item number 6 of an administrative memorandum issued by PRDE's Undersecretary of Administration on February 5, 2003, states that under no circumstance will contracted personnel be authorized to work until the awarding process has been completed and the contracts have been signed by the Auxiliary Secretary of Human Resources.

PRDE lacked standardized written policies and procedures requiring that programs or offices in need of services submit PSCs to the final approver with enough time to allow for approval of the contracts prior to the contract period. In addition, PRDE did not prohibit authorization of payments for dates that occurred before the contract's approval date and did not require that final approvers include the approval date in the PSCs. As a result, PRDE paid at least \$9,109 in Department funds for services provided before contract approval.

#### **Payments for Hours in Excess of Contracted Hours**

PRDE paid \$3,650 for 73 hours in services provided by a contractor in excess of the total number of hours contracted for one PSC reviewed. PRDE contracted with an individual to provide a total of 489 hours in services as a Project Coordinator for a project named "A New Mathematics Vision" to be carried out from September 2, 2008,<sup>32</sup> through June 30, 2009, at a rate of \$50 per hour. Based on the 489 hours contracted at \$50 per hour, the total cost of the contract was \$24,450. However, we noted that the budget approved to contract a Project Coordinator was \$21,762, an amount that was sufficient to pay for about 435 hours at a rate of \$50 per hour. PRDE ultimately paid the individual the amount of \$28,100 for services provided from September 4, 2008, through June 29, 2009, corresponding to about 73 hours in excess of the number of hours established in the contract. As a result, PRDE's contract included a higher dollar amount than the approved budget allowed, and PRDE paid \$3,650 in Department funds for services provided in excess of the actual contracted hours.

The PSC with the excess hours was awarded after the implementation of SEPI, and all payments were calculated through SEPI, using time and attendance information recorded through TAL. PRDE lacked sufficient controls, including standardized written policies and procedures, to ensure that contract hours are established in the PSCs in accordance with approved budgets. As a result, PRDE paid \$3,650 in

<sup>&</sup>lt;sup>32</sup> The contract period began on September 2, 2008, but it was signed as approved on September 4, 2008. We questioned 3 hours or \$150 paid to the contractor for services provided on September 3, 2008, before the contract was approved as part of the \$9,109 paid for services provided prior to contract approval.

excess of contracted hours. According to PRDE, it had previously identified the error and implemented controls in SEPI to prevent the system from calculating payments on other PSCs for any hours registered in TAL in excess of the contract hours.

#### **Errors in Contract Compensation Rates Paid**

PRDE did not follow its regulations in establishing PSC compensation and as a result paid—

- two contractors a total of \$2,389<sup>33</sup> more than what it could have paid had the compensation been established in accordance with PRDE regulations.
- three contractors a total of \$1,190 less than what it was required to pay based on a compensation policy for PSCs and changes in Federal minimum wage laws.
- two contractors a total of \$4,226 in excess of the contracts based on increased hourly rates without amending the contracts to reflect the increases.<sup>34</sup>

In addition, PRDE did not provide sufficient information to determine the criteria or methodology it used to establish the compensation paid to the contractors in 13 of the 61 PSCs selected for review and 4 of the 16 contract amendments. As a result, we could not determine whether PRDE paid the correct compensation for the 13 PSCs and the 4 amendments.

Article 8 a. and b. of Regulation 6820 states that the teaching and non-teaching personnel that are contracted outside of their regular working schedule or during authorized vacations can be paid either an hourly rate calculated based on 1 percent of the base monthly salary of the position that corresponds to the tasks contracted, or a fixed compensation according to the complexity of the tasks and subject to the availability of funds. The overpayment of \$2,389 resulted from PRDE paying two contractors an hourly rate in excess of 1 percent of the base salary per month for the position corresponding to the contracted tasks. As a result, PRDE paid \$2,389 in Department funds that could have been used for other allowable purposes.

According to a compensation policy that PRDE established through an administrative memorandum issued by PRDE's Undersecretary of Administration on September 27, 2006, PSCs awarded to School Directors to provide services in after-school programs were required to be paid at a rate of \$35 per hour and PSCs awarded to teachers were required to be paid at a rate of \$25 per hour. In addition, under Section 206 (a)(1)(A) of the Fair Labor Standards Act of 1938, as amended (FLSA), covered nonexempt workers are entitled to a minimum wage of not less than \$5.85 per hour effective July 24, 2007. The underpayment of \$1,190 to three contractors resulted from PRDE paying two contractors at lower hourly rates than the rate required by the new compensation policy, and to another contractor, at an hourly rate lower than the rate required by the FLSA. As a result, PRDE paid to the contractors \$1,190 less than what it should have paid.

The overpayment of \$4,226 resulted from increased hourly rates paid to two contractors in response to the compensation policy that PRDE established on September 27, 2006, without amending the contracts to reflect the increases. As a result, PRDE paid \$4,226 to the two contractors, which was more than agreed to and unallowable under the contract agreements.

<sup>&</sup>lt;sup>33</sup> Of the \$2,389 overpaid, we are questioning \$2,112 as unsupported in this Finding because PRDE did not provide the approved PSC. Refer to Enclosure 1 for more details.

<sup>&</sup>lt;sup>34</sup> See Enclosure 1 for details on the errors.

PRDE had not implemented controls, including standardized policies and procedures that clearly indicate when to establish PSC compensation based on an hourly rate of 1 percent of the base monthly salary of a position or a fixed hourly rate based on the complexity of the tasks. Also PRDE had not established a process for amending PSCs when needed, including the effective implementation of new compensation policies and laws applicable to the hourly rates established in PSCs. In addition, PRDE had not required that the program or office that awarded the PSCs adequately document the methodology or criteria it used to establish the hourly rates included in the contracts. As a result, we identified the errors in compensation rates detailed in Enclosure 1.

#### RECOMMENDATIONS

We recommend that the Assistant Secretary for OESE, in collaboration with the Assistant Secretary for OVAE and the Assistant Deputy Secretary for OSDFS, require PRDE to—

- 2.1 Provide adequate and reliable documentation supporting \$147,652 in unsupported payments made, including the eight missing contracts related to the \$27,716 paid or refund the unsupported amount to the Department.
- 2.2 Return to the Department \$17,262 in questioned costs related to \$9,109 for services provided prior to contract approval; \$3,650 in payment for hours in excess of contracted hours; and \$4,503 in payment for errors in contract compensation rates paid.
- 2.3 Consistently follow its regulations and processes in establishing the hourly rates in the PSCs awarded to ensure the most efficient use of Department funds.
- 2.4 Develop and implement internal controls, including standardized policies and procedures that
  - a. Require documentation supporting payments made be properly identified with the contract or amendment under which the services were provided;
  - b. Require programs or offices in need of services to submit PSCs to the final approver with enough time to allow for approval of the contracts prior to the contract period and that the contract periods established in PSCs and recorded in SEPI and TAL begin on or after the dates that the contracts were approved by all required officials;
  - c. Prohibit authorization of payments for services recorded in TAL for dates that occurred before the contract's approval date;
  - d. Require final contract approvers include the approval date in the PSCs;
  - e. Require contract hours established in PSCs to be in accordance with approved budgets;
  - f. Require only the correct number of hours charged by contractors to be approved for payment;
  - g. Establish a process for amending PSCs when amendments are needed to change hourly rates contracted based on changes in policies and applicable laws;
  - h. Clearly indicate when to establish PSC compensation based on an hourly rate of 1 percent of the base monthly salary of a position or a fixed hourly rate based on the complexity of the tasks and require that the methodology or criteria used to establish the compensation rates included in the contracts be properly documented.

#### **PRDE Comments**

PRDE did not concur with our finding and recommendations and requested that the finding be revised and that the recommendations for repayment be withdrawn. Summarized below are PRDE's comments to specific recommendations.

Recommendation 2.1: PRDE stated that it was able to reconstruct alternative documentation for missing contracts and attendance sheets supporting the \$147,652 in unsupported payments. PRDE re-submitted with its response electronic documents with contractual information on the four missing PSCs that it awarded after the implementation of SEPI and requested that we revise our finding and Recommendation 2.1 to account for \$7,661 paid related to the four PSCs.

According to PRDE, our audit coincided with the lay-off of a significant number of employees, including personnel in charge of maintaining PSCs and supporting documentation and with the relocation of those files to other offices. Without the knowledgeable personnel, it was difficult for PRDE to retrieve PSC documents archived prior to the implementation of SEPI. PRDE stated that it currently has an electronic archiving system that can more effectively overcome such challenges in the future.

Recommendation 2.2: PRDE stated that the questioned costs related to payments for services provided prior to contract approval; hours in excess of contracted hours; and for errors in contract compensation rates were allowable and allocable to the grants and that these practices did not cause any harm to the Federal interest. As such, PRDE requested that we eliminate Recommendation 2.2 from the report.

Recommendation 2.3: According to PRDE, it has adequate controls in place to ensure compliance with applicable regulations in establishing the hourly rates for PSCs. PRDE stated that it recently established a process for awarding PSCs; this process includes a review of salary information during the PSC approval process and assures that the compensation established in PSCs is in accordance with the applicable salary scales.

Recommendation 2.4: PRDE's comments stated that –

- 1. PRDE is able to track payments to specific PSCs through the use of SEPI.
- 2. PSCs are required to be approved and in effect before contractors can provide services, and the recently enacted process for the award of PSCs reflects this requirement. The new process also provides sufficient time for the approval of PSCs before the contract period.
- 3. The new process for awarding PSCs requires that the PSCs be complete, including the approval date.
- 4. The new process for awarding PSCs ensures that PRDE officials verify that the PSCs awarded match the employment period budgeted in the contract. Also, PRDE officials verify that program budgets match the PSCs to help ensure that PSCs rendered match the amount budgeted in the program budget.
- 5. PRDE requires a new PSC when the original is in error and/or requires an amendment. This process ensures that new PSCs are prepared when PSCs have salary information outdated by newly enacted policies and applicable laws.
- 6. The new process for awarding PSCs ensures that the compensation rates awarded to PRDE employees are accurate and in accordance with PRDE's pay scales.

#### **OIG Response**

We considered PRDE's response but did not change our finding or make significant changes to our recommendations. We modified Recommendations 2.3 and 2.4, as discussed below in our response to PRDE's comments to specific recommendations.

Recommendation 2.1: PRDE did not submit adequate and reliable documentation with its response supporting the \$147,652 in unsupported payments made, nor the eight missing contracts related to the \$27,716 paid. The electronic documents that PRDE re-submitted with its comments in lieu of the four missing PSCs with a value of \$7,661 awarded after PRDE implemented SEPI do not adequately and reliably support the services paid.

Recommendation 2.2: In response to PRDE's contention that it did not harm the Federal interest when it paid for services provided prior to contract approval; in excess of contracted hours; and based on erroneous contract compensation rates, we believe that such practices could put Department funds at risk of abuse and misuse. The payments that PRDE made for services provided prior to contract approval and in excess of contracted hours were unallowable under the contract agreements. The overpayments that resulted from the errors in contract compensation rates are unallowable and as such constitute a debt to the Federal government. When a grantee uses Federal funds for unallowable costs, those funds are not available to pay for items and services that could help advance the program. Ultimately, the Department is responsible for determining whether PRDE harmed the Federal interest and whether it will recover any funds from PRDE as part of the resolution process of this audit. We revised the recommendation to include as questioned costs the \$277 that PRDE paid to a contractor more than what it should have paid had the compensation been established in accordance with PRDE regulations, as noted on Finding No. 2 and on Enclosure 1 of this report.

Recommendation 2.3: PRDE should ensure that it consistently follows its regulations, including any newly implemented processes for awarding PSCs and in establishing the hourly rates in the PSCs awarded. We revised Recommendation 2.3 to clarify that PRDE must not only follow its regulations but also the processes in place for establishing compensation rates for PSCs.

*Recommendation 2.4:* We considered PRDE's response, but we did not change our finding or make significant revisions to the recommendation. The following is our response to PRDE's specific comments.

- 1. Although we agree that PRDE can use SEPI to track payments to specific PSCs, PRDE must ensure that the supporting documentation properly identifies the PSC or amendment under which services were provided. As discussed in the finding, the contractors are required to document the number of hours provided on DE-14 forms when they are unable to use TAL for recording their time and attendance. In those instances, the DE-14s submitted by contractors provide support for the payments made through SEPI but did not provide reference to the PSC or amendment under which the services were provided.
- 2. We acknowledge that the requirement that prohibits contractors from providing services before the PSCs have been approved was noted in PRDE memoranda on February 5, 2003, and we cite it as criteria in our finding. However, we found that PRDE did not comply with the requirement and paid at least \$9,109 in services provided under 10 PSCs and 1 amendment that had not been approved by all required officials. Regarding PRDE's new process for awarding PSCs, PRDE did

not provide sufficient evidence with its response to ascertain that the process was officially adopted and approved and that it fully addresses our recommendation. PRDE should clearly require programs or offices in need of services to submit PSCs to the final approver with sufficient time for approval prior to the contract period. We revised the recommendation to include that standardized policies and procedures also should require that the contract periods established in PSCs and recorded in SEPI and TAL begin on or after the dates that the contracts were approved by all required officials. We also clarified that PRDE should not authorize, in TAL, services provided before the PSC's approval date to prevent erroneous payments.

- 3. PRDE did not provide sufficient evidence with its response to ascertain that the new PSC awarding process was officially adopted and approved and that it fully addresses our recommendation. PRDE should require that final contract approvers include the approval date in PSCs and enforce compliance with the requirement.
- 4. The verification process described by PRDE for matching the PSC awarded to the employment period budgeted in the contract requires that the approved budget for the PSC be included in the PSC documentation. As discussed in Finding No. 1, we found that PRDE did not provide a certification from PRDE's Budget Office certifying that funds were available in the budget of the program or office requesting the award of nine PSCs nor that the services were allowable for the use of the funds. The new PRDE awarding process described by PRDE in its response did not indicate whether the approved PSC budget was required to be attached to the PSC documentation. PRDE should require that contract hours established in PSCs be in accordance with approved budgets.
- 5. The results discussed in the finding show that the requirement for the creation of new PSCs in the case of errors and/or amendments was insufficient to ensure that PSCs were properly amended or new contracts were prepared to reflect needed changes in the contract compensation rates. PRDE's requirement did not clearly indicate that the requirement for preparing new PSCs must be followed not only when errors are found in PSCs but also when any amendments need to be made to approved PSCs. PRDE should establish a clear process for amending PSCs when needed.
- 6. As discussed in the finding, PRDE did not sufficiently document the criteria or methodology it used to establish the compensation paid to contractors. In addition, at the time of our review PRDE had not implemented standardized policies and procedures that clearly indicate when to establish PSC compensation based on an hourly rate of one percent of the base monthly salary of a position or a fixed hourly rate. PRDE did not provide sufficient evidence for us to validate that its new process for awarding PSCs was officially adopted and approved. Nor did PRDE provide sufficient evidence to validate that its new award process requires the proper documentation of the methodology or criteria used to establish the contract compensation rates. We revised the last bullet of Recommendation 2.4 to indicate that PRDEs policies and procedures should clearly indicate when to establish PSC compensation based on an hourly rate of one percent of the base monthly salary of a position or a fixed hourly rate. Accordingly, PRDE should consistently follow its regulations and processes in establishing the hourly rates in PSCs.

## FINDING NO. 3 – PRDE Did Not Maintain Adequate Information to Reconcile Data in its Financial Accounting and Payment Systems

PRDE did not maintain adequate information to reconcile data in its financial accounting and payment systems. Specifically, PRDE failed to provide reliable expenditure data that reconciled with payment data for \$161,527,366 in payments made during calendar years 2006 through 2008, resulting in a discrepancy of \$15 million. Also, PRDE did not maintain a registry of PSCs corresponding to \$159,474,554 recorded in its paper-based system. As a result, we could not validate the number of awarded PSCs associated with the total payments to reconcile the expenditure data.

#### **Discrepancy Between Expenditures and Payment Data**

We found a \$15 million discrepancy between data for PSC expenditures paid with Department funds during calendar years 2006 through 2008 and the data for payments made during the same period. The total expenditures accounted for in PRDE's financial accounting system <sup>35</sup> are about \$15 million less than the total payments recorded in PRDE's paper-based payment system and SEPI. <sup>36</sup> As a result, expenditures reported for Department funded PSCs could be understated. Table 3 provides details of the amounts in each system and the corresponding discrepancy between the expenditure and payment systems.

Table 3 – Discrepancy Between Expenditures and Payment Data

2006-2008 Calendar Years Period	Expenditures Recorded in PRIFAS/SIFDE	Payments Recorded in Paper-based Payments System	Payments Recorded in SEPI (Oct. – Dec. 2008)	Total Payments	Difference
Total:	\$146,497,812	\$159,474,554	\$2,052,812	\$161,527,366	\$(15,029,554)

PRDE officials stated that a possible cause for the \$15 million discrepancy could be related to timing, specifically, the difference between the dates when PRDE accounted for the expenditures in PRIFAS and SIFDE versus the payment dates recorded in its paper-based payment system and SEPI. Although we requested data or information to explain the \$15 million discrepancy, PRDE did not provide any.

#### Lack of a Registry of PSCs Corresponding to Payments

PRDE could not provide a list of all the PSCs that it awarded during the period of January 1, 2006, through January 31, 2008, which was needed to develop a sampling methodology and select a sample of PSCs for review during the audit. PRDE could not provide the list for PSCs awarded before the implementation of SEPI because it did not maintain a registry of PSCs as required by Regulation Number 33 "On the Registry of Contracts, Deeds, and Related Documents and the Sending of Copies to the Office

<sup>35</sup> PRDE's financial accounting system includes the Puerto Rico Integrated Financial Accounting System (PRIFAS) and PRDE's Financial Information System (SIFDE). SIFDE is the acronym for the name of the system that replaced PRIFAS in August 20, 2007, "Sistema de Información Financiera del Departamento de Educación."

<sup>&</sup>lt;sup>36</sup> After Hacienda issued payments calculated by SEPI, it provided PRDE with an Irregular GL-200 Report with information of the payments made, that PRDE used to account for the payments in SIFDE. The payment data provided by PRDE were extracted from the Irregular GL-200 Report for payments made during the period of October 15, through December 30, 2008.

of the Comptroller," as amended (Regulation 33).<sup>37</sup> As a result, we could not determine the number of PSCs awarded corresponding to \$159,474,554 of the \$161,527,366 paid with Department funds during calendar years 2006 through 2008.

The lack of a registry of PSCs corresponding to the number of PSCs associated with the payments made on those contracts demonstrates a lack of accountability. In addition, the lack of a registry of contracts likely contributed to PRDE's inability to provide the 8 missing contracts, the substantial delays in providing 30 of the contracts, and the identified contract deficiencies detailed in Finding No. 1. Without appropriate checks and balances over PSCs, Department funds are at increased risk of misuse.

PRDE's Auxiliary Secretary of Human Resources stated that PRDE did not maintain a registry of PSCs because it was understood that Regulation 33 did not apply to PSCs but rather to professional services contracts and consulting services contracts. Accordingly, PRDE approved Regulation 6820, which states in Article 7 that PRDE is exempt from the Regulation 33 requirement to submit copies of awarded PSCs to the Comptroller's Office. However, Regulation 6820 did not exclude PSCs from Article 8.b of Regulation 33, which states that contracts that are exempted from being submitted to the Comptroller's Office shall always be noted in the registry of contracts of the awarding government entity. The Comptroller's Office notified us that it had not granted PRDE an exemption from compliance with Regulation 33.

According to 34 C.F.R. § 76.702,

A State and a subgrantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds.

In addition, 34 C.F.R. § 80.20(a) states

... Fiscal control... must be sufficient to: (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

Puerto Rico Law Number 18 of October 30, 1975, as amended, requires that all departments of the Commonwealth of Puerto Rico keep a registry of all contracts, deeds, and related documents that they execute, including amendments to the same. According to Article 8.b of Regulation 33, contracts exempted from the requirement of being filed to the Comptroller's Office shall always be noted in the Registry of Contracts of the awarding government entity, and a copy of the registry sheet must be submitted to the Comptroller's Office under the same terms established for submitting the contracts in accordance with Article 5 of Regulation 33.<sup>39</sup>

<sup>37</sup> The Commonwealth of Puerto Rico Office of the Comptroller (Comptroller's Office) issued Regulation 33 to establish the general rules and procedures to be followed by all government entities in preparing the registry of contracts required by Puerto Rico Law Number 18 of October 30, 1975, as amended, and in filing copies of contracts, deeds, and related documents in the Comptroller's Office.

<sup>&</sup>lt;sup>38</sup> Regulation 33 has been amended several times since it was first adopted. The two amendments that are applicable to our audit scope are the October 5, 2004, amendment, and the June 20, 2008, amendment, which repealed and superseded the 2004 amendment. The excerpt of Article 8.b of Regulation 33 cited corresponds to the amendment approved on October 5, 2004. The same requirement is found in Article 10.b. of the amendment approved on June, 20, 2008.

<sup>&</sup>lt;sup>39</sup> Article 5 of Regulation 33 cited corresponds to the amendment approved on October 5, 2004. The same requirement is found in Article 7 of the amendment approved on June 20, 2008.

#### RECOMMENDATIONS

We recommend that the Director of the Department's Risk Management Service, require PRDE to—

- 3.1 Reconcile the \$15 million discrepancy between the PSC expenditures paid with Department funds during the period of January 1, 2006, through December 31, 2008, and the payment data from its paper-based payments system and SEPI; have an independent audit office or CPA firm assess PRDE's reconciliation and issue an opinion on its accuracy; and return to the Department all of the amounts that cannot be reconciled.
- 3.2 Establish a policy for periodic reconciliation of expenditure data to payment data and ensure that systems contain accurate information.
- 3.3 Establish and implement internal controls, including standardized policies and procedures, to record all PSCs awarded in a centralized registry of PSCs that complies with Regulation 33 requirements. The registry should include sufficient information to properly identify the PSCs and amendments awarded that correspond to payments made for the services provided.

#### **PRDE Comments**

PRDE stated that it recognizes and shares the concerns raised in this finding. PRDE added that it is currently exploring options to reconcile the \$15 million discrepancy found, including the option of contracting with a CPA firm that specializes in forensic accounting to make the reconciliation, as we suggested in Recommendation 3.1 of our draft audit report. PRDE also concurred with Recommendations 3.2 and 3.3.

#### **OIG Response**

We revised Recommendation 3.1 to provide additional approaches for reconciling the \$15 million discrepancy. We also designated the Director of the Department's Risk Management Service as the official in charge of taking final Departmental action on Finding No. 3 and its recommendations because Finding No. 3 involves Department funds overseen by different program offices within the Department.

#### OBJECTIVE, SCOPE, AND METHODOLOGY

The objectives of the audit were to determine whether PRDE followed State and Federal laws in awarding personal services contracts and in ensuring that those services were allowable and adequately supported. The scope of our review was PSCs awarded from January 1, 2006, through December 31, 2008. However, based on the lack of a registry of PSCs awarded during the period of January 1, 2006, through December 31, 2008, as discussed in Finding No. 3, we changed our sampling methodology and reviewed a judgmental sample of 61 PSCs and related payments for services provided during the period of August 29, 2005, through June 30, 2009.

To accomplish our objectives, we –

• Reviewed 53 PSCs, 5 IP contracts, and documentation supporting the contract's awarding process.

- Reviewed payments for services provided under the contracts reviewed and supporting documentation for the payments such as attendance sheets, electronic reports of hours worked produced from SEPI, DE-14 forms, and cancelled checks corresponding to the payments made.
- Reviewed laws, regulations, written procedures, PRDE's administrative memorandums, and circular letters that apply to the award, administration, and payment of PSCs.
- Interviewed personnel involved in the process of awarding PSCs and approving payments from OFA, the ASHR, and the ASF, and officials at the school and district levels involved in the awarding process for PSCs selected for review. We also interviewed four contractors who received five of the PSCs selected for review.
- Performed site visits to PRDE's seven Educational regions to review contract documentation and to interview personnel involved in the process of awarding PSCs and approving payments at the regional level.
- Obtained and analyzed computer-processed data for expenditures, payments, and contracts.
- Performed limited testing of system controls implemented in SEPI.
- Examined a prior audit report of a review conducted by PRDE's Internal Audit Office on personal services contracts.

#### **Sampling Methodology**

As stated in Finding No. 3, PRDE could not provide a list of the PSCs awarded during the period of January 1, 2006, through December 31, 2008, that we could use to select a sample of PSCs for review. As a result, we adjusted our sampling methodology to use data mining techniques to identify potentially high-risk factors in the payment data provided by PRDE. We selected a judgmental sample of 61 PSCs with payments totaling \$459,609 for our review.

To select the sample, we analyzed the payment data and judgmentally selected PSCs related to payments that contained the following factors identified through data mining techniques as potentially high-risk factors in a PSC.

- Payments to individuals with overlapping IP contracts and PSCs.
- Payments that had missing information in the database such as the dates when the services were provided and the gross payment amounts.
- Payments that showed that the payment date was prior to the period of services.
- Payments of more than \$5,000 each.
- Group of payments made to individuals who received \$25,000 or more in payments for services provided during the 2006-2008 calendar-years period.

Because the payment data did not identify the contracts or contract periods related to the payments selected for review, we were unable to determine the actual number of contracts selected until PRDE provided the copies of the contracts and/or additional information.

PRDE also provided an electronic database that listed PSCs and IP contracts with contract periods that covered from January 10, 2008, through September 30, 2009, and were funded with either Federal or

State funds. 40 We analyzed the data provided and judgmentally selected PSCs that had a contract period begin date before December 31, 2008, and contained the following factors identified through data mining techniques as potentially high-risk factors in a PSC.

- PSCs that appeared to have duplicate PSCs in the database.
- PSCs that had the highest hourly rates identified in the database (contracts with a rate of \$50.00 and \$39.95 per hour).
- Overlapping contracts.

We also included in our sample two contracts that were selected based on information that came to our attention indicating they were changed without authorization by an unknown person and two additional contracts awarded to the two individuals that received the contracts changed without authorization. One more contract that we did not originally select for review based on data analysis was mistakenly provided by PRDE along with its supporting documentation, so we reviewed it.

The judgmental sample selected resulted in 61 PSCs covering payments for services provided from August 29, 2005, through June 30, 2009. Although the sample was judgmentally selected based on potentially high-risk factors identified through data mining techniques, it resulted in a diverse set of PSCs selected for review. The sample selected represented PSCs awarded at both the central level and the seven Educational regions for special projects, extraordinary needs, and for developing proposals. The sampled PSCs were awarded to PRDE employees, non-PRDE employees, and retired PRDE employees and were funded with 15 different Department programs.

#### **Data Reliability Assessment**

We obtained computer-processed data from PRIFAS and SIFDE to identify the expenditures incurred by PRDE with Department funds during the period of January 1, 2006, through December 31, 2008. We also obtained payment data from PRDE's paper-based payments system and from SEPI for the same period. We compared the total expenditures accounted for in PRIFAS and SIFDE during the 3-year period with the total gross payments issued to contractors during the same period according to PRDE's payments system and SEPI. As stated in Finding No. 3, we could not reconcile the differences in the expenditure and payment data in the two systems and, as such, we could not fully assess the reliability of the computer-processed expenditure data.

We further verified the accuracy of the payment data by comparing the data related to the \$311,957 in payments reviewed to source documents such as cancelled checks and hard-copy attendance sheets. We recalculated the payment amounts based on hours of services provided according to the hard-copy attendance sheets and electronic reports of hours worked produced by SEPI and the hourly rate established in the PSCs reviewed. We also selected a random sample of 24 payments and traced them to the corresponding transactions in the accounting system PRIFAS and SIFDE. Based on our testing, we concluded that the computer-processed payment data were sufficiently reliable for the purpose of selecting a sample of PSCs to test. However, based on the results of our testing, we are not confident that

<sup>&</sup>lt;sup>40</sup> The data were obtained from SEPI and included the names of the individuals contracted, Social Security Numbers, contract periods, number of hours contracted, rate per hour, positions contracted, an employee identification number assigned by the system, and the Educational Region and Program that contracted the services. It also identified whether the contracts were funded with Federal or State funds but did not include payment information.

PRDE's expenditure and payment systems contain accurate and reliable<sup>41</sup> information – see Recommendation 3.1.

We performed our fieldwork at PRDE's main offices located in Hato Rey, Puerto Rico, and we performed site visits to PRDE's seven Educational region offices. We held an exit meeting with PRDE on May 28, 2010.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

4.

<sup>&</sup>lt;sup>41</sup> The terms "accurate" and "reliable" mean that the systems accurately reflected the actual amounts paid and spent for PSCs during our audit period and that the information could be relied on for official reporting and decision-making purposes.

**Enclosure 1** 

**Detail of Errors in Compensation Rates** 

Overpaid – Questioned Costs	Underpaid	Overpaid – Questioned Costs
Compensation Paid Not Established in Accordance with Regulations	Paid Compensation Less than Required	Contracts Not Amended for Increased Rates
	\$760	
\$2,112	\$420	\$2,980
\$277	\$10.95	\$1,246
\$2,389	\$1,190	\$4,226

#### **Compensation Paid Not Established in Accordance with Regulations**

PRDE paid two contractors a total of \$2,389 more than what it should have paid had the compensation been established in accordance with PRDE regulations.

- PRDE contracted with the Director of PRDE's Property Division to provide services as Executive Director I outside regular working hours. Although PRDE did not provide the signed copy of the contract, PRDE provided an electronic copy<sup>42</sup> of the PSC generated by SEPI, which showed the contracted position, contract schedule, and hourly rate established in the PSC. PRDE paid the employee \$4,231 for 106 hours in services provided from November 1, 2008, through November 29, 2008, at a rate of \$39.95 per hour, which corresponded to 1 percent of the actual monthly salary of the individual as an Executive Director I. The employee's actual salary corresponded to the base monthly salary for his position with additional step increases. According to Regulation 6820, PRDE could have paid the employee a total of \$2,119 for the services provided, based on an hourly rate of \$20.01, which was 1 percent of the base monthly salary for an Executive Director I. As a result, PRDE paid \$2,112 in Department funds that could have been used for other allowable purposes; however, we are questioning the total of \$4,231 paid for services provided during the entire contract period as unsupported since PRDE did not provide the approved PSC.
- PRDE contracted with another employee to provide Administrative Technician services outside regular working hours as a Statistician. PRDE paid the individual the amount of \$1,489 for 100 hours in services provided from June 8, 2006, through August 29, 2006, at a rate of \$14.89 per hour. However, PRDE's OFA authorized payment of an hourly rate of 1 percent of the basic salary of the position contracted, not exceeding the amount of \$1,489 which included fringe benefits. PRDE could have paid \$1,212 for the services provided, based on an hourly rate of \$12.12, which was 1 percent of the base monthly salary for an Administrative Technician. As a result, PRDE paid \$277 in Department funds that could have been used for other allowable purposes.

<sup>42</sup> The electronic copy did not show evidence of approval.

<sup>&</sup>lt;sup>43</sup> The base monthly salaries for positions at PRDE do not include step increases.

#### **Paid Compensation Less than Required**

PRDE paid three contractors a total of \$1,190 less than what it was required to pay based on a compensation policy for PSCs and changes in Federal minimum wage laws.

- PRDE contracted with one of its School Directors to provide services as a School Director outside regular working hours at a school under PRDE's Open School Program. PRDE paid the individual \$1,900 for 76 hours in services provided from December 1, 2008, through May 14, 2009, at a rate of \$25 per hour. However, according to a new compensation policy that PRDE established through an administrative memorandum issued by PRDE's Undersecretary of Administration on September 27, 2006, PSCs awarded to School Directors to provide services in after-school programs were required to be paid at a rate of \$35 per hour. PRDE should have paid to the contractor a total of \$2,660 for the services provided, based on an hourly rate of \$35. As a result, PRDE paid to the contractor \$760 less than what it was required to pay for the services provided.
- PRDE contracted with a retired employee to serve as a Facilitator for PRDE's Education for Homeless Children and Youths Program. The hourly rate established in the PSC was \$20 per hour. However, on October 2, 2006, PRDE amended the PSC twice in the same day. One of the amendments extended the contract period to December 22, 2006, leaving the hourly rate at \$20. The additional amendment increased the hourly rate to \$25 per hour, as mandated by the Education for Homeless Children and Youths Program officials based on the new compensation policy that PRDE established through the administrative memorandum on September 27, 2006. Despite the amendment increasing the hourly rate, PRDE paid the individual a total of \$1,680 for 84 hours in services provided during the amendment period from October 2, 2006, through October 31, 2006, at a rate of \$20. PRDE should have paid to the contractor a total of \$2,100 for the services provided, based on the hourly rate of \$25. As a result, PRDE paid to the contractor \$420 less than what it agreed to pay in the amendment that corrected the hourly rate.
- PRDE contracted with an individual to provide services as an Office Clerk at a school. The hourly rate established in the PSC was \$5.80 per hour. However, the Federal minimum wage applicable during the contract period from September 4, 2007, through May 23, 2008, was \$5.85 per hour, which came into effect on July 24, 2007. PRDE paid the individual \$1,270 for 219 hours worked from September 4, 2007, through December 30, 2007, at the incorrect hourly rate of \$5.80, which represented \$10.95 less than what PRDE was required to pay to the individual. Without amending the contract, PRDE paid the individual the services provided from January 8, 2008, through February 15, 2008, at the correct rate of \$5.85. PRDE amended the PSC effective on February 15, 2008, and paid the remaining services at the correct hourly rate of \$5.85. However, the exact number of hours paid during the period from January 8, 2008, through February 15, 2008, could not be determined because PRDE did not provide the attendance sheets supporting the payment. As such, we are questioning a total of \$2,527 paid for services provided during the entire contract period as unsupported based on the lack of attendance sheets supporting the payments.

#### **Contracts Not Amended for Increased Rates**

PRDE paid two contractors a total of \$4,226 in excess of the contracts based on increased hourly rates without amending the contracts to reflect the increases.

- PRDE contracted with a retired employee to provide services as a Facilitator for PRDE's Education for Homeless Children and Youths Program during the period of August 15, 2006, through May 30, 2007. The hourly rate established in the PSC was \$20 per hour. However, PRDE paid the individual a total of \$14,900 for 596 hours in services provided from October 2, 2006, through May 30, 2007, at an increased rate of \$25 per hour. The increase in rate to \$25 per hour was mandated by the Education for Homeless Children and Youths Program officials based on the new compensation policy that PRDE established through the administrative memorandum on September 27, 2006. However, PRDE did not amend the PSC to approve the increase in the hourly rate paid. As a result, PRDE paid \$2,980 more than what it agreed to in the contract and, therefore, unallowable under the contract agreement.
- PRDE awarded a PSC to a teacher to provide services as a Teacher of Supervised Studies outside regular working hours at a school under PRDE's Open School Program during the period of October 2, 2006, through May 30, 2007. The hourly rate established in the PSC was \$15.70 per hour. However, PRDE paid the individual \$3,350 for 134 hours in services provided from January 9, 2007, through May 17, 2007, at an increased rate of \$25 per hour. The increase in rate was based on the new compensation policy that PRDE established through the administrative memorandum on September 27, 2006, that stated that PSCs awarded to teachers to provide services in after-school programs were required to be paid at a rate of \$25 per hour. However, PRDE did not amend the PSC to approve the increase in the hourly rate paid. As a result, PRDE paid \$1,246 more than what was allowable under the contract agreement.

**Enclosure 2** 

## **PRDE Comments**

#### **PRDE Comments**



OFFICE OF THE SECRETARY

November 15, 2010

Ms. Denise M. Wempe Regional Inspector General for Audit U.S. Department of Education Office of Inspector General 61 Forsyth SW, Room 18T71 Atlanta, GA 30303 Denise. Wempe@ed.gov

RE: Office of Inspector General Draft Audit Report— Audit Control Number ED-OIG/A04-J0005

Dear Ms. Wempe:

Thank you for the opportunity to comment on the above referenced draft Audit Report. The Puerto Rico Department of Education takes the issues raised in your Draft Audit Report very seriously.

While we are continuing to review information related to the personal service contracts discussed in the Draft Audit Report, we have completed our review sufficiently enough to have identified several important inaccuracies in the Draft Audit Report. Our response details these inaccuracies and explains why we disagree with the Draft Audit Report's Findings. For all the reasons explained in our response, we strongly request your reconsideration of the Draft Audit Report's findings and recommendations.

If you would like to discuss these matters or we can be of further assistance, please feel free to contact me.

Sincerely,

Jesus M. Rivera Sanchez, Ed. D.
Secretary

P. O. BOX 190759, SAN JUAN, PUERTO RICO 00919-0759 Phone: (787) 773-5800 FAX: (787) 250-0275

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## Puerto Rico Department of Education Response to Draft Audit Report: ED-OIG/A04J0005

Submitted to:
Ms. Denise M. Wempe
U.S. Department of Education
Office of Inspector General
61 Forsyth SW
Room 18T71
Atlanta, GA 30303

The Puerto Rico Department of Education ("PRDE") submits its response to the United States Department of Education's Office of the Inspector General ("OIG") Draft Audit Report Control Number A04J0005 ("the Audit Report") entitled *Puerto Rico Department of Education Award and Administration of Personal Services Contracts*. The Audit Report concludes that (1) PRDE lacked adequate internal controls to ensure compliance with State and Federal laws; (2) PRDE lacked sufficient controls to ensure contract services were allowable and adequately supported; and, (3) PRDE did not maintain adequate information to reconcile data in its financial accounting and payment systems.

PRDE has reviewed the Audit Report's allegations and has carefully reviewed the specific documentation, policies, and procedures at issue. While PRDE concurs with certain aspects of the Audit Report's recommendations, PRDE disagrees with several of the recommendations. Each finding and its corresponding recommendations is addressed in turn.

## Finding No. 1 – PRDE Lacked Adequate Internal Controls to Ensure Compliance with State and Federal Laws

Finding One of the Audit Report alleges that "PRDE lacked sufficient controls to ensure compliance with State and Federal laws in awarding Personal Service Contracts (PSCs)." Specifically, the Audit Report found that PRDE did not provide all requested contracts for review, did not sufficiently document compliance with the award process, and failed to adequately safeguard contract documentation. These alleged deficiencies in PRDE's internal controls led the Audit Report to recommend that PRDE be required to (1) develop an adequate archiving system for PSCs and supporting documentation to facilitate document retrieval; (2) develop controls to safeguard contract documents throughout the contracting process, including a policy to routinely provide to the contracting or program offices copies of the approved PSCs; and, (3) develop standardized policies and procedures governing the award process and the requirements for maintaining sufficient documentation supporting compliance with regulations.

PRDE believes these recommendations are unnecessary. While PRDE recognizes internal controls can always be improved, PRDE will demonstrate that the specific recommendations are already in place. First, PRDE has an adequate archiving system that facilitates the easy retrieval of PSCs and supporting documentation. Second, PRDE has implemented standardized policies and procedures that govern the award process and the requirements for maintaining sufficient documentation supporting compliance with regulations. These standardized policies, in turn, safeguard PSCs and contract documentation during the award process.

## 1. PRDE's Archiving System

The audit covered the period from August 29, 2005, through June 30, 2009. During most of the audit period, prior to the implementation of the "Sistema de Empleados Irregular y Jornada Parcial" ("SEPI"), PRDE used a paper-based process to award PSCs and issue payments for services rendered. Hard copy contracts were approved by officials with delegated responsibility from PRDE's Secretary. Upon approval, the contract information was recorded in a payment system developed by PRDE's Information System's Computer Center. Individuals with PSCs were required to sign hard copy time and attendance sheets that were approved by assigned supervisors who certified that the services were rendered.

Since 2008, PRDE has made numerous improvements in the manner in which it archives PSCs, chiefly, through the July 1, 2008 implementation of SEPI. SEPI is an online system that creates electronic copies of the information found within the PSCs. SEPI allows for the quick and simple retrieval of PSCs through a query option whereby one can enter either the name or the social security number of the contracted employee to retrieve information found in PSCs.

In addition to contractual information, SEPI also calculates payment for services rendered based on time and attendance information recorded, archived and approved electronically through the Time, Attendance, and Licenses System ("TAL"). TAL works in conjunction with SEPI by requiring that in order for payments to be processed through SEPI, individuals with PSCs record their time and attendance in TAL by scanning their fingerprints in biometrical terminals located at their worksites. SEPI then calculates the payment information, which PRDE transfers electronically to the Treasury Department of Puerto Rico ("Hacienda"). Hacienda does not issue the corresponding payments to the contractors until the process is complete. The issuance of the payments is similar to its process for issuing paychecks to its regular employees.

While SEPI is the source for storing information found within the PSCs, PRDE currently continues to use a paper-based system to file the PSCs and the supporting documentation required for an award of a PSC. The supporting documents PRDE files include, for example, certificates issued by the Administracion para el Sustento de Menores ("ASUME"), evidencing that the individual is current on child support payments, and by Hacienda showing that the contracted employee has submitted a certification of filing an income tax return for the most recent 4 years before they were awarded the PSC. Generally, these documents are attached to the hard copy of the original PSC and held in a file room in the Office of Human Resources at the central level and the respective region issuing the PSC.

The implementation of SEPI and TAL has created a superior archiving system for PRDE, which allows for the quick and easy retrieval of key contractual and payment information within the respective systems. PRDE, nonetheless, continues to work towards improving its archiving system and internal controls. Specifically, PRDE is looking to expand SEPI – or another electronic system – to allow PRDE to scan PSCs – and supporting documents like Hacienda and ASUME certificates into an online system that would store such documentation and similarly allow for the simple and fast retrieval of contractual documentation. PRDE will incorporate these changes as a requirement into its process for awarding PSCs, which is described in more detail below. PRDE believes these expansions to its archiving system will further improve its internal controls and allow PRDE officials to easily verify and review the accuracy and completeness of PSCs issued. Further, these intended mechanisms would equip PRDE with the enhanced ability to safeguard contracts through the award process by being able to verify the original hard copy of the PSC with the final approved PSC uploaded electronically.

The implementation of SEPI and TAL have created a viable infrastructure for PRDE to monitor its internal controls and provide a convenient and safe way to store contractual documentation. PRDE appreciates that these improvements help ensure the accuracy and completeness of contractual documentation and give PRDE better control over its PSCs. As a result of this steadfast progress PRDE has made to its archiving system, PRDE has adequate controls to ensure that PSCs awarded are in compliance with State and Federal laws. As such, PRDE disagrees with Recommendation 1.1's suggestion that PRDE does not have an adequate archiving system.

# 2. PRDE's controls to safeguard contract documents throughout the contracting process

PRDE disagrees with Recommendation 1.2, because PRDE already has sufficient controls in place to safeguard contract documents throughout the contracting process. First, PRDE disagrees with the Audit Report's suggestion that it did not have sufficient controls for safeguarding contract documents in place at the time of the audit. Second, PRDE has recently implemented a new policy regarding the management and processing of PSCs that further strengthened the controls for safeguarding contract documents.

# a. PRDE Internal Controls Safeguarding Contract Documents Identified Unauthorized Change to PSC during Audit Period

At the time of the audit period, PRDE had internal controls in place for the safeguarding of contract documents, which allowed PRDE to identify unauthorized changes to two (2) PSCs. As a result, and as recognized by the Audit Report, no payments were made in accordance with the unauthorized changes. PRDE's contract review and payment approval processes included multiples layers of review of PSCs for accuracy and completeness. In the case of the identification of unauthorized changes to the two (2) PSCs cited in the Audit Report, these unauthorized changes were identified by a Coordinator who habitually reviewed PSCs for accuracy and completeness as a routine part of her responsibilities. Upon discovery, these unauthorized changes were directed to the PRDE Legal Division for corrective action. Indeed, this demonstrates the efficacy of PRDE's internal controls.

## b. PRDE's Process for Awarding PSC

While PRDE already had internal controls in place for the safeguarding of contract documents at the time of the audit, PRDE recently took action to strengthen its internal controls in place for safeguarding contract documents. On June 12, 2010, PRDE issued a memoranda entitled "Instrucciones Para el Manejo y Tramite de los Contratos de Servicios Personales (Jornada Parcial y Personal Irregular)", roughly translated as "Instructions for the Management and Processing of Personal Service Contracts (Part Time and Contracted Employees)" hereinafter referred to as "Process for awarding PSCs", which enacted a policy establishing a five-step process for the review of PSCs and the information contained. This multitier system creates a process for awarding PSCs that charges officials in PRDE's Office of Human Resources with the task of verifying the accuracy and completeness of data gathered for PSCs, thereby providing PRDE with an infrastructure that ensures that PSCs are rendered in compliance with State and Federal laws.

In the first stage of the enacted process for awarding PSCs, the regional offices or central office preparing the PSCs are required to ensure that funds have been authorized for the respective PSC, the dates in which the contractor will work matches the dates for which the PSC has been awarded, the job responsibilities and duties that the contractor will engage in match their awarded position, and to document the total number of hours that will be covered in the PSC. Further, in the first stage, it is mandated that the office preparing the PSC verify that the contractor has submitted all of the documents.

At the second stage, an administrative assistant in the Office of Human Resources is in charge of evaluating the PSCs and ensuring that the PSC has been filled out in its entirety, contains all required information, that the PSC has been signed, that the PSC includes the required attached documents, and that the salary assigned to the contractor is in accordance with the pay scale established by PRDE. This step ensures that at the first stage in the process, all of requisite data has been gathered and that the contractor will be paid the correct salary over the approved time period.

Third, an administrative assistant or a human resource technician in the Office of Human Resources is responsible for entering key data from the PSC into SEPI, and is required to verify that all the required information is found in the PSC. This verification process includes ensuring the PSC contains the correct salary scale and that the employment period granted for the PSC is accurately noted in SEPI, and that the PSC has been signed by all parties. In this stage of the process, PRDE seeks not only to continue to ensure that the information contained in the PSC is accurate and correct but also to verify the accuracy of the salary information.

Fourth, a human resource specialist in the Office of Human Resource verifies that the information in the PSC entered into SEPI is complete and correct, the PSC has been assigned the correct level of funds, the PSC is signed, and that the PSC does not have smudges, alterations, or corrections. This stage continues to verify the accuracy of the PSC and corresponding salary information, and also ensures that improper changes have not been made to the PSC.

Finally, a human resource technician in the Office of Human Resources is in charge of entering the PSC into KRONOS, the time tracking software used by PRDE to monitor the time and attendance of its contractors. This step ensures that the contractor is able to record their time and attendance using the biometric scanning system, and that the PSC granted matches the employment period budgeted for in the contract. Finally, it ensures that the employee will not work more hours than provided for within the terms of their PSC.

The implementation of the multitier system creates several layers of controls to safeguard contractual documentation during the award process. For example, in the fourth stage of the multitier system, the person in charge of approving the PSC is required to verify that the PSC does not have any unauthorized changes, including any improper smudges or corrections. Additionally, in the second and third stage of the process, PRDE requires the charged employee to verify the accuracy and completeness of the PSC and corresponding documentation. This five step process guarantees that at least four PRDE employees will independently review the contract documentation.

The implementation of the multitier process has been covered in trainings to PRDE employees. During the months of April and May, PRDE held trainings in all of its regions regarding the five step process for awarding PSCs. These trainings were facilitated through the use of a PowerPoint covering the newly enacted policy and attendance sheets were collected to ensure that key personnel attending the trainings. *See* Attachment A, PowerPoint Slides, at 4-6.

PRDE's commitment to improve its electronic archiving infrastructure through the implementation of a scanning mechanism to allow for the uploading of PSCs into an electronic system will further strengthen PRDE's controls for safeguarding contract documents. Nonetheless, in its current state, the newly enacted process for issuing PSCs requires significant verification and review for the accuracy and completeness of PSCs, establishing sufficient controls to safeguard contractual documentation.

Accordingly, PRDE is already in compliance with the Audit Report's Recommendations 1.2 and 1.3 and requests, in turn, that these recommendations be eliminated from the Audit Report.

# Finding No. 2 – PRDE Lacked sufficient controls to ensure that Contract Services were Allowable and Adequately Supported

Under Finding Number Two, the Audit Report found that "PRDE did not implement adequate controls to properly account for Department funds used for PSCs and maintain adequate and reliable documentation in support of PSC payments." This finding led the auditors to make four recommendations. Each recommendation is addressed in turn.

## 1. Questioned Costs Related to Supporting Documentation

Recommendation 2.1 would require PRDE to return funds based on the lack of supporting documentation provided to the auditors during the audit. As detailed below, PRDE has and is providing supporting documentation to address costs questioned under this recommendation. Accordingly, PRDE requests that the Audit Report be revised to account for this information.

The Audit Report recommended that PRDE return \$27,716 related to PSCs the auditors did not receive, and therefore were unable to review, during the audit. PRDE herein provides 4 of the 9 PSCs the auditors did not receive. *See* Attachment B, PSC Chart and PSCs 7-10, for the missing PSCs and the actual PSCs for PSCs 37, 38, 46, and 53. These PSCs account for \$7,660.73 at issue, and the questioned costs under this recommendation should be adjusted accordingly.

Even prior to the implementation of the improvements made to its archiving system and internal controls including SEPI and the newly enacted process for awarding PSCs, PRDE had archives in place to retrieve PSCs and supporting documentation. *See* page 2. This process required the filing of PSCs and supporting documentation in the Human Resources offices within the respective regions. The former archiving system PRDE operated faced certain challenges in the face of the economic recession and an extreme deficit, which forced PRDE to lay off significant numbers of employees. Some of the employees laid off held responsibilities tied to the maintenance of PSCs and supporting contractual documentation. As a result, PRDE experienced great levels of transition that coincided with the period this audit was conducted. Other staff slowly replaced or took on the responsibilities of laid off workers, and offices were moved and files were disturbed creating challenges in the quick retrieval of documents during this period. PRDE is overcoming the challenges of this transition and is proud to now have an electronic archiving system that can more effectively weather challenges such as staff turnover and office changes.

PRDE is able to reconstruct alternative documentation for missing contracts and attendance sheets that are implicated under Recommendation 2.1. PRDE expects to have this alternative documentation by December 15, 2010 and will submit such documentation as a supplement to this response.

2. Questioned Costs related to services provided prior to contract approval, payment for hours in excess of contracted hours, and payment for errors in contract compensation rates paid.

Recommendation 2.2 asserts that PRDE (1) allowed for services to be provided before the contract was approved, (2) allowed for contractors to work in excess of their maximum hours granted in their PSC, and (3) did not properly amend PSCs to reflect changes in laws that required certain contracted employees to be paid a different wage than the hourly rate they were initially contracted to work. We address each portion of this recommendation below.

First, the Audit Report's allegation that PRDE allowed contractors to perform work prior to the approval of their respective PSC does not establish any harm to the federal interest. Because the expenditures under the PSCs at issue were allowable and allocable to the grant, no harm to the federal interest was suffered. Significantly, the Audit Report does not aver that wages paid for services under the PSCs at issue raised any allowability or allocability issues. Thus, Recommendation 2.2 should be eliminated from the Audit Report. Had the Audit Report raised any such concerns about the allowability and allocability of these services rendered, PRDE could have easily demonstrated that these expenses were proper under the grant.

PRDE, nonetheless, strives to ensure that PSCs are approved prior to the employee commencing working under their respective PSCs. Specifically, PRDE's implementation of the Process for Awarding PSCs ensures that contractors will not commence working before their contract is approved. In the Process for Awarding PSCs memoranda, PRDE requires that no person commence working until the PSC has been finally approved and in effect. Final approval will not occur until such person has satisfied all requirements to be awarded a PSC, the PSC is filled out accurately and completely, supporting documentation is filed appropriately, and the contract is signed and the information is entered into SEPI. This process requires PRDE employees to secure adequate time to allow for the approval of the contracts prior to the contract period. While we recognize that formal contract approval is an important internal control which is now ensured by PRDE's current system, we also note that the lack of formal approval does not in itself render the expenditures as unallowable.

Second, the Audit Report's charge that PRDE allowed for contractors to work in excess of their maximum hours granted in their PSC is not relevant here because the Audit Report has not demonstrated that a federal interest was harmed. Expenditures paid to PRDE contractors working under PSCs were allowable and allocable to the grants charged, which the Audit Report does not challenge. Again, had the Audit Report raised any concerns about the allowability and allocability of these services rendered, PRDE could have easily demonstrated that these expenses were proper under the grant.

Even so, PRDE takes the extra steps of ensuring that contracted employees do not work more hours than the hours that they have been granted to work under their respective PSC. PRDE monitors to ensure contracted employees do not work more hours than what they are contracted to work by requiring that at the first, second, third and fourth stages of the Process for Awarding PSCs, charged PRDE officials verify that the dates that the PSC lists as that of what the contractor will work matches that what they have been budgeted to work for. See page 3-4. The final date that the contractor can work is reflected in SEPI, thereby strengthening PRDE's monitoring of the hours worked by its contractors. Further, as discussed above, see page 3, PRDE hopes to create better integration and communication between SEPI – or another electronic archiving system – and TAL, to allow for strengthened alert mechanisms to be triggered when contracted employees may attempt to punch-in in deviation of the hours they have been assigned to work.

Third, the Audit Report suggests that PRDE needs a formal policy for amending contracts to ensure compliance with changes in State or Federal laws. It is PRDE's contention that these practices have not caused any harm to the federal interest. The enactment of State or Federal laws governing the payment of personnel working under PSCs trumps the plain language found in a PSC, including the hourly wage found in a PSC. PRDE must comply with such changes in State and Federal Laws, and PRDE's obligations to follow such laws need not be memorialized in PRDE policy procedures. Nevertheless, PRDE has a process in place to ensure that PSCs are properly amended when, for example, changes in laws require a contracted employee to be paid a different hourly sum. In a memoranda issued by then-Acting Secretary Edward Moreno dated November 3, 2009, entitled *Contratos de Servicos Personales* ("Personal Service Contract Memo"), PRDE enacted a requirement that if an error is found in a contractual document, then a new PSC must be drafted. The creation of the new PSC should be in accordance with the Process for Awarding PSCs. This process ensures that when PSCs have salary information outdated by newly enacted policies and applicable laws, new PSCs are crafted in accordance with the Process for Awarding PSCs.

## 3. Consistently follow its regulations in establishing the hourly rates in the PSCs awarded to ensure the most efficient use of Department funds

Regarding Recommendation 2.3, PRDE has adequate controls in place to ensure that it will adhere to applicable regulations in establishing the hourly rates and monitoring salary information during the award process of PSCs. Under PRDE's Instructions for Awarding PSCs, under the second stage of the award process, the person in charge of evaluating the PSCs in the Office of Human Resources must ensure, *inter alia*, that the salary assigned to the contractor is in accordance with the applicable pay scale for the approved time period. The Instructions for Awarding PSCs requires that in the third stage of the award process, the Office of Human Resources similarly verify, amongst other things, that the contractor has been granted the correct salary scale and that the total number of hours reflects the hours that have been approved for the implicated PSC. The fourth stage also requires that the salary information be verified, further requiring that the Office of Human Resources verify that no improper or fraudulent changes have been made to the PSC. The second, third, and fourth stages of the award process implemented by

PRDE are sufficient to ensure that the salary information awarded is accurate. PRDE believes that its newly enacted Process for Awarding PSCs will only continue to hone PRDE's commitment to fairly and accurately awarding salary information under PSCs.

# 4. Develop and implement internal controls, including standardized policies and procedures

Recommendation 2.4 suggests PRDE be required to develop and implement internal controls, including standardized policies and procedures addressing a variety of items. The recommended elements are addressed below.

i. Documentation supporting payments made be properly identified with the contract or amendment under which the services were provided

Under SEPI, PRDE is able to track payments rendered to specific PSCs. See page 3-4 for the steps entailed in PRDE's Process for Awarding PSCs.

ii. Require programs and offices to submit PSCs to the final approver with enough time to allow for approval of the contracts prior to the contract period and prohibit contractors from working before their contract period

PRDE recognizes the importance of ensuring that there is adequate time to attain the final approval on a PSC prior to the commencement of the contract period, and this is reflected in PRDE's enacted Process for Awarding PSCs. In the Process for Awarding PSCs memoranda, PRDE requires that no person can commence working until the PSC has been finally approved and in effect. Final approval will not occur until such person has satisfied all requirements to be awarded a PSC, that the PSC is filled out accurately and completely, attached document is filed appropriately, and the contract is signed and the information is imputed into SEPI. This process requires PRDE employees to secure adequate time to allow for the approval of the contracts prior to the contract period.

## iii. PRDE requires final PSCs to include the approval date in the PSCs

PRDE's implemented Process for Awarding PSCs aims to ensure that PSC information entered into SEPI is complete and accurate. As detailed in the section on PRDE's Process for Awarding PSCs, the second, third, and fourth stages of the process requires the Office of Human Resources to ensure that all required information has been filled out, and the third and fourth stages of the process ensure that the required information has been accurately entered into SEPI. Because requiring that the final approval date is listed on the PSC is a requirement, PRDE has a process in place to ensure that it is required that the final contract includes the approval date of the PSC properly noted in SEPI.

## iv. Require contract hours to be in accordance with approved budgets and only the correct number of hours charged by contractors to be approved for payment

PRDE officials have discussed that program budgets match the PSCs to help ensure that PSCs rendered match the amount budgeted for in the program budget. PRDE believes that this will help PRDE assess its budgeting needs, such that as PSCs may need to be revised, budgets will have to be accordingly fixed. This will require PRDE to be in further consultation with an approved budget as it may deem it necessary to alter the number of hours a contractor may work under a PSC.

# v. Establish a process for amending PSCs when amendments are needed to change hourly rates based on changes in policies and applicable laws

PRDE already has in place a process for amending PSCs when amendments are needed. In a memoranda issued by the Acting Secretary Edward Moreno dated November 3, 2009 entitled Contratos de Servicos Personales ("Personal Service Contract Memo"), PRDE enacted a requirement that if an error is found in a contractual document, then a new PSC must be drafted. The creation on the new PSC should be in accordance with the Process for Awarding PSCs. This process ensures that when PSCs have salary information outdated by newly enacted policies and applicable laws, new PSCs are crafted in accordance with the Process for Awarding PSCs.

## vi. Require that the methodology and criteria used to establish the compensation rates included in the contracts be properly documented

PRDE has a policy in place to ensure that the compensation rates awarded to PRDE employees are accurate and in accordance with PRDE's pay scales. *See page* 3-4 (describing PRDE's controls in place to ensure that it will adhere to applicable regulations in establishing the hourly rates and monitoring salary information during the award process of PSCs).

## Finding No. Three – PRDE's Financial Accounting and Payment Systems

Finding Number Three found a \$15 million discrepancy between data for PSC expenditures paid with Department funds during calendar years 2006 through 2008 and the data for payments made during the same period. Specifically, the Audit Report averred that the total expenditures accounted for in PRIFAS/SIFDE are about \$15 million less than the total payments recorded in PRDE's paper-based payment system and SEPI. This finding led the Audit Report to recommend that PRDE be required to (1) contract with a CPA firm that specializes in forensic accounting to reconcile the \$15 million discrepancy between the PSC expenditures paid with Department funds during the period of January 1, 2006, through December 31, 2008; (2) establish a policy for periodic reconciliation of expenditure data to payment data and ensure that systems contain accurate information; and, (3) establish and implement internal controls, including standardized policies and procedures, to record all PSCs awarded in a centralized registry of PSCs that complies with Regulation 33 requirements.

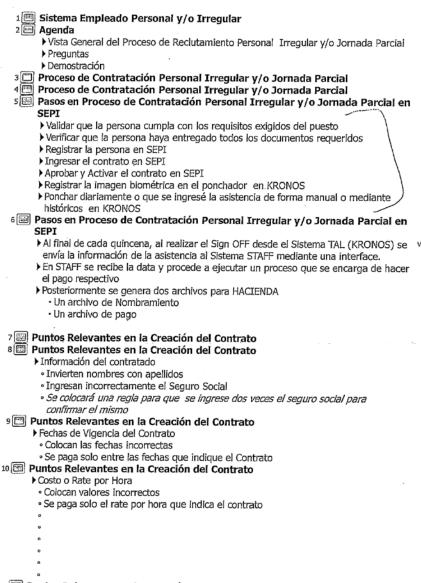
PRDE is currently exploring options to reconcile the alleged \$15 million discrepancy between the PSC expenditures paid with Department funds during the period at issue, including contracting with a CPA firm that specializes in forensic accounting. PRDE accepts the Audit Report's recommendations 3.2 and 3.3, which regard the establishment and implementation of a policy for periodic reconciliation and internal controls to record all PSCs awarded in a centralized registry that complies with the requirements of Regulation 33.

## Conclusion

In closing, PRDE respectfully requests the Audit Report's findings and recommendations be reconsidered. PRDE respectfully disagrees with the Audit Report ED-OIG/A04J0005, and requests that these findings be reconsidered, revised, and that the recommendations for repayment be withdrawn before the issuance of a Final Audit Report. PRDE has demonstrated the presence of a strong internal control system now in place, and thus its archiving system and internal controls should not be classified as a high risk vehicle. PRDE recognizes and shares the concerns that the auditors raised in Audit Report Finding three. PRDE staff appreciates the opportunity to comment and will continue to work to ensure compliance with State and Federal laws in awarding PSCs and in ensuring that PSC services are allowable and adequately supported.

### **PRDE Comments – Attachment A**

11/5/2010



11 Puntos Relevantes en la Creación del Contrato

▶ Total de Horas en Contrato

### PRDE Comments - Attachment A

11/5/2010

- · Colocan la cantidad Inorrecta
- · Estiman incorrectamente la cantidad de horas
- · Se paga solo hasta el máximo que indique el contrato

#### 12 Puntos Relevantes en la Creación del Contrato

- ▶ Horarios incorrectos
- · Confunden PM con AM
- · Seleccionan días incorrectos
- · Se paga en función del horario en el contrato.
- · Horario Flexible deben aprobar las horas , no se recomienda solo en excepciones

#### 13 Licencias

- · Personal Jornada Parcial
- · NINGUNA, este personal no tiene derecho a pago sino trabaja las horas
- No se le debe registrar días de enfermedad, días concedidos, etc.
- · Personal Irregular
- Tiene derecho a vacaciones, enfermedad cuando acumule las licencias según reglas que explicaremos más adelante
- Tiene derecho a licencia de Maternidad NO TIENE DERECHO a otros tipos de licencias. Le aplica la regla de No unionado, 56 días

### 14 🖾 Reglas de Acumulación Irregular

- Después que se sobrepasa el mínimo de horas el empleado comenzará con un baiance de:
  - 7.5 de vacación
  - 4.5 de enfermedad
- Posteriormente seguirá acumulando:
  - 2.5 de vacación
  - 1.5 de enfermedad

## 15 Reglas de Pago

- · Personal Jornada Parcial
- · Recibe el pago en función de las horas trabajadas.
- Personal Irregular
- El personal tiene derecho a disfrutar días de vacación y enfermedad una vez se haya cumplido el mínimo de las horas trabajadas.
- Al terminar el contrato si el empleado aún tiene balance disponible de vacación se le hará una liquidación de esos días
- El balance de enfermedad que el personal no disfrutó antes de la finalización del contrato no se pagará.
- Bono de Navidad si trabajan 960 horas o más en el periodo 1 de diciembre 30 de noviembre del año que se paga.

#### 16 Reglas de Pago

 A partir de Agosto sin la persona no ha registrado su imagen biométrica en los ponchadores no recibirá pago. Esto no aplica a los campamentos de verano

### 17 Situaciones Encontradas

- ▶ No tienen los requerimientos.
- · Ejemplo: Oficinista sin nivel superior aprobado

## PRDE Comments - Attachment A

11/5/2010

