

STATE AUDITOR AND INSPECTOR

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December 28, 2010

The Honorable Sandy Garrett
State Superintendent of Public Instruction
Oklahoma State Department of Education
2500 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105

Dear Superintendent Garrett:

This communication is provided pursuant to the parameters of the 2010 Office of Management and Budget (OMB) pilot project. Such project requires auditors of entities that volunteer for the project to issue, in writing, an early communication of significant deficiencies and material weaknesses in internal control over compliance for certain federal programs having expenditures of American Recovery and Reinvestment Act of 2009 (ARRA) funding at an interim date, prior to the completion of the compliance audit. Accordingly, this communication is based on our audit procedures performed through November 30, 2010, an interim period. Because we have not completed our compliance audit, additional significant deficiencies and material weaknesses may be identified and communicated in our final report on compliance and internal control over compliance issued to meet the reporting requirements of OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

In planning and performing our audit procedures through November 30, 2010, of the Special Education cluster, Special Education-Grants to States (IDEA, Part B) 84.391 and Special Education-Preschool Grants (IDEA Preschool) 84.392, we are considering the Oklahoma Department of Education's compliance with activities allowed or unallowed, allowable costs and cost principles, cash management, reporting, and special tests and provisions-R1-separate accounting for funds provided under the Recovery Act, as described in the *OMB Circular A-133 Compliance Supplement* for the year ended June 30, 2010. We are considering the Oklahoma Department of Education's internal control over compliance with the requirements previously described that could have a direct and material effect on the Special Education cluster in order to determine our auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Oklahoma Department of Education's internal control over compliance.

Our consideration of internal control over compliance is for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in the entity's internal control that might be significant deficiencies as defined in the following paragraph. However, as discussed subsequently, based on the audit procedures performed through November 30, 2010, we identified a deficiency in internal control over compliance that we consider to be a significant deficiency.

A *control deficiency* in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A *significant deficiency* is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiency in internal control over compliance described in the accompanying schedule of findings to be a significant deficiency.

The Oklahoma Department of Education's response to our finding is described in the accompanying schedule. We did not audit the Oklahoma Department of Education's response and, accordingly, we express no opinion on it.

This interim communication is intended solely for the information and use of management, the Oklahoma State Superintendent of Public Instruction, the State Board of Education, others within the entity, federal awarding agencies, and pass-through entities, and is not intended to be and should not be used by anyone other than these specified parties.

Sincerely,



Steve Burrage, CPA
State Auditor and Inspector

Schedule of Findings

STATE AGENCY: Oklahoma State Department of Education

FEDERAL AGENCY: United States Department of Education

CFDA NO: 84.391 and 84.392

FEDERAL PROGRAM NAME: Special Education—Grants to States (IDEA, Part B), Recovery Act
Special Education—Preschool Grants (IDEA Preschool), Recovery
Act

FEDERAL AWARD NUMBER: H391A090051 and H392A090084

FEDERAL AWARD YEAR: 2009

CONTROL CATEGORY: Cash Management

Criteria: According to 34 CFR § 80.20 (b) (7) *Cash Management*, “Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees’ cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.”

According to 34 CFR § 80.21 (c) *Advances*, “Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.”

According to 34 CFR § 80.21 (i) *Interest earned on advances*, “Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.”

Condition: Oklahoma State Department of Education (OSDE), as Grantee of American Recovery and Reinvestment Act of 2009 (ARRA/the Act) funds, subawarded and advanced the majority of the first round Special Education IDEA B and Special Education – Preschool grant ARRA funds to subgrantee schools in May of 2009.

Of the \$73,932,846.34 IDEA B ARRA funds advanced to the subgrantee schools in May of 2009, approximately \$11,096,723.63 was unexpended as of March 2010, almost one year later. OSDE required subgrantee schools to refund to OSDE these unexpended funds, which OSDE subsequently refunded to the United States Department of Education (USDE). As of November 29, 2010, OSDE has collected and remitted to USDE all unexpended IDEA B ARRA funds that had been advanced to subgrantee schools.

Of the \$1,940,970 IDEA Preschool ARRA funds advanced to the subgrantee schools in May of 2009, approximately \$566,166.89 was unexpended as of March 2010, almost one year later. OSDE required subgrantee schools to refund to OSDE these unexpended funds, which OSDE subsequently refunded to the USDE. As of November 29, 2010, OSDE has collected and remitted to USDE all unexpended IDEA Preschool ARRA funds that had been advanced, except for \$658.78 from one subgrantee school.

Cause: Oklahoma State Department of Education gave cash advances of ARRA funds to subgrantee schools with the understanding that the subgrantee schools would expend funds based on a legitimate financial need and that the ARRA funds would be timely disbursed as certified in assurance statements signed by the subgrantee schools. However, OSDE did not ensure each subgrantee school had an immediate financial need before advancing funds, which would minimize the time elapsing between the transfer of funds from the U.S. Treasury and the ultimate disbursement of funds for program purposes.

Effect: The subgrantee schools had cash balances of unexpended ARRA funds which is contrary to 34 CFR § 80 and ARRA guiding principles. Subgrantee schools owed the federal agency interest on the advanced ARRA funds. In signed assurances, the subgrantee schools had agreed to return any interest earned on funds between the transfer of funds and the disbursement by the local entity. As of November 29, 2010, OSDE has collected and remitted to USDE a total of \$ 61,233.94 in return interest payments from subgrantee schools for ARRA funds received for the IDEA B and IDEA Preschool programs. As of November 29, 2010, additional interest has been collected from 8 subgrantee schools, but has not been identified by CFDA number or remitted to USDE.

Recommendation: The Oklahoma State Department of Education has recovered from all but one subgrantee school all unexpended ARRA funds that had been advanced, and the respective interest, and has remitted these funds and interest to the USDE. We recommend OSDE collect from the one remaining subgrantee school, and remit to OSDE, the \$658.78 in unexpended IDEA Preschool ARRA funds that had been advanced. We also recommend OSDE ensure they collect and remit to USDE all interest on advanced funds from subgrantee schools.

Views of Responsible Official(s):

The OSDE sent letters to districts on April 5, 2010, that had not expended the forward-funded money. On May 3, 2010, LEAs were required to remit unexpended ARRA funds via school district warrant. At that time, LEAs were notified that they must return the remaining first 50% of ARRA funds and no budget revisions or Summary Expenditure Reports (SER) would be accepted for IDEA, Part B, until the remaining first 50% of the ARRA funds are returned.

The OSDE-SES made several attempts to collect the \$658.78 from Texhoma Public Schools. Attempts were made on June 24, 2010, July 1, 2010, and July 9, 2010, to contact the district with no answer at the district and no way to leave a message.

On July 12, 2010, the superintendent was contacted to remit the ARRA funds. He stated that he would handle the situation that day and would send the funds back to the OSDE as soon as possible. A follow-up call was made on July 13, 2010, and there was no answer or any way to leave a message.

On July 14, 2010, the superintendent was contacted. His administrative assistant said that he was out-of-town and she would call him to inform him that if the funds were not remitted by Monday, July 16, 2010,

the district could receive a deficiency on their accreditation. He called back the same day and stated that he could not return the ARRA funds requested to the OSDE, because of the reciprocal tuition formula between Oklahoma and Texas. He said that Texhoma's school board would meet on July 21, 2010, and he would mail the remittance as soon as he received the funds from Texas. It was explained that the funds should have been remitted in May, and that if they were not remitted by Monday, a deficiency would be given on their accreditation report. He said he understood, but he would not be able to remit the funds until the end of July.

A deficiency was given on Texhoma's accreditation report by their Regional Accreditation Officer in July 2010, for nonpayment of the \$658.78 in ARRA funds.

On August 12, 2010, August 30, 2010, and September 14, 2010, subsequent messages were left for the superintendent to call the SDE; he did not return the calls. On September 30, 2010, an attempt was made to contact the district, but there was no answer. Again on October 8, 2010, he was contacted, but his secretary said he had just left the office and would not be able to call back until the next week.

In response to the difficulty collecting the funds; Texhoma received an on-site financial monitoring on November 16, 2010, by members of the OSDE-SES finance team. As part of the corrective action, they are required to immediately refund the \$658.78 in IDEA ARRA preschool funds. The monitoring report was mailed on December 13, 2010. Until the balance of \$658.78 is returned to the OSDE, Texhoma Public Schools will not be allowed to access Federal IDEA Funds of any kind.

Texhoma Public Schools was placed on the December 16, 2010, State Board of Education agenda for willful failure to return ARRA funds, with a possible action of probationary status on their accreditation. Mr. Eric Smith, Superintendent, Texhoma Public Schools, reported to the State Board of Education meeting with a check in the amount of \$658.78. As of December 16, 2010, Texhoma has repaid the funds, and the OSDE-SES is in the process of returning the funds to the USDE.

Contact Person:

Pam Kimery, Project Coordinator, Special Education Services

Anticipated Completion Date: December 16, 2010

Corrective Action Planned:

OSDE-SES will collect the funds from Texhoma Public Schools and return the money to the USDE.

Until the balance of \$658.78 is returned to the OSDE, Texhoma Public Schools will not be allowed to access Federal IDEA Funds of any kind. Texhoma returned the funds on December 16, 2010. The OSDE is in the process of remitting the funds to the USDE.

Contact Person and contact information for high level management official who will assume overall responsibility for ensuring appropriate corrective action:

Misty Kimbrough, Assistant State Superintendent, Special Education Services
(405) 521-4873 or Misty_Kimbrough@sde.state.ok.us