

STATE OF NEBRASKA
Auditor of Public Accounts



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March 7, 2007

Dr. Douglas D. Christensen, Commissioner of Education
Nebraska Department of Education
301 Centennial Mall South; 6th Floor
Lincoln, NE 68509-4987

Dear Dr. Christensen:

We have audited the basic financial statements of the State of Nebraska (the State) for the year ended June 30, 2006, and have issued our report thereon dated December 21, 2006. We have also audited the State's compliance with requirements applicable to major federal award programs and have issued our report thereon dated February 6, 2007. In planning and performing our audit, we considered the State's internal controls in order to determine our auditing procedures for the purpose of expressing our opinions on the basic financial statements of the State and on the State's compliance with requirements applicable to major programs, and to report on internal control in accordance with the Federal Office of Management and Budget (OMB) Circular A-1 33 (the Single Audit) and not to provide assurance on internal control. We have not considered internal control since the date of our report.

In connection with our audit described above, we noted certain internal control matters related to the activities of the Nebraska Department of Education (the Agency) or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of Department's management, are intended to improve internal control or result in other operating efficiencies.

Our consideration of internal control included a review of prior year comments and recommendations. To the extent the situations that prompted the recommendations in the prior year still exist, they have been incorporated in the comments presented for the current year. All other prior year comments and recommendations (if applicable) have been satisfactorily resolved.

Draft copies of this letter were furnished to the Agency to provide them an opportunity to review the letter and to respond to the comments and recommendations included in this letter. All formal responses received have been incorporated into this letter. Responses have been objectively evaluated and recognized, as appropriate, in the letter. Responses that indicate corrective action has been taken were not verified at this time, but will be verified in the next audit.

Our comments and recommendations for the year ended June 30, 2006, are shown on the following pages.

COMMENTS RELATED TO THE SINGLE AUDIT

Finding #06-13-01

Program: CFDA 10.556 Special Milk Program for Children – Subrecipient Monitoring.

Grant Number & Year: #IN109943, FFY05; #IN109943, FFY06

Federal Grantor Agency: U.S. Department of Agriculture

Criteria: Per Title 7 CFR § 215.11(b)(2), "... Each State agency, or FNSRO where applicable, shall provide Program assistance, as follows: ...Visits to participating schools and child-care institutions to ensure compliance with Program regulations ..." Good internal control also requires a systematic approach to ensure all schools are visited in a timely manner.

Condition: Nebraska Department of Education Nutrition Services does not have a system to adequately monitor School Food Authorities that participate in the Special Milk Program for Children and not the National School Lunch Program.

Questioned Costs: None.

Context: There were 45 schools that received \$43,872 from the Special Milk program during School Year 2005-2006 which did not receive additional funding from the National School Lunch Program. We noted 25 schools had not had an on-site visit in over five years. The last visits for these 25 schools ranged from 1999 back to 1986.

Cause: Unknown.

Effect: Noncompliance with Federal regulations.

Recommendation: We recommend the Agency develop policies and procedures to ensure compliance with Federal regulations.

Management Response: USDA has provided the following information. "Under 7 CFR 215.11(b)(2) which is under the title Special responsibilities of State agencies - Program assistance, it says "Visits to participating schools and child care institutions to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (part 15 of this title), issued under Title VI of the Civil Rights Act of 1964. State agencies shall conduct reviews of schools participating in the Program for compliance with this part when such schools are being reviewed under the provisions identified under 210.18(i) of this title."

See also 215.11(e) Investigations, which requires responsive actions but not necessarily on-site reviews, and 215.10(b) on reimbursement procedures, which requires reimbursement claims to have "data in sufficient detail to justify the reimbursement claimed . . ."

Again, no specific requirement on the frequency of on-site visits/reviews, with the only specifics tied to CRE, and, in that case, only to follow-up reviews.”

The email from USDA with this response is available upon request.

Corrective Action Plan: The web-based reporting system will be used to document all Special Milk Reviews and the web-based scheduling module will be modified to ensure a 10 year review rotation for Special Milk participants. In fiscal year 2007 there will be 23 schools and camps participating in the Special Milk Program. USDA has confirmed no specific requirement on the frequency of on-site reviews is found in regulations. Three reviews will be done between July 1, 2006, and June 30, 2007.

Contact: Connie Stefkovich, Nutrition Services Administrator, at 471-3566 or email connie.stefkovich@nde.ne.gov.

Anticipated Completion Date: Scheduling module will be modified by January 31, 2007. Fiscal year 2007 reviews will be completed by June 30, 2007, to begin the 10 year review rotation.

Finding #06-13-02

Program: CFDA 84.027, 84.173 Special Education Cluster, and 84.048 Vocational Education-Basic Grants to States – Special Tests.

Grant Number & Year: All IDEA and Vocational Education grants open during the State’s fiscal year 2006.

Federal Grantor Agency: U.S. Department of Education.

Criteria: Per 34 CFR Ch. II § 200.29 (e), “Each State must—(1) Encourage schools to consolidate funds from other Federal, State, and local sources in their schoolwide programs; and (2) Modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources in their schoolwide programs.”

Condition: The Agency did not notify its Local Education Agencies (LEAs) of the authority to consolidate Federal, State, and local funds in schoolwide programs in a timely manner, and did not examine its fiscal and accounting procedures to remove any barriers preventing such consolidation of funds for the fiscal year audited.

Questioned Costs: None

Context: Per discussion with the Federal Programs Administrator, the U.S. Department of Education did not provide guidance for consolidating funds in schoolwide programs until May 30, 2006, via the May 2006 policy guidance document, *Fiscal Issues: Title I, Part A, Non-Regulatory Guidance*. The Agency sent an email to all LEAs on June 8, 2006, regarding guidance being available for consolidating funds in schoolwide programs.

Cause: The Agency states they did not have sufficient guidance to implement the requirement for the fiscal year being audited.

Effect: Noncompliance with Federal regulations.

Recommendation: We recommend the Agency develop policies and procedures to ensure compliance with Federal requirements.

Management Response: See the corrective action plan below.

Corrective Action Plan: The Department will use the guidance from the U. S. Department of Education *Fiscal Issues: Title I, Part A, Non-Regulatory Guidance (May 2006)* to study current practices and procedures that may present fiscal or accounting barriers and to identify procedural options for districts to use in consolidating funds in schoolwide programs during the 2006-2007 school year. The procedures will be developed by an internal committee representing Federal programs in the Elementary and Secondary Education Act (ESEA), Individuals with Disabilities Education Act (IDEA) and the Applied Vocational and Technical Education Act Basic Grants (PERKINS).

Efforts and guidance have already been provided for consolidating and integrating funds under the flexibility allowed in Title VI of NCLB in the formula grant programs' consolidated application in the web based Grants Management System. The system eliminates barriers for consolidation and transferability for programs and can serve as the basis for schools that have schoolwide programs focusing on Title I. The citation from the CFR 34 200.27, b(3) *Development of a schoolwide program plan*.

"If appropriate, the school must develop the comprehensive plan in coordination with other programs, including those carried out under Reading First, Early Reading First, Even Start, the Carl D. Perkins Vocational and Technical Education Act of 1998, and the Head Start Act."

The aspects of encouraging, and in some cases requiring, coordination have been occurring for many years in Nebraska even beyond the aspects of schoolwide Title I programs. The coordination versus consolidation procedures will be a key focus of the internal committee, which addresses this topic.

Contact: Dr. Marilyn Peterson, Federal Programs Administrator, at (402) 471-3504.

Anticipated Completion Date: August 31, 2007

Finding #06-13-03

Program: CFDA 84.027, 84.173 Special Education Cluster - Earmarking

Grant Number & Year: #H027A030079A, FFY04

Federal Grantor Agency: U.S. Department of Education

Criteria: 20 USC 1411(f)(2)(B) requires any funds the State Educational Agency (SEA) does not retain for administration and other State-level activities shall be distributed to eligible Local Educational Agencies (LEAs) in the State. An SEA must distribute to each eligible LEA the amount that LEA would have received under this section for the base year ... after making allocations for the base year, the State shall allocate 85 percent of any remaining funds to LEAs based upon the relative numbers of children enrolled in public and private elementary and secondary schools within the LEA's jurisdiction; and allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA.

Condition: The Nebraska Department of Education did not correctly allocate \$892,643 in Federal aid according to the prescribed formula.

Questioned Costs: None.

Context: The \$892,643 was allocated to LEAs relative to their base year allocation, and not according to enrollment and poverty levels as required. The total grant award was \$58,742,248. The required base allocation amount to be distributed by the Agency was \$22,507,423, not the \$23,400,066 that was allocated by the Agency. The Agency allocated \$29,370,724 based on enrollment and poverty, but should have allocated \$30,263,367 based on enrollment and poverty levels.

Cause: Unknown.

Effect: Noncompliance with Federal regulations.

Recommendation: We recommend the Agency develop and implement policies and procedures to ensure formula subgrants to LEAs are allocated correctly.

Management Response: The Agency agrees with the auditors' comments.

Corrective Action Plan: The Nebraska Department of Education (NDE) will implement procedures to correctly distribute IDEA Part B funds not retained for administration and other State-level activities to eligible Local Educational Agencies (LEAs) in the state. The NDE will allocate 85 percent of any such remaining funds to LEAs based upon the relative number of children enrolled in public and private elementary and secondary schools within the LEA's jurisdiction and allocate 15 percent of any such remaining funds to LEAs in accordance with their relative number of children living in poverty, as determined by the NDE.

For the fiscal year ended June 30, 2006, the \$892,643 distributed to LEAs relative to their base year allocation has been recalculated according to enrollment and poverty levels. The net effect of the recalculation is LEAs were either over or under funded by \$86,098. The 2006-2007 IDEA Part B fiscal year allocation of funds to LEAs according to enrollment and poverty levels will be adjusted to correct the allocation for the fiscal year ending June 30, 2006.

Contact: Greg Prochazka at 471-4314 or email greg.prochazka@nde.ne.gov or Gary Sherman at 471-2471 or email gary.sherman@nde.ne.gov.

Anticipated Completion Date: Adjustments to correct the IDEA Part B fiscal year allocation ending June 30, 2006, will be finalized by October 31, 2006.

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Agency and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to you.

This report is intended solely for the information and use of the Agency, the Governor and State Legislature, federal awarding agencies, pass-through entities, and management of the State of Nebraska. However, this report is a matter of public record and its distribution is not limited.

We appreciate and thank all of the Agency employees for the courtesy and cooperation extended to us during our audit.



Pat Reding
Assistant Deputy Auditor



Don Dunlap
Assistant Deputy Auditor