UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

Audit Services
Sacramento Region

February 26, 2010

ED-OIG/A09J0004

Honorable Dwight D. Jones
Commissioner of Education
Colorado Department of Education
201 East Colfax Avenue, Room 500
Denver, Colorado 80203

Dear Commissioner Jones:

This **final audit report**, entitled *Colorado Department of Education's Use of Federal Funds for State Employee Personnel Costs*, presents the results of our audit. The purpose of the audit was to determine whether Federal funds reserved for use at the Colorado Department of Education (CDE) were expended in accordance with applicable laws, regulations, and U.S. Department of Education (Department) guidance. This report is limited to CDE's methodology for allocating personnel costs to Federal education grants. Our review covered CDE's policies and procedures for the period July 1, 2007, through June 30, 2009.

BACKGROUND

CDE is the administrative arm of the Colorado State Board of Education and oversees Colorado's 178 local school districts. The head of CDE, the State Commissioner of Education, is appointed by the Board of Education. By State law, Colorado is a "local control" State. This means that many elementary and secondary public education decisions are made by the local school boards. However, because some facets of education required leadership at the State level, the State's Constitution was amended in 1948 to provide for an elected State board of education, responsible for the general supervision of public school districts.

CDE receives funding from multiple Federal agencies, much of which is passed through to subrecipients, such as school districts. Table 1 shows the amount of expended Federal funds, by agency, that CDE reported in the Colorado Statewide Single Audit for fiscal year July 1, 2007, through June 30, 2008. Department programs provided more than 88 percent of the Federal funding expended by CDE during the period.[1]

[1] CDE does not consolidate funds available for State administration of Federal education programs as allowed by section 9201(a) of the Elementary and Secondary Education Act.

Table 1. CDE's Expenditures of Federal Funds for Fiscal Year 2008 (a)			
Federal Agency Name	**Amount Expended at CDE**	**Amount Passed from CDE to Subrecipients**	**Fiscal Year 2008 Total**
U.S. Department of Education	$ 29,145,227	$ 366,276,959	$ 395,422,186
National Endowment for the Humanities	$ 2,500,474	$ 233,883	$ 2,734,357
U.S. Department of Agriculture	$ 685,316	$ 108,240,216	$ 108,925,532
U.S. Department of Health and Human Services	$ 562,903	$ 92,449	$ 655,352
Corporation for National and Community Service	$ 88, 974	$ 130,000	$ 218,974
U.S. Department of Defense	$ 0	$ 771,058	$ 771,058
Total	**$ 32,982,894**	**$ 475,744,565**	**$ 508,727,459**

(a) We did not assess the reliability of the data reported in the Colorado Statewide Single Audit.

CDE uses the Colorado Personnel Payroll System (CPPS) to process its monthly payroll. When establishing a new employee in CPPS, the Human Resources Office enters one or more CERT codes. The CPPS Glossary defines a CERT code as a "cost center for which time is charged for expense." If an employee works on more than one program, multiple CERT codes are used to allocate the employee's salary among the different funding sources. The CERT codes should be adjusted when funding sources or funding allocations change. Initial CERT codes and changes to CERT codes are approved and documented using a *Request for Personnel and/or Position Action* (CDE-43) form, which is maintained in the employee's personnel file.[2]

By State law, CDE must pay its employees by the last working day of the month and is required by State fiscal rules to use the CPPS for payroll processing. About one week before the official pay date, the CPPS processes the payroll using the CERT codes to allocate the personnel costs to the funding sources. CPPS interfaces with the Colorado Financial Reporting System (COFRS), which applies the charges to the applicable Federal grants. To distribute payroll costs to different funding sources or by different allocation percentages than those established in CPPS, CDE's Office of Accounting and Purchasing must process a journal entry in COFRS. Because the employee timesheets are not received in the Office of Accounting and Purchasing until after the monthly payroll cycle has ended, the journal vouchers in COFRS are processed in the month following the pay period.

[2] The purpose of the form CDE-43, as stated on the form, is to "request and document the approval of personnel/position actions that affect an employee's pay, status, and tenure. This shall include the creation and reallocations of positions, filling positions, all promotions and salary adjustments, Work at Home authorization, account changes and temporary/IT services."

AUDIT RESULTS

CDE inappropriately charged employee personnel costs to Federal education programs based on predetermined time and effort allocations instead of charging the programs based on the actual activity of each employee. Because CDE could not provide documentation for employees' actual activities on Federal programs, we were unable to determine the allowability of about $23,962,000 in personnel costs charged to Department grants for State fiscal years 2008 and 2009.

We recommend that the Department require CDE to submit additional support for the personnel costs for fiscal years 2008 and 2009, make adjustments for the current year or return the funds to the Department. We also included procedural recommendations to improve CDE's documentation for future personnel costs charged to Federal grants.

We provided a draft report to CDE for comment on November 9, 2009. CDE generally concurred with our finding. CDE also concurred with our recommendations and described the corrective actions taken or planned to address each recommendation. CDE's comments are summarized at the end of the finding. The full text of CDE's comments to the draft report is included as Attachment 2 to this report.

FINDING - CDE Inappropriately Used Predetermined Allocations for Personnel Costs Charged to Federal Grants

The methodology used by CDE to allocate personnel costs paid with Federal funds did not fully comply with Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*.[3] Specifically, CDE based employees' time charges to Federal grants on predetermined allocations of time rather than on actual time spent on Federal programs. As a result, we were unable to determine whether about $23,962,000 in personnel costs charged to Department grants for fiscal years 2008 and 2009 were reasonable and allocable to the grants.

Attachment B to OMB Circular A-87, *Selected Items of Cost*, provides principles to be applied in establishing the allowability of specific costs. Paragraph 8 covers *Compensation for Personal Services*, and Paragraph 8.h discusses the additional standards regarding time distribution.

[3] 2 C.F.R. Part 225.

For employees that work on a single Federal grant or activity, Paragraph 8.h.(3) requires periodic certifications:

> Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

For employees that work on multiple activities, Paragraph 8.h.(4) requires personnel activity reports or equivalent documentation:

> Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5) of this appendix unless a statistical sampling system . . . or other substitute system has been approved by the cognizant Federal agency.

Additionally, Paragraph 8.h.(5) lists the required elements for personnel activity reports—

> Personnel activity reports or equivalent documentation must meet the following standards:
> (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
> (b) They must account for the total activity for which each employee is compensated,
> (c) They must be prepared at least monthly and must coincide with one or more pay periods, and
> (d) They must be signed by the employee.

Furthermore, Paragraph 8.h.(5)(e) states that "[b]udget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards… ."

CDE managers were aware of the Federal requirements described above. During a site visit, CDE provided a copy of an instruction sheet, *Employee Time and Effort*, which quoted the criteria in OMB Circular A-87. This instruction sheet was posted on CDE's Web site to provide guidance to local educational agencies, but CDE managers explained that it also represented the process used at CDE. The managers also explained that CDE employees who worked on a single Federal award or cost objective did not prepare periodic certifications. Instead, CDE required that all employees submit monthly timesheets, regardless of how their personnel costs were funded. However, we concluded that CDE did not fully implement the timekeeping requirements described above.

Our review of monthly timesheets for eight sampled employees indicated that CDE's documentation for reporting employee activity met only three of the four standards for personnel activity reports. The timesheets accounted for the total activity for which each employee was compensated; were prepared at least monthly and coincided with the monthly pay period; and were signed by the employee. However, CDE's documentation did not "reflect an after-the-fact distribution of the actual activity of each employee," as Paragraph 8.h.(5)(a) requires. Although CDE's standardized monthly timesheets were designed to allow for daily recording of actual time and effort for each funding source, employees reported their time based on predetermined allocation percentages. After comparing the monthly timesheets with each employee's related form CDE-43, we concluded that the allocation percentages used on the timesheets matched the allocations shown on the form CDE-43. OMB Circular A-87 specifically states that percentages determined before the services are performed do not qualify as support for charges to Federal grants.

Based on interviews with the eight employees in our sample, we concluded that the timesheets we reviewed reflected the normal payroll reporting practices that are used throughout CDE. Specifically, CDE employees, whether funded from a single source or multiple sources, reported their monthly hours worked according to a predetermined funding allocation. We confirmed from our interviews with CDE managers and supervisors that these time reporting practices were used across all programs, including those funded entirely or in part with Federal funds. Therefore, we concluded that CDE has a systemic issue related to the allocation of personnel costs, and we decided not to interview additional employees or conduct further testing of personnel costs charged to Federal grants.

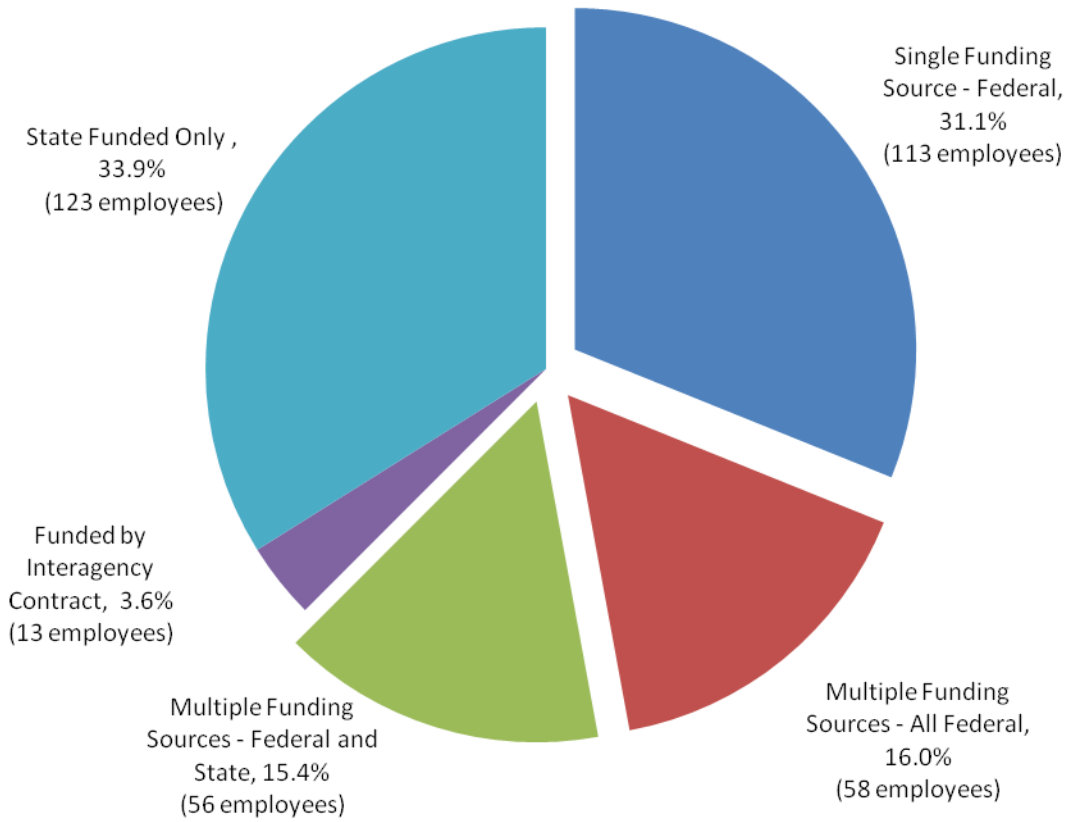
CDE must pay employees by the last working day of the month and needs about one week to process payroll. Even if employees reported their actual activity, the completed timesheets are not submitted by employees until after the pay date. As a result, the timesheets are not submitted in time to impact the payroll processing. If the actual activity, as shown on the timesheets, differed from the allocation percentages established by the CERT codes that were used for payroll processing, CDE would need to re-allocate the personnel costs to the appropriate funding sources by processing a payroll adjustment in COFRS in the month following the pay date.

Based on our review of funding sources, we concluded that a significant percentage of CDE's employees have their personnel costs funded by Federal grants. We used a tracking sheet prepared by CDE's Human Resources Office, dated March 31, 2009, to categorize employees by funding source(s), as shown in Figure 1. We determined that about 47 percent of CDE's 363 employees charged all of their time and effort to one or more Federal grants (*Single Funding Source – Federal* plus *Multiple Funding Sources – All Federal*). When the employees whose personnel costs were partly funded by Federal grants are added (*Multiple Funding Sources – Federal and State*), the percentage increases to 62.5 percent of CDE's employees.

The number of multi-funded employees and the number of funding sources used for each employee significantly impacts the number of adjustments that would be required to re-allocate personnel costs each month to ensure actual time charges are reported. As also shown in

Figure 1, we determined that the personnel costs for about 31 percent of CDE's employees were funded with multiple grants, where at least one grant was a Federal grant (*Multiple Funding Sources – All Federal* plus *Multiple Funding Sources – Federal and State*). From this subgroup of 114 employees that were funded with multiple grants where at least one grant was a Federal grant, we determined that 42 employees were funded by 3 or more grants. CDE's Controller told us that one employee performs all payroll functions and thus it is not possible to process the number of monthly adjustments that would be required if CDE employees had reported the actual activities performed under the various grants.

Figure 1: CDE Employees Categorized by Their Funding Source Type(s)



CDE's Office of Accounting and Purchasing provided data on CDE's personnel costs for fiscal years 2008 and 2009 as shown in Table 2 below. Department grants provided about 48 percent of the funds CDE used to meet its personnel costs over this 2-year period.[4]

[4] In total, Federal grants (Department and other Federal grants) provided 59.7 percent of the total amount expended by CDE for personnel costs over the 2-year period.

Table 2. CDE's Personnel Costs for Fiscal Years 2008 and 2009 (a)

Funding Organization	Fiscal Year 2008		Fiscal Year 2009		2-Year Amounts	
	Costs (000)	Percent	Costs (000)	Percent	Costs (000)	Percent
U.S. Department of Education (b)	$ 11,185	48.9%	$ 12,777	47.7%	$ 23,962	48.2%
Other Federal agencies	$ 2,820	12.3%	$ 2,877	10.7%	$ 5,697	11.5%
Subtotal - Federal	$ 14,005	61.2%	$ 15,654	58.4%	**$ 29,659**	**59.7%**
State of Colorado	$ 8,889	38.8%	$ 11,155	41.6%	$ 20,044	40.3%
Totals	$ 22,894	100.0%	$ 26,809	100.0 %	**$ 49,703**	**100.0%**

(a) The percentages and totals shown in this table were calculated by ED-OIG.
(b) According to CDE's Office of Accounting and Purchasing, CDE expended about $18 million and $15 million of non-personnel costs for fiscal years 2008 and 2009, respectively. We did not review the total non-personnel costs for the two fiscal years.

Because CDE improperly used predetermined percentages to allocate personnel costs to Federal education grants, we were unable to determine the allowability of about $23,962,000 of personnel costs charged to Department grants for fiscal years 2008 and 2009.

RECOMMENDATIONS

We recommend that the Assistant Secretary for Elementary and Secondary Education, in collaboration with the Assistant Secretaries for Special Education and Rehabilitative Services, Vocational and Adult Education, English Language Acquisition, Innovation and Improvement, and Safe and Drug Free Schools; and the Commissioner of the National Center for Education Statistics require CDE to—

1.1 Provide documentation, based on actual work performed, supporting the personnel costs for CDE employees that should have been charged to Federal education grants for fiscal years 2008 and 2009 or return the $23,962,000 in Department grants, plus related indirect costs to the Department.

1.2 Make all necessary adjustments for personnel costs that have been charged to Federal education grants in the current fiscal year (beginning July 1, 2009) that do not meet the requirements in OMB Circular A-87, along with necessary adjustments to indirect costs.

1.3 Work with the Department to determine the most appropriate approach to account for personnel costs, including consideration of alternate methods allowed for under OMB Circular A-87.

1.4 Develop and implement enhanced policy and procedures for the system that was determined in Recommendation 1.3.

1.5 Provide training for all CDE employees, supervisors, and managers on how to properly record and certify personnel costs to be paid with Federal education funds in accordance with the enhanced policy and procedures.

CDE Comments

In its comments to our draft audit report, CDE concurred with the finding to the extent that the phrase "fully comply" as used in our report means 100 percent compliance with the applicable OMB Circular A-87 requirements. CDE noted that "virtually" all of the 113 employees funded by a single Federal program worked on only one cost objective and thus met the OMB Circular A-87 requirements. CDE also noted that the efforts of most of the 127 employees funded by multiple cost objectives, or through interagency contracts, were in line with appropriate funding sources during our audit period. However, CDE does expect to find that some employees' effort may not be 100 percent compliant with Federal funding sources. CDE added that its employees, whether fully or partially funded by Federal programs, may have directed some effort to "extraneous" activities. CDE believes that as long as this effort represents less than 5 percent of an employee's total effort for each 12-month period, CDE is "in compliance with the effort and funding alignment."

CDE also stated that it was in the process of identifying and resolving employee funding issues prior to our audit. CDE contracted with the Southwest Comprehensive Center, a Regional Education Laboratory, through its subcontractor WestEd (WestEd) to examine State and Federal resources allocated to CDE. This was followed by a second study finalized in February 2009 of all CDE positions to determine whether they were appropriately funded according to applicable State and Federal law.

CDE concurred with all of our recommendations and described the corrective actions already taken or planned. CDE stated that it began an "intensive review of employee effort" immediately after receiving our "Preliminary Findings" in September 2009 in order to reconstruct the compensation methods that were used during our audit period and "measure the alignment between employee effort and funding source." CDE indicated that its review covers all CDE employees paid with Department program funds.

CDE also provided comments detailing specific corrective actions it has initiated in response to each recommendation. We have not modified our recommendations based on CDE's comments.

- Recommendation 1.1. In response to our recommendation, CDE stated that it would provide a detailed spreadsheet covering its analysis of employee effort for every employee paid with Federal funds received from the Department during the period covered by the audit. Each employee, or supervisor with firsthand knowledge, will be interviewed to assess the alignment between effort and funding source.

- Recommendation 1.2. In its response to our recommendation, CDE stated that it would make all necessary adjustments for personnel costs charged to Federal Education grants in the fiscal year beginning July 1, 2009, that do not meet the Federal requirements, including necessary adjustments to indirect costs.

- Recommendation 1.3. In its response to our recommendation, CDE stated that it would provide the Department with its new methodology for recording employee effort, which will not use predetermined allocations to charge personnel costs.

- Recommendation 1.4. In its response to our recommendation, CDE stated that it expects its new methodology for recording employee effort to be fully operational on July 1, 2010. It will develop separate policy manuals for supervisors and employees covering the new methodology.

- Recommendation 1.5. In its response to our recommendation, CDE stated that it would train supervisors and employees on its new methodology for recording employee effort to ensure conformance before it becomes effective on July 1, 2010.

OIG Response

CDE provided copies of the reports from the studies mentioned in its comments when we conducted our entrance conference with the agency. In its comments to the draft audit report, CDE did not provide any information on the results of these studies, nor did it identify any steps it had taken in response to any findings presented in the associated reports. We reviewed the reports but did not verify the information in the reports. However, we determined that the payroll review did not include analysis of the actual activities performed by CDE employees. It was stated in the WestEd report of payroll findings that its "review was exclusively paper-based and did not involve interviews with staff or observations to determine whether staff are performing duties as stated in official job description/duty statements."

We commend CDE for initiating timely corrective action in response to the audit's finding and recommendations. The actions that CDE describes in its comments, in response to our recommendations, would appear to address our finding, but the Department will ultimately make this determination.

We did not modify the report's finding, except to add clarification where warranted and to provide additional information on the amount of Department funds expended. Based on information provided by the Department, we replaced the Department's Chief Financial Officer as the lead action official for our recommendations with the Department's Office of Elementary and Secondary Education.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to assess whether Federal funds reserved for use at CDE were expended in accordance with applicable Federal laws, regulations, and Department guidance. Our review covered CDE's policies and procedures over personnel costs for the period July 1, 2007, through June 30, 2009.

To gain an understanding of CDE's internal controls over personnel costs, we—

- Reviewed CDE's written policies and procedures for payroll reporting and cost allocation.
- Reviewed organizational information posted on CDE's Web site.
- Interviewed CDE officials in the Offices of Accounting and Purchasing, and Human Resources.
- Obtained an understanding of the Colorado Personnel Payroll System (CPPS) and the Colorado Financial Reporting System (COFRS).
- Reviewed the sections of the Colorado Statewide Single Audit Reports applicable to CDE, as of June 30, 2006, 2007, and 2008. We also discussed Single Audit Reports issued prior to these years with the Colorado State Auditor's Office.

To evaluate CDE's internal controls over personnel costs charged to Federal grants, we judgmentally selected a sample of eight employees, based on their job titles. The personnel costs for seven of the eight employees were allocated to multiple grants, where at least one grant was a Department grant. The personnel costs for the eighth employee were charged to a single Department grant. For each of the employees selected for review, we examined documentation maintained in the Offices of Accounting and Purchasing, and Human Resources. For the period July 2007 through February 2009, we reviewed all monthly timesheets for each sampled employee, as well as their job descriptions and the associated form CDE-43. We also interviewed each of the employees and CDE supervisors and managers.

We performed fieldwork at CDE's offices located in Denver, Colorado. We provided CDE with a draft of our finding but did not hold an exit meeting, because CDE's managers determined that they had no questions after reviewing our draft finding.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the Education Department action officials, who will consider them before taking final Departmental action on this audit. The lead action official is identified below.

Thelma Meléndez de Santa Ana, Ph.D.
Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, S.W. Room 3W315
Washington, DC 20202

All other action officials are at the same address with different room numbers as follows:

Alexa Posny, Assistant Secretary, Office of Special Education and Rehabilitative Services (OSERS) Room 5107
Brenda Dann-Messier, Assistant Secretary, Office of Vocational and Adult Education (OVAE) Room 11140
Richard Smith, Acting Assistant Deputy Secretary, Office of English Language Acquisition (OELA) Room 5C132
James Shelton III, Assistant Deputy Secretary, Office of Innovation and Improvement (OII) Room 4W317
Kevin Jennings, Assistant Deputy Secretary, Safe and Drug Free Schools (OSDFS) Room 10087
Stuart Kerachsky, Delegated the Authority of the Commissioner, National Center for Education Statistics (NCES) Room 9116

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

/s/

Raymond Hendren
Regional Inspector General for Audit

Attachments

cc:
Robert Hammond, Deputy Commissioner, Administration and Operations, CDE
Bill Windler, Audit Liaison, CDE
Zollie Stevenson, Director, Student Achievement and School Accountability, OESE
Delores Warner, Audit Liaison Officer, OESE
Anthony White, Audit Liaison Officer, OSERS
John Miller, Audit Liaison Officer, OVAE
Samuel Lopez, Audit Liaison Officer, OELA
Liza Araujo, Audit Liaison Officer, OII
Michelle Padilla, Audit Liaison Officer, OSDFS
Tom Brown, Audit Liaison Officer, Institute for Education Sciences

Acronyms/Abbreviations Used in this Report

CDE	Colorado Department of Education
CDE-43	Request for Personnel and/or Position Action
COFRS	Colorado Financial Reporting System
CPPS	Colorado Personnel Payroll System
Department	U.S. Department of Education
ED-OIG	U.S. Department of Education / Office of Inspector General
NCES	National Center for Education Statistics
OELA	Office of English Language Acquisition
OESE	Office of Elementary and Secondary Education
OGC	Office of the General Counsel
OII	Office of Innovation and Improvement
OMB	Office of Management and Budget
OSDFS	Office of Safe and Drug Free Schools
OSERS	Office of Special Education and Rehabilitative Services
OVAE	Office of Vocational and Adult Education
WestEd	WestEd, subcontractor for Southwest Comprehensive Center, a Regional Education Laboratory

Attachment 1 - CDE's Personnel Costs Charged to Department Programs

Office	CFDA	Program Name	FY 2008	FY 2009
OESE	84.010	Improving Basic Programs Operated by LEA's (Title 1, Part A)	$ 1,109,329	$ 1,452,529
OESE	84.011	Migrant Education – Basic State Formula Grants	$ 645,852	$ 800,856
OESE	84.144	Migrant Education Coordination – Grants and Contracts	$ 0	$ 36,655
OESE	84.196	Education for Homeless Children and Youths – Grants for State and Local Activities	$ 85,342	$ 87,752
OESE	84.206	Jacob K. Javits Gifted and Talented Student Education	$ 2,027	$ 0
OESE	84.213	Even Start	$ 11,188	$ 7,718
OESE	84.287	21st – Century Community Leaning Centers	$ 221,898	$ 272,141
OESE	84.298	Innovative Programs	$ 305,163	$ 78,079
OESE	84.318	Enhancing Education Through Technology Program	$ 109,762	$ 124,364
OESE	84.332	Comprehensive School Reform Program	$ 29,241	$ 0
OESE	84.357	Reading First	$ 1,055,887	$ 1,005,350
OESE	84.358	Small Rural School Achievement	$ 11,753	$ 7,637
OESE	84.366	Mathematics and Science Partnerships	$ 42,598	$ 81,335
OESE	84.367	Improving Teacher Quality State Grants	$ 651,941	$ 740,778
OESE	84.369	Grants for State Assessments	$ 865,329	$ 899,975
OESE	84.377	School Improvement Grants	$ 0	$ 90,418
Totals – OESE			$ 5,147,310	$ 5,685,587
OSERS	84.027	Special Education – Grants to States	$ 3,869,371	$ 4,873,870
OSERS	84.126	Vocational Rehabilitation State Grants	$ 43,500	$ 69,140
OSERS	84.173	Preschool Grants for Children with Disabilities	$ 440,842	$ 434,052
OSERS	84.181	Grants for School-Based Student Drug Testing	$ 0	$ 20,222
OSERS	84.323	Special Education – State Personnel Development Grants Program	$ 281,147	$ 188,023
OSERS	84.326	Special Education – National Activities – Technical Assistance and Dissemination	$ 79,603	$ 52,224
Totals – OSERS			$ 4,714,463	$ 5,637,531
OVAE	84.002	Adult Education – Basic Grants to States	$ 523,202	$ 552,126
OELA	84.365	English Language Acquisition State Grants	$ 285,869	$ 349,935
OII	84.282	Charter School Program	$ 200,510	$ 230,055
OSDFS	84.186	Safe and Drug-Free Schools and Communities – State Education Agency Grants	$ 217,839	$ 220,838
NCES	84.000	Unclassified Grants and Contracts	$ 95,761	$ 100,684
Grand Totals			**$ 11,184,954**	**$ 12,776,756**

Attachment 2

CDE's Comments to the Draft Report

COLORADO DEPARTMENT OF EDUCATION

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Dwight D. Jones
Commissioner of Education

Robert K. Hammond
Deputy Commissioner

Kenneth R. Turner
Deputy Commissioner

December 7, 2009

Raymond Hendren
Regional Inspector General for Audit
United States Department of Education
501 I Street, Suite 9-200
Sacramento, CA 95814

Re: Response to Draft Audit Report No. A09J0004

Dear Mr. Hendren:

This letter responds to the above-referenced Audit Report entitled "*Colorado Department of Education's Use of Federal Funds for State Employee Personnel Costs*." Your finding states, "The methodology used by the Colorado Department of Education (CDE) to allocate personnel costs paid with Federal funds did not fully comply with Office of Management and Budget (OMB) Circular A-87, *Cost Principals for State, Local, and Indian Tribal Governments*."

CDE's Response to Finding

To the extent your phrase "fully comply" means 100 percent compliance with the multi-tiered elements of sub-paragraph (h) "support of salaries and wages" under the OMB Circular A-87 requirements of "compensation for personnel services," CDE concurs with the draft finding. However, it should be noted that virtually all of the 113 employees who were single funded from one Federal source worked on a single cost objective and satisfied the OMB Circular A-87 requirements. In addition, most of the 127 employees funded under multiple Federal and State cost objectives, or through interagency contracts, had their effort aligned with proper funding sources for the 24-month period of July 1, 2007 to June 30, 2009. We do expect to find, however, that some employee efforts may not be 100 percent compliant with federal funding sources.

Prior to the Office of Inspector General (OIG) audit, CDE was in the process of identifying and resolving employee funding issues in Federal programs. Such work began with a report commissioned by Commissioner Dwight D. Jones in April 2008 by the Southwest Comprehensive Center, a Regional Educational Laboratory through its subcontractor WestEd titled "Examination of State and Federal Resources allocated to the Colorado Department of Education." This was followed by another study finalized by WestEd in February 2009 that reviewed all CDE positions to assess whether they were appropriately funded per state and federal law. Immediately after receiving your "Preliminary Findings" in September 2009, CDE commenced an intensive review of employee effort during the subject 24-month period. The purpose of this ongoing review is to reconstruct the compensation protocols that were used, and specifically, to measure the alignment between employee effort and funding source. As you might expect, this reconstruction effort is time consuming, and is not yet complete.

The initial phase of the reconstruction involved interviews with supervisors, and others with firsthand knowledge, to determine which cost objectives employees actually worked on. We note that the OIG draft finding was based on your "review of monthly timesheets for eight sampled employees." Our review encompasses the full universe of CDE employees paid with federal funds granted to CDE from the U.S. Education Department (ED).

Once our reconstruction is complete, we will forward the results to you and the Office of the Chief Financial Officer (OCFO) at ED. Based upon the information ascertained thus far, it appears that most CDE employees concur with the alignment between effort they devoted to cost objectives and the funding they received, when measured over each 12-month grant period. From a monthly perspective, CDE employees may have worked more on some cost objectives, and less on others. However, over the 12-month period, the effort generally comported with the funding streams. This conclusion is based on a variety of factors including work product, calendars, travel schedules, etc.

We also recognize that our employees, whether funded with nonfederal funds or Federal funds, in whole or in part, may have directed some effort, though de minimis, to extraneous activities. It is our contention that as long as this de minimis effort is under 5 percent for each 12-month period, we are in compliance with the effort and funding alignment.

As we continue with this reconstruction, we are likely to find some instances where the effort is not materially aligned with cost objectives. In these instances we will make the necessary cost adjustments, including to our indirect cost recovery. In sum, the CDE methodology to allocate personnel costs may not have been "fully compliant" with OMB Circular A-87 because less than 100 percent of employee effort may not have been aligned with 100 percent of the Federal cost objectives. Once the reconstruction is complete, the necessary adjustments will be made.

CDE Response to Recommendations

1.1 Provide documentation, based on actual work performed, supporting the personnel costs for CDE employees that should have been charged to Federal education grants for fiscal years 2008 and 2009 or return the $23,962,000 in Department grants, plus related indirect costs to the Department.

We concur. CDE will provide a detailed spreadsheet to cover every employee paid with Federal funds from ED. Our analysis will be based on an exhaustive review of employee effort during the 24-month period. Each employee, or supervisor with firsthand knowledge, will be interviewed to assess the alignment between effort and funding source.

1.2 Make all necessary adjustments for personnel costs that have been charged to Federal Education grants in the current fiscal year (beginning July 1, 2009) that do not meet the requirements in OMB Circular A-87, along with necessary adjustments to indirect costs.

We concur. We project that the adjustments for the current fiscal year will be made by the end of the fourth quarter (June 20, 2010). CDE intends to be fully compliant, utilizing a new methodology to allocate personnel costs, by July 1, 2010.

1.3 Work with [ED] to determine the most appropriate approach to account for personnel costs, including consideration of alternate methods allowed for under OMB Circular A-87.

We concur. The new methodology will not use predetermined allocations. The monthly effort reports will instead reflect the actual effort of the employee, and it will be the responsibility of the supervisor to align effort with funding sources. We intend to submit this new methodology to OCFO at ED once it is complete.

1.4 Develop and implement enhanced policy and procedures for the system that was determined in Recommendation 1.3.

We concur. CDE is currently working on the development of a new methodology for allocating personnel costs. This new system will be fully operational on July 1, 2010.

1.5 Provide training for all CDE employees, supervisors, and managers on how to properly record and certify personnel costs to be paid with Federal education funds in accordance with the enhanced policy and procedures.

We concur. Once we finalize the new methodology, we will promulgate a policy manual for supervisors, and a policy manual for line employees. We will first train the supervisors because they will be principally responsible for aligning effort with funding throughout the year. We will then train employees in June 2010 to ensure that all employees conform to the new methodology by July 1, 2010.

Sincerely,

/s/

Robert Hammond, Deputy Commissioner

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