

AUDIT REPORT

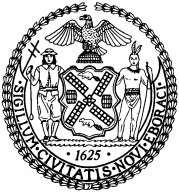


CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Follow-up Audit Report on the Other Than Personal Services Expenditures Of Schools Within the Department of Education Regional Operations Center for Regions 9 and 10

FS07-077F

June 29, 2007



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, §93, of the New York City Charter and Article 52-A, §259m, of the New York State Education Law, my office performed a follow-up audit to determine whether the Department of Education (DOE) Regional Operations Center (ROC) for Region 9 and 10 implemented recommendations in a previous audit entitled Audit Report on Other Than Personal Service (OTPS) Expenditures of Schools Within Regional Operations Center for Regions 9 and 10 (Audit No.FP05-076A, issued May 4, 2005).

DOE Regional Office Center (ROCs) provide operational and financial support to the schools they serve. While school purchases are made at the school level, ROC officials review and approve purchase procedures and documents and process payments for school purchases. We audit City agencies such as this to ensure that they operate in a cost-effective, efficient manner and are accountable for the use of public funds.

The results of our audit, which are presented in this report, have been discussed with officials of the Department of Education, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@Comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/fh

Report: FS07-077F
Filed: June 29, 2007

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*The City of New York
Office of the Comptroller
Bureau of Financial Audit
Support Services Division*

**Follow-Up Audit Report on
Other Than Personal Services Expenditures
Of Schools within the Department of Education
Regional Operations Center for Regions 9 and 10**

FS07-077F

AUDIT REPORT IN BRIEF

This is a follow-up audit to determine whether the Department of Education (DOE) has implemented the 10 recommendations made in a previous audit entitled *Audit Report on Other Than Personal Service (OTPS) Expenditures of Schools Within Regional Operations Center for Regions 9 and 10* (Audit No.FP05-076A, issued May 4, 2005). In this report, we discuss the 10 recommendations from the prior audit in detail, as well as the implementation status of each recommendation.

The earlier audit determined whether DOE procurement policies and procedures were followed for purchases of goods and services made by schools in Regions 9 and 10 that required Regional Operations Center (ROC) approval. In that audit, the auditors determined that the officials of the ROC and schools in Regions 9 and 10 generally did not follow DOE's procurement policies and procedures for purchases that required ROC approval. Specifically, purchase files lacked evidence of competitive bidding when required; vendor invoices were not always on file; files lacked justification for purchases made using the sole-source method of procurement rather than obtaining bids; and, files did not always contain documentation showing that the goods and services paid for were actually received.

In addition, the previous audit cited Park West High School for using funds in its budget to purchase equipment on behalf of another school—Seward Park High School—which is a violation of the New York City Department of Education's Standard Operating Procedures Memorandum No. 2-06, "OTPS Purchases" (SOP).

Audit Findings and Conclusions

Of the 10 recommendations made in the previous audit, the current audit determined that DOE implemented four recommendations, partially implemented four recommendations, and did not implement two recommendations. The recommendations that have not been addressed by DOE include: ensuring that all goods are delivered and services are rendered before payment of

invoices; providing written justification for all sole-source purchases; reviewing specific documentation before approving such purchases; and obtaining the approval of the Executive Director of the Division of Contracts and Purchasing (DCP)¹ for sole-source purchases, as prescribed by the SOP.

In the current audit, we found that weaknesses still exist in the ROC's compliance with the requirements of the SOP pertaining to exception from competitive bidding procedures. Specifically, schools and the ROC are not ensuring that purchases made using the "sole-vendor" and "exception to bid" purchase method are adequately supported and appropriately approved. We also noted weaknesses in the internal controls over purchases at the school level that resulted in schools splitting purchases in order to circumvent the approval requirements for purchases exceeding a monetary threshold and in schools reporting inaccurate certification of delivery information.

Audit Recommendations

To address the issues that still exist, we recommend that DOE officials in conjunction with the district representatives:

- Adequately review purchase orders and their related documentation prior to approving purchases on DOE's FAMIS² to ensure that schools comply with the procurement requirements of the SOP governing exception to competitive bidding; that schools do not circumvent the approval process; and that the purchase method indicated on the purchase order is adequately supported.
- Ensure that schools accurately certify the receipt of goods or services before payment.
- Implement procedures to ensure that the above recommendations are implemented.

¹ As of June 7, 2006, the new name for the Office of Purchasing Management (OPM) is the Division of Contracts and Purchasing; however, for the purpose of this report we will use "OPM" with respect to DOE's prior responses.

² The Financial Accounting Management Information System, which is the DOE accounting system.

INTRODUCTION

Background

The DOE school system is organized into 10 regions and over 1,400 schools providing primary and secondary education to more than one million New York City students. Each region has a Learning Support Center that houses the instructional leadership team as well as a full service support office. Six of these Learning Support Centers also house a ROC, which provide operational and financial support to the schools. While school purchases are made at the individual school level, ROC officials review and approve: school-generated purchase orders; bidding documents for school purchases above a certain monetary limit; and, evidence of receipt of goods and services purchased. ROC officials also process payments for school purchases, except for purchases made on behalf of the schools by the DOE Central Office. The ROC for Regions 9 and 10, the subject of this follow-up, is responsible for the fiscal oversight of approximately 297 schools in those two regions.

There are several methods that individual schools can purchase goods and services. They can be procured through the DOE's on-line Fastrack Ordering Systems for general supplies, textbooks, computer and audio-visual software, athletic supplies, and for other items currently available under requirements contracts with DOE's Department of Contracts and Purchasing. ROC approval is not required for these purchases. Goods and services that are not available through Fastrack may be obtained by purchase orders prepared under DOE's FAMIS. Designated users at individual schools can use FAMIS to electronically generate purchase orders. ROC officials must approve purchases greater than \$15,000 that are obtained under DOE contracts and purchases greater than \$5,000 that are not obtained under DOE contracts. Finally, small purchases or emergency purchases can be handled with a procurement card (P-card) or through the Small Item Payment Process (SIPP), formerly known as the imprest fund. ROC officials review all P-card applications and all SIPP purchases greater than \$500.

Objective

This follow-up audit determined whether DOE implemented the 10 recommendations contained in a previous audit, *Audit Report on Other Than Personal Services Expenditures of School Within the Department of Education Regional Operations Center for Regions 9 and 10* (Audit No. FP05-076A, issued May 4, 2005).

Scope and Methodology

The scope period for this follow-up audit was Fiscal Year 2006. To obtain an understanding of DOE's policies and procedures governing school OTPS purchases, we reviewed relevant documents and sources of information such as:

- the *Standard Operating Procedures Manual, Division of Financial Operations*, revised OTPS Purchases chapter, issued March 2006;
- on-line procedures for *Using FAMIS for Purchasing and Payments*;

- the operation flowchart of the school procurement process;
- OPM's *School Purchasing Guide*, Procurement Policy Chapter:
- *On-line Guide to Certification of Delivery* :
- relevant memoranda, newsletters, and other documents available on the DOE Web site; and,
- DOE's *Audit Implementation Plan (AIP)*, dated December 19, 2005

To evaluate the actions that DOE identified it would take to implement the 10 recommendations that were made in the previous audit, we reviewed the AIP prepared by DOE in response to those recommendations.

To assess whether DOE had in fact implemented the corrective procedures outlined in its AIP and whether the implementation of those procedures corrected the weaknesses cited in the previous report, we conducted tests on OTPS purchases made by Regions 9 and 10 in Fiscal Year 2006.

To assess whether school officials submit certificates of delivery for goods and services, we obtained a list of OTPS expenditures made by Regions 9 and 10 in two e-files (one designating payments and the second designation on-line certifications of delivery) and did a computer match of the payments to the on-line certifications of delivery. In consideration of the monetary threshold of OTPS transactions that required ROC's approval, we limited our audit population to payment transactions greater than \$5,000. From a total population of 85,179 purchases from both regions, we eliminated all transactions that were equal to or less than \$4,999. This resulted in a population of 2,003 transactions for 184 locations in Regions 9 and a population of 1,065 transactions for 112 locations in Region 10. We used our audit population of 2,003 transactions from Region 9 and 1,065 transactions from Region 10 to create two separate databases.

We then created two similar databases using the certification of delivery file. The Region 9 payment transactions were matched with the Regions 9 certification of delivery file as were the Regions 10 payment transactions matched with the Regions 10 certification of delivery. Each file match was conducted using identical properties of records from both the payment file and the certification file.

To determine whether payments made from OTPS goods and services were made in accordance with the requirements of the SOP, we judgmentally selected two audit samples totaling 54 transactions for detailed testing, 33 transactions from the 2,003 transactions from Region 9 and 21 transactions from the 1,065 transactions from Region 10. The total payments for the 54 transactions equaled \$408,705, \$232,312 for the 33 transactions from ten Region 9 locations,³ while the 21 transactions from six Region 10 locations totaled \$176,393.

³ A location might be a specific school or specific program.

We selected locations in Regions 9 and 10 that had three or more transactions greater than \$5,000. However, three transactions from Region 9 that were below \$5,000 were included, because they fell just below the \$5,000 threshold, two of which were from the same vendor.

We were subsequently informed that although Bard High School (M696) is physically located in Region 9, which is in Manhattan; Regional Operations Center E, which, located in Brooklyn, is responsible for its purchases. We therefore obtained three payment packages that were maintained at the school for review.

The previous audit found that officials of the ROC and schools of Regions 9 and 10 generally did not follow the DOE's policies and procedures for purchases that required competitive bidding or purchases that were made using the sole source method of procurement.

We obtained and reviewed each voucher package for the 54 payments to assess whether ROC officials were: reviewing the schools' compliance with the competitive bidding policies and procedures when required, ensuring bidding documentation was maintained; ensuring that the receipt of goods and services were certified by schools prior to authorizing payments to vendors; and, ensuring that all sole source purchases were appropriately justified and approved.

The results of the above tests, while not projectable to all Regions 9 and 10 schools whose purchases required ROC approval, provided a reasonable basis to assess compliance with DOE purchasing procedures.

This audit was conducted in accordance with generally accepted government auditing Standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the City Comptroller's audit responsibilities as set forth in Chapter 5, § 93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with DOE officials during and at the conclusion of this audit. A preliminary draft report was sent to DOE officials and discussed at an exit conference held on April 27, 2007. We submitted a draft report to DOE officials with a request for comments on May 16, 2007. We received a written response from DOE on June 7, 2007. In her response, the Deputy Chancellor stated, "It is my understanding that the Comptroller's Office declined to consider the Manhattan ROC's response to the preliminary audit finding. This response included a request to modify the classification of three recommendations from Partially Implemented to Implemented, and the classification of two recommendations from Not Implemented to Partially Implemented. I am attaching the response memorandum because I believe the arguments have merit and should be considered part of the official record of audit." DOE officials agreed with five of the ten status classifications made in this report regarding previous recommendations. They also agreed to implement this follow-up report's three recommendations.

Auditor Comment: We respectfully disagree with the Deputy Chancellor's statement that the auditors declined to consider the Manhattan ROC's response. As a point of fact, we did

consider the ROC's explanations. However, we could not concur with the assessment of the ROC officials and therefore did not change our determination of the implementation status of the previous audit's recommendations.

The ROC requested that the status of three previous recommendations be changed from Partially Implemented to Implemented—those concerning the retention of bidding documentation, the submission of certificates of delivery, and ensuring that goods are delivered and services are rendered before payment. The ROC also requested that the status of two previous recommendations be changed from Not Implemented to Partially Implemented—those concerning the need to review all sole-source purchases to ensure that school officials provide written justification. The results of our testing found error rates that ranged from 12.5 percent to 43.5 percent. Evidence of error rates of this size show the ROC is not compliant with the SOP in these areas. Therefore, changes in the status of the recommendations requested by the ROC and DOE are not warranted.

The full text of DOE's comments is included as an addendum to this report.

RESULTS OF THE FOLLOW-UP AUDIT

Of the 10 recommendations made in the previous audit, the current audit disclosed that DOE implemented four recommendations, partially implemented four recommendations, and did not implement two recommendations. The issues cited in the previous audit that have not been addressed by DOE and the ROC include: ensuring that all goods are delivered and services rendered before payment of invoices; providing written justification for all sole-source purchases; reviewing specific documentation before approving sole-source purchases; and obtaining the approval of the Executive Director of the DCP for sole-source purchases, as prescribed by the SOP.

We also noted new internal control weaknesses not cited in the previous audit. Poor internal controls over purchases at the school level allow schools to split purchases in order to circumvent the approval requirements for monetary threshold.

Previous Finding: “Problems with Bidding Documentation”

The files for eight of the 12 purchases that required bidding were either missing information or contained highly questionable bid documentation. Relevant competitive bidding documentation had not been maintained in the files in accordance with the SOP. Therefore, we could not be assured that these purchases were actually competitively bid.

Previous Recommendation #1: ROC officials should “ensure that school officials comply with procurement regulations requiring written bids from separate vendors. In that regard, all bids must be independent and solicited from separate vendors.”

Previous DOE Response: “ROCs will ensure that schools officials comply with the SOP written bids from independent and separate vendors. The steps include, but are not limited to, the ROC approval officers reviewing all written bid documentation prior to FAMIS electronic approval of purchase orders to ensure compliance.

“ROC Team members will continue to provide the necessary training to new school staff and monitor this process. The revised SOP OTPS chapter posted in February 2005 provides the ROC and the field with a training curriculum. Additionally, we have stressed to schools that contracted vendors should be used wherever possible and that if there is a need to purchase from non-contracted vendors, bids must be obtained. For all purchases exceeding \$5,000, bids must be forwarded to the ROC prior to approval of the purchase order. Any bids received from vendors above \$10,000 must be sealed and read at a public opening. ROC procurement team members have also been made aware of the need to review bid documentation more closely prior to approval to ensure compliance.

“Letters will be generated by ROC staff and given to schools to correct patterns of identified abuse of competitive bidding procedures.”

Current Status: PARTIALLY IMPLEMENTED

We did find evidence that ROC officials periodically reviewed school compliance with the purchasing procedures outlined in the SOP and issued letters of non-compliance to the schools, when necessary. However, these reviews were made on completed purchasing transactions, not on transactions that were in process. In addition, training sessions were conducted for principals, school staff, and other personnel covering topics such as the FAMIS Portal Purchasing and SOP Compliance.

Twenty-four of the 54 transactions sampled were considered “3 Bids.”⁴ In six of the 24 sampled transactions that were classified as “3 Bids,” there is no evidence that bids were solicited or if present, the evidence was not clearly documented or not complete. In two of these six cases, the purchase order states that the purchase method used was “3 Bids,” but the purchases were actually processed as sole-source vendor purchases. The files lacked evidence that bids were solicited. For the remaining four transactions, the file contained a bid summary sheet, but the detailed vendor bid information needed to support the information on the summary sheet is missing from the files. In one of the six instances, after we notified ROC officials of the missing documentation, the documents were obtained and added to the file.

The SOP requires that the ROC review relevant purchase documentation prior to approving a purchase through the on-line FAMIS Portal system. In the instances of non-compliance cited above, the documentation in the files we reviewed did not support the purchase method indicated on the purchase order. This would have been detected had the purchase documents been adequately reviewed by ROC personnel, as required. Therefore, we consider the recommendation to be only partially implemented.

ROC Response: “In the two cases where the purchases were entered as 3 bids but processed as sole source, the ROC maintains that the purchases were sole source and contained appropriate documentation for that classification. Schools incorrectly selected the 3 bid option upon entering the purchase order and the ROC failed to reject the order for this edit, which must be made by the initiator. The ROC maintains that these examples do not support the previous finding of “Problems with Bidding Documentation” because although they were incorrectly classified as 3 bids, they ultimately did not require bids as the sole source requirement was met and documented.

“In the four remaining cases, two examples had insufficient bid documentation, one had bids from three vendors but lacked a price quote for one item among several purchased, and one had complete bid documentation in the form of copies faxed to the ROC. The ROC will continue to emphasize the critical nature of complete and original bid documentation and price quotes in training sessions for both school and ROC staff.

“The ROC requests that the findings be revised to reflect that three of 24 sampled transactions did not have sufficient bid documentation and one of 24 sampled transactions did not have original bid documentation in the file.”

⁴ “3 Bids” is a purchase method that requires at least three bids be solicited.

Auditor Comment: ROC officials do not dispute our opinion. However, their explanation that the schools incorrectly selected a specific option and that the ROC failed to reject the order suggests that there is a control problem in the review process that should be addressed.

Previous Recommendation #2: ROC officials should “ensure that school officials maintain all appropriate bid documentation on file.”

Previous DOE Response: “ROCs will ensure that school officials maintain all appropriate bid documentation by effective outreach communication and on-going training of school procurement staff. ROC Team members will include an assessment of school file maintenance systems during routine school visits and will recommend changes where necessary. In instances where inadequate filing systems exist, a follow-up visit to ensure compliance with changes will be conducted.

“School internal controls training including the importance of checks and balances (processor/approval functionality) at the school level to avoid potential for corruption, and adherence to Standard Operating Procedures. . . . The ongoing training of ROC Customer Service Team Members so that they are prepared and knowledgeable when explaining the purchasing guidelines to school. Management has implemented a bi-weekly auditing of employee documents based on the review of randomly selected school documents.”

Current Status: PARTIALLY IMPLEMENTED

As previously stated, the voucher files maintained at the ROC for six of 24 sampled purchases that required bidding did not contain all required bidding documentation. In two of these six cases, the purchase order states that the purchase method used was “3 Bids,” but the purchases were actually processed as sole-source vendor purchases. There was no evidence that bids were solicited for these purchases and the purchases were approved by the ROC. The detection of these types of errors requires the diligent monitoring of purchases before a purchase is approved and a purchase order is generated.

ROC officials stated there is an ongoing effort to educate school staff responsible for procurement as to the importance of compliance with the SOP. A review of training documentation disclosed that procurement training classes geared toward school staff members were held in Fiscal Year 2006. During the period of September 2005 through June 2006, approximately 18 classes that covered various aspects of the DOE procurement process and targeted to different staffing levels were offered. For instance a comprehensive training session that was offered from September 19 through October 7, 2005, targeted principals, business managers, Administrative Procurement Officers, and secretaries. Therefore, we consider the recommendation to be only partially implemented.

ROC Response: “In the previous response the ROC detailed plans for outreach communications and on-going training which were fully implemented and reflected in the findings. The three examples of insufficient bid documentation discussed above represent only 12.5% of transactions sampled. While this failure rate leaves room for improvement, it does not negate the full implementation of a robust outreach and training effort on the part of the Manhattan ROC. The ROC requests that the finding be revised to IMPLEMENTED status.”

Auditor Comment: The ROC does not dispute our observation and acknowledged a 12.5 percent error rate. However, in our opinion a 12.5 percent error rate is material and we therefore cannot concur with its request to change our determination of the status of the recommendation.

Previous Recommendation #3: “ROC officials should review the file containing the questionable bid documentation and determine whether the matter should be referred to the Special Commissioner of Investigation for the NYC School District.”

Previous DOE Response: “This recommendation was implemented on March 16, 2005. The matter was referred to the Special Commissioner of Investigation whose Office issued SCI Complaint #2005-0736.”

Current Status: IMPLEMENTED

We obtained and reviewed a copy of a letter, dated January 3, 2006, from the Office of the Special Commissioner of Investigation (SCI) that was addressed to the schools Chancellor, indicating that an investigation into SCI Case #2005-0736 had been performed. SCI made two recommendations to the Office of Legal Services and the State Education Department. As recommended by SCI, a disciplinary letter was placed in the individual’s file and all privileges to procurement and financial matters were discontinued. The individual later retired effective July 1, 2006. Therefore, we consider the recommendation to be implemented.

Previous Recommendation #4: “ROC officials should ensure that school officials properly classify purchases from contracted vendors and from non-contracted vendors.”

Previous DOE Response: “In the cases highlighted in the audit findings, proper procedures were followed based on the appropriate vendor classification. ROC’s approving officers will monitor closely all non-contract purchase orders in the ROC approval path to ensure proper classification of vendors. Purchase orders are processed through the FAMIS electronic portal system. Purchase orders that are misclassified will be rejected prior to approval and electronically returned to the initiating school with instructions to cancel and re-encumber properly as a contract purchase order.

“ROC A will begin investigating the potential for development of an enhancement to the FAMIS system that, upon entry, will detect non-contract vendors that should be classified as contract vendors and prohibit processing.”

Current Status: IMPLEMENTED

There is evidence that ROC Contract Officers do periodically review purchase documentation to assess school compliance with the requirements of the SOP. Based on these internal reviews, ROC Contract Offices issued “Notice of Non-Compliance with Standard Operating Procedures” memoranda addressed to the school principals. Purchase orders are issued through the FAMIS portal and authorized ROC officials can access the system to approve or reject a purchase before the purchase order is sent to a vendor.

However, we did note one instance of the 54 sampled transactions where the purchases were incorrectly classified as from a non-contracted vendor when in fact the vendor was contracted. Although it was after the purchase was made and goods were received, there was evidence that the matter was addressed. Therefore, we consider the recommendation to be implemented.

Previous Finding: “Missing Delivery Certifications and Vendor Invoices”

Of 51 sampled purchases, 17 files had not contained the documentation required to certify that purchased goods or services had been received. Seven of these purchases had been for goods while the remaining ten had been for professional services. In addition, vendor invoices had been missing from four files.

Previous Recommendation #5: “ROC officials should ensure that school officials submit certificates of delivery for goods or services prior to payment of invoices.”

Previous DOE Response: “In instances where timely payments were required, ROC staff contacted schools to confirm receipt of delivery of goods. Because of the acknowledged difficulty of obtaining certificate of delivery from schools, an on-line certification will be implemented to comply with this recommendation. School officials will be able to certify the delivery of goods and services on-line at the time of receipt. In the same manner, ROC Team members will verify whether all goods and services have been certified prior to invoice payment. It is expected that the FAMIS portal enhancements will be implemented prior to the end of the current Fiscal Year.”

“The online certification screen has been functioning since August 2005 and will greatly improve and streamline the receipt of school certification of delivery and improve timeliness of payment to vendors. Contracted Vendors: ROC staff were instructed to pay invoices upon receipt and utilize post certification of delivery process. Non-Contracted Vendors: ROC staff were instructed to voucher only upon receipt of invoice and certification of delivery.”

Current Status: PARTIALLY IMPLEMENTED

As stated in DOE's Audit Implementation Plan, an on-line certification of delivery feature was added to the FAMIS Portal and became operational as of August 1, 2005. According to the documentation for this function, "this user friendly enhancement enables site supervisors (or designees); ROC personnel and central office administrators to monitor and improve accuracy of payment in a quick and efficient manner." However, this system is not being used by all locations to certify the receipt of goods and services. Generally, locations in Regions 9 and 10 used the new FAMIS on-line certification portal to certify delivery of good/services received in Fiscal Year 2006 approximately 80 percent of the time. Specifically, 39 (21%) of the 184 locations in Region 9 and 23 (21%) of the 112 locations in Region 10 either did not use the on-line system to certify delivery for any of their OTPS purchases or only used the on-line system some of the time.

We discussed the inconsistent use of the online portal to certify receipt of goods and services with a ROC official. This official provided various reasons for why transactions in FAMIS appearing in the payment file did not always have a corresponding match in the certification file. The official commented that some locations may use e-mail and other paper instrument to certify delivery, or because of the nature of the payments they were not vouchered by the ROC.

In addition to the population match described above, we verified whether schools certified receipt of good/services for our 54 sampled purchases before payments were made to the vendor. We found that receipt for two (from Region 9) of the 54 sampled purchases was not certified before payment was made to the vendor. DOE's procurement procedures allow for payment to be made to a contracted vendor without certification of delivery documentation; however these two purchases were not from a contracted vendor. Therefore, we consider the recommendation to be partially implemented.

ROC Response: "Only one of the two examples supports the finding that payment was prior to certification. In the second example, the school had in fact certified delivery of a service prior to service delivery, and the invoice was paid. The ROC maintains that the implementation of the on-line certification system has vastly improved ability to verify receipt of delivery prior to payment. A failure rate of less than 2% should not mitigate the appropriate status of IMPLEMENTED. Still, the ROC will continue to provide training to schools on the on-line certification of delivery while emphasizing the advantages over a manual system."

Auditor Comment: The ROC does not dispute our observation and offers no proof to substantiate its claim. However, while it is commendable that DOE has implemented an on-line certification of delivery feature to the FAMIS Portal to improve its ability to verify receipt of delivery prior to payments, not all the schools are utilizing this feature. Therefore, DOE cannot rely on the on-line certification of delivery feature to ensure that all goods have been certified as delivered before payment. Additionally, the fact that an error rate exists does not warrant this recommendation being designated as implemented

Previous Recommendation #6: ROC officials should “Obtain invoices prior to paying vendors for goods and services purchased.”

Previous DOE Response: “ROC officials have instructed ROC staff responsible for vouchering that they are responsible for obtaining invoices prior to making payments. Contract managers have conducted training session regarding this recommendation. Invoices will be maintained at the ROC site.”

Current Status: IMPLEMENTED

An invoice was present in all the files of the 54 sampled transactions maintained at the ROC. Therefore, we consider the recommendation to be implemented.

Previous Finding: “Invoice Improperly Paid”

For one of the 51 sampled purchases, the ROC had processed a \$5,064 invoice before the goods had been delivered.

Previous Recommendation #7: The ROC should “ensure that all goods are delivered and services rendered before payment of invoices, in accordance with the SOP.”

Previous DOE Response: “Only 1 of the 57 POs sampled reflected this finding, indicating that the ROC demonstrated compliance in practice with the SOP. . . . The new on-line certification system will support enhanced compliance with this recommendation. . . . School officials will be able to certify the delivery of goods and services on-line at the time of receipt. In the same manner, ROC Team members will verify whether all goods and services have been certified prior to invoice payment. . . . Contracted vendors (Commodities only): Vendors will be paid based on receipt of invoice and a post certification of delivery process will be utilized to ensure receipt of contracted items.”

Current Status: PARTIALLY IMPLEMENTED

Payments for four of the 54 sampled transactions were authorized without appropriate evidence that the goods or services were received.⁵ In two of the four instances, we found no evidence that delivery of service was certified, yet payment was made to the vendor. It should be noted that according to an agreement between DOE and the specific vendor, the service was to be provided in Fiscal Year 2007. For the remaining two instances, payment was made to the vendor before delivery was certified. Therefore, we consider the recommendation to be partially implemented.

ROC Response: “Two of these examples (payment prior to delivery certification) were discussed in response to Previous Recommendation #5. For the two instances where

⁵ The four transactions totaled \$36,586 out of the 54 sampled transactions that totaled \$408,061.85.

findings state that payment was made without certification, the ROC maintains that WO6023723 was in fact certified through email, which was documented in the file. The final example was for Dell, and was incorrectly paid without certification. This oversight can be explained because although the goods received were non-contracted, Dell is a contracted vendor. Again, the ROC maintains that a failure rate of less than 2% does not warrant the finding of “Partially Implemented” and requests a revision to a status of “IMPLEMENTED” with regard to the successful launch and ongoing utilization of the on-line certification of delivery tool.

“As stated above, the ROC will continue to provide training to schools on the on-line certification of delivery while emphasizing the advantages over a manual system.”

Auditor Comment: The ROC offers no proof to substantiate its claim. As stated previously, by accepting an error rate DOE exposes itself to the risk that payments will be made without goods being delivered or services being performed.

Previous Finding: “Lack of Documentation to Support Sole-Source Purchases”

Files for four purchases from three schools had not contained the documentation required to substantiate their classification and approval as sole-source purchases. As a result we could not determine whether the use of the sole-source method for these purchases was appropriate.

Previous Recommendation #8: The ROC should “ensure that school officials provide written justification for all sole-source purchases, in accordance with the SOP. The ROC should review this documentation before approving such purchases.”

Previous DOE Response: “ROC A will ensure that schools officials comply with the SOP requirements for sole source purchases. The steps include, but are not limited to, the thorough review of sole source determinations and school officials’ written justification(s) by ROC approval officers.

“ROC Team members will continue to provide the necessary training to new school staff on requirements for use of sole source. The revised SOP posted in February 2005 provides the ROC with a training curriculum.”

Current Status: NOT IMPLEMENTED

We found that 17 of 23 sampled purchases that were classified as exception to bid or procured as sole-source lacked evidence to justify the procurement method used for these purchases. Specifically, these files lacked evidence that other possible vendors were researched, that the school had a justification for the vendor selected, or that the school received the appropriate approval to engage in the procurement method used for the purchase.

The SOP states that a sole-source situation exists “when a vendor, for very specific reasons, is identified as the only feasible source for obtaining certain items.” In that regard, the SOP requires: “Evidence that no other service provides substantially equivalent or similar benefits, and that, considering the benefits received, the cost of the service is reasonable” or “Documentable evidence that there is no possibility of competition for the procurement of the item.” Therefore, we consider the recommendation not to be implemented.

ROC Response: “Backup requested from the City Comptroller to investigate the finding listed 19 purchase orders for Previous Recommendation #8 rather than the 17 contained in the report. Upon review, the ROC found: one of the Purchase Orders listed (WO6016687) was a 3 bid document, not sole-source; and three Purchase Orders (WO6023505, WO6010515 and WO6010523) were for an empowered school (formerly A-Zone) supported by the Brooklyn ROC.

“Upon review of the remaining 15 purchase orders listed, the ROC found that three of the 15 documents contained school violations including two (WO6021223 and WO6020827) that were less than \$5,000.01 and therefore not approved at the ROC level, and one (WO6001126) where the school received services without a purchase order. This purchase order was later created as an exception to bid so that the vendor could be paid; the school was issued a violation letter.

“Among the remaining 12 violations, the ROC provided documentation for: WO0600183 where the vendor was contracted but the document was entered incorrectly as a WO; WO6023038 where the vendor was named in a grant letter and the document was entered as exception to bid.

“The ROC requests that the finding be revised to state that ten of 23 sampled purchase orders classified as sole-source lacked evidence to justify the procurement method used for these purchases, and classify the Recommendation as **PARTIALLY IMPLEMENTED**.

“In addressing the failure of control for the ten remaining violations, the ROC will ensure that training highlights the need to obtain sole source justification letters from both the vendor and the principal, which was the most common violation among these ten.”

Auditor Comment: The ROC’s explanation and its admission that 10 of the 23 purchases orders sampled are incorrect, representing a 43.5 percent error rate, do not justify any change in status for this recommendation. Further, it should be noted that from the payment data provided by DOE, we found that Region 9 has been paying for purchases incurred by Bard High School, although it is not responsible for the oversight of Bard High School. Bard High School is the responsibility of Regional Operations E (Region 8), in Brooklyn. Further, the ROC offers no proof to substantiate its claim that the remaining purchase orders are correct.

Previous Recommendation #9: The ROC should “ensure that school officials obtain the approval of the OPM administrator for sole-source purchases, in accordance with the SOP.”

Previous DOE Response: “It was believed based on the regulations communicated to the ROCs in FISCAL YEAR 03-04, that all sole source purchases between \$5,000.01 and \$15,000 were to be decided upon by the ROCs without the necessity of OPM involvement. All schools have been notified that written justification, indicating the steps taken to ensure the requested vendor is truly a sole-source, is required. ROC contract officers and staff have been directed to implement a closer review of all sole source purchases above \$5,000 to ensure that they are in compliance with Standard Operating Procedure requirements. . . . The ROC Contract Officers forwards all sole-source documentation including the budget work plan, documentation of alternate vendor searches as well as evidence of copyrighted materials to the DCP Administrator for professional services above \$5,000.”

“Regardless of sole source authority, the ROC will continue to identify ongoing procurement needs throughout both Regions and advise Central Administration of the need for RFPs as appropriate.”

“Additionally, a recommendation has been made to the Division of Financial Operations to eliminate sole source as an option for schools when processing a purchase order. If approved, all sole-source purchases would be processed at the ROC.”

Current Status: NOT IMPLEMENTED

The files for 22 of the 23 sole-source purchases in our audit sample lacked documentation to support the approval of the Executive Director, Division of Contracts and Purchasing (DCP). According to the SOP, sole-source purchases of commodities over \$15,000 and professional services and technology purchases over \$5,000 should be approved by the Executive Director, DCP. The process requires that schools forward relevant sole-source documentation to the ROC for review, and the ROC Contract Officers in turn should forward the documents to the Executive Director for approval. Therefore, we consider the recommendation not to be implemented.

ROC Response: “Of the 22 documents provided as back-up to the draft report, the ROC found that eight documents should not have been included. One document (WO6023551) was listed twice; three documents (WO6023551, WO6020827 and WO6021223) were not approved by the ROC by virtue of their value below \$5,000.01; two documents (WO6023505 and WO6010523) were from an empowered school (formerly A-Zone) which was supported by the Brooklyn ROC; and two (WO6008045 and WO6020748) were 3 bid documents.

“Of the remaining 14 documents, five were orders from Dell, and followed the appropriate procedure put in place for non-contracted Dell items on August of 2005, after

the response to the original Audit No FP05-076A was submitted. This procedure is known as the FAMIS Exception Process for Computer Hardware; a copy was provided to the auditor and is also attached to this response. These documents are: WO6010667; WO6010218; WO6010106; WO6011746; and WO6012423.

“Of the remaining 11 documents, two (WO6019212 and WO6007669) were processed as Exception to Bid in order to pay vendors who had been engaged by schools to provide commodities or services without a purchase order. These schools received violation letters from the ROC.

“The ROC requests that the findings are modified to state that nine of 23 sole-source or exception to bid documents in the sample lacked documentation to support the approval of the Executive Director, Division of Contracts and Purchasing. In recognition of this reduced number, the ROC requests that the status be reclassified as PARTIALLY IMPLEMENTED.

“With regard to the nine violations, the ROC will implement a more rigorous procedure to ensure that the Executive Director for Contracts and Purchasing is involved in the process to approve all sole source WOs.”

Auditor Comment: In its response, the ROC requests that we change the status of the recommendation from Not Implemented to Partially Implemented without offering proof to substantiate its claim. Further, DOE agrees that there were errors in 9 of 23 sampled purchases, which represents a 39.1 percent error rate. We do not believe an error rate of this magnitude warrants a change in our assessment of the status of the recommendation. Moreover, the three purchases that the ROC considers to be invalid due to the purchase value not exceeding \$5,000 were, as we note later in this report, actually split purchases, which is also a violation of the SOP.

Previous Finding: “Inappropriate Purchase”

Park West High School purchased furniture, including tables and chairs, which had been intended for use at Seward Park High School in violation of the SOP.

Previous Recommendation #10: ROC officials should “remind school personnel that they are to purchase only those items that are needed to conduct programs within their schools.

Previous DOE Response: “Schools will be reminded to comply with the SOP accordingly. The specific incident cited in the Draft Report has been referred to the Special Commissioner of Investigation as stated in response number four above.”

Current Status: IMPLEMENTED

Our review of the 54 sampled purchases did not disclose any incident of inappropriate purchases. Therefore, we consider the recommendation to be implemented.

New Issues

Weaknesses in Internal Controls over Purchases at the School Level

During the current audit, we noted a school split purchases in order to circumvent the monetary threshold and avoid obtaining appropriate approvals from the ROC. Our review of files for sampled purchases made by Region 9 in Fiscal Year 2006 disclosed one instance where schools split purchases. The split purchase occurred at Intermediate School 162 (X162).

At Intermediate School 162 issued two sole-source vendor purchase orders for \$4,990 each to the same vendor to purchase four items of computer software. The purchase orders were issued on successive days of April 25, 2006 and April 26, 2006, and each listed the exact same unit price of \$2,495. The software purchased was described as Incorporating Literacy in Mathematics PD on the April 26, 2006 purchase order, and it was described as Incorporating Math and Literacy PD on the April 25, 2006 purchase order. The purchase orders and invoices for each purchase identified only one employee, the individual who created the purchase order. This individual is also listed as the person to receive the items purchased. The SOP requires that the principal and appropriate ROC personnel or Head of Office approve purchases for professional services and technology up to \$5,000. It should be noted that the two purchases were not approved by the ROC. In addition, if the two purchases were combined, as they should have been, then the SOP requires that the Executive Director of the DCP approve the purchase as well.

In addition, the results of our review show that schools are not keeping and subsequently reporting accurate records of the dates of the receipt of goods and services. We noted four instances (3 from Region 9 and 1 from Region 10) where schools certified dates when goods and services were received that conflicted with other documents in the files. Schools are required by the SOP to have a process in place to certify receipt of delivery in order for payments to be processed for goods and services. Among the documents that are required for payment is a copy of the purchase order or other certifying documents, such as a vendor packing slip bearing a signature certifying delivery. These documents are required to be kept at the respective sites for future review, if required.

RECOMMENDATIONS

To address the issues that still exist, we recommend that DOE officials in conjunction with the district representatives:

1. Adequately review purchase orders and their related documentation prior to approving purchases on FAMIS to ensure that: schools comply with the procurement requirements of the SOP governing exception to competitive bidding and the purchase method indicated on the purchase order is adequately supported.
2. Ensure that schools accurately certify the receipt of goods or services before payment; and

3. Implement procedures to ensure that the above recommendations are implemented.

ROC Response: The Manhattan ROC has implemented the three recommendations and continues to monitor the successful execution of policies and procedures to ensure that they are carried out in a manner that will eliminate SOP violations.



THE NEW YORK CITY DEPARTMENT OF EDUCATION

JOEL I. KLEIN, *Chancellor*

Kathleen Grimm, Deputy Chancellor for Finance and Administration

June 7, 2007

Honorable John Graham
Deputy Comptroller for Policy, Audits, Accountancy and Contracts
The City of New York
Office of the Comptroller
1 Centre Street
New York, NY 10007-2341

Re: Follow-up Audit Report on the Other Than Personal Services Expenditures of Schools Within the Department of Education, Regional Operations Center (ROC) for Regions 9/10.

Dear Mr. Graham:

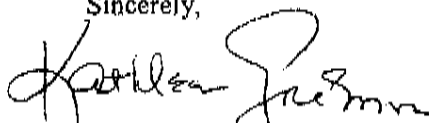
This letter and the Audit Implementation Form A that accompanies it shall serve as the Department of Education's (DOE) response to the findings and recommendations made in the above-referenced Follow-up Audit Report of the New York City Office of the Comptroller.

The previous audit (No. FP05-076A) was issued May 4, 2005 and included ten recommendations to improve compliance with the SOP in relation to competitive bidding, sole-source documentation and certification of delivery. The follow-up report stated that the DOE implemented four recommendations, partially implemented four recommendations and did not implement two recommendations.

It is my understanding that the Office of the Comptroller declined to consider the Manhattan ROC's response to the preliminary audit findings. This response included a request to modify the classification of two recommendations from Partially Implemented to Implemented, and the classification of two recommendations from Not Implemented to Partially Implemented. I am attaching the response memorandum because I believe the arguments have merit and should be considered part of the official record of audit.

Please know that the inclusion of the memorandum in no way diminishes the DOE's commitment to the full implementation of all recommendations made by the Office of the Comptroller. We continue to strive for full compliance through the continued implementation of internal controls; intensive monitoring of existing procedures; and ongoing training for school-based and ROC staff.

Sincerely,



Kathleen Griffin
Deputy Chancellor

Attachment

c:	Brian Fleischer	Vincent Clark	Sandy Brawer
	Nader Francis	Espi Semetis	Susan Olds
	David Ross	Vincent Giordano	Magda Dekki
	Robert Wilson		



THE NEW YORK CITY DEPARTMENT OF EDUCATION

JOEL I. KLEIN, *Chancellor*

Manhattan Regional Operations Center

Robert Wilson, Director

Rosemary Tafaro, Deputy Director

Evy Acero-DeGuzman, Operations Supervisor

ROC RESPONSE TO THE FOLLOW-UP AUDIT REPORT ON FS07-077F FOR REGIONS 9 AND 10, ISSUED ON MAY 16, 2007

This document is not a formal response to the follow-up audit; it is a discussion of issues found regarding the classification of certain documents that were audited and included in the findings.

The document is organized according to the previous recommendations that were classified as either PARTIALLY IMPLEMENTED or NOT IMPLEMENTED. In two of the four examples of PARTIALLY IMPLEMENTED previous recommendations, the ROC is requesting that three be reclassified as IMPLEMENTED and that one incorporate a change to the number of document violations. In the two examples of NOT IMPLEMENTED previous recommendations, the ROC is requesting a change of classification to PARTIALLY IMPLEMENTED.

PREVIOUS RECOMMENDATION #1

Previous Recommendation #1: ROC officials should “ensure that school officials comply with procurement regulations requiring written bids from separate vendors. In that regard, all bids must be independent and solicited from separate vendors.”

Current Status: PARTIALLY IMPLEMENTED

Current Findings: The draft report states that “Twenty-four of the 54 transactions sampled were considered 3 Bids. In six of the 24 sampled transactions that were classified as 3 bids, there is no evidence that bids were solicited or if present, the evidence was not clearly documented or not complete. In two of these six cases the purchase order states that the purchase method used was “3 bids,” but the purchases were actually processed as sole-source vendor purchases.”

Current ROC Response: In the two cases where the purchases were entered as 3 bids but processed as sole source, the ROC maintains that the purchases were sole source and contained appropriate documentation for that classification. Schools incorrectly selected the 3 bid option upon entering the purchase order and the ROC failed to reject the order for this edit, which must be made by the initiator. The ROC maintains that these examples do not support the previous finding of “Problems with Bidding Documentation” because although they were incorrectly classified as 3 bids, they ultimately did not require bids as the sole source requirement was met and documented.

In the four remaining cases, two examples had insufficient bid documentation, one had bids from three vendors but lacked a price quote for one item among several purchased, and one had complete bid documentation in the form of copies faxed to the ROC. The ROC will continue to emphasize the critical nature of complete and original bid documentation and price quotes in training sessions for both school and ROC staff.

The ROC requests that the findings be revised to reflect that three of 24 sampled transactions did not have sufficient bid documentation and one of 24 sampled transactions did not have original bid documentation in the file.

PREVIOUS RECOMMENDATION #2:

Previous Recommendation #2: "ROC officials should ensure that school officials maintain all appropriate bid documentation on file."

Current Status: PARTIALLY IMPLEMENTED

Current Findings: The draft report cites the same examples of non-compliance as were identified in discussion of Previous Recommendation #1. Moreover, the report states, "A review of training documentation disclosed that procurement training classes geared toward school staff members were held in Fiscal Year 2006. During the period of September 2005 through June 2006, approximately 18 classes that covered various aspects of the DOE procurement process and targeted to different staffing levels were offered. For instance, a comprehensive training session that was offered from September 19 through October 7, 2005 targeted principals, business managers, Administrative Procurement Officers, and secretaries."

Current ROC Response: In the previous response the ROC detailed plans for outreach communications and on-going training which were fully implemented and reflected in the findings. The three examples of insufficient bid documentation discussed above represent only 12.5% of transactions sampled. While this failure rate leaves room for improvement, it does not negate the full implementation of a robust outreach and training effort on the part of the Manhattan ROC. The ROC requests that the finding be revised to IMPLEMENTED status.

PREVIOUS RECOMMENDATION #5:

Previous Recommendation #5: "ROC Officials should ensure that school officials submit certificates of delivery for goods or services prior to payment of invoices."

Current Status: PARTIALLY IMPLEMENTED

Current Findings: The draft report states that two of the 54 sampled purchases were not certified before payment was made to the vendor.

Current ROC Response: Only one of the two examples supports the finding that payment was prior to certification. In the second example, the school had in fact certified delivery of a service prior to service delivery, and the invoice was paid. The ROC maintains that the implementation of the on-line certification system has vastly improved ability to verify receipt of delivery prior

to payment. A failure rate of less than 2% should not mitigate the appropriate status of IMPLEMENTED. Still, the ROC will continue to provide training to schools on the on-line certification of delivery while emphasizing the advantages over a manual system.

PREVIOUS RECOMMENDATION #7:

Previous Recommendation #7: “The ROC should ensure that all goods are delivered and services rendered before payment of invoices, in accordance with the SOP.”

Current Status: PARTIALLY IMPLEMENTED

Current Findings: The draft report states that payments for four of the 54 sampled transactions were authorized without appropriate evidence that the goods or services were certified, yet payment was made to the vendor. In two of the four instances, no evidence that delivery of service was certified, yet payment was made to the vendor. For the remaining two instances, payment was made to the vendor before delivery was certified.

Current ROC Response: Two of these examples (payment prior to delivery certification) were discussed in response to Previous Recommendation #5. For the two instances where findings state that payment was made without certification, the ROC maintains that WO6023723 was in fact certified through email, which was documented in the file. The final example was for Dell, and was incorrectly paid without certification. This oversight can be explained because although the goods received were non-contracted, Dell is a contracted vendor. Again, the ROC maintains that a failure rate of less than 2% does not warrant the finding of “Partially Implemented” and requests a revision to a status of “IMPLEMENTED” with regard to the successful launch and ongoing utilization of the on-line certification of delivery tool.

As stated above, the ROC will continue to provide training to schools on the on-line certification of delivery while emphasizing the advantages over a manual system.

PREVIOUS RECOMMENDATION #8:

Previous Recommendation #8: “The ROC should ensure that school officials provide written justification for all sole-source purchases, in accordance with the SOP. The ROC should review this documentation before approving such purchases.”

Current Status: NOT IMPLEMENTED

Current Findings: The draft report indicates that 17 of 23 sampled purchases that were classified as exception to bid or procured as sole-source lacked evidence to justify the procurement method used for these purchases. Specifically, these files lacked evidence that other possible vendors were researched, that the school had a justification for the vendor selected or that the school received the appropriate approval to engage in the procurement method used for the purchase.

Current ROC Response: Backup requested from the City Comptroller to investigate the finding listed 19 purchase orders for Previous Recommendation #8 rather than the 17 contained in the

report. Upon review, the ROC found: one of the Purchase Orders listed (WO6016687) was a 3 bid document, not sole-source; and three Purchase Orders (WO6023505, WO6010515 and WO6010523) were for an empowered school (formerly A-Zone) supported by the Brooklyn ROC.

Upon review of the remaining 15 purchase orders listed, the ROC found that three of the 15 documents contained school violations including two (WO6021223 and WO6020827) that were less than \$5,000.01 and therefore not approved at the ROC level, and one (WO6001126) where the school received services without a purchase order. This purchase order was later created as an exception to bid so that the vendor could be paid; the school was issued a violation letter.

Among the remaining 12 violations, the ROC provided documentation for: WO600183 where the vendor was contracted but the document was entered incorrectly as a WO; WO6023038 where the vendor was named in a grant letter and the document was entered as exception to bid.

The ROC requests that the finding be revised to state that ten of 23 sampled purchase orders classified as sole-source lacked evidence to justify the procurement method used for these purchases, and classify the Recommendation as PARTIALLY IMPLEMENTED.

In addressing the failure of control for the ten remaining violations, the ROC will ensure that training highlights the need to obtain sole source justification letters from both the vendor and the principal, which was the most common violation among these ten.

PREVIOUS RECOMMENDATION #9:

Previous Recommendation #9: "The ROC should ensure that school officials obtain the approval of the OPM administrator for sole-source purchases, in accordance with the SOP."

Current Status: NOT IMPLEMENTED

Current Findings: The draft report states that 22 of the 23 sole-source purchases in the sample lacked documentation to support the approval of the Executive Director, Division of Contracts and Purchasing. According to the SOP, sole-source purchases of commodities over \$15,000 and professional services and technology purchases over \$5,000 should be approved by the Executive Director, DCP. The process requires that schools forward relevant sole-source documentation to the ROC for review, and the ROC Contract Officers in turn should forward the documents to the Executive Director for approval.

Current ROC Response: Of the 22 documents provided as back-up to the draft report, the ROC found that eight documents should not have been included. One document (WO6023551) was listed twice; three documents (WO6023551, WO6020827 and WO6021223) were not approved by the ROC by virtue of their value below \$5,000.01; two documents (WO6023505 and WO6010523) were from an empowered school (formerly A-Zone) which was supported by the Brooklyn ROC; and two (WO6008045 and WO6020748) were 3 bid documents.

Of the remaining 14 documents, five were orders from Dell, and followed the appropriate procedure put in place for non-contracted Dell items on August of 2005, after the response to the

original Audit No FP05-076A was submitted. This procedure is known as the FAMIS Exception Process for Computer Hardware; a copy was provided to the auditor and is also attached to this response. These documents are: WO6010667; WO6010218; WO6010106; WO6011746; and WO6012423.

Of the remaining 11 documents, two (WO6019212 and WO6007669) were processed as Exception to Bid in order to pay vendors who had been engaged by schools to provide commodities or services without a purchase order. These schools received violation letters from the ROC.

The ROC requests that the findings are modified to state that nine of 23 sole-source or exception to bid documents in the sample lacked documentation to support the approval of the Executive Director, Division of Contracts and Purchasing. In recognition of this reduced number, the ROC requests that the status be reclassified as PARTIALLY IMPLEMENTED.

With regard to the nine violations, the ROC will implement a more rigorous procedure to ensure that the Executive Director for Contracts and Purchasing is involved in the process to approve all sole source WOs.

Appropriate Use of this Exception Process:

1. Exceptions are made only in cases where the DOE contracted computer hardware does not provide the user's required functionality.

Exception Procedure:

1. Check for the equipment you want to order:
 - a. For Dell, Apple, Lexmark, or for networking equipment, see the FAMIS E-Catalog.
 - Note that the user's business office will assist in accessing FAMIS.
2. If the equipment you need is not available through item 1 above:
 - a. For Dell or Lexmark equipment, call the Dell sales representative for a Quote.
 - Contractually, if Dell can provide computer hardware that is functionally equivalent to that of another vendor, they have the right of first offer.
 - b. For Apple equipment, call the Apple sales representative for a Quote.
 - c. Sales Representatives' Contact information is available at <http://managedservices.nycenet.edu> – Click: "Important Contact Information."
3. Dell/Apple will provide and email a quote to the customer, or will give him/her an email stating that the item cannot be provided through Dell/Apple.
4. User will enter a Purchase Order in FAMIS and must provide the following information on the FAMIS Notepad:
 - a. Dell/Apple Quote Number.
 - Or, if Dell/Apple cannot provide the functionally equivalent hardware:
 - i. The name of the Sales Representative and the date of the email he/she sent you to that effect.
 - ii. The lowest of three quotes from an alternate vendor.
 - b. Detailed line-item listing and price of items.
 - All hardware purchases must include the required DOE components: 3-year next business day response and second day repair; setup to DOE network; and, removal of all delivery packing material.
 - Note that you are not to purchase Office Productivity software, mainframe communications software, or antivirus software since these are available from your Regional Technology Manager at no cost to the DOE end-user.
 - In addition, for third-party vendors, when the equipment is received, you must contact the DOE Help Desk at (718) 935-5100 to have the equipment asset-tagged and added to the NYC DOE inventory. This will involve an additional cost.
 - c. Explanation of the functionality which the requested hardware can provide but which the contracted hardware cannot.
5. The following reasons are NOT acceptable for exceptions:
 - a. User does not like the contracted brand.
 - b. User has ink cartridges or other items that can only be used on a different brand.
 - c. User wants all equipment in the school or lab to be the same brand.
 - d. User claims s/he can get the same item for less. (This is virtually never the case since DOE equipment includes additional DOE-mandated components and services).
6. Items to be aware of:
 - a. Computer purchases must be business-class, not consumer-class, machines. (For example, a Dell Dimension, as a consumer-class computer, is not appropriate for the DOE environment).
 - b. This exception process is only for computer hardware. It is not to be used for audio-visual equipment (tape recorders, TVs, etc), general supplies (ink jet cartridges, toner cartridges, computer paper, etc) or security equipment (lockdown devices).
7. For submitted POs that are not acceptable under these regulations:
 - a. User will find the PO in his/her FAMIS rejection mailbox.
 - b. There will be a notation on the FAMIS Notepad indicating the reason the PO was rejected.
8. User should track the approval status of his/her PO in FAMIS.
 - a. POs that are not approved and encumbered in FAMIS will not be processed.
 - b. Only when the PO is approved and encumbered should the user fax a copy of the PO to Dell. (Fax number is available at the website listed in 2c above).

NEW YORK CITY DEPARTMENT OF EDUCATION
OFFICE OF AUDITOR GENERAL
External Audit Services

PAGE 1 OF 2

RESPONSE DATE: June 4, 2007

AUDIT TITLE: Follow-up on OTPS Expenditures of Schools Within the DOE Regions 9 and 10
AUDITING AGENCY: NYC Office of the Comptroller
DIVISION: Audits, Accountancy & Contracts – Support Services
DRAFT REPORT DATE: May 16, 2007
AUDIT NUMBER: FS07-077F

**A. RECOMMENDATION WHICH THE AGENCY
HAS IMPLEMENTED**

1. Adequately review purchase orders and their related documentation prior to approving purchases on FAMIS to ensure that: schools comply with the procurement requirements of the SOP governing exception to competitive bidding and the purchase method indicated on the purchase order is adequately supported.
2. Ensure that schools accurately certify the receipt of goods or services before payment; and
3. Implement procedures to ensure that the above recommendations are implemented

RESPONSE TO RECOMMENDATION - IMPLEMENTATION PLAN

The Manhattan ROC has implemented the three recommendations and continues to monitor the successful execution of policies and procedures to ensure that they are carried out in a manner that will eliminate SOP violations.

The citations related to non-compliance with SOP requirements governing exception to competitive bidding and were largely related to school violations, i.e., instances where schools accepted services from vendors without a purchase order and the "exception to bid" category was selected so that payment could be processed for those vendors, who were so entitled. In these cases, the ROC either notified the school of the SOP violation and/or required the school to provide a letter of explanation for the events that led to the need for such a transaction. Still other examples of this violation included instances where there had been an inadvertent omission of payment to a vendor from a prior year. In both cases, the selection of "Exception to Bid" was used for expediency and it was believed that providing documentation in the file would mitigate the departure from explicit operating procedures, which was not the case as revealed in the audit findings. Although we have made significant progress ensuring that schools process orders in the correct fiscal year and on a timely basis, we have not achieved 100% compliance. As always, full compliance is our goal and we will continue to provide training and guidance in an effort to achieve it.

The citations related to the ROC's approval of Purchase Orders inappropriately classified as "3 Bid" or "Sole Source" is the result of the ROC's failure to reject an incorrect classification to a school for editing. Although the ROC maintains that appropriate documentation exists in the files for either "3 bid" or "sole source," it is acknowledged that in some cases the classification and the documentation are not matched. The ROC will include the need to have the documentation match the classification in any future training that is conducted. A check for this match will also be added to the routine ROC audits that are conducted internally.

The citations related to certification of delivery include one instance of payment to a non-contracted vendor prior to certification and one instance of payment to a non-contracted vendor without certification. Although the ROC maintains that the on-line certification of delivery system has vastly improved ability to avoid inappropriate payments to non-contracted vendors, these two violations are acknowledged.

IMPLEMENTATION DATE

Beginning July 2, 2007, the responsibility for school vouchering will shift from the ROC to the Division of Financial Operations. Therefore, no further implementation of previous or current recommendations will take place at the ROC.

RESPONSIBILITY CENTER

N/A

Signature:



Print Name: Robert Wilson

6/8/2007
Date

Print Title: Director