

DEPARTMENT OF EDUCATION**CROSS-CUTTING SECTION****INTRODUCTION**

This section contains compliance requirements that apply to more than one Department of Education (ED) program either because the program was authorized under the Elementary and Secondary Education Act (ESEA), or the program is subject to the General Education Provisions Act (GEPA), or both. The compliance requirements in this Cross-Cutting Section reference the applicable programs in Part 4, Agency Compliance Requirements. Similarly, the applicable programs in Part 4 reference this Cross-Cutting Section.

CFDA #	Program Name	Listed as
ESEA Programs		
84.010	Title I Grants to Local Educational Agencies (LEAs)	Title I, Part A
84.011	Migrant Education--Basic State Grant Program	MEP
84.186	Safe and Drug-Free Schools and Communities--State Grants	SDFSCA
84.281	Eisenhower Professional Development State Grants	Eisenhower
84.282	Charter Schools	PCSP
84.287	Twenty-First Century Community Learning Centers	21st Century
84.288	Bilingual Education--Program Development and Implementation Grants	Bilingual
84.290	Bilingual Education--Comprehensive School Grants	
84.291	Bilingual Education--Systemwide Improvement Grants	
84.298	Innovative Education Program Strategies	Title VI
84.318	Technology Literacy Challenge Fund Grants	TLCF
84.338	Reading Excellence Program	REP
84.340	Class Size Reduction	CSR
Other Programs		
84.002	Adult Education--State Grant Program	Adult Education
84.027	Special Education--Grants to States (IDEA, Part B)	IDEA
84.173	Special Education--Preschool Grants (IDEA Preschool)	

84.042 TRIO -- Student Support Services	TRIO Cluster
84.044 TRIO -- Talent Search	
84.047 TRIO -- Upward Bound	
84.066 TRIO -- Educational Opportunity Centers	
84.217 McNair Post-Baccalaureate Achievement	
84.048 Vocational Education--Basic Grants to States	Vocational Education
84.126 Rehabilitation Services - Vocational Rehabilitation Grants to States	Vocational Rehabilitation
84.181 Special Education--Grants for Infants and Families with Disabilities	IDEA, Part C
84.276 Goals 2000--State and Local Education Systemic Improvement Grants	Goals 2000
None School-to-Work Opportunities Act of 1994	School-to-Work

Waivers

Under Title XIV of the ESEA, States, Indian tribes, LEAs, and schools through their LEA may request waivers from ED of many of the statutory and regulatory requirements of programs authorized in ESEA. The Goals 2000: Educate America Act and the School to Work Opportunities Act also provide waiver authority. However the authority provided by Goals 2000 expired September 30, 2000 and the authority provided by School to Work expired on September 30, 2001. In addition, some States may have been granted authority to grant waivers of Federal requirements under either the educational flexibility (Ed-Flex) demonstration program of Goals 2000 or the new Education Flexibility Partnership Act of 1999. Auditors should ascertain from the audited State Education Agencies (SEAs) and LEAs whether the SEA or the LEA or its schools are operating under any waivers.

I. PROGRAM OBJECTIVES

The ESEA of 1965, as amended by the Improving America's Schools Act (IASA), provides for a comprehensive overhaul of programs providing more than \$10 billion a year of Federal support for education, and restructures how these programs provide services. ESEA programs in this Supplement to which this section applies are shown above. These requirements are applicable for fiscal years beginning after June 30, 1995.

Under the IASA, Federal education programs authorized in the ESEA are designed to work in concert with each other, rather than separately. By emphasizing program coordination, planning, and service delivery among Federal programs and enhancing integration with State and local instructional programs, the ESEA reinforces comprehensive State and local educational reform efforts geared toward ensuring that all children can meet challenging State standards regardless of their background or the school they attend.

Program objectives for non-ESEA programs covered by this cross-cutting section and additional information on program objectives for the ESEA programs are set forth in the individual program sections of this Supplement.

II. PROGRAM PROCEDURES

Plans for ESEA Programs

A SEA must either develop and submit separate, program-specific individual State plans to ED for approval as provided in individual program requirements outlined in the ESEA or submit, in accordance with section 14302 of the ESEA, a consolidated plan to ED for approval.

Consolidated plans will provide a general description of the activities to be carried out with ESEA funds. Subgrants to LEAs and other educational service agencies and amounts to be used for State activities are often set by law for ESEA programs. However, SEAs have discretion in using funds available for State activities.

LEAs also have the choice in many cases of submitting individual program plans or a consolidated plan to the SEA to receive program funds. SEAs with approved consolidated State plans may require LEAs to submit consolidated plans.

Unique Features of ESEA Programs That May Affect the Conduct of the Audit

Consolidation of administrative funds

SEAs and LEAs (with SEA approval) may consolidate funds received for administration of many ESEA programs, thus eliminating the need to account for these funds on a program-by-program basis. SEAs may also include funds received for administration of Goals 2000 (CFDA 84.276) in this consolidation. The amount from each applicable program set aside for State consolidation may not be more than the percentage, if any, authorized for State administration under that program. Federal expenditures may be charged to the programs on a first in/first out method, in proportion to the funds provided by each program, or another reasonable manner. The amount set aside under each covered program for local consolidation may not be more than the percentage, if any, authorized for local administration under that program.

Coordinated services projects

An LEA, an individual school, or consortium of schools (if there is no governing LEA), with the approval of the Secretary, may use not more than five percent of its ESEA funds to implement a coordinated services project under Title XI of the ESEA. Audit coverage for transferred funds is described in the Activities Allowed or Unallowed compliance requirement of Section III of these cross-cutting provisions.

Schoolwide Programs

Eligible schools are able to use their Title I, Part A funds, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program of the school and to raise academic achievement for all students. Except for some of the specific requirements of the

Title 1, Part A program, funds that are used in a schoolwide program are not subject to the statutory or regulatory requirements of the programs providing the funds as long as the intent and purpose of those programs are met by the schoolwide program. *The Title I, Part A requirements that apply to schoolwide programs are identified in the Title I, Part A program specific section.*

No Child Left Behind Act

The Elementary and Secondary Education Act (ESEA) was amended January 8, 2002 by the No Child Left Behind Act of 2001 (Pub. L. No. 107-110). Most changes will not affect programs until after July 1, 2002. However, several changes take effect immediately. For example, transferability is a new flexibility authority that allows States and LEAs to transfer a portion of the funds that they receive under certain Federal formula grant programs to other programs. Questions about these provisions may be directed to the ED contacts for A-133 audits listed in Appendix III of this Supplement.

General and Program-Specific Cross-Cutting Requirements

The requirements in this cross-cutting section can be classified as either general or program-specific. General cross-cutting requirements are those that are the same for all applicable programs but are implemented on an entity-level. These requirements need only be tested once to cover all applicable major programs. The general cross-cutting requirements that the auditor only need test once to cover all applicable major programs are: III.G.2.1, Level of Effort-Maintenance of Effort (SEAs/LEAs); III.L.3, Special Reporting; and, III.N, Special Tests and Provisions (III.N.1, Participation of Private School Children; III.N.2, Schoolwide Programs; and, III.N.3, Comparability). Program-specific cross-cutting requirements are the same for all applicable programs, but are implemented at the individual program level. These types of requirements need to be tested separately for each applicable major program.

Program procedures for non-ESEA programs covered by this cross-cutting section and additional information on program procedures for the ESEA programs are set forth in the individual program sections of this Supplement. A copy of the Improving America's Schools Act with a hypertext index can be accessed on the Internet at <http://www.ed.gov/legislation/ESEA/toc.html>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Further, if there has been a transfer of funds to a consolidated administrative cost pool or a coordinated services project from a major program, in developing audit procedures to test compliance with Activities Allowed or Unallowed and Allowable Costs/Cost Principles, the auditor should include the consolidated administrative cost pool or coordinated services project expenditures in the universe to be tested.

A. Activities Allowed or Unallowed

1. Consolidation of administrative funds (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114 (84.186); Eisenhower (84.281); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (for SEA's only) (84.276)

An SEA must use consolidated administrative funds for authorized administrative activities of the consolidating programs and may use such funds for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation, such as coordination of ESEA programs with other Federal and non-Federal programs; the establishment and operation of peer review mechanisms; the dissemination of information regarding model programs and practices; and technical assistance.

If an LEA consolidates administrative funds, the LEA may not use any other funds from the consolidating programs for administration.

An SEA or LEA that consolidates administrative funds is not required to keep separate records of administrative costs for each individual program.

Expenditures of consolidated administrative funds are allowable if they are for administrative costs that are allowable under any of the contributing programs (Sections 14201 and 14203 of ESEA (20 USC 8821 and 8823)).

2. Use of unneeded program funds (LEAs)

ESEA programs in this Supplement to which this section applies are: MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); Title VI (84.298); TLCF (84.318); and CSR (84.340).

With the approval of its SEA, an LEA that determines for any fiscal year that funds under an applicable program (MEP, Eisenhower, SDFSCA, Title VI, TLCF, and CSR) are not needed for the purpose of that applicable program may use five percent or less of the total amount of the funds received under that applicable program for the purpose of another applicable program. Title I, Part A may receive funds but Title I, Part A funds may not be transferred to other programs. This determination may be made at any time during the period of availability of the funds. This provision, however, does not extend the period for obligating unneeded program funds beyond the period of availability for the applicable program from which the funds were transferred. The expenditure of the funds transferred is subject to the requirements of the program to which transferred (Section 14206(a) of ESEA (20 USC 8826(a))).

Compliance with the maximum transfer of five percent maximum is tested under III.G.3.b, Earmarking, *Use of unneeded program funds*.

See IV, Other Information, for guidance on Type A program determination and Schedule of Expenditure of Federal awards.

3. Coordinated services projects (LEAs)

This section applies to all ESEA programs in this Supplement: Title I, Part A (84.010), MEP (84.011), SDFSCA (84.186), Eisenhower (84.281), PCSP (84.282), 21st Century (84.287), Bilingual (84.288, 84.290, 84.291), Title VI (84.298), TLCF (84.318), REP (84.338), CSR (84.340).

In addition to using funds for specific purposes outlined in each program's statute and regulations, an LEA, school, or group of schools if there is no governing LEA, upon application to and approval by ED, may use a total of not more than five percent of its funds received under ESEA to develop, implement, or expand a coordinated services project. ED will notify an SEA of its approval of any coordinated services projects within the State.

Funds transferred to a coordinated services project are subject to the compliance requirements applicable to the coordinated services project. Funds reserved for a coordinated services project may be used for any activity relevant to the project, except that those funds may not be used for the direct provision of health or health-related services. Acceptable uses of funds may include, but are not limited to, hiring a coordinator, making minor renovations to existing buildings, purchasing basic operating equipment, improving communications and information-sharing among participating entities, teacher and staff training, and conducting a statutorily required needs assessment. Funds used for this purpose must be obligated within the period of availability of funds for the program from which funds were transferred (Title XI and Section 14206(b) of ESEA (20 USC 8401 et seq. and 8826(b))).

Compliance with the maximum transfer of five percent to a coordinated services project is tested under III.G.3.c, Earmarking, *Coordinated services projects*.

See IV, Other Information, for guidance on Type A program determination and Schedule of Expenditure of Federal awards.

4. Schoolwide Programs (LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (84.186); Eisenhower (84.281); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (84.276); IDEA (84.027 and 84.173) and Vocational Education (84.048).

A school participating under Title I, Part A may, in consultation with its LEA, use its Title I, Part A funds, along with funds provided from the above-identified programs, to upgrade the school's entire educational program in a schoolwide program. See III.N.2, Special Tests and Provisions - Schoolwide Programs, in this cross-cutting section for testing related to schoolwide programs (Section 1114 of ESEA (20 USC 6314)).

See IV, Other Information, for guidance on the treatment of combined schoolwide funds for purposes of Type A program determination and presentation in the Schedule of Expenditures of Federal Awards.

B. Allowable Costs/Cost Principles

1. Alternative Fiscal and Administrative Requirements (SEAs/LEAs)

This section applies to all ESEA programs in this Supplement: Title I, Part A (84.010), MEP (84.011), SDFSCA (84.186), Eisenhower (84.281), PCSP (84.282), 21st Century (84.287), Bilingual (84.288, 84.290, 84.291), Title VI (84.298), TLCF (84.318), REP (84.338); CSR (84.340).

This section also applies to Goals 2000 (84.276).

A State may adopt its own written fiscal and administrative requirements, which are consistent with the provisions of OMB Circular A-87, for expending and accounting for all funds received by SEAs and LEAs under ESEA programs. The written fiscal and administrative requirements must: (1) be sufficiently specific to ensure that funds are used in compliance with all applicable statutory and regulatory provisions, including ensuring that costs are allocable to a particular cost objective; (2) ensure that funds received are spent only for reasonable and necessary costs of the program; and (3) ensure that funds are not used for general expenses required to carry out other responsibilities of State or local governments (34 CFR section 299.2).

2. Documentation of Employee Time and Effort (Consolidated Administrative Funds and Schoolwide Programs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114, operated by SEA's consolidating administrative funds)(84.186); Eisenhower (84.281); 21st Century (84.287); Bilingual (schoolwide programs only)(84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (except for LEA's consolidating administrative funds)(84.276); IDEA (schoolwide programs only)(84.027 and 84.173) and Vocational Education (schoolwide programs only)(84.048).

An SEA or LEA that consolidates administrative funds under 20 USC 8821 and 8823 may treat as a Single Cost Objective the portion of an employee's time and effort supported by consolidated administrative funds. Likewise, a school that participates in a schoolwide program under 20 USC 6314, may treat as a Single Cost Objective the portion of an employee's time and effort supported by combined schoolwide funds (20 USC 6314, 8821, and 8823).

- a. An employee whose compensation is funded solely from a Single Cost Objective (i.e., consolidated administrative funds or combined schoolwide program) must furnish semi-annual certifications that he/she has been engaged solely in activities supported by the applicable source in accordance with OMB Circular A-87, Attachment B paragraph 11.h.3.
- b. An employee paid in part from a Single Cost Objective, and in part with funds from other revenue sources, must maintain time and effort distribution records in accordance with OMB Circular A-87, Attachment B paragraph 11.h.4. documenting the portion of time and effort dedicated to:
 - (1) The Single Cost Objective, and
 - (2) Each program or other cost objective supported by the other revenue sources.

3. Indirect Costs (All grantees/All subgrantees)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); Eisenhower (84.281); PCSP (84.282); 21st Century (84.287); Bilingual (84.288, 84.290, and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Adult Education (84.002); IDEA (84.027 and 84.173); Vocational Education (84.048); IDEA, Part C (84.181); and Goals 2000 (84.276).

A "Restricted" Indirect Cost Rate (RICR) must be used for programs administered by State and local governments and their governmental subrecipients that have a statutory requirement prohibiting the use of Federal funds to supplant non-federal funds. Non-governmental grantees or subrecipients administering such programs have the option of using the RICR, or an indirect cost rate of 8 percent, unless ED determines that the RICR would be lower.

The formula for the restricted indirect cost rate is as follows:

$$\text{RICR} = (\text{General management costs} + \text{Fixed costs}) / (\text{Other expenditures})$$

General management costs are costs of activities that are for the direction and control of the grantee's affairs that are organization wide, such as central accounting services, payroll preparation and personnel management. For State and local governments the general management indirect costs consist of (1) allocated Statewide Central Service Costs approved by the Department of Health and Human Services in a formal Statewide Cost Allocation Plan (SWCAP) as "Section I" costs and (2) departmental indirect costs. The term general management as it applies to departmental indirect costs does not include expenditures limited to one component or operation of the grantee. Specifically excluded from general management costs are the following costs which are reclassified and included in the "other expenditures" denominator:

- 1) divisional administration that is limited to one component of the grantee;
- 2) the governing body of the grantee;
- 3) compensation of the chief executive officer of the grantee;
- 4) compensation of the chief executive officer of any component of the grantee; and
- 5) operation of the immediate offices of these officers.

Also excluded from the SWCAP Section I indirect costs are any occupancy and maintenance type costs as described in 34 CFR section 76.568. However, because these costs are allocated and not incurred at the departmental level, they do not require reclassification to the "other expenditure" denominator.

Fixed costs are contributions to fringe benefits and similar costs associated with salaries and wages that are charged as indirect costs, including retirement, social security, pension, unemployment compensation and insurance costs.

Other expenditures are the grantee's total expenditures for its federally and non-federally funded activities, including directly charged occupancy and space maintenance costs (as defined in 34 CFR section 76.568), and the costs related to the chief executive officer of the grantee or any component of the grantee and their offices. Excluded are general management costs, fixed costs, subgrants, capital outlays, debt service, fines and penalties, contingencies, and election expenses (except for elections required by Federal statute).

Indirect costs charged to a grant are determined by applying the RICR to total direct costs of the grant minus capital outlays, subgrants and other distorting or unallowable items as specified in the grantee's indirect cost rate agreement.

The other ED programs (those not having a statutory non-supplant requirement) which allow indirect costs do not require a restricted rate and should follow the applicable OMB cost principles circular (34 CFR sections 76.560 and 76.563-569).

C. Cash Management

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); PCSP (84.282); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338) and CSR (84.340).

This section also applies to Adult Education (84.002); IDEA (84.027 and 84.173); TRIO Cluster (84.042, 84.044, 84.047, 84.066 and 84.217); Vocational Education (84.048); Vocational Rehabilitation (84.126); IDEA, PART C (84.181); School-to-Work (No CFDA); and Goals 2000 (84.276).

Grantees draw funds using the Grant Administration and Payment System (GAPS). Grantees request funds by: (1) creating a payment request using the GAPS External Access System through the Internet; (2) calling the GAPS Payee Hotline; or (3) if the grantee is placed on a reimbursement basis for an award, submitting an SF-270, *Request for Advance or Reimbursement* to an ED program or regional office. When creating a payment request in GAPS, the grantee enters the drawdown amounts, by award, directly into GAPS. Grantees can redistribute drawn amounts between grant awards by making adjustments in GAPS to reflect actual disbursements for each award. When requesting funds using the other two methods, the grantee provides drawdown information to the hotline operator, or on the SF-270.

To assist grantees in reconciling their internal accounting records with GAPS, grantees can use the GAPS External Access System (<http://e-grants.ed.gov>) to obtain a GAPS Activity Report showing cumulative and detail information for each award. The GAPS Activity Report can be created and viewed on-line and a hard copy may be printed as well.

G. Matching, Level of Effort, Earmarking

1. Matching

See individual program compliance supplement for any matching requirements.

2.1 Level of Effort - Maintenance of Effort (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); and TLCF (84.318).

As described in II. Program Procedures under *General and Program-Specific Cross-cutting Requirements*, this requirement is a general cross-cutting requirement that need only be tested once to cover all major programs to which it applies.

An LEA may receive funds under an applicable program only if the SEA finds that the combined fiscal effort per student or the aggregate expenditures of the LEA from State and local funds for free public education for the preceding year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding year, unless specifically waived by ED.

Beginning with the Federal fiscal year 1998, an LEA's expenditures from State and local funds for free public education include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. They do not include the following expenditures: (1) any expenditures for community services, capital outlay, debt service and supplementary expenses as a result of a Presidentially declared disaster; and (2) any expenditures made from funds provided by the Federal government.

For fiscal years prior to 1998, SEAs were allowed to define the types of expenditures that could be included in the calculation for programs other than Title I, Part A.

If an LEA fails to maintain fiscal effort, the SEA must reduce the amount of the allocation of funds under an applicable program in any fiscal year in the exact proportion by which the LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA) (Section 14501 of ESEA (20 USC 8891)).

In some States, the SEA prepares the calculation from information provided by the LEA. In other States, the LEAs prepare their own calculation. The audit procedures contained in the Part 3, Section G.2.1, *Level of Effort - Maintenance of Effort* should be adapted to fit the circumstances. For example, if auditing the LEA and the LEA does the calculations, the auditor should perform steps a, b, and c. If auditing the LEA and the SEA does the calculation, the auditor should perform step c for the amounts reported to the SEA. If auditing the SEA and the SEA performs the calculation, the auditor should perform steps a and b and amend step c to trace amounts to the LEA reports. If auditing the SEA and the LEA performs the calculation, the auditor should perform step a and, if the requirement was not met, determine if the funding was reduced appropriately.

2.2 Level of Effort - Supplement Not Supplant (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); and CSR (LEAs only) (84.340).

General - An SEA and LEA may use program funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of the Federal funds, be made available from non-Federal sources for the education of participating students. In no case may an LEA use Federal program funds to supplant funds from non-Federal sources (Title I, Part A, Section 1120A(b) (20 USC 6322(b)); Title I, Part C Section 1304(c)(2) (20 USC 6394(c)(2)); Title VI of ESEA, Section 6401(b) (20 USC 7371(b)); and Title VII of ESEA, Section 7116(b)(4) (20 USC 7426(h)(4)).

In the following instances, it is presumed that supplanting has occurred:

- The SEA or LEA used Federal funds (except Bilingual) to provide services that the SEA or LEA was required to make available under other Federal, State or local laws.
- The SEA or LEA used Federal funds to provide services that the SEA or LEA provided with non-Federal funds in the prior year.
- The SEA or LEA used Title I, Part A or MEP funds to provide services for participating children that the SEA or LEA provided with non-Federal funds for nonparticipating children.

These presumptions are rebuttable if the SEA or LEA can demonstrate that it would not have provided the services in question with non-Federal funds had the Federal funds not been available.

Schoolwide Program - In a Title I schoolwide program, a school is not required to provide supplemental services to identified children. A school operating a schoolwide program does not have to: (1) show that Federal funds used within the school are paying for additional services that would not otherwise be provided; (2) demonstrate that Federal funds are used only for specific target populations; or (3) separately track Federal program funds once they reach the school. Such a school, however, is required to use funds available under Title I and under any other Federal programs that are combined to support its schoolwide program to supplement the total amount of funds that would, in the absence of the Federal funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency (Title I, Part A, Section 1114 (20 USC 6314); MEP, Section 1306(b)(3) of ESEA (20 USC 6396(b)(3)); 34 CFR section 200.8; and 60 FR 49174).

Title I, Part A or MEP - An SEA and LEA may exclude, from determinations of compliance with the supplement, not supplant requirement, supplemental State or

local funds spent in any school attendance area or school for programs that meet the requirements of section 1114 (Schoolwide Programs) or section 1115 (Targeted Assisted Schools) of the ESEA (Title I, Part A of ESEA, Section 1120A(d) (20 USC 6322(d)); 34 CFR section 200.63).

Bilingual - This supplement not supplant requirement does not preclude an LEA from using Bilingual program funds for activities carried out under a Federal or State court order respecting services to be provided to limited English proficient (LEP) children, or to carry out a plan approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 with respect to services to be provided to LEP children (Title VII, Section 7116(h)(4) of ESEA (20 USC 7426(h)(4))).

3. Earmarking

a. *Administration (SEAs)*

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010) and MEP (84.011).

An SEA may reserve for the administration of Title I programs up to one percent from each of the amounts allocated to the State under Title I, Part A (except Capital Expenses under section 1002(e) and School Improvement funds under section 1002(f)), and Part C (MEP) or \$400,000, whichever is greater. An SEA may reserve less than one percent from each of Parts A, C, and D (Subpart 1). Moreover, an SEA does not need to reserve the same percentage from each part. However, the amounts reserved from Part A Basic, Concentration, and, when funded, Targeted Grants must be proportionate. For any SEA reserving \$400,000, the amount taken from each of Title I, Parts A, C, and D (Subpart 1) must be proportionate. An SEA is not required to use the same proportion of funds reserved from Parts A, C, and D for administrative activities related to those Parts.

As explained in Section III.A.1, *Consolidation of administrative funds*, the amounts reserved above may be consolidated with State administrative funds available under other applicable programs (Title I, Section 1603 of ESEA (20 USC 6513); See also 34 CFR sections 200.60(a) and 200.61).

b. *Use of unneeded program funds (LEAs)*

ESEA programs in this Supplement to which this section applies are: MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); Title VI (84.298); TLCF (84.318); and CSR (84.340).

With the approval of its SEA, an LEA that determines for any fiscal year that funds under an applicable program (MEP, Eisenhower, SDFSCA,

Title VI; TLCF; and CSR) are not needed for the purpose of that applicable program may use five percent or less of the total amount of the funds received under that applicable program for the purpose of another applicable program (Section 14206(a) of ESEA (20 USC 8826(a))).

c. *Coordinated services projects (LEAs)*

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010), MEP (84.011), SDFSCA (84.186), Eisenhower (84.281), PCSP (84.282), 21st Century (84.287), Title VI (84.298), TLCF (84.318), CSR (84.340).

In addition to using funds for specific purposes outlined in each program's statute and regulations, an LEA, school, or group of schools if there is no governing LEA, upon application to and approval by ED, may use a total of not more than five percent of its funds received under ESEA to develop, implement, or expand a coordinated services project (Title XI and Section 14206(b) of ESEA (20 USC 8401 and 8826(b))).

H. Period of Availability of Federal Funds (All grantees)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); PCSP (84.282); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); and CSR (84.340).

This section also applies to Adult Education (84.002); Goals 2000 (84.276); IDEA (84.027 and 84.173); Vocational Education (84.048); and IDEA, Part C (84.181).

All ESEA and other programs listed above except Bilingual, PCSP, and subrecipients under Vocational Education - LEAs and SEAs must obligate funds during the 27 months, extending from July 1 of the fiscal year for which the funds were appropriated through September 30 of the second following fiscal year. This maximum period includes a 15 month period of initial availability plus a 12 month period for carryover. For example, funds from the fiscal year (FY) 1995 appropriation initially became available on July 1, 1995 and can be obligated by the grantee and subgrantee through September 30, 1997. (Section 421(b) of GEPA (20 USC 1225(b)); 34 CFR sections 76.704 through 76.707).

Title I, Part A program - An LEA that receives \$50,000 or more in Title I, Part A funds cannot carryover beyond the initial 15 months of availability more than 15 percent of the Title I, Part A funds. An SEA may grant a waiver for the percentage limitation once every three years if the request is reasonable and necessary. An SEA may also grant a waiver in any fiscal year in which supplemental appropriations for Title I become available for obligation. (Section 1127 of ESEA (20 USC 6338)).

SDFSCA program - An LEA that receives SDFSCA funding cannot carryover beyond the initial 15 months of availability more than 25 percent of SDFSCA State Grant funds. An

SEA may waive the percentage limitation for good cause for additional carryover by the LEA (Section 4113)(f)(2) of ESEA (20 USC 7113)).

Bilingual, PCSP and CSR programs - The recipient must obligate funds from a grant during the period for which the funds are available for obligation as set forth in the grant award document. Recipients must maintain documentation to demonstrate that the obligation occurred during the period of availability and was charged to an appropriate year's grant funds. If obligations occur outside of the period of availability, the funds are not timely obligated and must be returned. However, under the "expanded authorities" provisions grantees are permitted to :

- Extend grants automatically at the end of a project period for up to one year without prior approval (with some exceptions);
- Carry funds over from one budget period to the next;
- Obligate funds up to 90 days before the effective date of a budget period without prior approval; and
- Transfer funds among budget categories without prior approval, except for a limited number of specific cases.

Further explanation of these expanded authorities may be obtained from the Grants Policy and Oversight Staff at <http://ocfo.ed.gov/grntinfo/gposbul/gpos19.htm> (34 CFR Sections 75.261, 75.253(c), 75.263, and 75.264).

Vocational Education program - In any academic year that a subrecipient does not obligate all of the amounts it is allocated under the Secondary, and Postsecondary and Adult Vocational Education programs for that year, it must return the unobligated amounts to the State to be reallocated under the Secondary, Postsecondary, and Adult Vocational Education Program, as applicable (Perkins III, section 133(b); 20 USC 2353(b)).

Consolidated administrative funds and coordinated services projects - Consolidated administrative funds and funds used in coordinated services projects must be obligated within the period of availability of the program that the funds came from. Because expenditures in a consolidated administrative fund or a coordinated services project are not accounted for by specific Federal programs, an SEA or LEA may use a first-in, first-out method for determining when funds were obligated, may attribute costs in proportion to the dollars provided, or may use another reasonable method.

Definition of Obligation - An obligation is not necessarily a liability in accordance with Generally Accepted Accounting Principles. When an obligation occurs (is made) depends on the type of property or services which the obligation is for:

IF AN OBLIGATION IS FOR --	THE OBLIGATION IS MADE --
(a) Acquisition of real or personal property.	On the date on which the State or subgrantee makes a binding written commitment to acquire the property.
(b) Personal services by an employee of the State or subgrantee.	When the services are performed.
(c) Personal services by a contractor who is not an employee of the State or subgrantee.	On the date on which the State or subgrantee makes a binding written commitment to obtain the services.
(d) Performance of work other than personal services.	On the date on which the State or subgrantee makes a binding written commitment to obtain the work.
(e) Public utility services.	When the State or subgrantee receives the services.
(f) Travel.	When the travel is taken.
(g) Rental of real or personal property.	When the State or subgrantee uses the property.
(h) A pre-agreement cost that was properly approved by the State under the applicable cost principles.	On the first day of the subgrant period.

The act of an SEA or other grantee awarding Federal funds to an LEA or other eligible entity within a State does not constitute a final obligation. An SEA or other grantee may not reallocate grant funds from one subrecipient to another after the period of availability (GEPA Section 421(b) (20 USC 1225(b)); 34 CFR sections 76.704 through 76.707).

If a grantee or subgrantee uses a different accounting system or accounting principles from one year to the next, it shall demonstrate that the system or principle was not improperly changed to avoid returning funds which were not timely obligated. A grantee or subgrantee may not make accounting adjustments after the period of availability in an attempt to offset audit disallowances. The disallowed costs must be refunded.

L. Reporting

1. Financial Reporting

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); PCSP (84.282); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Adult Education (84.002); Goals 2000 (84.276); IDEA (84.027 and 84.173); and IDEA, PART C (84.181).

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of grant award funds. The requirement to use this form is imposed on an individual recipient basis.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. LEAs and other subrecipients are generally required to report financial information to the pass-through entity. These reports should be tested during audits of LEAs.

2. Performance Reporting - Not Applicable

3. Special Reporting

State Per Pupil Expenditure (SPPE) Data (OMB No. 1850-0067) (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); and MEP (84.011).

As described in II. Program Procedures under *General and Program-Specific Cross-cutting Requirements*, this requirement is a general cross-cutting requirement that need only be tested once to cover all major programs to which it applies.

Each year, an SEA must submit its average State per pupil expenditure (SPPE) data to the National Center for Education Statistics. These SPPE data are used by ED to make allocations under several ESEA programs, including Title I, Part A, and MEP. SPPE data are reported on the National Public Education Finance

Survey. SPPE data comprise the State's annual current expenditures for free public education, less certain designated exclusions, divided by the State's average daily attendance.

LEAs must submit data to the SEA for the SEA's report. The SEA determines the format of the data submissions.

Current expenditures to be included are those for free public education, including administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities. Current expenditures to be excluded are those for community services, capital outlay, debt service, and expenditures from funds received under Title I and Title VI of ESEA.

To determine its expenditures under Title I and VI of ESEA in a schoolwide program, an LEA could calculate the percentage of funds that Title I and Title VI contributed to the schoolwide program and then apply those percentages to the total expenditures in the schoolwide program. Other reasonable methods may also be used (Section 14101(11) of ESEA (20 USC 8801)).

Except when provided otherwise by State law, average daily attendance generally means the aggregate number of days of attendance of all students during a school year divided by the number of days school is in session during such school year. For purposes of ESEA, average daily membership (or similar data) can be used in place of average daily attendance in States that provide State aid to LEAs on the basis of average daily membership or such other data. When an LEA in which a child resides makes a tuition or other payment for the free public education of the child in a school of another LEA, the child is considered to be in attendance at the school of the LEA making the payment, and not at the school of the LEA receiving the payment. Similarly, when an LEA makes a tuition payment to a private school or to a public school of another LEA for a child with disabilities, the child is considered to be in attendance at the school of the LEA making the payment.

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318) and REP(84.338).

Depending on how the SEA/LEA implements requirements for the provision of equitable participation of private school children, this requirement may be tested on a general or program-specific basis (as described in II. Program Procedures under General and Program-Specific Cross-cutting Requirements).

Compliance Requirements - An SEA, LEA, or any other educational service agency (or consortium of such agencies) receiving financial assistance under an applicable program must provide eligible private school children and their teachers or other educational personnel with equitable services or other benefits under these programs. Before an agency or consortium makes any decision that affects the opportunity of eligible private school children, teachers, and other educational personnel to participate, the agency or consortium must engage in timely and meaningful consultation with private school officials (Section 14503 of ESEA (20 USC 8893); Title I, Section 1120 of ESEA (20 USC 6321); 34 CFR sections 200.10 through 200.13; and Title VI, Section 6402 (20 USC 7372)).

If an LEA uses funds to concentrate services on a particular "group, attendance area, or grade or age level," private school children in that "group, attendance area, grade or age level" are to be assured equitable participation in projects.

Under Title I, Part A (i.e., CFDA 84.010) funds must be allocated to each participating public school attendance area on the basis of the total number of children from low-income families residing in that area. In calculating the total number of children from low-income families, the calculation must include children from low-income families who attend private schools. An LEA uses the funds generated by private school children from low-income families to provide services to eligible private school children.(20 USC 6313(c); 34 CFR 200.28)

For programs other than Title 1, Part A (i.e., CFDA 84.011; 84.186; 84.281; 84.288, 84.290, and 84.291; 84.298; 84.318; and 84.338), expenditures for services and benefits to eligible private school children and their teachers and other educational personnel must be equal on a per-pupil basis to the expenditures for participating public school children and their teachers and other educational personnel, taking into account the number and educational needs of the children, teachers and other educational personnel to be served. (20 USC 8893; 34 CFR 299.7)

Audit Objective - Determine whether (1) the LEA, SEA, or other agency receiving ESEA funds has conducted timely consultation with private school officials to determine the kind of educational services to provide to eligible private school children, (2) the planned services were provided, and (3) the required amount was used for private school children.

Suggested Audit Procedures (LEA/SEA)

- a. Verify, by reviewing minutes of meetings and other appropriate documents, that the SEA or LEA conducted timely consultation with private school officials in making their determinations and set aside the required amount for private school children.
- b. Review program expenditure and other records to verify that educational services that were planned were provided.

- c. For Title I, Part A, verify that the per pupil allocation (PPA) generated by private school children from low-income families living in participating public school attendance areas is equal to the PPA generated by public school children from low-income families living in the same attendance area.
- d. For programs other than Title I, Part A, verify that expenditures are equal on a per-pupil basis for public and private school students, teachers and other educational personnel, taking into consideration their numbers and needs.

2. Schoolwide Programs (LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (84.276); IDEA (84.027 and 84.173) and Vocational Education (84.048).

As described in II. Program Procedures under *General and Program-Specific Cross-cutting Requirements*, this requirement is a general cross-cutting requirement that only needs to be tested once to cover all major programs to which it applies.

Compliance Requirement - A school participating under Title I, Part A may, in consultation with its LEA, use its Title I, Part A funds, along with funds provided from the above-identified programs and other Federal education funds, to upgrade the school's entire educational program in a schoolwide program. To qualify for fiscal year 1996-97 and subsequent years, at least 50 percent of the children enrolled in the school or residing in the school attendance area for the initial year of the schoolwide program must be from low-income families. The LEA is required to maintain records to demonstrate compliance with this requirement. To operate a schoolwide program, a school must develop, in consultation with the LEA and its school support team or other technical assistance provider, a comprehensive plan to upgrade its total instructional program.

Each schoolwide program must include a number of specific components, which must be described in the comprehensive plan including: (1) a comprehensive needs assessment of the entire school; (2) schoolwide reform strategies; (3) instruction by highly qualified professional staff; (4) professional development for teachers and other staff; (5) strategies to increase parental involvement; (6) plans for assisting preschool children transitioning from early childhood programs to local elementary school programs; (7) measures to include teachers in the decisions about the use of assessments; and (8) activities for providing effective, timely additional assistance to students experiencing difficulty in mastering high standards.

In combining funds, a schoolwide program school must also ensure that its schoolwide program addresses the needs of children who are members of the target population of any Federal program that is included in the schoolwide program. When combining funds or services received under MEP, a schoolwide program must: (1) in consultation with parents of migratory children or organizations representing those parents, address the identified needs of migratory children that result from the effects of their migratory lifestyle or are needed to permit migratory children to participate effectively in schools; and (2) document that services addressing those needs have been provided. Similarly, a schoolwide program must have the approval of the Indian parent advisory committee established in section 9114(c)(4) of ESEA (20 USC 7814(c)(4)) before funds received under the Title IX, Part A, Subpart 1 Indian Education program can be combined (Sections 1114 and 1306(b) of ESEA (20 USC 6314 and 6396(b)); 34 CFR sections 76.731, 200.8; 60 FR 49174).

Audit Objectives (LEA) - Determine whether (1) the schools operating schoolwide programs were eligible to do so; and (2) the schoolwide programs were based on a comprehensive plan that included the required elements.

Suggested Audit Procedures (LEA)

- a. For schools operating a schoolwide program, review records and ascertain if the schools met the poverty eligibility requirements.
- b. Review the schoolwide plan and ascertain if it included the required components described above.
- c. Review documentation to support:
 - (1) Consultation with parents including, when MEP funds are included, the parents of migratory children or organizations representing those parents; and, when Title IX, Part A, Subpart 1 (Indian Education) funds are included, approval by the Indian parent advisory committee.
 - (2) If MEP funds are combined in the schoolwide program, that services addressing the identified needs of migratory children were provided by the schoolwide program.

3. Comparability (SEAs/LEAs)

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010) and MEP (84.011).

As described in II. Program Procedures under *General and Program-Specific Cross-cutting Requirements*, this requirement is a general cross-cutting requirement that need only be tested once to cover all major programs to which it applies.

Compliance Requirement - An LEA may receive funds under Title I, Part A and the MEP (Title I, Part C) only if State and local funds will be used in participating schools to provide services that, taken as a whole, are at least comparable to services that the LEA is providing in schools not receiving Title I, Part A or MEP funds. An LEA is considered to have met the statutory comparability requirements if it has implemented (1) an LEA-wide salary schedule; (2) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and (3) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies. An LEA may also use other measures to determine comparability, such as comparing the average number of students per instructional staff or the average staff salary per student in each school receiving Title I, Part A or MEP funds with those in schools that do not receive Title I, Part A or MEP funds. If all schools are served by Title I, Part A or MEP, an LEA must use State and local funds to provide services that, taken as a whole, are substantially comparable in each school. Determinations may be made on either a district-wide or grade-span basis.

An LEA may exclude schools with fewer than 100 students from its comparability determinations. The comparability requirement does not apply to an LEA that has only one school for each grade span. An LEA may exclude from determinations of compliance with this requirement State and local funds expended for (1) bilingual education for children with limited English proficiency (LEP); (2) excess costs of providing services to children with disabilities as determined by the LEA; and (3) supplemental State or local funds for programs that meet the intent and purposes of Title I, Part A or MEP (Title I, Section 1120A(c)-(d) of ESEA (20 USC 6322(c)-(d)); 34 CFR section 200.63).

Each LEA must develop procedures for complying with the comparability requirements and implement the procedures annually. They must maintain records that are updated biennially documenting compliance with the comparability requirements. The SEA, however, is ultimately responsible for ensuring that LEAs remain in compliance with the comparability requirement (Title I, Section 1120A(c) of ESEA (20 USC 6322(c))).

Audit Objective (SEA) - Determine whether the SEA is determining if LEAs are complying with the comparability requirements.

Suggested Audit Procedure (SEA)

- a. For a sample of LEAs, review SEA records that document SEA review of LEA compliance with the comparability requirements.

Audit Objective (LEA) - Determine whether the LEA has developed procedures for complying with the comparability requirements and maintained records that are updated at least biennially documenting compliance with the comparability requirements.

Suggested Audit Procedures (LEA)

- a. Through inquiry and review, ascertain if the LEA has developed procedures and measures for complying with the comparability requirements.
- b. Review LEA comparability documentation to ascertain (1) if it has been updated within two years of the end of the audit period and (2) that it documents compliance with the comparability requirements.
- c. Test comparability data to supporting records.

IV. OTHER INFORMATION**Guidance on Type A Program Determination and Schedule of Expenditure of Federal Awards (LEA)****A. Use of Unneeded Program Funds**

ESEA programs in this Supplement to which this section applies are: MEP (84.011); SDFSCA (except the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); Title VI (84.298); TLCF (84.318); and CSR (84.340).

Expenditures of unneeded program funds transferred from another program should be included in the audit universe and total expenditures of the receiving program when determining Type A programs. They should not be included in the expenditures of the transferring program. On the Schedule of Expenditure of Federal Awards, the amount of unneeded program funds expended should be included in the total expenditures for the receiving program. A footnote showing the amount of funds transferred between programs is encouraged.

B. Coordinated Services Projects

This section applies to all ESEA programs in this Supplement: Title I, Part A (84.010), MEP (84.011), SDFSCA (84.186), Eisenhower (84.281), PCSP (84.282), 21st Century (84.287), Bilingual (84.288, 84.290, 84.291), Title VI (84.298), TLCF (84.318), CSR (84.340).

Since coordinated services projects are not a separate Federal program as defined by OMB Circular A-133, amounts expended for coordinated services projects would be included in total expenditures and the audit universe for the contributing programs when determining Type A programs and in the Schedule of Expenditure of Federal Awards. A footnote showing by program the amounts used in coordinated services projects is encouraged.

C. Schoolwide Programs

ESEA programs in this Supplement to which this section applies are: Title I, Part A (84.010); MEP (84.011); SDFSCA (including the Governor's Program authorized under Section 4114) (84.186); Eisenhower (84.281); 21st Century (84.287); Bilingual (84.288, 84.290 and 84.291); Title VI (84.298); TLCF (84.318); REP (84.338); and CSR (84.340).

This section also applies to Goals 2000 (84.276); IDEA (84.027 and 84.173) and Vocational Education (84.048).

Since schoolwide programs are not a separate Federal program as defined in OMB Circular A-133, amounts used in schoolwide programs should be included in the total expenditures of the program contributing the funds when determining Type A Programs and in the Schedule of Expenditure of Federal Awards. A footnote showing by program amounts used in schoolwide programs is encouraged.

DEPARTMENT OF EDUCATION**CFDA 84.002 ADULT EDUCATION--STATE GRANT PROGRAM****I. PROGRAM OBJECTIVES**

The Adult Education and Family Literacy State Grant program provides grants to eligible agencies to provide adult education and literacy services. These grants help adults become literate and obtain the knowledge and skills necessary for employment; obtain the educational skills necessary to become full partners in the educational development of their children; and complete a secondary school education.

II. PROGRAM PROCEDURES

Funds are provided to the State eligible agency each year in accordance with a statutory formula. Eligible agencies develop a 5-year State plan that is approved by the Secretary which may be revised when substantial changes in conditions occur. Local activities include services or instruction in one or more of the following categories: adult education and literacy services, including workplace literacy services; family literacy services; and English literacy programs.

Eligible providers include a local educational agency; a community-based organization of demonstrated effectiveness; a volunteer literacy organization of demonstrated effectiveness; an institution of higher education; a public or private non-profit agency; a library; a public housing authority; any other nonprofit institution that has the ability to provide literacy services to adults and families; and a consortium of the agencies, organizations, institutions, libraries, or authorities described above.

Source of Governing Requirements

The program is authorized by the Adult Education and Family Literacy Act (the Act), Title II of the Workforce Investment Act of 1998 (Pub. L. No. 105-220) (20 USC 9201 *et seq.*).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple Department of Education (ED) programs are discussed once in the ED Cross-Cutting Section of this supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

The eligible agency shall require that each eligible provider receiving a grant or contract establish or operate one or more programs that provide services or instruction in one or more of the following categories: (1) Adult education and literacy services, including workplace literacy services, (2) Family literacy services; and (3) English literacy programs. Adults include individuals who are at least 16 years of age, who are not enrolled or required to be enrolled in secondary school under State law; and who lack sufficient mastery of basic educational skills, do not have a secondary school diploma or its recognized equivalent, or are unable to speak, read, or write the English language (Pub. L. No. 105-220 (sections 231 and 203 of the Act) (20 USC 9241 and 9202(1))).

1. *State-Level Activities* - State eligible agencies may use funds for the following: (also see G.3. Earmarking)
 - a. Subgrants to eligible providers
 - b. State administrative costs including the development, and implementation of the State plan; consultation with other appropriate agencies in the development and implementation of activities assisted under the Act; and coordination and nonduplication with related Federal and State programs (section 221 of the Act) (20 USC 9221).
 - c. State leadership activities such as professional development programs, technical assistance, support of State literacy resource centers, and monitoring and evaluation of adult education and literacy activities (section 223(a) of the Act) (20 USC 9223(a)).
2. *Subrecipient Activities*
 - a. Allowable activities are described in the eligible provider's approved application. Generally, eligible providers must establish or operate one or more programs that provide services or instruction in one or more of the following categories: (1) Adult education and literacy services, including workplace literacy services, (2) Family literacy services; and (3) English literacy programs. Adults include individuals who are at least 16 years of age, who are not enrolled or required to be enrolled in secondary school under State law; and who lack sufficient mastery of basic educational skills, do not have a secondary school diploma or its recognized equivalent, or are unable to speak, read, or write the English language. Funds can also be used for administrative costs. (See G.3. Earmarking for limitation) (Pub. L. No. 105-220 (sections 231, 232, 234 and 203 of the Act) (20 USC 9241, 9242, 9243 and 9202(1))).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking**1. Matching**

- a. Each State eligible agency providing adult education and literacy services shall provide a non-Federal contribution of at least 25 percent of the total amount of funds expended for adult education and literacy activities in the State (section 222(b) of the Act) (20 USC 9222(b)).
- b. An eligible agency serving an outlying area shall provide a non-Federal contribution equal to 12 percent of the total amount of funds for adult education and literacy activities in the outlying area, unless the Secretary allows a smaller non-Federal contribution (section 222 (b) of the Act) (20 USC 9222(b)).
- c. An eligible agency's non-Federal contribution may be provided in cash or in-kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of the Act (section 222(b) of the Act) (20 USC 9222(b)).

2.1 Level of Effort - *Maintenance of Effort*

An eligible agency may receive funds for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of the eligible agency for adult education and literacy activities, in the third preceding fiscal year (section 241(b) of the Act) (20 USC 9251(b)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable**3. Earmarking**

- a. *State Eligible Agency* - The following earmarking requirements are for each yearly grant award and must be met within the period of its availability (generally 27 months) (34 CFR sections 76.703 through 76.710):
 - (1) Grants and contracts for eligible providers shall not be less than 82.5 percent of the eligible agency's grant funds (section 222(a)(1) (20 USC 9222(a)(1))).

- (2) Correction education and education for other institutionalized individuals shall not be more than 10 percent of the 82.5 percent mentioned above (section 222(a)(1) of the Act) (20 USC 9222(a)(1)).
 - (3) State leadership activities under section 223 of the Act shall not exceed 12.5 percent of the grant funds (section 222(a)(2) of the Act) (20 USC 9222(a)(2)).
 - (4) Necessary and reasonable administrative expenses of the eligible agency shall not be more than five percent of the grant funds, or \$65,000, whichever is greater (section 222(a)(3) of the Act) (20 USC 9222(a)(3)).
- b. *Subrecipients* - Generally, subrecipients may use up to five percent of their funds for noninstructional costs, such as administration of local programs. In cases where the five percent limit is too restrictive, the eligible provider shall negotiate with the eligible agency to determine the adequate level of funds for noninstructional purposes (section 233 of the Act) (20 USC 9243).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF EDUCATION

CFDA 84.010 TITLE I GRANTS TO LOCAL EDUCATIONAL AGENCIES (LEAs) (Title I, Part A of ESEA)

I. PROGRAM OBJECTIVES

The objective of Title I, Part A of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA), is to improve the teaching and learning of children who are at risk of not meeting challenging academic standards and who reside in areas with high concentrations of children from low-income families.

II. PROGRAM PROCEDURES

The Department of Education (ED) provides Title I, Part A funds through each State Educational Agency (SEA) to local educational agencies (LEAs) through a statutory formula based primarily on the number of children ages 5 through 17 from low-income families. This number is augmented by annually collected counts of children ages 5 through 17 in foster homes, locally-operated institutions for neglected or delinquent children, and families above poverty that receive assistance under Temporary Assistance to Needy Families (TANF) and adjusted to account for the cost of education in each State. To receive funds, an SEA must submit to ED for approval either: (1) an individual State plan as provided in Section 1111 of the ESEA (20 USC 6311), or (2) a consolidated plan that includes Part A, in accordance with Section 14302 of the ESEA (20 USC 8852). The individual or consolidated plan, after approval by ED, remains in effect for the duration of the State's participation in Title I, Part A. The plan must be updated to reflect substantive changes.

To receive Title I funds, LEAs must have on file with the SEA an approved plan that includes descriptions of the general nature of services to be provided, how program services will be coordinated with the LEA's regular program of instruction, additional LEA assessments, if any, used to gauge program outcomes, and strategies to be used to provide professional development. An LEA may also include Part A as part of a consolidated application submitted to the SEA under Section 14305 of the ESEA (20 USC 8855).

LEAs allocate Title I funds to eligible school attendance areas based on the number of children from low-income families residing within the attendance area. A school at or above 50 percent poverty may use its Part A funds, along with other Federal, State, and local funds, to operate a schoolwide program to upgrade the instructional program in the whole school. Otherwise, a school operates a targeted assistance program in which the school identifies students who are failing, or most at risk of failing, to meet the State's challenging performance standards and who have the greatest need. The school then designs, in consultation with parents, staff, and the LEA, an instructional program to meet the needs of those students.

Source of Governing Requirements

This program is authorized by Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA)(20 USC 6301 through 6338, 6511 through 6514). Program regulations are found at 34 CFR part 200. The Education Department General Administrative Regulations (EDGAR) at 34 CFR parts 76, 77, 81, 82, and 99 also apply to this program, as do certain requirements of 34 CFR part 299 (General Provisions).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeated in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. LEAs (Targeted assistance programs only. See special tests and provisions for schoolwide programs.)

In a targeted assistance school, funds available under Part A may be used only for programs that are designed to help participating children meet the State's student performance standards expected of all children. Allowable activities in these schools include, but are not limited to, instructional programs, counseling, mentoring, other pupil services, college and career awareness and preparation, services to prepare students for the transition from school to work, services to assist preschool children in the transition to elementary school programs, parental involvement activities, and professional staff development. If health, nutrition, and other social services are not otherwise available from other sources to participating children, Part A funds may be used as a last resort to provide such services. The LEA's plan will provide a description of the general nature of the services to be provided with Part A funds. However, each Title I school determines the actual program it will provide (Title I, Section 1115 of ESEA (20 USC 6315)).

2. SEAs

SEAs can use funds to provide subgrants to LEAs, for State administration, and for program improvement activities in accordance with the State plan (Title I, Sections 1003, 1111, 1117 and 1603 of ESEA) (20 USC 6303, 6311, 6317, and 6513).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility**1. Eligibility for Individuals**

Eligible Children (LEA targeted assistance programs only)

Title I, Part A, funds are to be used to provide services and benefits to eligible children residing or enrolled in eligible school attendance areas. Once funds are allocated to eligible school attendance areas (see E.2.a and E.2.b. below), a school operating a targeted assistance program must use Title I funds only for programs that are designed to meet the needs of children identified by the school as failing, or most at risk of failing, to meet the State's challenging student performance standards. In general, eligible children are identified on the basis of multiple, educationally-related, objective criteria established by the LEA and supplemented by the school. Children who are economically disadvantaged, children with disabilities, migrant children, and limited English proficient (LEP) children are eligible for Part A services on the same basis as other children who are selected for services. In addition, certain categories of children are considered at risk of failing to meet the State's student performance standards and are thus eligible for Title I services because of their status. Such children include: children who are homeless; children who participated in a Head Start or Even Start program at any time in the two preceding years; children who received services under a program for youth who are neglected, delinquent, or at risk of dropping out under Title I, Part D (or its predecessor authority) at any time in the two preceding years; and children who are in a local institution for neglected or delinquent children or attending a community day program. From the pool of eligible children, a targeted assistance school selects those children who have the greatest need for special assistance to receive Part A services (Title I, Section 1115 of ESEA (20 USC 6315)).

2. Eligibility for Group of Individuals or Area of Service Delivery

a. *School Attendance Areas or Schools (LEAs with either schoolwide programs or targeted assistance programs)*

An LEA must determine which school attendance areas are eligible to participate in Part A. A school attendance area is generally eligible to participate if the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the LEA as a whole or at least 35 percent poverty. An LEA may also designate and serve a school in an ineligible attendance area if the percentage of children from low-income families enrolled in that school is equal to or greater than the percentage of such children in a participating school attendance area. When determining eligibility, an LEA must select a poverty measure from among the following data sources: (1) the number of children ages 5-17 in poverty counted in the most recent census; (2) the number of children eligible for free and reduced priced lunches; (3) the number of children in families receiving TANF; (4) the number of children eligible to receive Medicaid assistance; or (5) a composite of these data sources. The LEA must use that measure consistently across the district to rank all its school attendance areas according to their percentage of poverty.

An LEA must serve eligible schools or attendance areas in rank order according to their percentage of poverty. An LEA must serve those areas or schools above 75 percent poverty, including any middle or high schools, before it serves any with a poverty percentage below 75 percent. After an LEA has served all areas and schools with a poverty rate above 75 percent, the LEA may serve lower-poverty areas and schools either by continuing with the district-wide ranking or by ranking its schools below 75 percent poverty according to grade-span grouping (e.g., K-6, 7-9, 10-12). If an LEA ranks by grade span, the LEA may use the district-wide poverty average or the poverty average for the respective grade span grouping.

An LEA may elect not to serve an eligible area or school that has a higher percentage of children from low-income families if: (1) the school meets the Title I comparability requirements; (2) the school is receiving supplemental State or local funds that are spent according to the requirements in sections 1114 or 1115 of Title I; and (3) the supplemental State and local funds expended in the area or school equal or exceed the amount that would be provided under Part A. An LEA with an enrollment of less than 1000 students or with only one school per grade span is not required to rank its school attendance areas (Title I, Section 1113(a)-(b) of ESEA (20 USC 6313(a)-(b)); 34 CFR section 200.28(a) (3)).

- b. *Allocating funds to eligible school attendance areas and schools: (LEAs with either schoolwide programs or targeted assistance programs)*

An LEA must allocate Part A funds to each participating school attendance area or school, in rank order, on the basis of the **total** number of children from low-income families residing in the area or attending the school. In calculating the total number of children from low-income families, the LEA must include children from low-income families who reside in a participating area and attend private schools, using the same poverty data, if available, as the LEA uses to count public school children. If the same data are not available, the LEA may use comparable data. If complete actual poverty data are not available on private school children, an LEA may extrapolate, from actual data on a representative sample of private school children, the number of children from low-income families who attend private schools. An LEA may also correlate sources of data. If an LEA selects a public school to participate on the basis of enrollment, rather than because it serves an eligible school attendance area, the LEA must, in consultation with private school officials, determine an equitable way to count poor private school children in order to calculate the amount of Title I funds available to serve private school children.

If an LEA serves any attendance area with less than a 35 percent poverty rate, the LEA must allocate to **all** its participating areas an amount per poor child that equals at least 125 percent of the LEA's Part A allocation per poor child. (An LEA's allocation per poor child is the total LEA allocation under subpart 2 of Part A divided by the number of poor children in the LEA according to the poverty measure selected by the LEA to identify eligible school attendance areas. The LEA then multiplies this per-child amount by 125 percent.) If an LEA serves only areas with a poverty rate greater than 35 percent, the LEA must allocate funds, in rank order, on the basis of the total number of poor children in each area or school, but is not required to allocate a per-pupil amount of at least 125 percent. An LEA may not allocate a higher amount per poor child to areas or schools with lower percentages of poverty than to areas with higher percentages. If an LEA serves areas or schools below 75 percent poverty by grade span groupings, the LEA may allocate different amounts per poor child for different grade span groupings as long as those amounts do not exceed the amount per poor child allocated to any area or school above 75 percent poverty. Amounts per poor child within grade spans may also vary as long as the LEA allocates higher amounts per poor child to higher poverty areas or schools within the grade span than it allocates to lower poverty areas or schools.

The LEA must reserve the amounts generated by poor private school children who reside in participating public school attendance areas to provide services to eligible private school children (Title I, Section 1113(c) of ESEA (20 USC 6313(c)); 34 CFR sections 200.27 and 200.28).

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort*

See ED Cross-Cutting Section.

2.2 Level of Effort - *Supplement Not Supplant*

See ED Cross-Cutting Section.

3. Earmarking (SEAs)

See ED Cross-Cutting Section.

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting

See ED Cross-Cutting Section.

N. Special Tests And Provisions

1. Participation of Private School Children

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

3. Comparability

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.011 MIGRANT EDUCATION - BASIC STATE GRANT PROGRAM
(Title I, Part C of ESEA)****I. PROGRAM OBJECTIVES**

The objectives of the Migrant Education - Basic State Grant Program (Migrant Education Program or MEP) are to: (1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves; (2) provide appropriate educational services (including support services) that address the special needs of migratory children in a coordinated and efficient manner; (3) ensure that migratory children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet; (4) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors which inhibit the ability of migrant children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and, (5) ensure that migratory children benefit from State and local systemic reforms.

II. PROGRAM PROCEDURES

MEP funds are allocated to a State educational agency (SEA), under either an approved consolidated program plan or an approved individual program application, in order for the SEA to provide MEP services and activities either directly, or through subgrants to local operating agencies. Local operating agencies can be either local educational agencies (LEAs) or other public or nonprofit private agencies. Because an SEA may choose to provide MEP services directly or through a local operating agency, some of the suggested audit procedures will apply for an SEA or local operating agency, depending on which agency provides the services and where the records are maintained.

Source of Governing Requirements

This program is authorized by Title I, Part C of the Elementary and Secondary Education Act of 1965, as amended (ESEA)(20 USC 6391 through 6399). The Education Department General Administrative Regulations at 34 CFR parts 76, 77, 80, 82, and 85 apply to this program. Other requirements in 34 CFR part 200, subparts C (sections 200.40 through 200.45) and E (sections 200.60 through 200.65) and 34 CFR part 299 also apply.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. *SEAs* - SEAs may use funds to operate the program (directly or through contracts), make subgrants to LEA or other local operating agencies, and pay for State administration. In general, funds available under the MEP may be used only to: (1) identify eligible migratory children and their needs; and (2) provide educational and support services (including, but not limited to, preschool services, professional development, advocacy and outreach, parental involvement activities and the acquisition of equipment) that address the identified needs of the eligible children.

An SEA may also use MEP funds to carry out administrative activities that are unique to the program. These activities include, but are not limited to, statewide identification and recruitment of migratory children, interstate and intrastate program coordination, transfer of student records, collecting and using information to make subgrants, and direct supervision of instructional or support staff (Title I, Part C, Sections 1301, 1304(c) and 1306(b) of ESEA (20 USC 6392, 6394(c) and 6396(b)); 34 CFR section 200.41).

2. *LEA or Other Local Operating Agencies* - LEA or other local operating agencies use funds in accordance with the agreement with the SEA to (1) identify eligible migratory children and their needs; and (2) provide educational and support services that address the identified needs of the eligible children.

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
- 2.1 **Level of Effort - Maintenance of Effort** - Not Applicable
- 2.2 **Level of Effort - Supplement Not Supplant**

See ED Cross-Cutting Section.

3. Earmarking (SEAs)

See ED Cross-Cutting Section.

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *State Per Pupil Expenditure (SPPE) Data (OMB No 1850-0067)*
(SEAs/LEAs)

See ED Cross-Cutting Section.

- b. *Consolidated State Performance Report for State Formula Grant Programs Under the Elementary and Secondary Education Act and Goals 2000: Educate America Act (OMB No. 1810-0614)*

- (1) Table C-7, Part C, Count of Children Eligible for funding Purposes (SEAs)

The SEA is required for allocation purposes to assist the ED in determining the number of eligible migratory children who reside in the state, using such procedures as ED requires. Each SEA annually provides an unduplicated count of eligible migratory children in each of two categories: (1) children ages three through 21 who resided in the State for one or more days during the preceding September 1 - August 31; and (2) such children who were served one or more days in a migrant funded project conducted during either the summer term or an intersession period (i.e., when a year-round school is not in session). The SEA's report is based upon data submitted to it by the LEAs or other local operating agencies in the State.

- (2) Reporting the number of eligible migrant children to the SEA (LEAs or other local operating agencies and SEAs providing direct services)

The LEA or other local operating agencies and SEAs providing direct services must implement procedures, based on the eligibility documentation that they collect and maintain, to count and report eligible children in the two categories discussed in III.L.3.b.(1) above (Title I, Part C, Section 1304(c)(7) of ESEA (20 USC 6394(c)(7)); 34 CFR sections 76.730 and 76.731).

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

3. Comparability (SEAs/LEAs)

See ED Cross-Cutting Section.

4. Priority for Services

Compliance Requirement - SEAs and LEAs or other local operating agencies must give priority for MEP services to migratory children who are failing, or most at risk of failing, to meet the State's challenging content and performance standards, and whose education has been interrupted in the regular school year (Title I, Part C, Section 1304(d) of ESEA (20 USC 6394(d)).

Audit Objective (SEAs providing services directly and LEA or other local operating agencies) - Determine whether the SEA or LEA or other local operating agency gave priority in the provision of MEP services to those migratory children identified as failing, or most at risk of failing, to meet the State's challenging content and performance standards, and whose education has been interrupted in the regular school year (priority children). (Note: The auditor is not expected to test the SEA's or local operating agency's identification of a child as deserving priority.)

Suggested Audit Procedures (SEAs providing services directly and LEA or other local operating agencies)

- a. Review the SEA or LEA or other local operating agency's process for selecting children to receive MEP services to ascertain if it includes an identification of priority children. Because of the time of year in which the MEP program may

operate (e.g. in the summer), there may not be any children identified as priority children in which case suggested audit procedure b. below is not applicable.

- b. Select a sample of migratory children who were identified as priority children. Review program records to determine if these children were provided MEP services.

5. Targeting Funds (SEAs)

Compliance Requirement - SEAs may provide MEP services either directly, or through subgrants to LEA or other local operating agencies, including LEAs. In either case, in order to target program funds appropriately, the SEA is required to take into account the needs of the State's identified population of migratory children, and the degree to which those needs are not being met through other programs. In targeting MEP funds, SEAs must take into account the need to serve priority children and the needs of migratory children that result from the migratory lifestyle, such as educational disruption, failure or risk of failure to meet State content and performance standards, cultural or language barriers, social isolation, health-related problems, or other factors that stem from the migratory lifestyle or are needed to permit migratory children to participate effectively in school, as well as, the availability of other programs to address these needs (Title I, Part C, Sections 1301, 1304(b)(1), 1304(b)(6) and 1306(a) of ESEA (20 USC 6391, 6394(b)(6), 6396(a))).

Audit Objective (SEAs) - Determine whether the SEA's process to target MEP funds (whether or not through subgrants) takes into account current information on the need to serve priority children and the needs of the identified population of eligible migratory children throughout the State and the locality, and the degree to which those needs are not being met through other programs.

Suggested Audit Procedure(SEAs)

- a. Review the SEA's process to target MEP funds to ascertain if the process:
 - (1) Uses current information.
 - (2) Takes into account the needs of priority children and the degree to which the needs of the identified population of migratory children are not being met through other programs.

DEPARTMENT OF EDUCATION

CFDA 84.027 SPECIAL EDUCATION--GRANTS TO STATES (IDEA, Part B)
CFDA 84.173 SPECIAL EDUCATION--PRESCHOOL GRANTS (IDEA Preschool)

I. PROGRAM OBJECTIVES

The purposes of the Individuals with Disabilities Education Act (IDEA) are to: (1) ensure that all children with disabilities have available to them a free appropriate public education (FAPE) which emphasizes special education and related services designed to meet their unique needs; (2) ensure that the rights of children with disabilities and their parents or guardians are protected; (3) assist States, localities, educational service agencies and Federal agencies to provide for the education of all children with disabilities; and (4) assess and ensure the effectiveness of efforts to educate children with disabilities. The Assistance for Education of All Children with Disabilities Program (IDEA, Part B) provides grants to States to assist them in meeting these purposes (20 USC 1400 *et seq.*).

IDEA's Special Education--Preschool Grants Program, (Preschool Grants for Children with Disabilities Program), also known as the "619 Program," provides grants to States, and through them to LEAs, to assist them in providing special education and related services to children with disabilities ages three through five and, at a State's discretion, to two-year-old children with disabilities who will turn three during the school year. (20 USC 1419).

II. PROGRAM PROCEDURES

A State applying through its State Education Agency (SEA) for assistance under IDEA, Part B must, among other things, demonstrate to the Department of Education (ED) that it has in effect policies and procedures that ensure that all children with disabilities have the right to a FAPE.

States that receive assistance under IDEA, Part B, may receive additional assistance under the Preschool Grants Program. A State is eligible to receive a grant under the Preschool Grants Program if: (1) the State is eligible under 20 USC 1412 and (2) the State demonstrates to the Secretary that it has in effect policies and procedures that ensure the provision of FAPE to all children with disabilities aged three through five years residing in the State (20 USC 1419(b) and (c)).

Source of Governing Requirements

This program is authorized under the Individuals with Disabilities Education Act, Part B (IDEA-B) as enacted on June 4, 1997 (Pub. L. No. 105-17; 20 USC 1400 *et seq.*). Implementing regulations for these programs are 34 CFR parts 300 and 301.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. *SEAs* - Allowable activities for SEAs are subgranting funds to LEAs and State administration, and other State-level activities (See III.G.3, Earmarking, for a further description of these activities).
2. *LEAs*
 - a. *IDEA, Part B* - An LEA may use Federal funds under IDEA, Part B for the excess costs of providing special education and related services to children with disabilities. Special education includes specially designed instruction, at no cost to the parent, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings, and instruction in physical education, home instruction and instruction in other settings. Related services include transportation and such developmental, corrective and other supportive services as may be required to assist a child with a disability to benefit from special education. A portion of these funds, under conditions specified in the law, may also be used by the LEA for services and aids that also benefit nondisabled children and for the development and implementation of integrated and coordinated services systems (20 USC 1401(22) and (25); 20 USC 1413(a)(2) and (a) (4)).

LEAs must use subgrants for capacity building to assist them in providing direct services and in making systemic change to improve results for children with disabilities through one or more of the following activities: (i) direct services, including alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools; (ii) addressing needs or carrying out improvement strategies identified in the State's Improvement Plan; (iii) adopting promising practices, materials, and technology, based on knowledge derived from education research and other sources; (iv)

establishing, expanding, or implementing interagency agreements and arrangements between LEAs and other agencies or organizations concerning the provision of services to children with disabilities and their families; and (v) increasing cooperative problem-solving between parents and school personnel and promoting the use of alternative dispute resolution. (20 USC 1411(f)(4))

- b. *IDEA Preschool* - A LEA may use Federal funds under the Preschool Grants Program only for the costs of providing special education and related services (as described above) to children with disabilities ages three through five and, at a State's discretion, providing a free appropriate public education to two-year-old children with disabilities who will turn three during the school year. (20 USC 1419(a)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort* (LEAs)

IDEA, Part B funds received by an LEA cannot be used, except under certain limited circumstances, to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, or a combination of State and local funds, below the level of those expenditures for the preceding fiscal year. To meet this requirement, an LEA must expend, in any particular fiscal year, an amount of local funds, or a combination of State and local funds, for the education of children with disabilities that is at least equal to the amount of local funds, or a combination of State and local funds expended for this purpose by the LEA in the prior fiscal year. Allowances may be made for: (a) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel; (b) a decrease in the enrollment of children with disabilities; (c) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child has left the jurisdiction of the agency, has reached the age at which the obligation of the agency to provide a FAPE has terminated or no longer needs such program of special education; or (d) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment and the construction of school facilities.

For any fiscal year for which amounts appropriated to carry out IDEA-B exceeds \$4,100,000,000, an LEA may treat as local funds, for the purpose of determining compliance with the maintenance of effort requirement, up to 20 percent of the IDEA-B funds it receives that exceeds the amount received the previous year. The SEA may prohibit the LEA from treating such funds as local funds if it determines the LEA is not meeting IDEA-B requirements and if it is authorized to do so by the State constitution or State statute (20 USC 1413(a)(2), 34 CFR sections 300.231 through 300.233).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

Individual State grant award documents identify the amount of funds a State must distribute to its LEAs on a formula basis and the amount it can set aside for administration, other State-level activities, and capacity building grants to its LEAs.

a. *IDEA, Part B (SEAs)*

(1) **SEA set-aside (Overview):** The Secretary shall determine and report to the SEA an amount that is 25 percent of the amount the State received under this section for fiscal year 1998, cumulatively adjusted by the Secretary for each succeeding fiscal year. These funds may be used for administration (20 percent of the set-aside amount), other State-level activities, and subgrants to LEAs for capacity building (20 USC 1411(f)(1)).

-- **Administration:** Administration includes the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities. These funds may also be used for the administration of Part C of the IDEA if the SEA is the lead agency (20 USC 1411(f)(2), 34 CFR sections 300.620 and 300.621).

-- **Other State-level activities:** SEA set aside funds not used for administration or capacity building subgrants to LEAs shall be used for any of the following activities: (1) support and direct services, including technical assistance and personnel development and training; (2) administrative costs of monitoring and complaint investigation, but only to the extent that those costs exceed the costs incurred for those activities during fiscal year 1985; (3) establishment and implementation of a mediation process, including providing for the costs of mediators and support personnel; (4) assistance to LEAs in meeting personnel shortages; (5)

development of a State Improvement Plan; (6) activities at the State and local levels to meet the performance goals established by the State and to support implementation of the State Improvement Plan; and (7) supplementing other amounts used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this section (this system shall be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the State under Part C) (20 USC 1411(f)(3), 34 CFR section 300.370).

-- **Capacity Building subgrants to LEAs:** ED will inform SEAs of the amount of their IDEA-B grants that must be used for subgrants to LEAs for capacity building (20 USC 1411(f)(4)).

(2) **Formula Subgrants to LEAs:** Any funds under this program that the SEA does not retain for administration and other State-level activities shall be distributed to eligible LEAs in the State. An SEA must distribute to each eligible LEA the amount that LEA would have received for fiscal year 2000 if the State had distributed 75 percent of its grant for that year to LEAs. The SEA must then distribute 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the LEA's jurisdiction; and then distribute 15 percent of any remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the State educational agency (20 USC 1411(g)).

(b) *IDEA, Preschool Grants Program (SEAs)*

(1) **Reservation for State Activities:** For each fiscal year, the Secretary shall determine and report to the SEA an amount that is 25 percent of the amount the State received under this program for fiscal year 1998, cumulatively adjusted by the Secretary for each succeeding fiscal year. These funds may be retained by the State for administration and other State level activities (20 USC 1419(d)).

- **State Activities (Administration):** An SEA may use up to 20 percent of the funds it is allowed to retain for State activities under 20 USC 1419(d) for the purposes of administering this program, including the coordination of activities under the IDEA with, and providing technical assistance to, other programs that provide services to children with disabilities. These funds may also be used for the administration of Part C of the IDEA if the SEA is the lead agency for the State under this part (20 USC 1419(e)).

 - **State Activities (Other State level activities):** SEAs shall use funds reserved for State level activities that are not used for administration for: (1) support services (including establishing and implementing the mediation process required by section 20 USC 1415(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5; (2) direct services for children eligible for services under this program; (3) development of a State improvement plan; (4) activities at the State and local levels to meet the performance goals established by the State and to support implementation of the State improvement plan; or (5) supplementing other funds used to develop and implement a Statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the State under this program for a fiscal year (20 USC 1419(f)).
- (2) **Formula Subgrants to LEAs:** Any funds under this program that the SEA does not retain for administration and other State-level activities shall be distributed to eligible LEAs in the State. An SEA must distribute to each eligible LEA the amount the LEA would have received for fiscal year 1998 if the State had distributed 75 percent of its grant for that year to LEAs. The SEA must then distribute 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and then distribute 15 percent of any remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the SEA. (If an SEA determines that an LEA is adequately providing a FAPE to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the SEA may reallocate any portion of the funds under this program that are not needed by that LEA to provide a FAPE to other LEAs in the State that are not adequately providing special education and related

services to all children with disabilities aged 3 through 5 residing in the areas they serve) (20 USC 1419(g)).

(c) **Schoolwide Programs (LEAs)**

The amount of IDEA- B funds used in a schoolwide program, may not exceed the amount received by the LEA under IDEA-B for that fiscal year divided by the number of children in the jurisdiction of the LEA multiplied by the number of children participating in the schoolwide program (34 CFR section 300.234).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Report of Children and Youth with Disabilities Receiving Special Education Under Part B of the Individuals With Disabilities Education Act, as amended (OMB No. 1820-0043)* - Each SEA is required to report to the Secretary an unduplicated count of children with disabilities receiving special education and related services.

The SEA may include in this count children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that either (1) provides them with both special education and related services or (2) provides them only with special education if they do not need related services to assist them in benefitting from that special education. The SEA may not, however, include in this count children with disabilities who: (1) are not enrolled in a school or program operated or supported by a public agency; (2) are not provided special education that meets State standards; (3) are not provided with a related service that they need to assist them in benefitting from special education; or, (4) are receiving special education funded solely by the Federal Government--except that children in any of the age ranges three, four, five, eighteen, nineteen, twenty, or twenty-one, who fall into this category, may be counted if no local or State funds are available for non-disabled children in that same age range (34 CFR section 300.753).

Each SEA must: (a) establish procedures to be used by LEAs and other educational institutions in counting the number of children with disabilities receiving special education and related services; (b) obtain certification from each agency and institution that an unduplicated and accurate count has been made; and, (c) ensure that documentation is maintained that enables the State and the Secretary to audit the accuracy of the count (34 CFR sections 300.754(a),(c), and (e)).

LEAs must report to the SEA in accordance with the SEA-established procedure.

N. Special Tests and Provisions

1. Schoolwide Programs

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

CFDA 84.032 FEDERAL FAMILY EDUCATION LOANS (FFEL) - (Guaranty Agencies)

I. PROGRAM OBJECTIVES

Non-profit and State guaranty agencies are established to guarantee student loans made by lenders and perform certain administrative and oversight functions under the Federal Family Education Loans (FFEL) program, which includes the Federal Stafford Loan, Federal PLUS, Federal SLS and Federal Consolidation loan programs. The Department of Education (ED) provides reinsurance to the guaranty agency.

II. PROGRAM PROCEDURES

To participate in the FFEL programs and to receive various payments and benefits incident to that participation, a guaranty agency enters into agreements with ED. As part of these agreements, guaranty agencies establish and maintain a Federal Student Loan Reserve Fund (Federal Fund) and the Agency Operating Fund; service defaulted loans that have been submitted to them; make timely claim payments to lenders on defaulted loans; make timely reinsurance filings with ED; provide accurate and reliable reports to ED; apply proper charges to defaulted borrowers; and take proper enforcement measures with respect to lenders, lender servicers, and defaulted borrowers.

Section 428A of the Higher Education Act (HEA), as amended allows ED to enter into Voluntary Flexible Agreements (VFA) with guaranty agencies to pilot alternatives to the current guaranty agency financing model. ED had previously limited participation to not more than six guaranty agencies (July 28, 1999 *Federal Register* (64 FR 40859)). Effective October 1, 2001, however, any guaranty agency or consortium of agencies may apply to enter into a VFA with ED (Section 428A(a)(3) of the HEA, 20 USC 1078-1(a)(3)). VFA pilots are uniquely designed by each guaranty agency and may waive some of the compliance requirements. If a VFA exists, the auditor should review the VFA and determine: (1) which of the "III. Compliance Requirements" below are applicable, and (2) what, if any, additional or alternative audit procedures should be performed to test compliance with the terms of the VFA.

Source of Governing Requirements

The FFEL program is authorized by the Higher Education Act (HEA) of 1965, as amended (20 USC 1071 to 1087-2). Program regulations are located at 34 CFR part 682.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

The compliance requirements and suggested audit procedures for allowed and unallowed services are presented separately in Special Test number 10, Federal Fund and Agency Operating Fund, in Section N.

L. Reporting

- 1. Financial Reporting** - Not Applicable
- 2. Performance Reporting** - Not Applicable
- 3. Special Reporting**

ED Form 2000, *Guaranty Agency Financial Report (OMB No. 1845-0026)* - Guaranty agencies submit this form monthly, monthly/quarterly, or annually. Instructions for this report are available on the Internet at <http://www.ed.gov/offices/OSFAP/IGAL/guaranty.html>.

In determining which amounts to test on ED Form 2000, particular attention should be given to the September 30 amounts for current year defaults, current year collections, loans receivable and the sources and uses of funds in the Federal Fund (or equivalent line items pertaining to the Federal/Operating Funds for the September 30 report). Also, guaranty agencies are required to submit loan level detail information to the National Student Loan Data System (NSLDS) (*OMB No. 1845-0035*). When reviewing support for the above reports, the auditor should consider whether the relevant amounts in these reports reconcile with the NSLDS Extract submitted by the guaranty agency. (NOTE: There may be some differences between the ED Form 2000 and the NSLDS Extracts due to timing factors (e.g., pulling of NSLDS Extract in third week vs. month end). Finally, ED may send edits back to the guaranty agency to be entered.)

The guaranty agency is required to submit loan level detail data to the NSLDS. The following are identified as key data elements: social security number (SSN); last name (some agencies may use first name combined with the SSN since last names are subject to change); original school code; academic level; current school code; enrollment status code; enrollment status date; originating lender code; loan guarantee date; amount of guarantee; current holder lender code; date repayment entered; loan status code; loan status date; outstanding principal; amount of claim paid to lenders (principal and interest); and interest and fee amounts for loans in defaulted status. ED sends edits back to the guaranty agency for disposition. Samples should be selected from the guaranty agency's NSLDS Extracts (Note: Guaranty Agencies may have changed to automated exchanges of data with schools and lenders; thus, hard copy documents may not exist. In this instance, auditors may only be able to trace to system information and not to supporting records.) (34 CFR section 682.414(b)).

In addition to providing ED with information it needs to maintain its accounting and loan database records, data in the ED Form 2000 report are used for various purposes by ED. The use of this data is the subject of several other compliance requirements cited in Section N., Special Tests and Provisions, which identify the need to test specific items in these reports. For audit efficiency, the auditor may want to test those requirements at the same time as this compliance requirement. The other compliance requirements are "N.2 Federal Reinsurance Rate," "N.3 Conditions of Reinsurance," "N.4 Death, Disability, and Bankruptcy," and "N.10 Federal Fund and Operating Fund.

N. Special Tests and Provisions

1. Current Records

Compliance Requirement - The guaranty agency shall maintain current, complete records for each loan that it holds. The records must be maintained in a system that allows ready identification of each loan's current status, updated at least once every 10 business days (34 CFR section 682.414(a)).

Audit Objective - Determine whether the guaranty agency's records are updated for information received from lenders, schools, borrowers, others, and NSLDS on a timely basis.

Suggested Audit Procedures

- a. For a sample of loans, compare dates transactions or information were posted to the guaranty agency's system to the date the source information was received.
- b. Identify whether any backlog exists that is over 10 days old.

2. Federal Reinsurance Rate

Compliance Requirement - The applicable Federal reinsurance rate for a loan depends on the amount of reinsurance claims paid to the guaranty agency during the year and the date the loan was made (34 CFR sections 682.404(b) & (c)).

For loans made prior to October 1, 1993 or transferred under a plan to transfer guarantees from an insolvent guaranty agency approved by ED, when the total amount of reinsurance claims paid to the guaranty agency during a fiscal year is less than five percent of the amount of loans in repayment at the end of the preceding fiscal year, reinsurance is paid for 100 percent of the guaranty agency's losses. When the total amount of reinsurance claims paid to the guaranty agency during a fiscal year reaches five percent of the amount of loans in repayment at the end of the preceding fiscal year, the reinsurance subsequently paid to the guaranty agency during that fiscal year, drops to 90 percent. When the amount of claims reaches nine percent, the reinsurance drops to 80 percent.

For loans made from October 1, 1993 to September 30, 1998, the above rates drop to 98/88/78 percent, respectively. For loans made on or after October 1, 1998 the respective rates are 95/85/75 percent (Section 428(c)(1) of HEA (20 USC 1078(c)(1))).

The Secretary uses the ED Form 2000 report for the previous September 30 to calculate the amount of loans in repayment at the end of the preceding fiscal year (34 CFR sections 682.404(b) & (c)).

Past problem areas have been:

Guaranty agencies have:

- not established systems to verify a student's loan status with lender and school data through a reliable audit trail.
- established systems to determine loan status that rely on loan characteristic analysis or assumptions that are not adequately tested or verified.
- not established adequate procedures to ensure that lenders report and that agencies properly record loans paid in full.
- not established adequate procedures to ensure that there is a system to reconcile the guaranty agency's repayment conversion dates to the lender's repayment conversion dates.

Audit Objective - Determine whether the data submitted to ED in the September 30 Form 2000 used to calculate loans in repayment is materially correct and supported by the books and records.

Suggested Audit Procedures

- a. Compare the amounts of loans in repayment in the guaranty agency system at September 30 to the amount of loans in repayment derived from the September 30 ED Form 2000. Determine the propriety of any difference.
- b. Select a sample of loans in in-school and repayment status from the guaranty agency's system. Verify the loan amount and loan status by contacting the current holder of the loan or schools to confirm the authenticity and status of the loans.

3. Conditions of Reinsurance Coverage

Compliance Requirement - A guaranty agency is entitled to reinsurance payments on a loan only if the requirements cited in 34 CFR section 682.406 are met. The lender must provide the guaranty agency with documentation, as described in 34 CFR sections 682.406 and 414. The Secretary requires a guaranty agency to repay reinsurance payments received on a loan if the lender or the guaranty agency failed to meet these requirements (34 CFR section 682.406).

Past problem areas have been:

The lender:

- Did not exercise due diligence in servicing the loan in accordance with 34 CFR section 682.411 (34 CFR section 682.406(a)(1)).
- Did not include adequate documentation, including a collection and payment history, to support claim eligibility and the claim amount (34 CFR 682.406(a)(3)).
- Did not file a default claim with the guaranty agency within 90 days of default. (Note: The guaranty agency shall reject the claim based on due diligence or timely filing violations, unless it was cured by the lender in accordance with Cure Bulletin 88-G-138. See 34 CFR part 682, Appendix D.)(34 CFR section 682.406(a)(5))
- Was paid interest beyond 30 days after a claim was returned for inadequate documentation for claims returned on or after July 1, 1996 (34 CFR section 682.406(a)(6)).

The guaranty agency:

- Filed a request for payment of reinsurance later than 45 days following payments of a default claim to the lender (34 CFR section 682.406(a)(9)).
- Did not pay the lender within 90 days of the date the lender filed the claim (34 CFR section 682.406(a)(8)).
- Did not pay the lender prior to filing a request for payment from ED.

Audit Objective - Determine whether loans for which reinsurance was paid met the requirements for reinsurance.

Suggested Audit Procedures

Select a sample of defaulted loans from the guaranty agency's ED Form 2000 reports. Review documentation supporting that the loans met the conditions of reinsurance.

4. Death, Disability, and Bankruptcy Claims

Compliance Requirement - If an individual borrower dies, the obligation of the borrower and any endorser to make any further payments on the loan is canceled, in accordance with 34 CFR sections 682.402(b)(2-5). If the lender determines that an individual borrower is totally and permanently disabled, the obligation of any further payments on the loan is canceled in accordance with 34 CFR sections 682.402(c)(1-4). If a borrower files a petition of relief under the Bankruptcy Code, the Secretary reimburses

the holder of the loan for unpaid principal and interest on the loan, in accordance with 34 CFR sections 682.402(f), (g), and (h). Exceptions to these regulations are identified in 34 CFR sections 682.402(a)(2) and (3).

A lender must file a death, disability or bankruptcy claim within the period prescribed in 34 CFR section 682.402(g)(2). The guaranty agency shall review a death, disability, or bankruptcy claim promptly and shall pay the lender in accordance with 34 CFR section 682.402(h). Guaranty agencies are required to take specific actions in bankruptcy proceedings in accordance with 34 CFR section 682.402(i). In accordance with 34 CFR section 682.402(k)(1)(i), the guaranty agency shall not request payment from ED until the lender's claim has been paid (34 CFR section 682.402).

Audit Objective - Determine whether death, disability and bankruptcy claims met the requirements for the payment of such claims.

Suggested Audit Procedures

- a. Select a sample of death, disability, and bankruptcy claims from the guaranty agency's ED Form 2000 reports.
- b. Review claim documentation that supports the eligibility of the claims for payment.

5. Default Aversion Assistance

Compliance Requirement - Upon receipt of a complete request from a lender, received not earlier than day 60 and no later than day 120 of delinquency, a guaranty agency shall engage in default aversion activities designed to prevent the default by a borrower. Default aversion activities are activities of a guaranty agency that are directly related to providing collection assistance to the lender on a delinquent loan, including due diligence activities required pursuant to regulations of the Secretary, prior to the loan being legally in a default status. In consideration of such efforts, the guaranty agency receives a default aversion fee. (34 CFR 682.404(k)).

Calculating the Fee - In general, a guaranty agency may transfer a default aversion fee from its Federal Fund to its Operating Fund based on 1 percent of the total unpaid principal and accrued interest owed on loans on which the lender requests default aversion assistance. However, if a loan on which the guaranty agency has received the default aversion fee is subsequently paid as a default claim, the guaranty agency must rebate funds to the Federal Fund. The fees may be transferred from the Federal Fund to the Operating Fund no more frequently than monthly and may not be paid more than once on any loan (34 CFR 682.404(k)).

Audit Objective - Determine whether the guaranty agency performed default aversion activities in accordance with the requirements; whether loans on which the default aversion fee was received were qualified, and whether the fees were calculated accurately.

Suggested Audit Procedures

- a. For a sample of loans, review documentation supporting that the loans qualified for and the guaranty agency performed the default aversion activities.
- b. For a sample of default aversion fee transfers:
 - (1) Verify that the default aversion fee was calculated accurately.
 - (2) Verify that default aversion fees were not paid more than once on the same loan.
- c. For a sample of defaulted loans, verify that the appropriate default aversion fees are returned to the Federal Fund.

6. Standard Collection Efforts

Compliance Requirement - Unless the guaranty agency uses alternative collection procedures (see next section for alternative collection procedures), the guaranty agency must engage in certain collection activities within certain time frames as prescribed by 34 CFR section 682.410(b)(6) on a loan for which it pays a default claim filed by a lender. These collection activities include written notices, contacts with borrowers, wage garnishments, etc. If a guaranty agency contracts with another party to perform default aversion assistance activities and collect defaulted loans, the party that provides default aversion assistance on a loan may not perform collection activity on that loan within three years of the date the default claim is paid (34 CFR 682.404(k) and 682.410 (b)(6)).

Audit Objective - Determine whether the guaranty agency performed required collection procedures on defaulted loans and that the collection contractor did not perform collection activities within three years of the default claim payment on loans for which it performed default aversion assistance.

Suggested Audit Procedures

- a. If the guaranty agency uses a collection contractor, review the contract to ascertain if the contract specified the required collection procedures to be followed for defaulted loans.
- b. For a sample of defaulted loan accounts, review documentation that supports that prescribed collection activities were followed.
- c. Verify that the collection contractor did not perform collection activity within the three year period on loans for which it performed default aversion assistance.

7. Alternative Collection Efforts

Compliance Requirement - A guaranty agency may engage in the following collection activities in lieu of the activities described above in the Standard Collection Efforts section. The regulations at 34 CFR sections 682.410 (b)(6)(ii)(A) and (B) apply to the periods of time set forth in this Alternative Collection Efforts section. Upon receipt of a payment from a borrower, the guaranty agency is not required to follow the specific collection efforts described below, but shall diligently attempt to collect the loan for 60 days following receipt of the payment. If the guaranty agency receives no payments during the 60-day period, the guaranty agency shall resume its use of the collection efforts described below, treating the first day after the end of the 60-day period as the first day of the period described in the 31-180 day period below (34 CFR section 682.410 (b)(7)).

1 - 30 days:

During this period the guaranty agency shall send to the borrower the written notice described in 34 CFR section 682.410 (b)(5)(ii).

31 - 180 days:

During this period the guaranty agency shall attempt diligently to collect the loan using such collection tools and activities as it deems appropriate, provided, however, that the guaranty agency must make at least one diligent effort to contact the borrower by telephone, as defined in 34 CFR section 682.411(l) (with references to "the lender" understood to mean "the guaranty agency"), and send at least two forceful collection letters to the borrower. By the end of this period, the guaranty agency shall refer the loan to a collection contractor in accordance with 34 CFR section 682.410(b)(7)(iv)(C). The collection contractor to whom the guaranty agency refers a loan under 34 CFR section 682.410 (b)(7)(iv)(B) must: (1) be compensated for its services on all FFEL loans referred by the agency solely on a contingency fee basis; (2) be one of at least two collection contractors simultaneously providing collection services to the agency on FFEL loans under a competitive system that the guaranty agency has established and that includes the periodic assessment by the agency of the performance of the competing contractors and periodic adjustments in the volume of loans referred by the guaranty agency to each competing contractor based on those assessments; and, (3) not receive referral of more than 70 percent of the guaranty agency's referred loans in any calendar year.

After 180 days:

Notwithstanding the deadline for instituting a civil suit set forth in 34 CFR section 682.410 (b)(6)(vii), a guaranty agency that uses the procedures in 34 CFR section 682.410 (b)(7)(i)-(iv) shall institute a civil suit required by that paragraph prior to the earliest of the 90th day following the collection contractor's return of the loan to the agency or the 365th day following the later of the guaranty agency's referral of the loan to the collection contractor, or the contractor's receipt of a payment on the loan.

Audit Objective - Determine whether the guaranty agency that chose to follow alternative collection procedures complied with the applicable requirements.

Suggested Audit Procedures

- a. For a sample of defaulted loan accounts, review documentation that supports that the guaranty agency performed the prescribed collection activities before referring the loans to the collection contractors.
- b. Review collection agency contracts and loan referral records to ascertain if the guaranty agency (1) did not refer more than 70 percent of its referred loans to a single collection contractor, and (2) compensated the contractors only on a contingency fee basis.
- c. Review records demonstrating that the guaranty agency periodically assessed the performance of the competing contractors, and if necessary, made adjustments in the volume of loans referred to each competing contractor.

8. Federal Share of Borrower Payments

Compliance Requirement - If the borrower makes payments on a loan after the guaranty agency has paid a claim on that loan, the guaranty agency must pay the Secretary an equitable share of those payments.

For borrower payments received on or after October 1, 1998 - the Secretary's equitable share is the portion of payments that remains after deducting:

- (1) The complement of the reinsurance percentage in effect when reinsurance was paid on the loan (See 2., Federal Reinsurance Rate, above for the applicable reinsurance rate. The complement of the reinsurance percentage equals 100 minus the Federal reinsurance rate), and
- (2) 24 percent of borrower payments.

For borrower payments received on or after October 1, 2003 - the Secretary's equitable share is the portion of payment that remains after deducting the complement of the reinsurance percentage and 23 percent of borrower payments (Section 428(c)(6) of HEA (20 USC 1078(c)(6))).

Loans that have been rehabilitated or paid by FFEL program consolidation loans are not covered by this requirement because the payoff amounts are not considered "payments made by the borrower." For these loans, under separate authority, agencies are allowed to retain collection costs added to the borrower's balance, not to exceed 18.5 percent of the payoff.

Unless the Secretary approves otherwise, the guaranty agency must submit the Secretary's equitable share of borrower payments within 45 days of the receipt of the payments by the

guaranty agency or its servicer (34 CFR section 682.404 (g); Section 428(c)(2)(D) (20 USC 1078(c)(2)(D)) and Section 428(c)(6) (20 USC 1078(c)(6)) of the HEA.

Audit Objective - Determine whether the Secretary's equitable share of borrower payments on defaulted loans is properly computed and remitted to the Secretary in a timely manner.

Suggested Audit Procedures

Test a sample of borrower payments on defaulted loans to ascertain if the equitable share due ED was remitted to ED in a timely manner.

9. Assignment of Defaulted Loans to ED

Compliance Requirement - Unless the Secretary notifies a guaranty agency in writing that other loans must be assigned to the Secretary, a guaranty agency must assign any loan that meets all of the following criteria as of April 15 of each year: (1) the unpaid principal balance is at least \$100; (2) the loan, and any other loans held by the guaranty agency for that borrower, have been held by the agency for at least five years; (3) a payment has not been received on the loan in the last year; and (4) a judgement has not been entered on the loan against the borrower. The Secretary may also direct a guaranty agency to assign to ED certain categories of defaulted loans held by the guaranty agency as described in 34 CFR section 682.409. In determining whether mandatory assignment from a guaranty agency is required, the Secretary will review the adequacy of collection efforts. ED considers the guaranty agency's record of success in collecting its defaulted loans, the age of the loans, and the amount of any recent payments on the loans (Section 428(c)(8) of the HEA (20 USC 1078(c)(8));34 CFR section 682.409).

Audit Objective - Determine whether the guaranty agency assigned to ED all loans that meet the criteria.

Suggested Audit Procedures

- a. Review the guaranty agency's aging of loans to ascertain if the guaranty agency is holding loans that should be assigned to ED.

10. Federal Fund and Agency Operating Fund

Compliance Requirement - Each guaranty agency was required to establish a Federal Fund and an Agency Operating Fund by December 6, 1998.

Federal Fund

All funds, securities, and other liquid assets contained in the pre-existing reserve fund established pursuant to Section 422 of the HEA were to be deposited in this fund. After the Federal Fund is established, a guaranty agency shall deposit the following:

- All amounts received from ED as payment of reinsurance on loans.
- From amounts collected on behalf of obligation of a defaulted borrower, a percentage amount equal to the complement of reinsurance and the Secretary's equitable share of the collections (must be deposited within 48 hours of receipt).
- Insurance premiums collected.
- Amounts received for SPA activity performed prior to date of enactment.
- 70 percent of amounts received after enactment for Administrative Cost Allowance (ACA) for loans upon which insurance was issued prior to date of enactment.
- Earnings from investments of the Federal Fund.
- Other receipts as specified in regulations.

The Federal Fund may only be used for the following purposes:

- To pay lender claims pursuant to sections 428(b)(1)(G), 428(j), 437, and 439(q) of HEA (20 USC 1078(b)(1)(G), 1078(j), 1087, and 1087-2(q)).
- To pay default aversion fees into the Agency Operating Fund.
- To establish the Operating Fund, each guaranty agency may, with the Secretary's approval, transfer not more than 180 days' cash expenses for normal operating expenses (not including claim payments) as a working capital reserve as defined in Office of Management and Budget Circular A-87 from the Federal Fund for deposit into the Operating Fund for use in the performance of the guaranty agency's duties. Such transfers may occur during the first three years following the establishment of the Operating Fund. No guaranty agency may transfer in excess of 45 percent of the balance, as of September 30, 1998, of the guaranty agency's Federal Fund to the agency's Operating Fund during such three-year period. The guaranty agency shall ensure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve recall requirements. (Section 422A(a)-(f) of the HEA (20 USC 1072a(a)-(f)); 34 CFR sections 682.419 and 682.421; 64 FR 58634-58635).

Agency Operating Fund

Each guaranty agency shall establish a fund designated as the Operating Fund. To establish the Operating Fund, each guaranty agency can transfer not more than 180 days cash outlays for operating expenses (not including claim payments) from the Federal Fund. Amounts deposited into the Operating Fund shall be invested at the discretion of the guaranty agency in accordance with prudent investor standards. *Effective July 1, 2000*, permission of the Secretary is required to transfer these funds.

The guaranty agency shall deposit into the Operating Fund:

- Loan processing and insurance fees.
- 30 percent of ACA amounts received after date of enactment for loans upon which insurance was issued prior to date of enactment.
- Account maintenance fees.
- Default aversion fees.

- Amounts remaining from collection on defaulted loans held by the guaranty agency, after payment of Secretary's equitable share, excluding amounts deposited in the Federal Fund pursuant to section 422(c)(2) (34 CFR section 682.419(b)(5)).
- Other receipts as specified in regulations (34 CFR section 682.423).

Funds in the Operating Fund shall be used for application processing, loan disbursement, enrollment and repayment status management, default aversion activities, default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other SFA related activities. *During any period in which the Operating Fund contains money transferred in from the Federal Fund, the entire Operating Fund is subject to the restrictions in 34 CFR sections 682.410 and 682.418 (Sections 422B(a)-(e) of the HEA (20 USC 1072b(a)-(e))).*

Past problem areas concerning fund revenue and expense have included:

- Failure to credit funds received into the Federal Fund, including lock-box operations, within the specified period.
- Unsupported expenses paid from reserve fund assets.
- Failure to report all credits to the reserve fund on ED Form 2000.
- Use of funds for other programs (e.g., SSIG and other State programs).
- Commingling of funds.
- Unreasonable allocation of indirect costs to the FFEL program or failure to prepare the cost allocation plan as required by 34 CFR section 682.418(c).

Audit Objective - Determine whether the guaranty agency credited the required amounts to the Federal and Operating Funds, and used the resources of each fund solely for authorized purposes.

Suggested Audit Procedures

- a. Review revenue records to assure that amounts required to be credited to the Federal and Operating Funds were so credited. Review revenues and receipts that were not credited to the Federal or Operating Funds to assure that they were not inappropriately omitted.
- b. Test expenditures to ascertain if they were made for allowable purposes.
- c. Examine the general journal for unusual entries that impact the Federal or Operating funds.

11. Investments - Federal Fund

Compliance Requirement - Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

Earnings from the Federal Fund shall be the sole property of the Federal government. (Section 422A(b) of the HEA (20 USC 1072A(b))).

Audit Objective - Determine whether the agency invested Federal funds only in approved securities or other instruments.

Suggested Audit Procedures

- a. Review investment activity during the period to ascertain that Federal Fund assets were invested in approved securities or other instruments.

12. Collection Charges

Compliance Requirement - The guaranty agency must charge a defaulted borrower an amount equal to reasonable costs incurred by the guaranty agency in collecting a loan on which the guaranty agency has paid a default or bankruptcy claim. The amount charged the borrower must equal the lesser of the amount that would be charged under the formula in 34 CFR section 30.60 or, the amount that would be charged if the loan was held by ED. Costs may include, but are not limited to, attorney's fees, collection agency charges, and court costs (34 CFR section 682.410(b)(2)).

Audit Objective - To determine whether the guaranty agency charged appropriate collection costs to borrowers of loans on which the guaranty agency has paid a default or bankruptcy claim.

Suggested Audit Procedures

- a. Test a sample of defaulted loan accounts to determine whether the guaranty agency charged for reasonable costs of collection.
- b. Ascertain if the method used to calculate the amount was appropriate.

13. Enforcement Action

Compliance Requirement - The guaranty agency shall take measures to ensure enforcement of all Federal, State and guaranty requirements and at a minimum, conduct biennial on-site program reviews of such lenders and schools that meet criteria specified in 34 CFR section 682.410(c)(1) or are selected using an alternative methodology approved by the Secretary. The guaranty agency is required to use statistically valid techniques to calculate liabilities owed the Secretary that the review indicates may exist; demand prompt payment from the responsible party; and refer to the Secretary any case in which the payment of funds is not made within 60 days. A guaranty agency is also required to adopt procedures for identifying fraudulent loan applications, and undertake or arrange for the prompt and thorough investigation of criminal or other programmatic misconduct by its program participants. It is responsible also for promptly reporting all of the allegations and indications of fraud or misconduct having a substantial basis in

fact, and the scope, progress and results of the agency's investigations (34 CFR section 682.410(c)).

Audit Objective - Determine whether the guaranty agency is carrying out program reviews and related enforcement activity in accordance with the above requirements.

Suggested Audit Procedures

- a. Review the guaranty agency's procedures for selecting lenders and schools to review to ascertain if they meet the regulatory criteria or an alternative methodology approved by the Secretary.
- b. Review guaranty agency's program review guidance to ascertain if it is up-to-date and includes, when problems are found, a statistically valid method for determining liabilities due the Secretary.
- c. Review program review reports to ascertain if amounts due the Secretary were identified and, if so, whether appropriate demand for payment and follow-up was conducted.
- d. Through inquiry and review, determine whether the guaranty agency adopted procedures for identifying fraudulent loan applications and for reporting all allegations of misconduct having a substantial basis to ED. Review guaranty agency records on the follow-up of misconduct to determine whether ED was notified when appropriate.

DEPARTMENT OF EDUCATION

CFDA 84.041 IMPACT AID (Title VIII of ESEA)

I. PROGRAM OBJECTIVES

The objective of the Impact Aid Program (IAP) under Title VIII of the Elementary and Secondary Education Act (ESEA) is to provide financial assistance to local educational agencies (LEAs) whose local revenues or enrollments are adversely affected by Federal activities. These activities include the Federal acquisition of real property (Section 8002) or the presence of children residing on tax-exempt Federal property or residing with a parent employed on tax-exempt Federal property ("federally connected" children) (Section 8003).

II. PROGRAM PROCEDURES

Funds are provided on the basis of statutory criteria and data supplied by LEAs in applications submitted to the Department of Education (ED), with copies provided simultaneously to the State Educational Agency (SEA). Payments are made directly to the LEA by ED. Generally, payments under Section 8003 of the ESEA are based on membership and attendance counts of federally connected children, with additional funds provided for certain federally connected children with disabilities and children residing on Indian lands. Payments under Section 8002 of the ESEA are based on the estimated assessed value of eligible Federal property and the applicable tax rate, and, in case of insufficient funds, upon a statutory formula that considers past year payments. Except for the additional funds provided for federally connected children with disabilities under Section 8003(d) of the ESEA, funds provided under Sections 8002 and 8003 are considered general aid and generally have no restrictions on their expenditure. Any funds that are provided under Section 8007 of the ESEA to certain LEAs that received Section 8003 payments must be used for construction, as defined in the statute.

Source of Governing Requirements

This program is authorized by Sections 8001-8014 of the ESEA, which is codified at 20 USC 7701 through 7714. Implementing regulations are 34 CFR part 222.

Availability of Other Information

Additional information on this program (including the Impact Aid statute) may be found on the internet at www.ed.gov/offices/OESE/ImpactAid.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed**1. Section 8003(d) - Federally connected children with disabilities**

LEAs must use the payments provided under Section 8003(d) of the ESEA to conduct programs or projects for the free, appropriate public education of the federally connected children with disabilities who generated those funds. Allowable costs include expenditures reasonably related to the conduct of programs or projects for the free, appropriate public education of children with disabilities, including program planning and evaluation and acquisition costs of equipment, except when the title to that equipment would not be held by the LEA. Costs for school construction are not allowable (Section 8003 of ESEA; 34 CFR section 222.53(c)).

2. Section 8007 - Construction

LEAs that receive payments under Section 8003 of the ESEA and that meet certain other statutory criteria may receive assistance under Section 8007 of the ESEA in any fiscal year that the Congress appropriates funds under that Section. LEAs must use the payments provided under Section 8007 for construction, as defined in Section 8013(3) of the ESEA. Under Section 8013(3), the term "construction" includes: (1) the preparation of drawings and specifications for school facilities; (2) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities; (3) inspecting and supervising the construction of school facilities; and (4) debt service for such activities (Sections 8007 and 8013(3) of ESEA).

3. Section 8002 - Federal property payments and Section 8003(b) - Basic support payments

Funds made available under Sections 8002 and 8003(b) of the ESEA usually become part of the general operating fund of the LEAs. These funds are available as general aid for free public education and may be used for current operating expenditures or capital outlays in accordance with State laws. The auditor is not expected to perform any tests with respect to the expenditure of these funds.

B. Allowable Costs/Cost Principles

Sections 8002 (Federal property payments) and 8003(b) (Basic support payments) are not subject to the A-102 Common Rule or Circular A-87 (See Appendix I).

D. Davis-Bacon Act

Funds spent on Section 8007 construction are subject to Davis-Bacon prevailing wage requirements (20 USC 1232b).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
- 2.1 **Level of Effort** - *Maintenance of Effort* - Not Applicable
- 2.2 **Level of Effort** - *Supplement Not Supplant*

Section 8003(d) funds may not supplant any State funds (either general or special education State aid) that were or would have been available to the LEA for the free, appropriate public education of federally connected children with disabilities counted under Section 8003(d). A reduction in the per-pupil amount of State aid for children with disabilities, including children counted under Section 8003(d), from that received in the previous year raises a presumption that supplanting has occurred. An LEA can rebut this presumption by demonstrating that the reduction was unrelated to the receipt of Section 8003(d) funds (Section 8003(d) of ESEA; 34 CFR section 222.54).

3. **Earmarking** - Not Applicable

L. **Reporting**

1. **Financial Reporting** - Not Applicable
2. **Performance Reporting** - Not Applicable
3. **Special Reporting**

Application for Impact Aid - Section 8003 (OMB No. 1810-0036) - Each year an LEA must submit this application, which provides the following information: counts of federally connected children in various categories, membership and average daily attendance data, and information on expenditures for children with disabilities. Membership and average attendance data should be tested. The auditor should use professional judgment when determining which tables to test, taking into account the relative materiality of the number of children reported in other tables. (Note: Eligible LEAs submit a separate application for Section 8002 funding. The auditor is not expected to perform any tests with respect to the Section 8002 application.)

N. **Special Tests and Provisions**

1. **Required Level of Expenditure**

Compliance Requirement - For each fiscal year, the amount of expenditures for special education and related services provided to federally connected children with disabilities must be at least equal to the amount of funds received or credited under Section 8003(d) of the ESEA for that fiscal year. This is demonstrated by comparing the amount of Section 8003(d) funds received or credited with the result of the following calculation:

- a. Divide total LEA expenditures for special education and related services for all children with disabilities by the average daily attendance (ADA) of all children with disabilities served during the year.
- b. Multiply the amount determined in a. above by the ADA of the federally connected children with disabilities claimed by the LEA for the year.

If the amount of section 8003(d) funds received or credited is greater than the amount calculated above, an overpayment equal to the excess section 8003(d) funds exists. This overpayment may be reduced or eliminated to the extent that the LEA can demonstrate that the average per pupil expenditure for special education and related services provided to federally connected children with disabilities exceeded its average per pupil expenditure for serving non-federally connected children with disabilities (Section 8003(d) of ESEA; 34 CFR section 222.53(d)).

Audit Objective - To determine whether the LEA met the required level of expenditure for providing special education and related services to federally connected children with disabilities.

Suggested Audit Procedures

- a. Review the LEA's calculation to ascertain if it shows that the required level of expenditure for federally connected children was met. Check accuracy of calculation.
- b. Trace amounts used in the calculation to supporting records.
- c. If the LEA's calculation shows that an overpayment was made, verify that the average per pupil expenditure for federally connected children with disabilities exceeded the average per pupil expenditure for non-federally connected children to the extent of the overpayment.

DEPARTMENT OF EDUCATION

CFDA 84.042	TRIO -- STUDENT SUPPORT SERVICES
CFDA 84.044	TRIO -- TALENT SEARCH
CFDA 84.047	TRIO -- UPWARD BOUND
CFDA 84.066	TRIO -- EDUCATIONAL OPPORTUNITY CENTERS
CFDA 84.217	MCNAIR POST-BACCALAUREATE ACHIEVEMENT

I. PROGRAM OBJECTIVES

The Federal TRIO programs are authorized by Title IV of the Higher Education Act of 1965, as amended, and now consist of seven programs. These programs are designed to help first-generation college and economically disadvantaged students achieve success at the postsecondary level by facilitating high school completion and entry, retention, and completion of postsecondary education. Based on funding levels, only five of the programs are included in the TRIO single audit cluster.

Student Support Services program provides academic support services to low-income, first-generation, and disabled college students to enable them to be retained and graduate from institutions of higher education. The program also assists participants in making the transition from one level of higher education to the next.

Talent Search program identifies qualified youth with the potential for education at the postsecondary level and encourages them to complete or reenter secondary school and undertake a program of postsecondary education. Talent Search program also publicizes the availability of student financial assistance for persons who seek to pursue a postsecondary education.

Upward Bound program targets low-income and potential first-generation college students who are enrolled in high school, or veterans seeking to prepare themselves for success in postsecondary education. The program provides opportunities for participants to succeed in pre-college performance and ultimately in higher education pursuits.

Educational Opportunity Centers (EOC) program provides counseling and information on college admissions to qualified adults who want to enter or continue a program of postsecondary education. EOC projects also publicize the availability of student financial assistance for persons who seek to pursue a postsecondary education and assist individuals in applying for college admission and financial aid.

Ronald E. McNair Post-Baccalaureate Achievement (McNair) program provides low-income, first-generation college students and students from groups underrepresented in graduate education with effective preparation for doctoral study through involvement in research and other scholarly activities.

II. PROGRAM PROCEDURES

All TRIO grants are competitive discretionary grants.

Student Support Services and McNair grants are awarded for four-to-five year cycles. Eligible applicants are institutions of higher education or combinations of such institutions.

Talent Search, Upward Bound, and Educational Opportunity Centers grants are awarded for four to five years. Eligible applicants are institutions of higher education, public and private agencies and organizations, combinations of institutions and agencies, and in exceptional cases, secondary schools. The Upward Bound program has three types of projects: regular, veterans, and math/science.

Sources of Governing Requirements

The Federal TRIO programs are authorized by the Higher Education Act of 1965, as amended (20 USC 1070a *et seq.*). The applicable regulations are at 34 CFR sections 643 (Talent Search); 644 (Educational Opportunity Centers); 645 (Upward Bound); 646 (Student Support Services); and 647 (McNair).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements of a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for details of the requirements.

A. Activities Allowed or Unallowed

1. *Student Support Services (SSS) and Upward Bound Programs* - Allowable services and activities for these programs include the following: (1) instruction; (2) personal counseling; (3) academic advice and assistance in course selection; (4) tutorial services; (5) exposure to cultural events, academic programs, and other educational activities; (6) activities to acquaint project participants with career options; (7) instruction to prepare youths in the project for careers (Upward Bound only); (8) mentoring; and (9) activities specifically designed for individuals of limited English proficiency (34 CFR sections 645.11 and 646.4).
2. *SSS Only - Activities Allowed*
 - a. Activities to assist students in two-year institutions to secure financial assistance and admission to a four-year program, and to assist students in a four-year program to secure financial assistance and admission to graduate and professional programs (34 CFR section 646.4(h)).
 - b. The following cost items are allowable if reasonably related to allowed project activities: (1) cost of remedial and special classes and courses in

English language instruction for students of limited English proficiency, under certain circumstances; (2) in-service training of project staff; (3) activities of an academic or cultural nature; (4) transportation of participants and staff to and from approved educational and cultural activities sponsored by the project; (5) purchase of computer hardware, computer software, or other equipment to be used for student development, student records and project administration; (6) professional development travel for staff; and (7) project evaluation. SSS funds cannot be used for activities involved in recruiting students for enrollment at the grantee institution (34 CFR 646.30 and 646.31).

- c. Grant Aid to Students - See "III.E.1.a Eligibility for Individuals" (20 USC 1070a-14(c)).

3. *Upward Bound Only*

- a. Examples of specific allowable cost items are in 34 CFR section 645.40.
- b. Stipends to Students - See "III.E.1.b Eligibility for Individuals" (34 CFR sections 645.40 - 645.42).
- c. *Activities Unallowed* - The cost of room and board for the following persons may not be charged to the program: (1) administrative and instructional staff personnel who do not have responsibility for dormitory supervision of project participants; and (2) participants in Veterans Upward Bound projects (34 CFR sections 645.40 and 645.41).

4. *Talent Search and Educational Opportunity Centers (EOC) Programs* - Allowable project services include: (1) academic advice and assistance in course selection; (2) completing college admission and financial aid applications; (3) preparing for college entrance examinations; (4) guidance on secondary school reentry or entry to other programs leading to a secondary school diploma or its equivalent; (5) personal and career counseling; (6) tutorial services; (7) mentoring; (8) activities specifically designed for students of limited English proficiency; (9) (for Talent Search only) exposure to college campuses, cultural events, academic programs and other sites or activities not usually available to disadvantaged youth; (10) workshops and counseling for parents of students served; and (11) activities to meet specific educational needs of individuals in grades six through eight (34 CFR sections 643.4 and 644.4).

Specific activities may include the following, if reasonably related to the objectives of the Talent Search or EOC project: (1) transportation, meals, and lodging with prior approval for visits to postsecondary educational institutions, participation in "College Day" activities, and career field trips; (2) purchase of testing materials; (3) fees for college admissions applications and entrance examinations with the exceptions noted in 34 CFR sections 643.30(c) and 644.30(c); (4) in-service staff training; (5) rental of space, if space is not owned by

the grantee; and (6) purchase of computer hardware, computer software, or other equipment for student development, project administration, and recordkeeping (34 CFR sections 643.30 and 644.30). Talent Search and EOC funds cannot be used for tuition, fees, stipends, and other forms of direct financial support for project participants (34 CFR 643.31 and 644.31).

5. *Ronald E. McNair Post-Baccalaureate Achievement Program (McNair)* - Allowable project services and activities include: (1) opportunities for research and other scholarly activities designed to provide participants with effective preparation for doctoral study; (2) summer internships; (3) seminars and other educational activities; (4) tutoring; (5) academic counseling; (6) assistance in securing admission to and financial aid for enrollment in graduate programs; (7) mentoring; and (8) exposure to cultural events and academic programs not usually available to project participants. (34 CFR section 647.4).

Allowable project activities may include the following, if reasonably related to carrying out a project: (1) activities of an academic or scholarly nature, such as trips to institutions of higher education offering doctoral programs and special lectures, symposia, and professional conferences, which have as their purpose the encouragement and preparation for project participants for doctoral study; (2) stipends (See "III.E.1.c Eligibility for Individuals"); (3) necessary tuition, room and board, and transportation for students engaged in research internships during the summer; and (4) purchase of computer hardware, computer software, or other equipment for student development, project administration, and recordkeeping (20 USC 1070a-15(e); 34 CFR section 647.30).

6. *Unallowable Costs - All Programs* - The following cost items can never be charged to any TRIO program: (1) tuition, fees, stipends, and other forms of direct financial support for employees; (2) research not directly related to the evaluation or improvement of the project (except for the research activities of McNair participants); and (3) construction, renovation, and remodeling of any facilities (34 CFR sections, 643.31, 644.31, 645.41, 646.31, and 647.31).

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals

- a. *SSS Program Grant Aid to Students* - Grant aid to students is restricted to students who meet all the following criteria: participating in the SSS project, undergoing their first two years of postsecondary education, and receiving Federal Pell Grants. In exceptional cases, grant aid may be offered to students who have completed their first two years of

postsecondary education and are receiving Federal Pell Grants (20 USC 1070a-14(c)).

The amount of grant aid awarded to an SSS student may not exceed the maximum appropriated Pell Grant (\$3,750 for the 2001-02 academic year) or be less than the minimum appropriated Pell Grant (\$400 for the 2001-02 academic year) (20 USC 1070a-14(c)(1)).

- b. *Upward Bound Stipends* - Stipends for regular and math/science projects may not exceed \$40 per month from September to May of the academic year and \$60 for each of the summer months (June, July, and August). Youth participating in a work-study position may be paid a stipend of \$300 per month during June, July, and August. Stipends for participants in Veterans projects may not exceed \$40 per month. To be eligible for a stipend, participants must show evidence of satisfactory participation in project activities, including regular attendance and performance in accordance with standards. Grantees may prorate stipends in accordance with the number of sessions in which a student participated (34 CFR sections 645.40 - 645.42).
- c. *McNair Stipends* - If reasonably related to carrying out a project, stipends of up to \$2,800 per year for students engaged in approved research internships, provided that the student has completed the sophomore year of study at an eligible institution before the internship begins (20 USC 1070a-15(e); 34 CFR section 647.30).

2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

An institution that operates an SSS project and uses any portion of its SSS Program grant for grant aid to students must furnish 33 percent of the total funds it uses for that purpose in cash, from non-federal sources. However, institutions eligible to receive funds under Title III, Part A or B, or Title V of the Higher Education Act, as amended, are not required to provide such matching funds (20 USC 170a-14).

2. Level of Effort - Not Applicable

3. Earmarking

An institution operating an SSS project may award up to 20 percent of its Federal SSS Program funds as grant aid to students (20 USC 1070a-14(c)(5)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of grant award funds. The requirement to use this form is imposed on an individual basis.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transaction Report* - Not Applicable

2. Performance Reporting

- a. *Student Support Services Program Annual Performance Report (OMB No. 1840-0525)* - Grantees must submit an annual performance report to the Department each year of the project period.

Key Line Items - The following line items contain critical information.

- (1) Section II, subsection A, *Number of Participants Assisted During the Report Period*, and subsection B, *Participant Distribution by Eligibility*.
- (2) Section V, *Record Structure for Participant List*, fields:

9	Eligibility
10	Project Entry Date
11	First School Enrollment Date
12	Participant Status
15	College Grade Level (Entry into project)
16	College Grade Level (Current -- at the end of the project year)
19	Academic Standing
20	Enrollment Status at the End of the Project
24	Degree/Certificate Completed

- b. *Upward Bound Math/Science, and Veterans Upward Bound Programs Annual Performance Report (OMB No. 1840-0762)* - Grantees must submit an annual performance report to the Department each year of the project period.

Key Line Items - The following line items contain critical information.

- (1) Section II-A, *Record Structure for Participant List for Upward Bound and Upward Bound Math/Science Projects*, fields:

- 11 Eligibility
- 12 UB Initiative Participant
- 14 Date of First Entry into Project
- 16 Date of Last Program Service (if applicable)
- 18 Participant Status
- 19 Participation Level (for the reporting period only)
- 20 Academic Need
- 24 Grade Level (at time of first entry into project)
- 25 Grade Level (at the end of the reporting period)

- (2) Section II-B, *Record Structure for Participant List for Veterans Upward Bound Projects*, fields:

- 11 Eligibility
- 12 Date of First Entry into Project
- 13 Educational Status (at time of entry into project)
- 16 Participant Status
- 17 Length of Program Participation
- 18 Educational Status (at end of reporting period)

- c. *Talent Search and Educational Opportunity Centers Programs Annual Performance Report (OMB No. 1840-0561)* - Grantees must submit an annual performance report to the Department each year of the project periods.

Key Line Items - The following line items contain critical information.

- (1) Section II, subsection A, *Number of Participants Assisted*
- (2) Section II, subsection B, *Participant Distribution by Eligibility*
- (3) Section II, subsection F, *Participant Distribution by Grade Level*

(4) Section IV, *Project Performance Outcomes, subsection A*, Participant Status (At the End of the Reporting Period), lines:

- 1 Continued in middle school (TS only)
- 2 Promoted from middle school to high school (TS only)
- 3 Continued in high school (do not include those who graduated)
- 4 Re-entered middle school
- 5 Re-entered high school
- 6 Received high school diploma
- 7 Obtained GED/high school equivalency degree

(5) Section IV, *Project Performance Outcomes, subsection C*, Participant Status)at the end of the reporting period), lines:

- 1 Enrolled in (or admitted to) a program of postsecondary education
- 2 Re-enrolled in (or re-admitted to) a program of postsecondary education

d. *Robert E. McNair Postbaccalaureate Achievement Program Performance Report (OMB No. 1840-0640)* - Grantees must submit an annual performance report to the Department each year of the project periods.

Key Line Items - The following items contain critical information.

(1) Section II, *Record Structure for Participant List*, fields:

- 9 Eligibility
- 10 First School Enrollment Date
- 11 Project Entry Date
- 12 Participant Status
- 13 College Grade Level (entry into project)
- 14 College Grade Level (Current -- at the end of the spring/summer term)
- 15 End of Year Enrollment Status (at the end of the spring/summer term)
- 16 Degree

3. **Special Reporting** - Not Applicable

DEPARTMENT OF EDUCATION**CFDA 84.048 VOCATIONAL EDUCATION - BASIC GRANTS TO STATES
(Perkins III)****I. PROGRAM OBJECTIVES**

Vocational Education - Basic Grants to States provides grants to States and outlying areas to develop the technical, vocational, and academic skills of secondary students and postsecondary students by:

- Promoting the integration of vocational, academic, and technical instruction;
- Developing challenging academic standards;
- Increasing State and local flexibility in providing services and activities designed to develop, implement and improve vocational and technical education, including tech-prep education.

II. PROGRAM PROCEDURES

Participating States must designate or establish a State board of vocational education (referred to in Perkins III as the "sole State agency" or "eligible agency") to administer and supervise State vocational education programs. In order to receive funds for fiscal year (FY) 1999, the State must submit either a one-year transitional or a five-year State plan for vocational education or a unified plan. Any State that submitted a one-year transitional plan in FY 1999 must then submit a four-year plan in FY 2000 to receive funds. For subsequent years, funds are distributed based on the approved plan together with such revisions as the sole State agency determines to be necessary.

The Department of Education (ED) allocates funds to the sole State agency based on a statutory formula. The State must allocate and use funds for the following statutorily prescribed activities or programs (referred to as the "basic programs"):

- (a) Secondary school vocational education programs, postsecondary, and adult vocational education programs (Perkins III, Title I-C);
- (b) State programs and State leadership activities (Perkins III, Section 124);
- (c) State administration (Perkins III, Section 121).

The sole State agency may transfer funds to other State agencies to administer one or more of these programs. A State makes grants to subrecipients, operates programs directly, or contracts for services. Subrecipients submit plans or applications to the State in order to receive funds.

Source of Governing Requirements

This program is authorized by the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III), as amended, Pub. L. No. 105-332, which is codified at 20 USC 2301 *et seq.* Certain requirements applicable to the Perkins III grants are contained in the Workforce Investment Act of 1998 (WIA), Pub. L. No. 105-220.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

See ED Cross-Cutting Section.

1. *State-Level Activities* - The State plan describes the specific activities to be carried out. Generally allowable activities for a State include:
 - a. *Secondary School Vocational Educational Programs, and Postsecondary and Adult Vocational Education Programs* - A State must distribute all available funds to subrecipients to improve vocational education programs (Perkins III, section 112(a)(1); 20 USC 2322(a)(1)).
 - b. *State Programs and State Leadership Activities* - A State must use funds for: (1) assessing programs conducted with assistance under the Perkins Act; (2) developing, improving, or expanding the use of technology in vocational and technical education; (3) professional development activities; (4) support for strengthening the academic and vocational technical education programs; (5) providing preparation for nontraditional training and employment; (6) supporting partnerships among local educational agencies and other education and business entities assisting students to achieve state academic standards and vocational and technical skills; (7) serving students in state institutions; (8) support for programs for special populations that lead to high-skill, high-wage careers. A State may also use funds for the permissive uses of funds identified in section 124(c) of Perkins III (Perkins III, section 124(b) and (c); 20 USC 2344(b) and (c)).
 - c. *State Administration* - A State may use funds for: (1) developing the State plan; (2) reviewing local applications; (3) monitoring and evaluating program effectiveness; (4) assuring compliance with all applicable Federal laws; and (5) providing technical assistance (Perkins III, section 112(a)(3); 20 USC 2322(a)(3)).

2. *Subrecipient Activities - Secondary School Vocational Educational Program and Postsecondary and Adult Vocational Education Programs* - Funds must be used to improve vocational education programs. The subrecipient plan or approved application describes the specific activities to be carried out. Required uses of funds are identified in Perkins III, section 135(b) and, with respect to required use of funds for one-stop centers by postsecondary subrecipients, in section 134(d)(1)(B) of the Workforce Investment Act of 1998. Examples of other allowable activities are identified in Perkins III, section 135(c) (Perkins III, section 135 (20 USC 2355)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals - Not Applicable

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

- a. *Secondary School Vocational Education Programs* - A subrecipient must be: (1) a local educational agency (LEA) that is eligible to receive \$15,000 or more; (2) a consortium of LEAs; or (3) an area vocational education school or an educational service agency that meets the requirements in section 131(f) of Perkins III (20 USC 2351(f)). The State must treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were an LEA within the State for the purpose of receiving a distribution under this paragraph (20 USC 2351(i); Perkins III, section 131(i)). The State must provide funds to charter schools offering vocational education programs in the same manner as it provides those funds to other schools; vocational education programs within a charter school must be of sufficient size, scope, and quality to be effective (20 USC 2353(d); Perkins III, section 133(d)). For the definition of "charter school" applicable to Perkins III, see section 10306 of the ESEA of 1965 at <http://www4.law.cornell.edu/uscode/20/8066.text.html>.

For the program year beginning July 1, 1999, and previous program years, unless a State has an approved alternative formula, a State must distribute the amount reserved for the secondary school vocational education programs as follows: (1) 70 percent to each LEA in proportion to the percentage each LEA received of the total funds awarded to LEAs in the State under Title 1, Part A of the ESEA in the preceding fiscal year; (2) 20 percent to each LEA in proportion to the number of students with disabilities who have individualized education programs under section 614(a)(5) of IDEA served by such LEA in the preceding fiscal year compared to the total number of such students served by all LEAs in the State in the preceding fiscal year; and (3) 10 percent to each LEA based on the number of students enrolled in schools plus adults enrolled in vocational educational programs under the jurisdiction of the LEA compared to total student enrollment in K through 12 plus total adult enrollment in vocational educational programs under the jurisdiction of LEAs in the State for the preceding fiscal year (Perkins III, section 131(a); 20 USC 2351(a)).

For the program year beginning July 1, 2000, and subsequent program years, unless a State has an approved alternative formula, a State must distribute the amount reserved for the secondary school vocational education programs as follows: (1) 30 percent to each LEA in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such LEA for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all LEAs in the State for such preceding fiscal year; and (2) 70 percent to each LEA in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such LEA from families with incomes below the poverty line applicable to a family of the size involved for the fiscal year for which the determination is made compared to the number of such individuals who reside in the school districts served by all the LEAs in the State for such preceding fiscal year (Perkins III, section 131(b); 20 USC 2351(b)).

LEAs that do not meet the minimum grant requirement of \$15,000 can form consortia with one or more LEAs to meet the minimum grant requirement. The State can also waive the minimum grant requirement for LEAs in rural sparsely populated areas or for public charter schools operating secondary vocational education programs under certain circumstances (Perkins III, section 131(d)(2); 20 USC 2351(d)(2)).

If the State reserves 15 percent or less for this program, it may distribute funds on a competitive basis or through any alternative method (Perkins III, section 133(a); 20 USC 2353(a)).

- b. *Postsecondary and Adult Vocational Education Programs* - A subrecipient must be an eligible institution, including an institution of higher education; an LEA serving adults; an area vocational educational school providing education at the postsecondary level; a postsecondary education institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian Tribe; an educational service agency; or a consortium of 2 or more of these entities (Perkins III, section 132(a)(1); 20 USC 2352(a)(1)).

Unless a State has an approved alternative formula, the State must distribute the amounts reserved for the postsecondary and adult vocational education programs to each eligible institution in proportion to the number of Pell grant recipients and recipients of assistance from the Bureau of Indian Affairs that participated in vocational education programs at that institution in the preceding year compared to the total of such recipients enrolled in those programs in the State in the preceding year. The minimum grant is \$50,000. Amounts allocated to recipients that are less than \$50,000 are to be reallocated to other eligible recipients (Perkins III, section 132(a)-(c); 20 USC 2352(a)-(c)).

Eligible institutions that do not meet the minimum grant requirement of \$50,000 can form consortia with one or more eligible institutions to meet the minimum grant requirement. The State can also waive the minimum grant requirement for eligible institutions in rural sparsely populated areas under certain circumstances (Perkins III, section 132(a)(3) and (4); 20 USC 2352(a)(3) and (4)).

If the State reserves 15 percent or less for this program, it may distribute funds on a competitive basis or through any alternative method (Perkins III, section 133(a); 20 USC 2353(a)).

G. MATCHING, LEVEL OF EFFORT, EARMARKING

1. Matching

State Administration - A State must match, from non-Federal sources and on a dollar-for-dollar basis, the funds reserved for administration of the State plan. The matching requirement may be applied overall, rather than line-by-line, to State administrative expenditures (Perkins III, section 112(b); 20 USC 2322).

2.1 Level of Effort - Maintenance of Effort

- a. *General* - A State must maintain its fiscal effort in the preceding year from State sources for vocational and technical education on **either** an aggregate **or** a per-student basis when compared with such effort in the second preceding year, unless this requirement is specifically waived by the Secretary of Education. For example, to receive its fiscal year 1999 grant award, a State must maintain its level of fiscal effort on either an aggregate

or per-student basis in program year (PY) 1998 (July 1, 1997 - June 30, 1998) at the level of its fiscal effort in PY 1997 (July 1, 1996 - June 30, 1997). An example of how a State may maintain effort on a per-student basis, but not in the aggregate, is as follows:

In PY 1997, a State spends \$50 million from State funds to provide vocational education to 300,000 students. In PY 1998, the State spends only \$49 million to provide vocational education to 290,000 students. Even though the State's aggregate effort decreased by \$10 million, the State's per-student effort increased from \$166.67 per student to \$168.97 per student. Thus, the State met the maintenance of effort requirement for its fiscal year 1999 grant (Perkins III, section 311(b)(1)(A); 20 USC 2391).

If a State has been granted a waiver of the maintenance of effort requirement that allows it to receive a grant for a fiscal year, the maintenance of effort requirement for the year after the year of the waiver is determined comparing the amount spent for vocational education from non-Federal sources in the first preceding fiscal year (or program year) with the amount spent in the third preceding fiscal year (or program year) (Perkins III, section 311(b)(2); 20 USC 2391).

In computing the fiscal effort or aggregate expenditures, a State must exclude capital expenditures, special one-time project costs, and the cost of pilot programs (Perkins III, section 311(b)(1)(B); 20 USC 2391(b)(1)(B)).

Decrease in Federal Support - If the amount made available for vocational and technical education programs under the Act for a fiscal year is less than the amount made available for vocational and technical education programs under this Act for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available (20 USC 2391(b)(1)(C); Perkins III, section 311(b)(1)(C)).

- b. *Administration* - A State must provide from non-Federal sources for State administration under the Perkins Act an amount that is not less than the amount provided by the State from non-Federal sources for State administrative costs for the preceding fiscal or program year (Perkins III, section 323(a); 20 USC 2391(a)).

Decrease in Federal Support - If the amount made available for administration of programs under the Act for a fiscal year is less than the amount made available for administration of programs under this Act for the preceding fiscal year, the amount the eligible agency is required to provide from non-Federal sources for costs the eligible agency incurs for

administration of programs shall be decreased by the same percentage (Perkins III, section 311(b)(1)(C); 20 USC 2391(b)(1)(C)).

2.2 Level of Effort - *Supplement Not Supplant*

The State and its subgrantee may use funds for vocational and technical education activities that shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational and technical education activities and tech-prep activities (Perkins III, section 311(a); USC 2391(a)). The examples of instances where supplanting is presumed to have occurred that are described in section III.G.2.2. of the ED Cross-Cutting Section (84.000) also apply to the vocational education program.

Notwithstanding the above paragraph, funds made available under Perkins III may be used to pay for the costs of vocational and technical education services required in an individualized education plan (IEP) developed pursuant to section 614(d) of the Individuals with Disabilities Education Act (IDEA) and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational and technical education (Perkins III, section 325(c); 20 USC 2415(c)).

3. Earmarking

- a. *States* - Subject to the requirements discussed below regarding the minimum amount for State administration, a State must reserve the following percentages:
 - (1) Secondary school programs, together with postsecondary and adult vocational education programs - not less than 85 percent. A State must distribute all of these funds to its subrecipients. A State may reserve no more than 10 percent of the 85 percent of funds to make grants to serve eligible subrecipients in at least two of the following four areas: (1) rural areas; (2) areas with high percentages of vocational education students; (3) areas with high numbers of vocational education students; or (4) communities negatively impacted by the amendment made to the secondary distribution formula (Perkins III, section 112(a) and (c), sections 131(a) and (b) and section 132(a); 20 USC 2322(a) and (c), 2351(a) and (b), and 2352(a)).
 - (2) State leadership activities - not more than 10 percent. Within the State leadership activities not more than 1 percent of the amount allocated to each State in section 111 (20 USC 2321) shall be allotted to activities that serve individuals in State Institutions. Also, not less than \$60,000 and not more than \$150,000 of the amount allocated to each State in section 111 shall be made

available for services that prepare individuals for nontraditional training and employment.

- (3) State administration - not more than 5 percent or \$250,000, whichever is greater, for administration of the State plan (20 USC 2322 (a); Perkins III, section 112(a)).

- b. *Subrecipients* - Subrecipients under the secondary school vocational education programs and postsecondary and adult vocational education programs may use no more than 5 percent of those funds for administrative costs (Perkins III, section 135(d); 20 USC 2355(d)).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

- a. SF-269 - *Financial Status Report* - Applicable only for the program year beginning July 1, 1998, and previous program years.
- b. SF-270 - *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of grant award funds. The requirement to use this form is imposed on an individual recipient basis.
- c. SF-271 - *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272 - *Federal Cash Transactions Report* - Not Applicable
- e. *Financial Status Report (Form II) for the Consolidated Annual Performance, Accountability, and Financial Status Report (OMB Form 1830-0503)* - This replaces the SF -269 for program years beginning on or after July 1, 1999.
- f. LEAs and other subrecipients are generally required to report financial information to the pass-through entity. These reports should be tested during audits of LEAs.

2. Performance Reporting

Accountability Report (Form IV) Consolidated Annual Performance, Accountability, and Financial Status Report (OMB No. 1830-0503)

Each year a grantee must file an accountability report containing data to be used in determining whether it met its adjusted performance levels for each of its core indicators of performance and any State indicators of performance. Each grantee must provide data for each subindicator of the four core indicators: (1) attainment of academic and vocational skills; (2) attainment of diploma or credential; (3) placement and retention; and (4) participation in, preparation for, and completion of programs leading to non-traditional occupations. Each grantee's subindicators for each program year are contained in the "Final Agreed-Upon Baseline and Adjusted Levels of Performance," which are incorporated by reference into the grantee's State plan and grant award and transmitted to the grantee with the grant award documents. Grantees that exceed their adjusted performance levels are eligible for an incentive grant (Section 113(b)(2)(A) of Perkins III (20 USC 2323(b)(2)(A)).

Key Line Items - The Grand Total line for each indicator level are key line items which contain critical information.

LEAs and other subrecipients must submit data to the grantee for the grantee's report. The grantee determines the format of the data submissions. These submissions should be tested during audits of LEAs.

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Schoolwide Programs

See ED Cross-Cutting Section

DEPARTMENT OF EDUCATION**CFDA 84.126 REHABILITATION SERVICES - VOCATIONAL REHABILITATION
GRANTS TO STATES****I. PROGRAM OBJECTIVES**

The purpose of Title I of the Rehabilitation Act of 1973, as amended (Act), which authorizes the State Vocational Rehabilitation (VR) Services Program, is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable VR programs, each of which is:

- An integral part of a statewide workforce investment system; and
- Designed to assess, plan, develop, and provide VR services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment. (Section 100(a)(2) of the Act (29 USC 720(a)(2)))

II. PROGRAM PROCEDURES

Federal funds are distributed to the States on a formula basis with the States required to provide a 21.3 percent match. The program is administered by an agency designated by the State as having overall administrative responsibility for the VR program. If the designated State agency is not an agency primarily concerned with VR, or vocational and other rehabilitation of individuals with disabilities, it must include a designated State unit within the agency that is responsible for the designated State agency's VR program (State VR Agency).

The States must submit to the Rehabilitation Services Administration (RSA) a State Plan that provides both assurances and descriptions that are required by Title I of the Act and the implementing regulations (34 CFR part 361). The State Plan is one of the key bases of RSA's monitoring of the State's administration of the VR program.

Services are provided either directly by State VR Agency staff or purchased from community-based vendors. Services, except those of an assessment nature, are provided under the Individualized Plan for Employment (IPE), as determined by the individual, which can be developed by the individual, or with assistance provided by others, including a qualified VR counselor employed by the State VR Agency, to achieve an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities and informed choice.

The Workforce Investment Act of 1998, as amended (WIA), requires the VR program to collaborate with other workforce development, educational, and human resource programs in a one-stop service delivery system. The WIA's objective is to create a seamless delivery system by linking the agencies operating these programs in order to provide universal access to the programs operated by each agency. While the one-stop system operates as a common portal for

gaining access to these programs, each program provides its respective services to persons meeting its respective eligibility criteria.

Agencies responsible for administering the programs whose services are delivered in a one-stop system are known as "partners;" those whose participation is mandated by the WIA, including the State VR agency, are "required partners." Each partner must enter into a Memorandum of Understanding (MOU) with the Local Workforce Investment Board regarding the operation of the one-stop system. The MOU covers the services to be provided through the one-stop system, funding for those services and for the system's administrative costs, and the methods for referring individuals between one-stop operators and partners. It establishes how each partner will participate in the one-stop system and share in the cost of operating it. Each partner's resources may be used only for: (a) services that are authorized under that partner's program and delivered to clients eligible for those services; and (b) administrative costs allocable to the partner's program.

In addition to the MOU required by the WIA, the Rehabilitation Act requires that a State VR agency's State Plan provide for a network of cooperative agreements binding that agency's central and local offices to the central and local offices, respectively, of the other partners in the one-stop service delivery system. States can choose to use the same document to meet the requirements for both the MOU and the cooperative agreements. As used henceforth in this discussion, "MOU" refers to whatever document(s) a State agency uses to meet these requirements.

Source of Governing Requirements

The VR program is authorized by Title I of the Rehabilitation Act of 1973, as amended (29 USC 701 *et seq.*). The Rehabilitation Act Amendments of 1998 are found in Title IV of the WIA. Program regulations are found at 34 CFR part 361. In addition, the Education Department General Administrative Regulations (EDGAR) at 34 CFR parts 74, 76, 77, 79, 80, 81, 82, 85, and 86 apply to this program. Requirements in 20 CFR part 662 (Description of the One-Stop Service Delivery System) also apply to the extent that VR activities are being conducted as part of a one-stop service delivery system.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed Or Unallowed

1. Services To Individuals

Services provided under the VR program are any services described in an IPE necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and

informed choice of the individual. Section 103(a) of the Act (29 USC 723(a)) contains examples of the types of services that can be provided.

2. Services to Groups

The State VR Agency may provide other services to groups of individuals with disabilities (Section 103(b) of the Act (29 USC 723(b))).

- a. In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.
- b. Community Rehabilitation Programs - The establishment, development, or improvement of a public or other nonprofit community rehabilitation program including, under special circumstances, the construction of a facility for a public or nonprofit community rehabilitation program.
- c. The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual with a disability.
- d. Telecommunications systems that have the potential for substantially improving vocational rehabilitation service delivery methods and developing appropriate programming to meet the particular needs of individuals with disabilities.
- e. Special services to provide nonvisual access to information for individuals who are blind, including telecommunications, Braille, sound recordings or other appropriate media; captioned television, films, or video cassettes for individuals who are deaf or hard of hearing; tactile materials for individuals who are deaf-blind; and other special services that provide information through tactile, vibratory, auditory, and visual media.
- f. Technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act of 1990, and that are seeking to employ individuals with disabilities.
- g. Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

3. Participation in a One-Stop Service Delivery System

Any service or administrative cost charged to the VR program through its participation in the one-stop service delivery system must be: (a) allowable under the program's authorizing statute and regulations; (b) allocable to the program under the State VR agency's cost allocation plan; and (c) consistent with the MOU between the State VR agency and the Local Workforce Investment Board. The MOU is the primary vehicle by which the State VR agency sets forth how it will participate in the one-stop service delivery system and how it will share in the cost of operating the system (29 USC 2841(b)(1)(B)(iv); 34 CFR section 361.4; 20 CFR part 662; Notice: *Resource Sharing for Workforce Investment Act One-Stop Centers: Methodologies for Paying or Funding Each Partner Program's Fair Share of Allocable One-Stop Costs*, issued May 31, 2001 (66 FR 29637)).

The MOU identifies the resources the State VR agency will provide for compliance with 20 CFR section 662.270, which requires the VR program to support a fair share of the one-stop system's common administrative costs. The amount provided must be proportionate to the use of the system by individuals attributable to this program. The MOU may provide for cash payments of billings from the one-stop operator, or for providing goods and services that benefit the system's operation. Examples of goods and services that the VR agency may provide for this purpose include: making VR staff available to provide training or technical assistance to other partners in such areas as disability, accessibility, adaptive equipment, and rehabilitation engineering; VR staff participation in cooperative efforts with employers to promote job placement (such as job analysis and employer visits); and applying VR staff and other resources to the VR program's participation in information and financial management systems that link all partners to one another.

C. Cash Management

See ED Cross-Cutting Section

E. Eligibility

1. Eligibility of Individuals

An individual is eligible for VR services if the individual (1) has a physical or mental impairment that, for the individual, constitutes or results in a substantial impediment to employment; (2) can benefit in terms of an employment outcome from VR services; and (3) requires VR services to prepare for, secure, retain, or regain employment (Section 102(a)(1) of the Act (29 USC 722(a)(1))).

An individual who is a beneficiary of Social Security Disability Insurance or a recipient of Supplemental Security Income is presumed to be eligible for VR services (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities,

capabilities, interests, and informed choice of the individual) unless the State VR Agency can demonstrate by clear and convincing evidence that such individual is incapable of benefitting in terms of an employment outcome from VR services due to the severity of the disability of the individual (Section 102(a)(3) of the Act (29 USC 722(a)(3))).

An individual is presumed to be able to benefit in terms of an employment outcome from VR services unless the State VR Agency can demonstrate by clear and convincing evidence that the individual is incapable of benefitting in terms of an employment outcome from VR services due to the severity of the individual's disability. This determination must be made through the use of trial work experiences with appropriate supports provided by the State VR Agency, except under limited circumstances when the individual can not take advantage of such experiences (Section 102(a)(2) of the Act (29 USC 722(a)(2))).

The State VR Agency must determine whether an individual is eligible for VR services within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless (Section 102(a)(6) of the Act (29 USC 722(a)(6))):

1. Exceptional and unforeseen circumstances beyond the control of the State VR agency preclude making an eligibility determination within 60 days and the State agency and the individual agree to a specific extension of time; or
2. The State VR Agency is exploring an individual's abilities, capabilities, and capacity to perform in work situations through trial work experiences in order to determine the eligibility of the individual or the existence of clear and convincing evidence that the individual is incapable of benefitting in terms of an employment outcome from VR services.

The State may choose to consider the financial need of eligible individuals or individuals who are receiving services during a trial work experience or an extended evaluation for the purposes of determining the extent of their participation in the cost of VR services. The State may not consider financial need when providing services described in 34 CFR 361.54(b)(3). If the State indicates in its State Plan that it will use financial need tests for one or more types of VR services, it must apply such tests in accordance with its written policies uniformly to all individuals under similar circumstances. The policies may require different levels of need for different geographic regions in the State, but must be applied uniformly to all individuals within each geographic region (34 CFR section 361.54).

2. **Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable**
3. **Eligibility for Subrecipients - Not Applicable**

G. Matching, Level of Effort, Earmarking

1. Matching

- a. The State share of expenditures made by the State VR Agency under the State Plan, including expenditures for the provision of VR services and the administration of the State Plan is 21.3 percent (Sections 7(14) and 111(a)(1) of the Act (29 USC 705(14) and 731(a)(1))).
- b. The Federal share of expenditures made for the construction of a facility for community rehabilitation program purposes may not be more than 50 percent of the total cost of the project (34 CFR section 361.60(a)(2)).

2.1 Level Of Effort - *Maintenance of Effort*

- a. The amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State Plan for the previous fiscal year are less than the total of such expenditures for the fiscal year two years prior to the previous fiscal year. For example, for fiscal year 2001, a State's maintenance of effort level is based on the amount of its expenditures from non-Federal sources for fiscal year 1999. Thus, if the State's non-Federal expenditures in fiscal year 2001 are less than they were in fiscal year 1999, the State has a maintenance of effort deficit, and the Secretary reduces the State's allotment for fiscal year 2002 by the amount of that deficit (Section 111(a)(2)(B) of the Act (29 USC 731(a)(2)); and 34 CFR section 361.62).
- b. If the State Plan provides for the construction of a facility for community rehabilitation program purposes, the amount of the State's share of expenditures for a fiscal year for VR services under the Plan, other than for the construction of a facility for community rehabilitation program purposes or the establishment of a facility for community rehabilitation purposes, must be at least equal to the State's share of those expenditures for the second prior fiscal year (34 CFR section 361.62).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking - Not applicable

H. Period of Availability of Federal Funds

Federal funds appropriated for a fiscal year remain available for obligation in the succeeding fiscal year only to the extent that the State VR Agency met the matching requirement for those Federal funds by obligating, in accordance with 34 CFR section 76.707, the non-Federal share in the fiscal year for which the funds were appropriated. Any program income received during a fiscal year that is not obligated by the State VR Agency by the end of that fiscal year, will remain available for obligation by the State VR

Agency during the succeeding fiscal year (Section 19 of the Act (29 USC 716); 34 CFR section 361.64).

J. Program Income

Sources of program income include, but are not limited to, payments from the Social Security Administration for rehabilitating Social Security beneficiaries, payments received from workers' compensation funds, fees for services to defray part or all of the costs of services provided to particular individuals, and income generated by a State-operated community rehabilitation program.

Except as indicated below, program income, whenever earned, must be used for the provision of VR services and the administration of the State Plan under the State Vocational Rehabilitation Services Program. Program income is considered earned when it is received (Section 108 of the Act (29 USC 728); and 34 CFR 361.63(c)).

The State VR Agency is authorized to treat program income as a deduction from total allowable costs or as an addition to the grant funds to be used for additional allowable program expenditures, in accordance with 34 CFR sections 80.25(g)(1) or (2) (34 CFR section 361.63).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of grant award funds. The requirement to use this form is imposed on an individual recipient basis.
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. RSA-2, *Program Cost Report (OMB No. 1820-0017)*. State VR agencies submit the RSA-2 annually.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF EDUCATION**CFDA 84.181 SPECIAL EDUCATION -- GRANTS FOR INFANTS AND FAMILIES WITH DISABILITIES****I. PROGRAM OBJECTIVES**

The purposes of the Individuals with Disabilities Education Act (IDEA), Part C (Part C) are: (a) to develop and implement a statewide, comprehensive, coordinated, multi disciplinary interagency system that provides early intervention services for infants and toddlers with disabilities and their families; (b) to facilitate the coordination of payment for early intervention services from Federal, State, local and private sources (including public and private insurance coverage); (c) to enhance the State's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; (d) to encourage States to expand opportunities for children under the age of three years who would be at risk of having substantial developmental delay if they did not receive early intervention services; and (e) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically under represented populations, particularly minority, low-income, inner-city, and rural populations (20 USC 1431(b); 34 CFR section 303.1).

II. PROGRAM PROCEDURES

Generally, the State is responsible for maintaining and implementing a statewide system to identify, evaluate and provide early intervention services to eligible children and their families. Such a system includes a public awareness and child find system, development and implementation of an individualized family service plan for eligible children, maintenance of a central directory of information about early intervention services, personnel development and contracting for or otherwise providing services to eligible children and their families.

A State must have an approved application that provides required assurances and describes the statewide system and related policies. The State designates a lead agency that is responsible for administering, and supervising activities funded by this program. Program services may be carried out by the lead agency, other State agencies, or by public or private organizations either under contract to the State or through other arrangements with such agencies. The lead agency also monitors activities that are covered by the program, whether or not they are funded by this program. The State also must establish a State Interagency Coordinating Council that, among other things, advises and assists the lead agency in the development and implementation of policies and achieving participation, cooperation, and coordination of all appropriate public agencies in the State.

The amount of a State's allocation under Part C for a fiscal year is based on its proportion of the general population of infants and toddlers, from birth through two years, in the State (i.e., the ratio of the number of infants and toddlers in the State compared to the number of infants and toddlers in all the States).

Source of Governing Requirements

This program is authorized under 20 USC 1431 through 1445. Implementing regulations specific to this program are 34 CFR part 303.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for details of the requirements.

Certain compliance requirements which apply to multiple Department of Education (ED) programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

The approved application describes the activities to be carried out. Generally, allowable activities for a State, include (20 USC 1438; 34 CFR section 303.3):

1. Maintaining a statewide, comprehensive, coordinated, multi-disciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.
2. Providing direct early intervention services for infants and toddlers with disabilities and their families, that are otherwise not funded through other public or private sources.
3. Expanding and improving on services under Part C that are otherwise available for infants and toddlers and their families.
4. Providing a free appropriate public education, in accordance with Part B of the IDEA, to children with disabilities from their third birthday to the beginning of the following school year.
5. In any State that does not provide services for at risk infants and toddlers, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purpose of: (a) identifying and evaluating at-risk infants and toddlers; (b) making referrals of the infants and toddlers identified and evaluated; and (c) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant and toddler for services.

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking**1. Matching - Not Applicable****2.1 Level of Effort - *Maintenance of Effort***

The total amount of State and local funds budgeted for expenditure in the current fiscal year for early intervention services for children eligible under Part C and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowances may be made for: (1) decreases in the number of children who are eligible to receive Part C early intervention services; and (2) unusually large amounts of funds expended for such long-term purposes such as the acquisition of equipment and the construction of facilities (20 USC 1437(b)(5); 34 CFR section 303.124).

Although this requirement is identified as a supplement not supplant requirement in the law and regulation, this Supplement classifies this type of requirement as maintenance of effort.

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable**3. Earmarking - Not Applicable****H. Period of Availability of Funds**

See ED Cross-Cutting Section.

L. Reporting**1. Financial Reporting**

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. *Report of Infants and Toddlers Receiving Early Intervention Services In Accordance With Part C (OMB Form 1820 -0557)* - The Lead Agency in each State is required to report to the Secretary no later than February 1 of each year the number of infants and toddlers from birth through age two (children who have not reached their third birthday) receiving early intervention services according to an individualized family service plan on December 1 of the prior year (20 USC 1418 and 1435(a)(14)).

Key Line Items - The following line items contain critical information.

Table 1 - Total row

Table 2 - Total column

Table 3 - Total column

DEPARTMENT OF EDUCATION**CFDA 84.186 SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES--STATE GRANTS (Title IV, Part A, Subpart 1 of ESEA)****I. PROGRAM OBJECTIVES**

The objective of the Safe and Drug-Free School program authorized by the Safe and Drug-Free Schools and Communities Act (SDFSCA), contained in Title IV of ESEA, is to support programs to meet the seventh National Education Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources.

II. PROGRAM PROCEDURES

In general, SDFSCA funds are allocated to States based on their relative share of school-aged population and Title I funds. Of each State's annual allocation amount, 80 percent is awarded to the State Educational Agency (SEA) for programs described in Section 4113 of the SDFSCA and 20 percent is awarded to the Governor for programs described in Section 4114 of the SDFSCA. On the grant documents the Department of Education (ED) codes these programs with an "A" following the CFDA number to indicate a grant to the SEA program and a "B" following the CFDA number to indicate a grant to the Governor's program. However, these are treated as one program under OMB Circular A-133.

SEAs may use a portion of the funds they receive for administrative activities and to carry out State-level program activities. The majority of the funds received by an SEA must be distributed to local educational agencies (LEAs) for drug and violence prevention activities. A portion of the amount required to be distributed to LEAs is required to be distributed to the LEAs that the SEA determines have the "greatest need." LEAs must submit an application which would include, among other things, how it will use the funds.

Governors also may use a portion of the funds they receive for administration. Excluding the percentage of funds reserved for administration, Governors must make grants to, or enter into contracts with eligible entities for drug and violence prevention activities. In addition, a portion of the Governor's funds must be used for law enforcement education partnerships. Governors may have another state agency, including an SEA, administer the program on their behalf. No matter who administers the program, the program remains the responsibility of the Governor's office (Sections 4113 and 4114 of the SDFSCA; 20 USC 7113 and 7114).

Source of Governing Requirements

This program is authorized by Title IV, Part A, Subpart 1 of the Elementary and Secondary Education Act of 1965, codified at 20 USC 7111-7118, 7133, and 7143. There are no program regulations. However, this program is subject to the Education Department General Administrative Regulations (EDGAR) at 34 CFR parts 76, 77, 79, 80, 81, 82, 85, 97, 98, and 99.

Availability of Other Information

The Department issued non-regulatory guidance to assist in the administration of this program. That guidance, and other program information, are available on the internet at <http://www.ed.gov/offices/OESE/SDFS>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. Use of Funds by SEAs

An SEA may use funds for State-level programs and for making subgrants to LEAs. An SEA may use the funds reserved for State-level programs for activities including providing training and technical assistance, conducting demonstration projects, making available cost-effective prevention programs to LEAs, providing financial assistance to enhance resources in some areas, and meeting other special needs consistent with the purposes of SDFSCA. The list (see below) of authorized State-level program activities found in Section 4113(b)(1) of the SDFSCA does not exclude other activities that may be carried out by the SEA, consistent with the purposes of SDFSCA. An SEA may carry out activities in Section 4113(b)(1) directly, or through grants or contracts.

An SEA may not use SDFSCA funds for construction, or to provide medical services, drug treatment, or rehabilitation. As stated in Section 4133 of the SDFSCA, pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs are not included in the prohibition (Section 4133 of the SDFSCA (20 USC 7143)).

List of authorized State Level program activities found in Section 4113(b)(1) of the SDFSCA:

- a. Training and technical assistance concerning drug and violence prevention for LEAs and educational service agencies, including

teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

- b. The development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by LEAs;
- c. Making available to LEAs cost-effective programs for youth violence and drug abuse prevention;
- d. Demonstration projects in drug and violence prevention;
- e. Training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;
- f. Financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and
- g. The evaluation of activities carried out within the State under this part.

2. Uses of Funds by LEAs

An LEA may use SDFSCA funds to carry out a broad range of drug and violence prevention programs. SDFSCA provides a general framework for LEA prevention efforts by requiring that SDFSCA funds be used to support comprehensive drug and violence prevention programs that: (1) are designed for all students and employees to prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students; prevent the illegal use, possession, and distribution of tobacco, alcohol, and illegal drugs by employees; prevent violence and promote school safety; create a disciplined environment conducive to learning; and (2) include activities to promote the involvement of parents and coordination with community groups and agencies.

Authorized activities found in Section 4116(b) of the SDFSCA are listed below. Other activities may be carried out by the LEA, consistent with the purposes of SDFSCA. Such activities specifically include mentoring, before- and after-school instructional, recreational, cultural, and artistic programs. Note that comprehensive school health education activities may be implemented only to the extent that such activities are part of an LEA's comprehensive drug and violence prevention program (Section 4116(b) of the SDFSCA (20 USC 7116(b))).

An LEA may not use SDFSCA funds for construction, or to provide medical services, drug treatment, or rehabilitation. As stated in Section 4133 of the SDFSCA, pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs are not included in the prohibition (Section 4133 of the SDFSCA (20 USC 7133)).

List of authorized activities found in Section 4116(b):

- a. Age-appropriate, developmentally based drug prevention and education programs for all students, from the pre-school level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;
- b. Programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include -the dissemination of information about drug prevention; -the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; -the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as family counseling; early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and activities, such as community service and service-learning projects, that are designed to increase students' sense of community;
- c. Age-appropriate, developmentally based violence prevention and education programs for all students, from the pre-school level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization, associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;
- d. Violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include: -the dissemination of information about school safety and discipline; -the professional development of school personnel, parents, students, law enforcement officials, judicial officials, and

community leaders in designing and implementing strategies to prevent school violence; -the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; -the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and -comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

- e. Supporting "safe zones of passage" for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;
- f. Acquiring and installing metal detectors and hiring security personnel;
- g. Professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;
- h. The promotion of before- and after-school recreational, instructional, cultural, and artistic programs in supervised community settings;
- i. Drug abuse resistance education programs, designed to teach students to recognize and resist pressures to use alcohol and other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and
- j. The evaluation of any of the activities authorized for LEAs.

3. Uses of Funds by Governor's Program

A Governor may use SDFSCA funds for a broad range of drug and violence prevention programs that may be carried out by parent groups, community action and job training agencies, community-based organizations, and other public and private nonprofit entities and organizations. The list (see below) of authorized activities found in Section 4114(c) does not exclude other activities that may be carried out by such organizations, consistent with the purposes of Subpart 1.

Specifically included are mentoring, before- and after-school instructional, recreational, cultural, and artistic programs (Section 4114(c) of the SDFSCA (20 USC 7114(c))).

A Governor's grantee or contractor may not use SDFSCA funds for construction, or to provide medical services, drug treatment, or rehabilitation. As stated in Section 4133 of the SDFSCA, pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs are not included in the prohibition (Section 4133 of the SDFSCA (20 USC 7133)).

List of authorized activities found in Section 4114 (c):

- a. Disseminating information about drug and violence prevention;
- b. Training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services or rehabilitation referral;
- c. Developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;
- d. Planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;
- e. Activities to protect students traveling to and from school;
- f. Before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence- free lifestyles;
- g. Activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;
- h. Developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;
- i. Coordinating and conducting community-wide violence and safety assessments and surveys;
- j. Service-learning projects that encourage drug- and violence-free lifestyles; and

- k. Evaluating programs and activities assisted under Section 4114.

4. Rural Education Achievement Program (REAP) (LEAs)

REAP provides authorization to spend all or part of funds under certain programs for activities authorized in other programs. After notification to the SEA, an LEA which meets both of the following requirements may spend all or part of this program's funds for activities authorized in Title I Grants to Local Educational Agencies (LEAs) (84.010); Eisenhower Professional Development State Grants (84.281); and Technology Literacy Challenge Fund Grants (84.318) (See the program sections of "A. Activities Allowed or Unallowed" in this Supplement for the respective compliance requirements):

- a. Have an Average Daily Attendance of less than 600 students; and
- b. All of the schools in the LEA have been coded as rural schools by the National Center for Educational Statistics (NCES code 7 or 8) (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-89, December 21, 2000).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

- 1. Eligibility for Individuals - Not Applicable**
- 2. Eligibility for Groups of Individuals or Areas of Service Delivery - Not Applicable**
- 3. Eligibility for Subrecipients**

As discussed in III.G.3.(a), Earmarking, State-level programs, administrative costs, initial allocations to LEAs, of the minimum 91 percent of an SEA's total allocation that must be distributed to its LEAs, 30 percent of funds must be awarded to LEAs with "greatest need." In determining LEAs with the "greatest need" for additional funds for drug and violence prevention programs, an SEA must have selected objective criteria to assess which LEAs in their State have the greatest need for additional funding (Section 4113(d) of the SDFSCA (20 USC 7113(d))).

G. Matching, Level of Effort, Earmarking**1. Matching - Not Applicable****2.1 Level of Effort - *Maintenance of Effort* (SEAs/LEAs)**

See ED Cross-Cutting Section.

2.2 Level of Effort - *Supplement not Supplant* - Not Applicable**3. Earmarking**

Also, see ED Cross-Cutting Section.

(a) *State-level programs, administrative costs, initial allocations to LEAs (SEAs)*

An SEA may reserve not more than five percent of its total allocation for State level programs, to be carried out directly, or through grants and contracts. Not more than four percent of an SEA's total allocation may be used for administrative costs. Funds not used for administration or State-level programs must flow to LEAs (Sections 4113(b)(1) and (c) of the SDFSCA).

A minimum of 91 percent of an SEA's total allocation must be distributed to its LEAs. Of the 91 percent available for distribution to LEAs, an SEA must initially allocate 70 percent to LEAs based on their relative share of enrolled students in public and private nonprofit elementary and secondary schools.

(b) *Allocation of "greatest need" funds (SEAs)*

The remaining 30 percent (of the minimum 91 percent) of funds must be awarded to LEAs with "greatest need," as determined by the SEA. Where appropriate and consistent with a State's needs assessment, not less than one-quarter of the "greatest need" funds must be distributed to LEAs in rural and urban areas (Section 4113(d) of the SDFSCA (20 USC 7113(d))).

If an LEA does not apply for its allocation of the 70 percent, of the minimum 91 percent of SDFSCA funds that are to be distributed based on relative enrollments, or if the SEA disapproves an LEA's application for those funds, the SEA must reallocate that LEA's funds to one or more of the LEAs that received "greatest need" funds (Section 4113 (e) of the SDFSCA (20 USC 7113(e))).

(c) *Distribution of "greatest need" funds to LEAs*

An SEA may distribute the "greatest need" funds to no more than 10 percent of its LEAs, or five LEAs, whichever is greater (the cap). An SEA may award funds to individual LEAs or to a consortia of LEAs or educational service agencies. Each individual LEA that receives funds or services from the "greatest need" pool of funds must be counted against the cap on the number of LEAs receiving funds from the pool. If an award is made to a consortia, the SEA may select from two options to determine how the cap is calculated and how LEAs in consortia are counted against the cap.

In the first method, the SEA includes the total number of LEAs in the State in the calculation of the cap, and must count every LEA receiving funds or services supported with SDFSCA "greatest need" funds (whether in consortia or not) as an individual LEA against the cap. For example, a consortium providing services to seven LEAs would be counted against the cap as seven LEAs, not one LEA.

Alternatively, if the consortium is the same entity that receives SDFSCA State Grant funds distributed under Section 4113(d)(2)(i), the SEA could count the consortium as a single LEA in calculating the cap and the consortium would count as one LEA against the cap. (Section 4113(d) of the SDFSCA (20 USC 7113(d))).

(d) *Cap on security devices and security personnel (LEAs)*

An LEA may acquire and install metal detectors and hire security personnel as authorized activities under SDFSCA. However, (1) LEAs may not use more than 20 percent of their SDFSCA funds to acquire or install metal detectors, to hire security personnel, or to support "safe zones of passage" for students between home and school; and (2) LEAs may use funding for these purposes only if funding for such activities is not received from other Federal agencies (Section 4116(c) of the SDFSCA (20 USC 7116(c))).

(e) *Administrative costs and law enforcement education partnerships (Governor's Programs)*

A Governor may use no more than five percent of the total allocation for administrative activities. At least 10 percent of the Governor's funds must be awarded for law enforcement education partnerships (Section 4114(a)(2) and (3) of the SDFSCA (20 USC 7114(a)(2) and (3))).

H. Period of Availability of Federal Funds (SEAs/LEAs/Governor's Programs)

Also, see ED Cross-Cutting Section.

An LEA may retain up to 25 percent of its fiscal year allocation for obligation in the next Federal fiscal year. If an LEA wishes to retain an amount greater than 25 percent of its fiscal year allocation for use in a succeeding year, it must demonstrate good cause for such a carryover to its SEA, and the SEA must approve the request for additional carryover (Section 4113(f) of the SDFSCA (20 USC 7113(f))).

L. Reporting**1. Financial Reporting (SEAs/LEAs/Governor's Programs)**

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable****N. Special Tests and Provisions****1. Participation of Private School Children (SEAs/LEAs)**

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.276 GOALS 2000 -- STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT GRANTS****I. PROGRAM OBJECTIVES**

The objective of the Goals 2000: Educate America Act is to help States and districts reform their education systems through the development and implementation of comprehensive school improvement plans based on high standards and expectations for all students.

II. PROGRAM PROCEDURES

State educational agencies (SEAs) in the 50 States, the District of Columbia, Puerto Rico, the Bureau of Indian Affairs, and the Outlying Areas are eligible to apply for funds under this program. Grants are awarded to States on a formula basis; 50 percent according to each State's relative share of funds under Title I of the Elementary and Secondary Education Act (ESEA) for the preceding fiscal year; and the remaining 50 percent according to the State's relative share of funds under Title VI of the ESEA (with minor adjustments to exclude Title I and Title VI funds allocated to the outlying areas). The Bureau of Indian Affairs (BIA) and the Outlying Areas receive their allotments from a one-percent set-aside of the funds appropriated for the program.

The SEA retains a portion of its allotments for State-level activities to develop, revise, expand or implement its State improvement plan. The SEA awards the remaining funds on a competitive basis to LEAs or consortia of LEAs in the following three categories: (1) local reform activities (section 309(a) subgrants), (2) preservice teacher training and (3) professional development (both (2) and (3) are awarded under section 309(b)). Subgrant funds must be awarded in each of the three categories, but the SEA determines the amount of funds to be awarded in each category. All subgrants must be of sufficient size, scope, duration and quality to carry out the purposes of the Act. The SEA may conduct individual competitions for each category of subgrants, or combined competitions in which subgrant recipients receive awards in more than one category. (LEAs in Oklahoma and Montana apply directly to the U.S. Department of Education for Goals 2000 funding because their SEAs do not participate in Goals 2000.)

An LEA seeking first year funding for development or implementation of a local improvement plan must submit to its SEA an application with assurances that it will develop a plan that meets the requirements of Section 309(a) of the Act. An LEA seeking subsequent year funding must include in its application a comprehensive local improvement plan for district wide education improvement. An LEA may receive only one subgrant to develop a local improvement plan, but may receive additional subgrants to implement it.

Source of Governing Requirements

This program is authorized by Goals 2000: Educate America Act, Pub. L. No. 103-227, as amended by Improving America's School Act of 1994 (Pub. L. No. 103-382) and the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. No. 104-134), codified at 20 USC 5881, *et seq.* This program is subject to the Education Department General Administrative Requirements in 34 CFR parts 76, 77, 79, 81, 82, 85 and 86. There are no program regulations.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section

1. *SEAs* - The following are allowable costs:
 - a. In the first year a State participates in Goals 2000, the SEA may use funds to develop, revise, expand or implement its State improvement plan. During succeeding years, the SEA may use funds to implement the State improvement plan (20 USC 5888).
 - b. Administrative costs which include costs of conducting subgrant competitions, as well as the costs of monitoring. (20 USC 5888)
 - c. Subgrants to LEAs or consortia of LEAs as follows:
 - (1) To develop or implement local improvement plans (section 309(a) of the Act (20 USC 5889(a)));
 - (2) To improve preservice teacher education programs in cooperation with institutions of higher education or nonprofit institutions, (section 309(b) of the Act (20 USC 5889(b))); and
 - (3) To support continuing professional development of educators, school administrators, or related services personnel in cooperation with institutions of higher education or nonprofit institutions, (section 309(b) of the Act (20 USC 5889(b))).

2. *LEAs*

- a.. *Section 309(a) Subgrants* - Funds may be used to support individual school improvement initiatives, including developing and implementing school improvement plans. Also funds are to be used to develop a local improvement plan or for any LEA activities approved by the SEA that are reasonably related to carrying out the State or local improvement plans (20 USC 5889(a)(6)).
- b. *Section 309(b) Subgrants* - An LEA must use funds awarded under section 309(b) for activities described in its approved application, supporting the improvement of preservice teacher education and school administrator programs and the development and implementation of new and improved forms of continuing and sustained professional development (20 USC 5889(b)).
- c. In addition to the above, an LEA may use funds under both Sections 309(a) and (b) for administrative expenses (20 USC 5889(a)(6)(C)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section

C. Cash Management

See ED Cross-Cutting Section

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort*

Each recipient of funds under Title III of Goals 2000, in utilizing the proceeds of an allotment received under Title III, must maintain its expenditures for the activities assisted under Title III at a level equal to or not less than the level of expenditures maintained by the recipient for the fiscal year preceding the fiscal year for which the allotment was received (20 USC 5884(d)).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

a. SEAs

- (1) *Subgrants* - At least 90 percent must be awarded competitively to LEAs. Up to 10 percent may be retained by the SEA for state activities. (In the first year, at least 60 percent must be awarded competitively to LEAs and up to 40 percent may be retained by the SEA for state activities) (20 USC 5888(a)).

If there are a sufficient number of applications for development or implementation of local improvement plans, at least 50 percent of the funds awarded under section 309(a) of the Act must be granted to LEAs that have a greater percentage or number of disadvantaged children than the statewide average percentage or number for all LEAs in the State. In addition, each year at least one urban LEA and one rural LEA must be awarded a grant for local plan development or implementation (20 USC 5889(a)(1)(B) and 5889(c)).

- (2) *Administrative Costs* - No more than 4 percent or \$100,000, whichever is greater, can be used for administrative costs (20 USC 5888(c)).

b. LEAs

- (1) *Section 309(a) Subgrants* - During the first year an LEA receives a local improvement subgrant, it must use at least 75 percent of its subgrant funds to support individual school improvement initiatives. The remaining funds are to be used to develop a local improvement plan or for any LEA activities approved by the SEA that are reasonably related to carrying out the State or local improvement plans (20 USC 5889(a)(6)).

In subsequent years that an LEA receives a grant, at least 85 percent of the funds must be made available to individual schools to develop and implement comprehensive school improvement plans designed to help all children reach high academic standards. The remaining funds are to be used for any activities approved by the SEA that are reasonably related to carrying out the State or local improvement plans (20 USC 5889 (a)(6)).

At least 50 percent of the funds made available by the LEA to individual schools must be for schools with a special need for the assistance in accordance with criteria developed by the LEA (20 USC 5889(a)(6)(B)).

- (2) *Administrative Expenses* - No more than 5 percent of the funds may be spent on administrative expenses (20 USC 5889(a)(6)(C)).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private Schools

Compliance Requirement - Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary and secondary schools an SEA or LEA using Title III funds for teacher and administrator training must provide for the training of teachers and administrators in private schools (20 USC 5890(a)(2)).

Audit Objective - Determine whether the SEA or LEA provided for the training of teachers and administrators in private schools when required.

Suggested Audit Procedures

- a. Review the State or local plan and expenditure records to ascertain if Title III funds were used for teacher and administrator training. If not, no further work is needed
- b. Review documentation demonstrating that training of teachers and administrators in private schools was provided and was in the proper proportion.

2. Schoolwide Programs

See ED Cross-Cutting Section

3. Priority of Preservice Teacher Education and Professional Development Subgrants (SEA)

Compliance Requirement - In awarding subgrants for preservice teacher education and professional development, an SEA must give priority to: (1) LEAs or consortia of LEAs

that serve a greater number or percentage of disadvantaged students than the statewide average number or percentage; (2) to LEAs or consortia of LEAs that form partnerships with collegiate educators to establish professional development sites; and (3) to LEAs or consortia of LEAs that focus on upgrading teachers' knowledge of content areas or target teachers of students with limited-English proficiency and students with disabilities (20 USC 5889(b)(1)(B)).

Audit Objective - Determine whether the SEA gave priority when awarding subgrants for preservice teacher education and professional development.

Suggested Audit Procedures

- a. Review the SEA's procedures for identifying LEAs or consortia that meet the statutory criteria. Also, review procedures for awarding subgrants for preservice teacher education and professional development to ascertain if they address giving priority to LEAs or consortia that meet the statutory criteria.
- b. Review a sample of subgrant awards to ascertain if the SEA's procedures for giving priority to these LEAs/consortia were followed.

**DEPARTMENT OF EDUCATION
DEPARTMENT OF LABOR**

CFDA 84.278 SCHOOL-TO-WORK OPPORTUNITIES

I. PROGRAM OBJECTIVES

The purpose of the School-to-Work (STW) Opportunities Act of 1994, Pub. L. No. 103-239, is to provide seed capital to States and localities for developing and implementing comprehensive STW Opportunities systems that will provide all students with the academic and occupational skills necessary to prepare them for first jobs in high-skill, high-wage careers, and to increase their opportunities for further education and training. The Secretary of Labor and the Secretary of Education jointly administer the STW Act in a flexible manner to promote State and local discretion in establishing and implementing statewide STW Opportunities systems. The authority to award STW grants to State and local entities terminated October 1, 2001 (Section 802 of the STW Act, 20 USC 6251). However, State and local grantees may continue to use funds to operate STW projects until the funding periods for such awards end.

II. PROGRAM PROCEDURES

No program regulations have been issued for grants awarded under this legislation. However, grantees are bound by the STW Act, and grant agreements. Grants are awarded by either the Department of Education (ED) or the Department of Labor (DOL). However, this is treated as one program under OMB Circular A-133. The six different types of grants funded under the STW Act are described below.

State Development Grants (Title II, Subtitle A (20 USC 6121 *et. seq.*)): These non-competitive grants assist States in planning and developing comprehensive Statewide STW Opportunities systems.

State Implementation Grants (Title II, Subtitle B (20 USC 6141 *et. seq.*)): These competitive grants assist States in the implementation of comprehensive Statewide STW Opportunities systems. These grants are renewable for up to five years. States are required to subgrant most of the funding to local partnerships. Local partnerships submit applications to the State.

Local Partnership Grants (Title III, Section 302(a) (20 USC 6172(a))): These one year competitive grants provide funds directly to local partnerships in order to fund communities that are ready to begin implementing a local STW Opportunities system .

Urban/Rural Opportunities Grants (Title III, Section 302(b) (20 USC 6172(b))): These competitive grants provide funds to local partnerships to implement STW Opportunities programs in high poverty areas of urban and rural communities.

Grants to Indian Youth (Title II, Section 221): These competitively funded grants establish and implement STW Opportunities systems that involve schools funded by the Bureau of Indian Affairs.

Grants to Territories (Title II, Section 202(b) (20 USC 6122(b)): These grants develop and implement STW Opportunities systems in the Territories.

A "local partnership" is the grantee or subgrantee that is responsible for implementing and operating local STW Opportunities programs. A local partnership must meet the statutory definition in Section 4(11) of the STW Act and must include: (a) employers; (b) representatives of local educational agencies and local postsecondary educational institutions; (c) local educators; (d) representatives of labor organizations or nonmanagerial employee representatives; and (e) students. A local partnership may include other entities.

Additional information on this program is available through the Internet on the STW home page (<http://www.stw.ed.gov>).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look at Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. State Agencies

- a. *State Development Grants* - States are authorized to use State Development Grants only for activities to develop a statewide STW Opportunities system. Allowable activities include identifying resources, analyzing data, developing approach, and promoting involvement. Section 205 of the STW Act (20 USC 6125) contains specific examples of the types of activities that develop a statewide system (Section 205 of the STW Act (20 USC 6125)).
- b. *State Implementation Grants* - States subgrant the majority of State Implementation Grant funds. States may use the remainder of State Implementation Grants for activities to implement the Statewide STW Opportunities System. Allowable activities include outreach, training, technical assistance and designing model curricula or programs. Section 215 (c) of the STW Act (20 USC 6145) contains specific examples of the types of activities that implement a Statewide system (Section 215(c) of the STW Act (20 USC 6145)).

2. Local Partnerships

State Implementation Grants or Local Partnership Grants: Local partnerships are authorized to use funds provided through subgrants from a State Implementation Grant or a Local Partnership Grant only for activities undertaken to implement STW Opportunities systems. Allowable activities include outreach, training,

technical assistance, and designing models or programs. Local partnerships can provide for supplementary and support services, such as child care and transportation, when such services are necessary for participation. Section 215 of the STW Act (20 USC 6145(b)(4)) contains specific examples of the types of activities that local partnerships can undertake (Section 215 of the STW Act (20 USC 6145)).

3. Unallowable activities (States and Local Partnerships)

STW Act grant funds cannot be expended for wages of students or workplace mentors participating in such programs (Section 601 of the STW Act) (20 USC 6231).

C. Cash Management

See ED Cross-Cutting Section

E. Eligibility

1. Eligibility for Individuals - Not Applicable

2. Eligibility for Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

State Implementation Grants - A local partnership that received a Local Partnership Grant directly from either DOL or ED cannot receive a State Implementation subgrant for that same grant year. The local partnership may receive a State Implementation subgrant in later years. This provision does not apply retroactively. If the local partnership received a subgrant from a State Implementation grant prior to receiving the Local Partnership Grant, the local partnership may keep both the local grant and the subgrant. A local partnership that received a Urban/Rural Opportunities Grant directly from DOL or ED may receive a State Implementation subgrant for the same grant year (Section 215(b)(1)(B) of the STW Act (20 USC 6145(b)(1)(B))).

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - Maintenance of Effort

State Development Grants - The amount of State funds expended per student, or in the aggregate, by the State for STW activities, for the preceding fiscal year can not be less than 90 percent of the amount so expended for the second preceding fiscal year. For example, level of effort for FY 1996 is determined by comparing the funds expended either per student or in the aggregate in FY 1995 to those

expended in FY 1994. This requirement can be waived by the Secretary of Education and the Secretary of Labor under the terms of Section 206(b) of the STW Act (Section 206 of the STW Act (20 USC 6126(b))).

2.2 Level of Effort - *Supplement Not Supplant* - Not Applicable

3. Earmarking

a. *State Implementation Grants (States)*

- (1) In the first fiscal year in which a State receives a State Implementation Grant, the State must use 70 percent or more of the first year funds to provide subgrants to local partnerships. In the second fiscal year, the State must use 80 percent or more of second year funds to provide subgrants to local partnerships. In the third fiscal year and in each succeeding fiscal year in which the State receives a State Implementation Grant, the State must use 90 percent or more of third and succeeding year funds to provide subgrants to local partnerships (Section 215(b)(7) of the STW Act (20 USC 6145(b)(7))).
- (2) No more than 10 percent of the amounts received through the grant for a fiscal year may be used for State administrative costs. Administrative costs means the activities of a State or local partnership that are necessary for the proper and efficient performance of its duties under the STW Act and that are not directly related to the provision of services to participants or otherwise among the system's allowable activities listed in section 215(b)(4) and section 215(c) of the STW Act (Section 217 of the STW Act (20 USC 6147); May 18, 1995 *Federal Register* (Vol. 60, Number 96), page 26813).

b. *State Implementation Grants - Local Partnerships*

A 10 percent limit on administrative costs applies. Administrative costs may be either personnel costs or non-personnel costs, and direct or indirect (Section 215 of the STW Act (20 USC 6145 (b)(6))).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Only grantees placed on reimbursement are required to complete this form to request payment of

grant award funds. The requirement to use this form is imposed on an individual recipient basis.

- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Not Applicable
- e. Local Education Agencies (LEAs) and other subrecipients are generally required to report financial information to the pass-through entity. These reports should be tested during audits of LEAs.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Core Components (*Local Partnerships Grants*)

Compliance Requirement - As provided in the STW Act, a STW Opportunities system must incorporate three components: school-based learning (Section 102 of the STW Act (20 USC 6112)), work-based learning (Section 103 of the STW Act (20 USC 6113)), and connecting activities (Section 104 of the STW Act (20 USC 6114)). The specific activities selected by a State or local partnership to implement these components are described in the approved application (Sections 101, 215(b)(2), and 303(c) of the STW Act (20 USC 6111, 6145(b)(2) and 6173(c)).

Audit Objective - Determine whether the non-Federal entity implemented a school-based learning component, a work-based learning component, and connecting activities component, as described in its approved application.

Suggested Audit Procedures

- a. Review the approved application to identify the activities supporting each of the required components.
- b. Review records documenting that the activities described in the approved application were implemented.

DEPARTMENT OF EDUCATION

CFDA 84.281 EISENHOWER PROFESSIONAL DEVELOPMENT STATE GRANTS (Title II, Part B of ESEA)

I. PROGRAM OBJECTIVES

The objective of Eisenhower Professional Development State Grants (Eisenhower Program), Title II of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. No. 103-382), is to provide funds to State educational agencies (SEAs), local educational agencies (LEAs), State agencies for higher education (SAHEs), institutions of higher education (IHEs), and qualified nonprofit organizations (NPOs) to support sustained and intensive high-quality professional development for educators in the core academic subjects.

II. PROGRAM PROCEDURES

Eisenhower Program funds are obtained by a State on the basis of the Department's approval of either (1) an individual State plan as provided in Section 2205 of the ESEA, or (2) a consolidated plan that includes the Eisenhower Program, in accordance with Section 14302 of the ESEA. Separate grants are provided to SEAs and SAHEs. Of the total State allocation, the SEA receives 84 percent and the SAHE 16 percent.

LEAs apply to the SEAs for program funds. The SEAs allocate funds to LEAs based on the relative enrollment in public and private nonprofit elementary and secondary schools and the relative amounts the LEAs received under Part A of Title I for the previous year.

The SAHE makes competitive grants to, or enters into contracts or cooperative agreements with, IHEs and NPOs of demonstrated effectiveness in order to provide professional development activities that contribute to the State plan.

Source of Governing Requirements

This program is authorized by Title II, Part B of the ESEA (20 USC 6641- 6651). General provisions in Title II, Part D of the ESEA (20 USC 6701 - 6702) also apply to this program. Additional program requirements are found in Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000. While there are no program regulations, the following parts of the Education Department General Administrative Regulations (EDGAR) apply to this program: 34 CFR parts 76, 77, 80, 82, 85, and 86. General ESEA requirements in 34 CFR part 299 also apply.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. SEAs

- a. SEAs can use funds for State administration, for State-level activities, and to provide subgrants to LEAs. Examples of allowable State-level activities are listed in Section 2207 of the ESEA. The SEA must have records that provide a description of the general nature of the uses of Title II funds in support of program purposes (Sections 2203(1)(a) and 2207 of the ESEA (20 USC 6643(1)(A) and 6647); 34 CFR sections 76.730 and 76.731).
- b. SEAs whose FY 2001 program allocations exceed their FY 2000 program allocations may use the excess funds to make subgrants to partnerships of entities such as LEAs, IHEs, and private businesses to recruit, prepare, provide professional development to, and help retain school principals and superintendents (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).
- c. SEAs retain their portion of the \$45 million Congress appropriated in FY 2001 Eisenhower State Formula Grant Program funds, and must use these funds to implement either:
 - (1) The Title I accountability system required by section 1111 of Title I of the ESEA; or
 - (2) The requirements for State eligibility under the Ed-Flex Partnership Act of 1999 (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

2. LEAs

- a. Funds are to be used for professional development activities of teachers, and where appropriate administrators, pupil support personnel and parents in a manner that is consistent with the LEA's application, any school plan under Title 1, Part A and any other plan for professional development activities. Examples of allowable activities are shown in Section 2210(b)(3) of the ESEA. The LEA must have records that provide a

description of the general nature of the services to be provided with Title II funds in support of the program purpose (Section 2210 of the ESEA (20 USC 6650); 34 CFR sections 76.730 and 76.731).

- b. LEAs whose FY 2001 program allocations exceed their FY 2000 program allocations must use some of the excess funds to reduce the percentage of teachers who:
 - (1) Do not have State certification or are certified through emergency or provisional means;
 - (2) Are teaching out of field in some subject areas and grade levels in which they teach; or
 - (3) Lack sufficient content knowledge to teach effectively in the areas they teach (Title III of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-33, December 21, 2000).

3. SAHEs and their Subrecipients

- a. SAHEs can use funds for State administration (five percent) and to make subgrants to, or enter into contracts or cooperative agreements with IHEs and NPOs for professional development activities. Allowable activities of subrecipients include provision of professional development to teachers and, where appropriate, others; other professional development activities related to the achievement of the State plan for professional development; and preservice training activities (Sections 2203 and 2211 of the ESEA (20 USC 6643 and 6651)).
- b. SAHEs whose FY 2001 program allocations exceed their FY 2000 program allocations can make subgrants with excess funds to partnerships of entities such as LEAs, IHEs, and private businesses to recruit, prepare, provide professional development to, and help retain school principals and superintendents (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

4. Rural Education Achievement Program (REAP) (LEAs)

REAP provides authorization to spend all or part of funds under certain programs for activities authorized in other programs. After notification to the SEA, an LEA which meets both of the following requirements may spend all or part of this program's funds for activities authorized in Title I Grants to Local Educational Agencies (LEAs) (84.010); Safe and Drug-Free Schools and Communities--State Grants (84.186); and Technology Literacy Challenge Fund Grants (84.318) (See the program sections of "A. Activities Allowed or Unallowed" in this Supplement for the respective compliance requirements):

- a. Have an Average Daily Attendance of less than 600 students; and
- b. All of the schools in the LEA have been coded as rural schools by the National Center for Educational Statistics (NCES code 7 or 8) (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-89, December 21, 2000).

B. Allowable Costs/Cost Principles (All grantees)

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. **Eligibility for Individuals** - Not Applicable
2. **Eligibility for Groups of Individuals or Areas of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

- a. SEAs

Any LEA receiving a grant of less than \$10,000 must form a consortium with another LEA or an educational service agency serving another LEA to be eligible to receive Eisenhower Program funds. SEAs may waive the consortium requirement for LEAs that can demonstrate that the amount of their allocation is sufficient to provide a program of sufficient size, scope, and quality to be effective (Section 2204 of the ESEA (20 USC 6644)).

- b. SAHEs

Subrecipients must be either IHEs or NPOs. (Section 2211 of the ESEA (20 USC 6651)), or partnerships of entities such as LEAs, IHEs, and private businesses (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

G. Matching, Level of Effort, Earmarking

1. **Matching (LEAs)**

Each LEA must provide not less than 33 percent of the cost of the activities assisted under the Eisenhower Program, excluding the cost of services provided to private school teachers. In other words, each participating LEA must match every

two dollars in Federal funding with one dollar of its own resources, which can come from other Federal programs, such as Title I of the ESEA, or from non-Federal sources (Section 2209 of the ESEA (20 USC 6649)).

2.1 Level of Effort - *Maintenance of Effort* (SEAs/LEAs)

See ED Cross-Cutting Section.

2.2 Level of Effort - *Supplement not Supplant* - Not Applicable

3. Earmarking

Also, see ED Cross-Cutting Section.

a. *Within-State allocations* (SEAs)

The SEA distributes, by a formula similar to the initial Federal allocation, at least 90 percent of its allocation to the LEAs within the State. SEAs must ensure that their share of the first \$250 million of the total program appropriation in a given fiscal year is used for professional development in mathematics and science. ED provides States with allocation tables that outline the specific breakouts for the use of funds to support professional development activities in mathematics and science (Sections 2203 and 2206 of the ESEA (20 USC 6643 and 6646)).

b. *Within-State allocations* (SAHEs)

The SAHE distributes at least 95 percent of its allocation in the form of competitive subgrants to IHEs or NPOs of demonstrated effectiveness. SAHEs must ensure that their share of the first \$250 million of the total program appropriation in a given fiscal year is used for professional development in mathematics and science. With regard to FY 2001 program funds it receives in excess of its FY 2000 allocation (as described in "III.A.1.b Activities Allowed or Unallowed"), the SAHE distributes at least 95 percent in competitive subgrants to IHEs, NPOs, or to partnerships of such entities as LEAs, IHEs, and private businesses (Sections 2203, 2206, and 2211 of the ESEA (20 USC 6643, 6646, and 6651); Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

c. *Administration* (SEAs and SAHEs)

Both the SEA and SAHE may reserve up to five percent of their allocations for administration. The SEA may reserve up to an additional five percent of its allocation to carry out State-level professional development activities in support of the State's professional development

plan (Sections 2203, 2207, and 2211 of the ESEA (20 USC 6643, 6647, and 6651)).

d. *Exception* (SEAs)

The SEA's share of \$45 million in FY 2001 program funds awarded to the SEA for activities that help to implement State accountability systems or requirements for State eligibility under the Ed-Flex Partnership Act of 1999 (as described in "III.A.1.c Activities Allowed or Unallowed") is not subject to earmarking requirements (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-33, December 21, 2000).

H. Period of Availability of Federal Funds (All grantees)

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.282 CHARTER SCHOOLS****I. PROGRAM OBJECTIVES**

The objective of the Public Charter Schools Program (PCSP), authorized under Title X, Part C of the ESEA, is to increase national understanding of the charter schools model by (1) providing financial assistance for the planning, program design, and initial implementation of public charter schools; (2) expanding the number of high-quality charter schools available to students across the Nation; (3) evaluating the effects of charter schools; and (4) disseminating information about charter schools and successful practices in charter schools.

II. PROGRAM PROCEDURES

Generally, PCSP funds are awarded on a competitive basis to State educational agencies (SEAs) in States with specific statutes authorizing charter schools. SEAs use their PCSP funds to award subgrants to eligible applicants (authorized public chartering agencies in partnership with charter school developers) for planning, program design, and initial implementation of charter schools; and to support the dissemination of information about, and successful practices in, charter schools. If an eligible SEA elects not to participate in this program, or its application is not approved, eligible applicants that serve the State may apply directly to the Secretary.

Grants awarded to SEAs are for a period not to exceed three years. Once a three-year grant is over, an SEA may apply for a subsequent three-year grant. Planning and initial implementation grants awarded to eligible applicants by the Secretary and subgrants awarded by SEAs are awarded for a period not to exceed three years, of which not more than 18 months may be used for planning and not more than two years may be used for implementation. Grants or subgrants to charter schools for dissemination activities are made for a period not to exceed two years.

A charter school is limited to receiving not more than one grant or subgrant for planning and initial implementation activities and not more than one grant or subgrant for dissemination activities. A charter school may apply to the SEA for funds to carry out dissemination activities if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including substantial progress in improving student achievement; high levels of parent satisfaction; and the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school. A charter school may receive a dissemination grant, whether or not the charter school has applied for or received funds under the PCSP for planning or implementation.

Source of Governing Requirements

This program is authorized by Title X, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Charter School Expansion Act of 1998 (20 USC 8061, *et seq.*). This program is subject to the Department of Education's General Administrative Regulations at 34 CFR parts 75, 76, 77, 79, 80, 81, 82, 85, 86, and 99. There are no program specific regulations. However, 34 CFR sections 76.785 through 76.799 prescribe administrative

requirements that States and local educational agencies must follow when allocating funds to charter schools.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeated in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. *Use of Funds by SEAs*

Funds must be used for State administration expenses and subgrants to eligible applicants. Funds may also be used to establish a revolving loan fund for eligible applicants that have received grants, State dissemination activities and administrative costs of the program. See III. G.3. Earmarking for limitations on amounts that can be used for these activities (20 USC 8064(f)(1), (4), and (5)).

2. *Use of Funds by Eligible Applicants*

Each eligible applicant may use these funds in accordance with its approved application to plan and implement a charter school, or to disseminate information about the charter school and successful practices in charter schools (20 USC 8064(f)).

An eligible applicant receiving a PCSP grant or subgrant may use funds for (a) post-award planning and design of the educational program, which may include-- (i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and (ii) professional development of teachers and other staff who will work in the charter school; and (b) initial implementation of the charter school, which may include-- (i) informing the community about the school; (ii) acquiring necessary equipment and educational materials and supplies; (iii) acquiring or developing curriculum materials; and (iv) other initial operational costs that cannot be met from State or local sources (20 USC 8064(f)(3)).

A charter school receiving funds for dissemination activities may use funds to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as-- (a) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school; (b) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership; (c) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and (d) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools (20 USC 8064(f)(6)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. **Eligibility for Individuals** - Not applicable
2. **Eligibility for Groups of Individuals or Areas of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients**

A non-SEA eligible applicant for planning and initial implementation funds is an authorized public chartering agency participating in a partnership with a developer to establish a public charter school. Such a public charter school is a public school that provides a program of elementary or secondary education, or both; is nonsectarian and does not charge tuition; complies with federal and State Civil Rights laws; and is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply than can be accommodated. The term "developer" means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators, and other school staff, parents, or other members of the local community in which a charter school project will be carried out. A for-profit entity does not qualify as an eligible applicant for the purposes of the PCSP. However, a PCSP grant recipient may enter into a contract with a for-

profit entity for the day-to-day management of the charter school (20 USC 8066(2) and (3)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

Also, see ED Cross-Cutting Section.

Each SEA receiving a grant may reserve not more than 5 percent of these funds for administrative expenses associated with the charter school grant program (20 USC 8064(f)(4)).

The SEA must provide 95 percent of the grant funds to eligible applicants in the State for planning and initial implementation activities or for State dissemination activities. Not more than 10 percent of the grant amount may be used to establish a revolving loan fund for eligible applicants that have received a PCSP grant and not more than 10 percent of the grant amount may be reserved for dissemination activities (20 USC 8064(f)(1) and (5)).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. **Financial Reporting**
See ED Cross-Cutting Section.
2. **Performance Reporting** - Not Applicable
3. **Special Reporting** - Not Applicable

DEPARTMENT OF EDUCATION**CFDA 84.287 TWENTY-FIRST CENTURY COMMUNITY LEARNING CENTERS****I. PROGRAM OBJECTIVES**

The objective of this program is to provide expanded learning opportunities for participating children and community members in a safe and supervised environment before and after school, weekends and in the summer. The 21st Century Community Learning Centers program provides grants to local educational agencies (LEAs) to enable rural and inner-city public schools to become community learning centers and to keep children safe in the after-school hours. They provide students with access to homework centers and tutors in the core academic subjects as well as cultural enrichment, recreational, technology, and nutritional opportunities. In addition, life-long learning activities are available for community members in a local school setting.

II. PROGRAM PROCEDURES

The Secretary of Education awards 21st Century Community Learning Center Grants through a competitive grant process to rural and inner-city public elementary or secondary schools, consortia of such schools, or LEAs on their behalf. If more than one entity is party to the grant, one of the entities will be designated as the fiscal agent. For purposes of audits under OMB Circular A-133, the fiscal agent is treated as the recipient of the grant.

Source of Governing Requirements

This program is authorized under Title X, Part I, of the Elementary and Secondary Education Act (ESEA) (20 USC 8241-8247) and is subject to the Education General Administrative Regulations in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

A grantee under this program must do the following in carrying out a grant award in order to provide allowable services: (1) implement the project described in its approved application; and (2) expend the funds in accordance with the terms of the approved budget (34 CFR sections 75.234, 80.20, and 80.22).

LEAs must provide 4 of the following 13 activities, but may also provide other services to the community (20 USC 8245).

- Literacy education programs;
- Senior citizen programs;
- Children's day care services;
- Integrated education, health, social service, recreational, or cultural programs;
- Summer and weekend school programs in conjunction with recreation programs;
- Nutrition and health programs;
- Expanded library service hours to serve community needs;
- Telecommunications and technology education programs for individuals of all ages;
- Parenting skills education programs;
- Support and training for child day care providers;
- Employment counseling, training, and placement;
- Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual; and
- Services for individuals with disabilities.

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

See ED Cross-Cutting Section

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting**1. Financial Reporting**

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable**3. Special Reporting - Not Applicable****N. Special Tests and Provisions****1. Schoolwide Programs**

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

CFDA 84.288 BILINGUAL EDUCATION--PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS

CFDA 84.290 BILINGUAL EDUCATION--COMPREHENSIVE SCHOOL GRANTS

CFDA 84.291 BILINGUAL EDUCATION--SYSTEMWIDE IMPROVEMENT GRANTS

I. PROGRAM OBJECTIVES

Program Development and Implementation Grants (CFDA 84.288)

Develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient (LEP) students, including programs of early childhood education, kindergarten through twelfth grade education, gifted and talented education, and vocational and applied technology education (Title VII, Section 7112 of the ESEA (20 USC 7422)).

Comprehensive School Grants (CFDA 84.290)

Implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited English proficiency in schools with significant concentrations of such children and youth (Title VII, Section 7114 of the ESEA (20 USC 7424)).

Systemwide Improvement Grants (CFDA 84.291)

Implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency (LEA), that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth (Title VII, Section 7115 of the ESEA (20 USC 7425)).

II. PROGRAM PROCEDURES

The Secretary of Education awards Bilingual Education grants through a competitive grant process to the following eligible entities: one or more LEAs; one or more LEAs in collaboration with an institution of higher education, community-based organization, or State educational agency (SEA); and, in some circumstances, a community-based organization or an institution of higher education that has received approval from an LEA. If more than one entity is party to the grant, one of the entities will be designated as the fiscal agency. For purposes of audits under OMB Circular A-133, the fiscal agency is treated as the recipient of the grant.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to

identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

A grantee under these programs must do the following in carrying out a grant award in order to provide allowable services: (1) implement the project described in its approved application; and (2) expend the funds in accordance with the terms of the approved budget (34 CFR sections 75.234, 80.20 and 80.22).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort* - Not Applicable

2.2 Level of Effort - *Supplement not Supplant*

See ED Cross-Cutting Section.

3. Earmarking - Not Applicable

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private School Children (SEAs/LEAs)

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

CFDA 84.298 INNOVATIVE EDUCATION PROGRAM STRATEGIES (Title VI of ESEA)

I. PROGRAM OBJECTIVES

The objectives of Title VI of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Improving America's Schools Act of 1994, are to: (1) assist local educational reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act; (2) support State and local efforts to accomplish the National Education Goals; (3) provide funding to enable State Educational Agencies (SEAs) and Local Educational Agencies (LEAs) to implement promising educational reform programs; (4) provide a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials; and (5) meet the special educational needs of at-risk and high cost students (Title VI, Section 6001(b) of the ESEA (20 USC 7301(b))).

II. PROGRAM PROCEDURES

Title VI funds are obtained by a State following submission of an application or consolidated plan to the Secretary of Education that satisfies the application requirements as stipulated in the statute. The SEA distributes at least 85 percent of the funds to its LEAs that have filed an application that meets certain requirements. These funds are distributed to LEAs according to the relative enrollments in public and private, nonprofit schools within the school districts of the LEAs, adjusted to provide higher per pupil allocations to those LEAs with children whose education imposes a higher than average cost per child. The criteria for making these adjustments must be approved by the Secretary of Education. LEAs have complete discretion, subject only to legal requirements, in determining the allocation of expenditures of Title VI funds among the allowable program activities (Title VI, Sections 6102 and 6303(c) of the ESEA (20 USC 7312 and 7353(c))).

Source of Governing Requirements

This program is authorized by Title VI of the Elementary and Secondary Education Act, as amended by the Improving America's Schools Act of 1994 (20 USC 7301 *et seq.*). There are no program regulations. However, the following parts of the Education Department General Administrative Regulations (EDGAR) apply to this program: 34 CFR parts 76, 77, 80, 81, 82, and 85.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ESEA programs are discussed once in the Department of Education (ED) Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references to the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. SEAs

SEAs may reserve for State use not more than 15 percent of the Title VI funds allocated to the state. These funds may be used for technical assistance, direct grants, statewide education reform activities which assist LEAs in providing targeted assistance programs, support for planning, design and initial implementation of charter schools, and administration. Administration includes supervising of the allocation of funds to LEAs; planning, supervising and processing of State funds; and, monitoring and evaluating programs and activities (Title VI, Section 6201(a) of the ESEA (20 USC 7331(a))).

The remaining 85 percent must be distributed to LEAs (Section 6102(a) of the ESEA (20 USC 7312(a))).

(See III.G.3, for testing of Earmarking requirement.)

2. LEAs

LEAs must use Title VI funds only for one or more of the innovative assistance program areas described in Title VI, Section 6301(b) of the ESEA (20 USC 7351(b)). The innovative assistance program areas are:

- (i) Technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;
- (ii) Programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;
- (iii) Promising education reform projects, including effective schools and magnet schools;

- (iv) Programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;
- (v) Programs to combat illiteracy in the student and adult population, including parent illiteracy;
- (vi) Programs to provide for the educational needs of gifted and talented children;
- (vii) School reform activities that are consistent with the Goals 2000: Educate America Act;
- (viii) Planning, design and initial implementation of charter schools; and
- (ix) School improvement programs or activities under sections 1116 and 1117 of the ESEA.

3. Rural Education Achievement Program (REAP) (LEAs)

REAP provides authorization to spend all or part of funds under certain programs for activities authorized in other programs. After notification to the SEA, an LEA which meets both of the following requirements may spend all or part of this program's funds for activities authorized in Title I Grants to Local Educational Agencies (LEAs) (84.010); Safe and Drug-Free Schools and Communities--State Grants (84.186); Eisenhower Professional Development State Grants (84.281); and Technology Literacy Challenge Fund Grants (84.318) (See the program sections of "A. Activities Allowed or Unallowed" in this Supplement for the respective compliance requirements):

- a. Have an Average Daily Attendance of less than 600 students; and
- b. All of the schools in the LEA have been coded as rural schools by the National Center for Educational Statistics (NCES code 7 or 8) (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-89, December 21, 2000).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking**1. Matching - Not Applicable****2.1 Level of Effort - *Maintenance of Effort* (SEAs)**

The combined fiscal effort per child or the aggregate expenditures within the State for free public education for the preceding fiscal year must be at least 90 percent of the combined fiscal effort per child or aggregate expenditures for the second preceding fiscal year, unless specifically waived by the Secretary of Education for one fiscal year only.

Expenditures to be considered are State and local expenditures for free public education. These expenditures include expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student activities. States may include in the maintenance of effort calculation expenditures of Federal funds for which no accountability to the Federal Government is required. Certain Impact Aid funds are an example of such funds. (However, Impact Aid funds for which there is a requirement of accountability to the Federal Government, such as those received for children with disabilities, can not be included in the calculation.) States must be consistent in the manner in which they calculate maintenance of effort from year-to-year in order to ensure that the annual comparisons are on the same basis (i.e., calculations must consistently, from year-to-year, either include or exclude expenditures of Federal funds for which accountability to the Federal Government is not required). Expenditures not to be considered are any expenditures for community services, capital outlay, or debt service, and any expenditures of Federal funds for which accountability to the Federal Government is required. (Title VI, Section 6401(a) of the ESEA (20 USC 7371(a)).

2.2 Level of Effort - *Supplement not Supplant* (SEAs/LEAs)

See ED Cross-Cutting Section.

3. Earmarking (SEAs)

Also, see ED Cross-Cutting Section.

a. *Minimum 85 Percent Distribution to LEAs*

An SEA shall distribute at least 85 percent of the funds to its LEAs (Title VI, Section 6102(a) of the ESEA (20 USC 7312(a))).

b. *Remaining Reserved for State Use (Maximum of 15 Percent)*

Of the amount reserved for State use, no more than 25 percent may be used for State administration of Title VI or transferred to a Consolidated Administration pool. See III.A.1, Activities Allowed or Unallowed - SEAs, for what is considered "administration." (Title VI, Section 6201(b) of the ESEA (20 USC 7331(b))).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section.

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private School Children

See ED Cross-Cutting Section.

2. Schoolwide Programs (LEAs)

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.318 TECHNOLOGY LITERACY CHALLENGE FUND GRANTS
(TLCF)****I. PROGRAM OBJECTIVES**

The purpose of Title III of the Elementary and Secondary Education Act is to support a comprehensive system for the acquisition and use of technology and technology-enhanced curricula, instruction, and administrative support services and resources for the nation's elementary and secondary schools. The TLCF program provides resources to speed the implementation of State-wide strategies designed to enable all schools to integrate technology fully into school curricula so that all students become technologically literate, with the academic skills essential for their success in the 21st Century. A key purpose of the program is to enable the State to assist school systems that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology.

II. PROGRAM PROCEDURES

State educational agencies (SEAs) in the 50 States, the District of Columbia, Puerto Rico, and the Outlying Areas as well as the Bureau of Indian Affairs (BIA) are eligible and participate in the program. Funds are allocated to States on a formula basis proportionate to their share under Part A of Title I of the ESEA.

States may retain up to 5 percent of their allotment for technical assistance and administration. The remaining 95 percent is awarded competitively to local education agencies (LEAs) or to LEAs that are part of consortia, in such a manner that assistance is provided to LEAs with the greatest numbers or percentages of children in poverty and the greatest need for educational technology. Multiple-year awards are permitted and continuation grants may be made in the second and subsequent years.) Awards must be of sufficient size, scope, quality and duration to carry out the purposes of the program effectively.

States have broad discretion in designing subgrant competitions. For example, they may: establish maximum and minimum award amounts; allocate funds to geographic regions within the State (with competitions within each region); establish priorities to target resources to LEAs with high percentages or numbers of children in poverty and the greatest need for technology; and limit the uses of funds to activities such as professional development or equipment purchases.

Source of Governing Requirements

This program is authorized by Title III, Part A, Subpart 2 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 USC 6841-6847). The Education Department General Administrative Regulations in 34 CFR parts 76, 77, 80, 82, 85, and 86 apply to this program. Other requirements in 34 CFR part 299 also apply.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. SEAs

An SEA must, in accordance with its approved State plan, make competitively awarded subgrants to LEAs, or to LEAs that are part of consortia with other LEAs, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. Funds may be used for administration and technical assistance (Sections 3115 and 3132(a)(2) of ESEA (20 USC 6815 and 6842(a)(2))).

2. LEAs

Funds must be used for activities consistent with its SEA approved strategic, long-term technology plan. In general, funds may be used for the following (Sections 3134 and 3135 of ESEA (20 USC 6844 and 6845)):

- a. Developing, adapting, or expanding existing and new applications of technology to support the school reform effort;
- b. Funding projects of sufficient size and scope to improve student learning and, as appropriate, support professional development, and provide administrative support;
- c. Acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;
- d. Providing ongoing professional development in the integration of quality educational technologies into school curriculum and long-term planning for implementing educational technologies;

- e. Acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries; and
- f. Providing educational services for adults and families.

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - *Maintenance of Effort*

See ED Cross-Cutting Section.

2.2 Level of Effort - *Supplement Not Supplant (LEA)*

See ED Cross-Cutting Section.

3. Earmarking

Also, see ED Cross-Cutting Section.

No more than 5 percent of the annual allocation may be retained by the SEA for administration and technical assistance. The remaining 95 percent (or more) must be used for competitive sub-grants (Sections 3115 and 3132 of ESEA (20 USC 6815 and 6842)).

H. Period of Availability of Federal Funds

Funds are available for the Federal fiscal year for which they are appropriated and for an additional 12 months. For example, fiscal year 2000 funds are available from October 1, 1999 (the beginning of Federal fiscal year 2000) until September 30, 2001 (20 USC 1225(b); 34 CFR section 76.709).

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not applicable

3. Special Reporting - Not Applicable

N. Special Tests and Provisions

1. Participation of Private Schools

See ED Cross-Cutting Section.

2. Schoolwide Programs

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION

CFDA 84.338 READING EXCELLENCE

I. PROGRAM OBJECTIVES

The objective of the Reading Excellence program is to improve reading instruction and provide support for children with critical learning needs particularly in high poverty schools. Through this program grants are awarded to States to provide resources to implement improved practices in concert with the guidance prescribed from scientifically based reading research (20 USC 6661).

II. PROGRAM PROCEDURES

The Reading Excellence Act (REA) authorizes competitive three-year Reading and Literacy Grants to State education agencies (SEAs) (20 USC 6661b), which in turn distribute funding to eligible local education agencies (LEAs) through a competitive process. SEAs that receive funding are required to make subgrants to LEAs under two separate programs: Local Reading Improvement (LRI) (20 USC 6661d) and Tutorial Assistance (TA) (20 USC 6661e).

Source of Governing Requirements

This program is authorized by the Reading Excellence Act (REA), Part C, Title II of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. It is codified at 20 USC 6661 *et seq.* No regulations have been published on this program. However, this program is subject to the Department of Education's General Administrative Regulations at 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

Availability of Other Information

Other program information is available on the Internet at www.ed.gov/offices/OESE/REA/.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeated in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. SEA

- a. Subgrants to LEAs awarded on a competitive basis (20 USC 6661d and 6661e).
- b. Administrative costs (20 USC 6661c).

2. LEA

- a. LRI - Carry out activities to advance reform of reading instruction in eligible schools (20 USC 6661d(d)(1)). Such activities shall include the following:
 - (1) Securing technical and other assistance (20 USC 6661d(d)(1)(A)).
 - (2) Providing professional development activities to teachers and other instructional staff (20 USC 6661d(d)(1)(B)).
 - (3) Providing on a voluntary basis, training to parents of children (20 USC 6661d(d)(1)(D) and (F)).
 - (4) Carrying out family literacy services (20 USC 6661d(d)(1)(E)).
 - (5) Programs to assist kindergarten students or program providing additional support for children preparing to enter kindergarten (20 USC 6661d(d)(1)(G) and (H)).
 - (6) Providing instruction in reading to children with reading difficulties (20 USC 6661d(d)(1)(H)).
- b. TA - Providing tutorial assistance in reading, before school, after school, on weekends, or during the summer, to children who have difficulty reading and related support services as defined in the statute (20 USC 6661e(b)).
 - (1) Creation and implementation of objective criteria to determine in a uniform manner the eligibility of tutorial assistance providers and tutorial assistance programs desiring to provide tutorial assistance under the subgrant. (20 USC 6661e(b)(2)(A)).
 - (2) Development of procedures for the provision of information to parents of an eligible child (20 USC 6661e(b)(2)(C)).

- (3) Development of a selection process for providing tutorial assistance (20 USC 6661e(b)(2)(D)).
- (4) Development of procedures for selecting children to receive tutorial assistance (20 USC 6661e(b)(2)(E)).
- (5) Development of a methodology by which payments are made directly to tutorial assistance providers (20 USC 6661e(b)(2)(F)).
- (6) Development of procedures under which the LEA agency will carry out the process for ensuring oversight of the quality and effectiveness of the tutorial assistance provider (20 USC 6661e(b)(2)(G)).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section.

C. Cash Management

See ED Cross-Cutting Section.

E. Eligibility

1. Eligibility for Individuals - Not applicable

2. Eligibility for Groups of Individuals or Areas of Service Delivery - Not Applicable

3. Eligibility for Subrecipients

- a. *LRI* - These subgrants are awarded on a competitive basis to: (1) local districts that have at least one school in Title I School Improvement status; (2) districts with the highest or second highest number of poor children in the State; or (3) districts with the highest or second highest percentages of poverty in the State (20 USC 6661d(a)(1)).
- b. *TA* - The same districts eligible for LRI are also eligible for TA with the addition of districts that are an ((20 USC 6661e(a)(1)):
 - (1) Empowerment Zone as designated under part I of sub-chapter U of chapter 1 of the Internal Revenue Code of 1986 (20 USC 6661e(a)(1)(A)(i)).
 - (2) Enterprise Community as designated under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986 (20 USC 6661e(a)(1)(A)(ii)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**
 - a. SEAs shall allocate at least 80 percent of the funds to LEAs for LRI subgrants. Up to 15 percent of the funds may be subgrants to LEAs for Tutorial Assistance (TA) and costs of administering the TAs (20 USC 6661c).
 - b. SEAs shall not use more than 5 percent of the funds for State administration of which not more than 2 percent may be used for the State evaluation (20 USC 6661c).
 - c. LEAs shall not use more than 5 percent of its LRI subgrant for administrative costs (20 USC 6661d(2)).

H. Period of Availability of Funds

A SEA must expend the funds during the 3-year period beginning on the date on which the grant is made (20 USC 6661b(a)(2)(B)).

The State may award TA subgrants for up to a two-year period. The two-year period may be adjusted in a reasonable manner to avoid cessation of program benefits during the middle of a school year. For example, if a State issues two-year subgrants in January 2001, the subgrants may extend through school year 2002-03 and need not end in January 2003 (20 USC 6661d(a)(2)).

L. Reporting

1. **Financial Reporting**

See ED Cross-Cutting Section.
2. **Performance Reporting** - Not Applicable
3. **Special Reporting** - Not Applicable

N. Special Tests and Provisions

1. **Participation of Private School Children**

See ED Cross-Cutting Section.

2. School-wide Programs

See ED Cross-Cutting Section.

DEPARTMENT OF EDUCATION**CFDA 84.340 CLASS SIZE REDUCTION****I. PROGRAM OBJECTIVES**

The objective of the Class Size Reduction (CSR) Program is to help schools improve student learning by hiring additional, highly qualified teachers so that children, especially those in the early elementary grades, can attend smaller classes. The addition of these new teachers should result in the reduction of class size in the early grades to an average of 18 children per class. The CSR Program also includes a strong emphasis on teacher quality and professional development, and local education agencies (LEAs) may use up to 25 percent of their grants on activities in this area.

II. PROGRAM PROCEDURES

All 50 States, the District of Columbia, Puerto Rico, the Bureau of Indian Affairs, and the Outlying Areas are eligible to apply for funds under this program. Fiscal year (FY)1999 grants were made to the States via a formula based on either the Title I allocation formula or the Eisenhower Professional Development State Grants (Title II) formula, whichever resulted in the larger amount for the State. FY 2000 and FY 2001 grants were made to States based on the proportion of available CSR funds they received in FY 1999.

LEAs apply to the State education agencies (SEAs) for CSR funds as part of their State Title VI application. States then disburse 100 percent of the CSR funds to eligible LEAs, based 80 percent on census poverty data and 20 percent on school enrollment data.

Source of Governing Requirements

This program is authorized by Section 306 of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41, December 21, 2000. Certain provisions of Title VI of the Elementary and Secondary Education Act (ESEA) 20 USC 7301 *et seq.* also apply. While there are no program regulations, this program is subject to the Department of Education's General Administrative Regulations (EDGAR) in 34 CFR parts 76, 77, 80, 81, 82, and 85.

Availability of Other Program Information

Other program information is available on the Internet at www.ed.gov/offices/OESE/ClassSize.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

Certain compliance requirements which apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (page 4-84.000-1) rather than repeating in each individual program. Where applicable, this section references the Cross-Cutting Section for these requirements. Also, as discussed in the Cross-Cutting Section, SEAs and LEAs may have been granted waivers from certain compliance requirements.

A. Activities Allowed or Unallowed

Also, see ED Cross-Cutting Section.

1. *SEAs* - SEAs must distribute 100 percent of the CSR funds to all eligible LEAs. No funds may be retained by the SEA for administrative expenses (Section 306(b)(1) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).
2. *LEAs* - Funds must be used in accordance with the LEA's approved application, to recruit, hire (including payment of salaries and benefits), and train fully qualified classroom teachers, (who are certified within the State, have a baccalaureate degree, and demonstrate competency in the areas in which they teach) in order to reduce the class size in the targeted grades or subjects (generally grades kindergarten through three). Funds may also be used for teacher testing activities, professional development and for administrative costs (Section 306(c)(2)(A) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

After funding these efforts, or if class size in grades kindergarten through three (or in other grades or subjects for LEAs that do not serve grades kindergarten through three) is already reduced to 18 or fewer with fully qualified teachers, an LEA may use the funds to: (1) make further class size reductions in grades kindergarten through three (or in other grades or subjects for LEAs that do not serve grades kindergarten through three); (2) reduce class size in other grades; or (3) carry out activities to improve teacher quality, including professional development (Section 306(c)(2)(C) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

LEAs may use funds under the FY 2000 and FY 2001 CSR programs to continue paying the salaries of certified teachers who were hired under the FY1999 CSR program. However, LEAs may not use FY 2000 and FY 2001 funds to continue paying salaries of uncertified teachers hired under the FY 1999 CSR program unless those teachers are certified within the State by the start of the 2000-2001 school year (for FY 2000 funds) or 2001-2002 school year (for FY 2001 funds). (Sections 306(c)(4) and 306(h) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

LEAs may not use funds to increase the salaries or provide benefits (other than participation in professional development and enrichment) for teachers who are not hired under the CSR program. Funds also may not be used to recruit or hire

teachers to reduce class size in private schools (Sections 306(c)(4) and 306(e) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

3. *Rural Education Achievement Program (REAP) (LEAs)* - REAP provides authorization to spend all or part of funds under certain programs for activities authorized in other programs. After notification to the SEA, an LEA which meets both of the following requirements may spend all or part of this program's funds for activities authorized in Title I Grants to Local Educational Agencies (LEAs) (84.010); Safe and Drug-Free Schools and Communities--State Grants (84.186); Eisenhower Professional Development State Grants (84.281); and Technology Literacy Challenge Fund Grants (84.318) (See the program sections of "A. Activities Allowed or Unallowed" in this Supplement for the respective compliance requirements):
 - a. Have an Average Daily Attendance of less than 600 students; and
 - b. All of the schools in the LEA have been coded as rural schools by the National Center for Educational Statistics (NCES code 7 or 8) (Title III of the Consolidated Appropriations Act, 2001, Pub. L. 106-554, 114 Stat. 2763A-89, December 21, 2000).

B. Allowable Costs/Cost Principles

See ED Cross-Cutting Section

C. Cash Management

See ED Cross-Cutting Section

G. Matching, Level of Effort, Earmarking

1. Matching - Not Applicable

2.1 Level of Effort - Maintenance of Effort (SEAs)

The combined fiscal effort per child or the aggregate expenditures within the State for free public education for the preceding fiscal year must be at least 90 percent of the combined fiscal effort per child or aggregate expenditures for the second preceding fiscal year, unless specifically waived by the Secretary of Education for one fiscal year only (20 USC 7371).

Expenditures to be considered are State and local expenditures for free public education. These expenditures include expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student activities. States may include in the maintenance of effort

calculation expenditures of Federal funds for which no accountability to the Federal Government is required. Certain Impact Aid funds are an example of such funds. (However, Impact Aid funds for which there is a requirement of accountability to the Federal Government, such as those received for children with disabilities, can not be included in the calculation.) States must be consistent in the manner in which they calculate maintenance of effort from year-to-year in order to ensure that the annual comparisons are on the same basis (i.e., calculations must consistently, from year-to-year, either include or exclude expenditures of Federal funds for which accountability to the Federal Government is not required). Expenditures not to be considered are any expenditures for community services, capital outlay, or debt service, and any expenditures of Federal funds for which accountability to the Federal Government is required (Title VI, Section 6401(a) of the ESEA (20 USC 7371(a))).

2.2 Level of Effort - *Supplement Not Supplant* (LEAs)

See ED Cross-Cutting Section

3. Earmarking

Also, see ED Cross-Cutting Section

- a. LEAs must use a minimum of 72 percent of their CSR allocation to recruit, hire (including payment of salaries and benefits), and train fully qualified, certified classroom teachers in order to reduce the class size in the targeted grades or subjects, generally grades kindergarten through three (Sections 306(c)(2)(B) and 306(f) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).
- b. An LEA may use a maximum of 25 percent of the CSR funds for professional development and teacher testing activities. In the following limited instances, an LEA may use more than 25 percent of the CSR funds for professional development:
 - (1) The LEA has obtained a waiver of the 25 percent maximum; or
 - (2) The LEA has demonstrated that 10 percent or more of its teachers in elementary schools are not certified in accordance with State and local requirements. An LEA that has demonstrated this condition may use more than 25 percent of its CSR allocation for professional development activities to help teachers become certified or to help teachers obtain sufficient content knowledge to teach effectively in their areas. Such an LEA must notify the SEA of the percentage of CSR funds to be used for these purposes (Section 306(c)(2)(B) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

- c. An LEA may reserve no more than 3 percent of the funds for administrative costs (Section 306(f) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

H. Period of Availability of Federal Funds

See ED Cross-Cutting Section

L. Reporting

1. Financial Reporting

See ED Cross-Cutting Section.

2. Performance Reporting - Not applicable

3. Special Reporting - Not applicable

N. Special Tests and Provisions

1. Participation of Private Schools (LEAs)

The ED Cross-Cutting Section applies to the equitable participation of teachers from private, nonprofit elementary and secondary schools in professional development if the LEA uses any of its CSR funds for such activities. The equitable participation requirement does not apply to any other activities paid for with CSR funds. (Section 306(e) of the Consolidated Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763A-41).

2. Schoolwide Programs

See ED Cross-Cutting Section