

STATE AUDITOR AND INSPECTOR

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December 31, 2009

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 2009 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, 2009, 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 through November 30, 2009, of Title I Grants to Local Educational Agencies, we are considering the Oklahoma Department of Education's compliance with activities allowed or unallowed, allowable costs and cost principles, cash management, eligibility, and special tests and provisions-R1-separate accounting for funds provided under Recovery Act, as described in the *OMB Circular A-133 Compliance Supplement* for the year ended June 30, 2009. 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 Title I Grants to Local Educational Agencies program 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 or material weaknesses as defined in the following paragraph. However, as discussed subsequently, based on the audit procedures performed through November 30, 2009, 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 control deficiency or combination of control deficiencies that adversely affect the entity's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control. 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, 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: 84.389A

FEDERAL PROGRAM NAME: Title I Grants to Local Educational Agencies, Recovery Act

FEDERAL AWARD NUMBER: S389A0900036

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: The Oklahoma State Department of Education (OSDE), as Grantee of American Recovery and Reinvestment Act of 2009 (ARRA/the Act) funds, did not have procedures in place to ensure minimal time elapsed between the transfer of ARRA funds to, and their ultimate disbursement by, the subgrantee schools. OSDE advanced the majority of the first round Title IA ARRA awards to subgrantee schools in May of 2009. Based on review of OSDE expenditure report logs received on November 16, 2009 for Title IA expenditures through June 30, 2009, 506 of 530 subgrantee schools had not expended all Title IA ARRA funds they were advanced. Of the \$54,687,691 Title IA ARRA funds advanced to the subgrantee schools, approximately \$4,353,374 had been reported as expended. Therefore, subgrantee schools may owe the Federal agency interest on their advances.

Cause: The Oklahoma State Department of Education gave cash advances of ARRA funds to subgrantee schools without implementing appropriate procedures to ensure subgrantee schools comply with the same standards of timing and amount as apply to advances to grantees.

Effect: The OSDE advanced ARRA funds without first implementing procedures to ensure the subgrantee schools had a legitimate financial need and that the ARRA funds would be timely disbursed. In addition, interest may be due to the Federal agency for the money advanced to the schools that was not expended in a timely manner.

Recommendation: We recommend the Oklahoma State Department of Education issue a directive to the subgrantee schools to encourage them to expend the first round ARRA funds timely as intended by the Act. Also, the Oklahoma State Department of Education should seek additional guidance from U.S. Department of Education on determining whether any interest is owed.

Views of Responsible Official(s)

The Oklahoma State Department of Education (OSDE) implemented procedures to ensure subgrantee schools had legitimate financial need and that the ARRA funds were timely disbursed. Prior to payment of ARRA funds to the Local Education Agencies (LEAs), an in-service was held with all Oklahoma Independent School Auditors to address the issues of Supplement/Supplant, Maintenance of Effort, Cash Advances, Interest Earned, Period of Availability, Accountability of Funds and Administrative Cost. Oklahoma State Statutes 70-22-103 places the financial compliance of fiscal federal responsibility with the Annual Independent Audit. The OSDE will not receive the 2009 ARRA audits under the guideline of the Single Audit Act until March 30, 2010. The OSDE, at that time, will review and resolve all findings that are not in compliance with the federal regulations as cited in the audit.

In addition to the in-service of the auditors the OSDE conducted three workshops for districts. The OSDE issued seven statements to LEAs. Statement four reads, "The LEA acknowledges that the stimulus funds may be drawn down (or if funded on an advance bases by SDE) and agrees to minimize the time between the transfer of funds and the disbursement by the local entity in accordance with the Cash Management Improvement Act (31 CFR part 205). Additionally, the LEA agrees to maintain cash balances which meet their immediate cash needs only. Statement seven reads, "The LEA agrees to return any interest earned on funds between the transfer of funds and the disbursement by the local entity". These statements required a signature from the Superintendent of the LEA. Our procedures were step by step of training, signed assurance statements, and notifying the auditors of the requirements. 34 CFR Subtitle A 80.21 reads, "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". The LEAs in Oklahoma were notified of this law and meets this requirement. Interest will be returned on any funds invested.

OSDE believes we have procedures in place, we informed the schools, and we implemented the plan. We are following the law that requires interest earned is to be returned and OSDE will return the interest. The Office of Fiscal Services handles this return of interest.

Written Communication With Districts to communicate required assurances, and policy and procedures for Title I, Part A ARRA Funds

April 28, 2009 Letter and Required Assurances - from Cindy Koss, Assistant State Superintendent

June 5, 2009 Letter from Lu Norman – Process to Return Interest Earned on ARRA Federal Funds

June 5, 2009 Letter from Lu Norman – Due Dates for Expenditure Reports of ARRA Federal Funds

August 3, 2009 – Title I, Part A ARRA Application Regional Trainings Letter to Districts from Superintendent Garrett

October 23, 2009 Letter from Superintendent Sandy Garrett

October 23, 2009 – Letter from Cindy Koss, Assistant State Superintendent and Misty Kimbrough, Assistant State Superintendent, Regarding New Reporting Process for ARRA funds

November 4, 2009 – Letter Regarding Web-based Reporting of ARRA funds

All documents can be found on the Oklahoma State Department of Education Web site under American Recovery and Reinvestment Act including the ARRA Implementation Guide for Title I, Part A ARRA and IDEA, Part B ARRA.

In addition, many districts have encumbered funds to pay salaries as allowable for Title I, Part A ARRA and pay out 1/12th each month.

In January, 2010, The Office of Standards and Curriculum – Title I, Part A and the Special Education Services Division are jointly sending a memo to all districts to spend the funds quickly within the required guidelines of Title I, Part A and Special Education. The attachment for this memo will include the amount allocated, and the amount of funds remaining.

The most current Title I, Part A ARRA Expenditure Report log – Total Amount Expended is \$11,350,032.69.

Contact Person: Cindy Koss, Assistant State Superintendent, Office of Standards and Curriculum
Lu Norman, Executive Director, Fiscal Services

Anticipated Completion Date: Recommendation has been completed based on the communication with districts cited above. In March, 2010, reconciliations will be confirmed by the independent school audits.

Corrective Action Planned: Continue to communicate, monitor and review expenditure reports and return interest earned as required.

Contact Person and contact information for high level management official who will assume overall responsibility for ensuring appropriate corrective action: Lealon Taylor, OSDE Chief of Staff - 521-4516 lealon_taylor@sde.state.ok.us