

TABLE OF CONTENTS

EXECUTIVE SUMMARY I

BACKGROUND 1

SCOPE AND METHODOLOGY 3

AUDIT RESULTS 5

 Additional Monitoring Needed to Ensure
 Bilingual Program Objectives are Met 5

 Needed Improvements 15

 Recent Approaches
 to Improvements 15

 Recommendations 16

 OBEMLA Response 16

 OIG Rebuttal 17

OTHER MATTERS 19

STATEMENT ON MANAGEMENT CONTROLS 20

CHARTS AND GRAPHS

 Figure 1: Title VII State Grant Program Grant Dollars 8

 Figure 2: Grant TX(1) Specifications 11

 Figure 3: Grant TX(1) Actual Instruction 12

APPENDIX 21

BACKGROUND

In 1994, the United States Congress, along with the full support of the President, passed the Improving America's Schools Act (IASA). The IASA's purposes include providing grants to improve the education opportunities for bilingual students. Title VII-Bilingual Education, Language Enhancement, and Language Acquisition Programs (Title VII) of the IASA emphasizes that the United States has large and growing numbers of children and youth of limited-English proficiency. Congress enacted the IASA to help limited-English proficient students overcome segregated education programs, disproportionate and improper placement in special education and other special programs, and the limited-English proficiency of their own parents which hinders the parents' ability to fully participate in the education of their children. It is the purpose of Title VII to help ensure that limited-English proficient students master English and develop high levels of academic attainment in content areas¹.

Title VII acknowledges that it is important to use the students' native language in the classroom to promote self-esteem, to benefit English-proficient students who participate in the programs, and to develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy. It also acknowledges that as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development².

We planned and initiated this audit in response to concerns identified during our overall survey of the IASA³. The IASA survey report identified concerns that centered on whether the bilingual programs are meeting the objectives of the IASA as well as the objectives of the

¹Improving America Schools Act, Title VII Sec. 7102 (a) (2), and (5) (A), (B), (C), and (8).

²Improving America Schools Act, Title VII, Sec. 7102 (a) (14) and (10).

³Review of Improving America's Schools Act of 1994, OIG Survey Report ACN 04-58201. Issued August 1996.

individual grants. The report also identified Congressional concerns about the possibility of grant recipient schools not working within the guidelines of the IASA and Title VII. Departmental officials stated that some Congressional members feared that some schools are teaching limited-English proficient students solely in their native language which could impede the students' progress in participating fully in society.

SCOPE AND METHODOLOGY

The overall objective for the audit was to determine how officials ensure that bilingual program objectives are being met. Because OBEMLA uses monitoring efforts to help ensure that program objectives are being met, we looked at these efforts as we fulfilled our overall objective. We also determined if grant recipient schools are teaching limited-English proficient students in English as well as in their native language(s). Because of the limited scope of our audit, we relied upon responses from officials and auditee provided information. We performed limited substantive testing of grant monitoring controls when needed.

To achieve our objectives, we reviewed grants that were in place in fiscal year 1995. Based upon information provided by OBEMLA at the start of our audit, the Department of Education issued approximately \$156 million in 635 Title VII bilingual education grants in 1995. Three states, California, New York, and Texas, received over 50 percent of the grants issued. To obtain an understanding of the control environment over this majority, we judgmentally selected representative grants from these three states. The grants discussed in the Audit Results section of this report provide examples of weaknesses in the control environment identified during our audit.

Subsequent to our audit, OBEMLA's response provided updated information concerning the number of grants and the amount of grants awarded. California, New York and Texas still remained the three largest states, with greater than 50 percent of the grants issued for the period. However, OBEMLA was unable to confirm the information provided.

During September and October of 1996, we reviewed seven Title VII grants totaling \$6.6 million. We visited the Department's Office of Bilingual Education and Minority Languages Affairs (OBEMLA), three corresponding State Educational Agencies (SEAs), seven corresponding Local Educational Agencies (LEAs), and 14 recipient schools.

We interviewed OBEMLA, SEA, LEA, and school officials. We observed classes and interviewed teachers and students as well as reviewed supporting documentation.

We conducted the audit in accordance with generally accepted government auditing standards appropriate to the scope of review described above.

AUDIT RESULTS

*Additional
Monitoring Needed
to Ensure Bilingual
Program Objectives
are Met*

Our audit identified a need for improving the grant control environment to include additional monitoring by OBEMLA and the SEAs. Of the seven grants reviewed, none had received a monitoring review and three of the seven were not being implemented appropriately. Because OBEMLA and the SEAs did not monitor, the inappropriate implementation continued undetected. Without monitoring, officials cannot ensure that bilingual program objectives are being met. Ultimately, the students may not learn the new language as needed.

An effective monitoring program would aid OBEMLA officials in determining whether Title VII grant dollars are used appropriately and whether grants are fulfilling the Department's capacity building policy to assure that the schools can continue to offer bilingual education after Federal assistance is reduced or eliminated. As a result of our work, we determined that monitoring of Title VII grants needs improvement. The Office of Elementary and Secondary Education and OBEMLA officials recognized this need and developed an Integrated Review Team. The reviews include all education programs including Title VII programs. The team scheduled a total of five integrated reviews nationwide during school year 1996-1997, beginning in October 1996. While the team has completed several reviews during the school year, this effort alone may not serve to fulfill the monitoring need.

OBEMLA Monitoring

In the IASA, the Congress declared it to be the policy of the United States to assist state and local educational agencies, institutions of higher learning, and community-based organizations in building their capacity to establish, implement, and sustain programs of instruction for limited-English proficient students.⁴ OBEMLA helps school

⁴Improving America's Schools Act, Title VII Sec. 7102 (b). October 20, 1994.

districts to meet their responsibility to provide equal education opportunity to limited-English proficient children.⁵

OBEMLA's responsibilities include providing technical assistance to grant applicants, negotiating grant specifics with district and school officials, and monitoring grant implementation. OBEMLA provides informative newsletters, annual planning seminars, and other information; however, parties interested in grants do not always receive the information or know of its existence. OBEMLA conducts its responsibilities with approximately 44 employees including 26 Education Program Specialists on a budget of \$3,016,000.

OBEMLA officials explained that they conduct monitoring through on-site visits and telephone calls. However, OBEMLA Program Specialists reported that budget and time constraints prevent them from conducting on-site monitoring reviews as needed. Program Specialists and other OBEMLA officials interviewed reported that they had not routinely conducted on-site monitoring reviews in 1995 or 1996. OBEMLA's report of 1995 travel expenses showed that OBEMLA had incurred approximately \$82,000 in travel expenses. Of this amount, only \$523 was specifically identified as a site visit. The majority of OBEMLA's travel funds were used to conduct technical assistance conferences.

We interviewed Program Specialists responsible for the East, Midwest, and West regions. The Program Specialists reported that they no longer have specific instructions for what the monitoring reviews should include or when such reviews should be conducted.

The Program Specialists interviewed explained that they provide monitoring through telephone contacts. However, the Program Specialists reported that they do not keep formal documentation of the calls or decisions made based on these discussions. Two of the twelve Program Specialists explained that they will make notes in their calendars or personal schedules of the telephone calls. The other Program Specialists interviewed did not specify any means of documentation.

⁵Improving America's Schools Act, Title VII Sec. 7131(a) and (c). October 20, 1994.

One Program Specialist equated the word “grant” with “gift” and reported that OBEMLA rarely terminates a grant or asks for the return of Title VII dollars; therefore, monitoring grants would have little effect.

Neither the OBEMLA working grant files nor the official grant files for the seven grants reviewed contained any documentation to support on-site monitoring or monitoring through telephone calls. Officials in the SEAs, LEAs, and schools including those over direct grant implementation reported that while OBEMLA provided technical assistance when requested, OBEMLA had not provided direct monitoring.

New York SEA officials reported that OBEMLA Program Specialists had been helpful in addressing student needs but had not conducted a formal monitoring review. Texas LEA officials reported that they had contacted OBEMLA asking questions about financial matters and had also received the OBEMLA Newsletter; however, they had not received a monitoring review. California SEA officials reported that OBEMLA had requested the SEA’s involvement in providing technical assistance in solving a local problem. However, neither OBEMLA nor the SEA actually performed a formal monitoring review. The Project Director for one of the California grants reported that OBEMLA has called about twice a year. The Project Director reported that these calls consisted of the OBEMLA Program Specialists asking “how they were doing”. Neither the Project Director nor the official grant file had any supporting documentation for these telephone calls.

SEA and LEA Level Monitoring

For the three SEAs we visited, officials reported that they do not conduct specific monitoring reviews of Title VII grants. The SEAs may conduct reviews of the state bilingual programs which may include a Title VII grant. However, the monitoring reviews focus on state regulation compliance. SEA officials report that it is not the state’s responsibility to conduct monitoring reviews of Title VII grants. California, Texas, and New York officials identified their responsibility as providing technical assistance to Title VII grant recipients. The technical assistance often takes on the form of

workshops designed to provide instruction on how to complete grant application packages. The SEAs also provide information on bilingual programs in general. However, the technical assistance takes place largely at the beginning of the process. SEA officials do not follow through to determine if the workshops and information are useful to the field. New York officials explained that they view the grant relationship as one between the LEA and the Department.

The LEAs provide monitoring reviews over the grants. However, these reviews may only occur on a cyclical basis. For example, an LEA in Texas reviews grants every three years. With this schedule, it is possible that a grant could operate without monitoring for the lifetime of the grant. The LEAs have a fiduciary fiscal responsibility to ensure that Title VII funds are used appropriately making monitoring at the LEA level necessary as well.

All three states visited received a Title VII State Grant Program grant in 1995.

| TITLE VII STATE GRANT PROGRAM GRANTS | |
|---|---------------------|
| STATE | GRANT AMOUNT |
| CALIFORNIA | \$1,080,000 |
| NEW YORK | \$530,000 |
| TEXAS | \$219,260 |
| TOTAL | \$1,829,260 |

Figure 1

The three SEAs visited received over \$1.8 million in 1995; yet, they conducted no monitoring reviews. Title VII of the IASA specifies that under the State Grant Program, the recipients shall use the funds to assist the LEAs with program design, capacity building, assessment of student performance, and program evaluation.⁶ OBEMLA should encourage SEAs to consult with the grant recipient LEAs in order to

⁶Improving America's Schools Act, Title VII, Sec. 7134. October 20, 1994.

enhance the effectiveness of Title VII grant awards and provide an additional source of compliance oversight. Although Title VII does not specifically require that State Grant Program recipients monitor Title VII grants, monitoring efforts would be one way to help the SEAs comply with the responsibilities specified in the IASA.

Effects

Because of insufficient monitoring, inappropriate grant implementation continued undetected. Of the seven grants reviewed, students have not received the full benefit of two grants in Texas and one grant in New York.

GRANT TX(1)

Our audit identified a dual language program comprehensive grant of approximately \$613,000 that was not fully serving the students. A dual language program is designed to provide a single-learning environment for both limited-English proficient students and fluent English proficient students. The primary goal of the program is for all students to become academically proficient in their native language as well as in the new language.

Grant officials responsible for this grant were not implementing the grant as approved by OBEMLA. School officials had varied from the grant in four major areas: (1) use of the literacy development center, (2) use of the Spanish language in the classrooms, (3) use of the Resource Teacher in collaboration with the dual language teachers in developing lesson plans, and (4) use of Title VII dollars for repairs and salaries not directly associated with the grant.

El LICEO - Literacy Development Center [TX(1)]

The central activity for the grant is the literacy development center called El⁷ LICEO. LICEO is an acronym for L-language, I-instruction, C-culture, E-education, and O-opportunity. The purpose of El LICEO is to provide Spanish literacy classes for the entire

⁷In English, “El” equates to “the”.

limited-English proficient/Spanish population kindergarten through fifth grade.

The grant specifies that students in the Two-Way Developmental Bilingual Program and all other Spanish limited-English proficient classes should be scheduled into El LICEO on a daily basis. The center serves 120 limited-English proficient students. During our initial coverage in October 1996 and as recent as December 1996, school officials were not scheduling the students into El LICEO on a daily basis as required by the grant.

The Principal explained that it was never intended that students would go into El LICEO daily. She added that she and two other teachers wrote the grant without the aid of a grant writer. She explained that the students go to El LICEO by weeks. For example, the students in one class might go to El LICEO every day for one week and then not return for two weeks. During this two week period, another class would go to El LICEO. OBEMLA officials reported that no one had requested approval to deviate from the grant as written.

After we reported the conditions of grant implementation to the LEA, the officials explained that the Principal and school staff are responsible for the day to day grant implementation. The LEA officials explained that they monitor on a three year cycle. As of October 1996, the LEA had not yet monitored this grant.

The Use of the Spanish Language in the Classroom [TX(1)]

The first-year program targets the kindergarten and first grade completely. Second through fifth grade Spanish speaking limited-English proficient students are being served through El LICEO. The grant specifies that the Two-Way Developmental Bilingual Program teachers will use Spanish 80% of the day for kindergartners and first graders, 70% of the day for second graders, and 50% of the day for third through fifth graders (Figure 2). Grant writers emphasized the relative immersion in Spanish during school hours because the students hear and read mostly English outside of school.

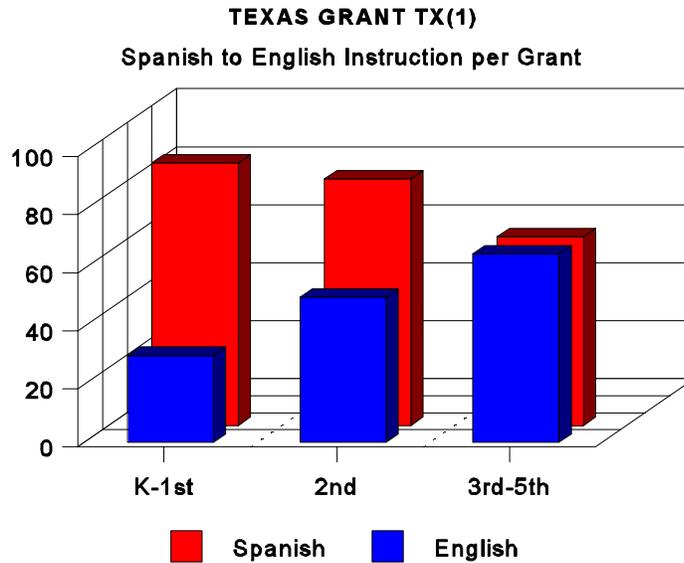


Figure 2

However, the Project Coordinator/El LICEO teacher and a Title VII aide reported that Spanish is not being used in the classroom 80% of the instruction day for kindergarten and first grade. They reported that Spanish is being used, at the most, 70% of the school day.

Figure 3 shows a comparison between the grant requirements and the actual implementation. There was insufficient data to draw a comparison for the second through fifth grades.

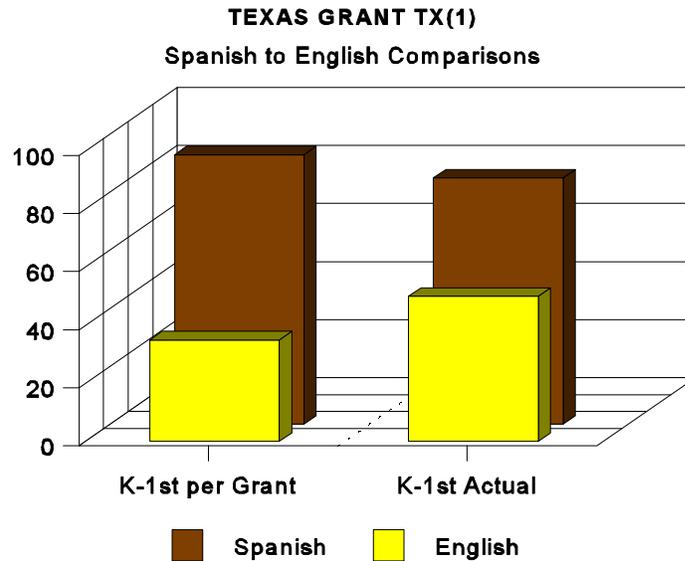


Figure 3

Without the grant prescribed use of Spanish, the students may not become academically fluent in Spanish.

Teacher Collaboration [TX(1)]

The grant specifies that El LICEO teacher, aide, and classroom bilingual teachers will collaboratively design experiences in the center. However, the Project Coordinator/El LICEO teacher reported that the teachers inform her of the subject they are teaching in their classes and direct her to develop the coordinating El LICEO lesson. Our review of written instructions from the classroom teachers confirms this type of direction. El LICEO teacher/Project Coordinator reported that despite her efforts emphasizing the need for collaboration to promote capacity building, the teachers continue to require that she alone develop El LICEO lessons.

Use of Title VII Dollars for Repairs and Salaries [TX(1)]

We identified the potential misuse of Title VII dollars in two areas: (1) Title VII dollars slated for use to pay for common use electrical repairs and (2) Title VII salaried aides used for work outside of the grant.

The Project Coordinator/El LICEO teacher reported that the Principal had instructed her to pay for electrical repairs with Title VII dollars. At the time of our audit, she had not yet submitted the bill for payment. The LEA officials explained that using Title VII dollars for basic electrical repair work was inappropriate. They added that they would inform the Principal. The Principal agreed that the repairs would benefit the school overall, but added that she had no money in the local budget to pay for the electrical repairs. After we made OBEMLA officials aware of the possibility of Title VII dollars being misused, OBEMLA officials confirmed that Title VII dollars were not used to pay for electrical repairs.

A Title VII aide reported to the Project Coordinator/El LICEO teacher that the Principal had directed her to translate documents that were not part of grant activities.

Even though the LEA, the Principal, and the Project Coordinator/El LICEO teacher are aware of these inappropriate uses, OBEMLA and the SEA should conduct thorough monitoring reviews to ensure that the grant officials understand the permitted uses of grant dollars. After we made OBEMLA officials aware of this grant's implementation, they agreed that the conditions cited warrant further investigation.

GRANT TX(2)

For a \$561,000 Transitional Bilingual Education grant in Texas, we identified one teacher not using grant approved teaching techniques in an English as a Second Language (ESL) class. The ESL certified teacher used the lecture approach with a lesson outline displayed via an overhead projector. However, the Project Director expressed concerns about the teacher not using appropriate ESL instructional

approaches. ESL approaches include the use of visual aids, added attention to technical vocabulary, and group dynamics. The Project Director explained that without the use of ESL approaches, the limited-English proficient students do not always understand the lesson's meaning and cannot always learn the lesson's principles and content.

GRANT NY(1)

In New York, because of a local level hiring freeze in the Fall of 1994, officials responsible for a \$555,000 Transitional Bilingual Education grant were prohibited from hiring grant implementation staff, specifically a project director. OBEMLA retained the grant dollars until the Spring of 1995 when the local level could hire staff to implement the grant. One of the schools covered by the grant decided not to implement the grant in the first year believing that beginning grant activities in the middle of the school year would be disruptive. As a result, the students at this school did not have the opportunity to take advantage of the Title VII bilingual program until the following year.

Summary of Effects

Inappropriate grant implementation could be avoided with monitoring reviews. Without appropriate grant implementation, students will not receive the full benefit of Federal grant dollars. OBEMLA could use monitoring results to conduct a trend analysis showing the most effective means of grant management. This analysis along with other monitoring information could help OBEMLA to identify weaknesses in grant management. Additionally, monitoring review reports could help show the effectiveness of Federal grant dollars used in teaching students new languages. These positive monitoring reports will help support OBEMLA's and the Department's future requests for increased appropriations from the Congress.

***Needed
Improvements***

The Acting Deputy Secretary of Education has emphasized that with the increased flexibility in the IASA, comes the need for increased accountability. OBEMLA and the Department are now faced with developing the resources and measures to demonstrate their own accountability as well as developing measures to hold grant recipients accountable. The 1999 Reauthorization of the IASA will provide the Department with the opportunity to revise and improve the IASA, especially Title VII, to include effective measures to show accountability. Accountability measures should include conducting monitoring reviews to ensure grant implementation.

OBEMLA should consider utilizing a central mechanism; e.g. the OBEMLA Newsletter, to provide results from monitoring reviews and decisions made from telephone calls. OBEMLA could then use the information to provide consistency in grantee direction. Additionally, the disseminated information may reduce incoming telephone calls from grantees.

Improving the grant control environment to include additional monitoring would help to ensure that the grants are used to develop capacity building programs that will far outlast the grants themselves. Monitoring would also help to ensure the Department's ultimate goal to use Title VII dollars to teach students new languages so that they may become more productive members of society.

***Recent Approaches
to Improvements***

In February of 1997, OBEMLA officials provided draft plans for improving monitoring efforts. These plans include expanding site-visit monitoring and revising the monitoring and planning guide. OBEMLA officials have begun increased monitoring in several states and plan to visit more states in the coming months. Officials report that documentation of OBEMLA contact with grant recipients will improve with implementation of the new monitoring instrument.

Recommendations

The Director of OBEMLA should work with appropriate officials to:

Recommendation 1:

Develop revisions to Title VII of the IASA during the 1999 Reauthorization to clarify the need and requirement for federal level monitoring reviews of grants, including appropriations as needed.

Recommendation 2:

Prior to the 1999 Reauthorization, develop and implement a monitoring program to provide for thorough on-site reviews of Title VII grants and thorough documentation of monitoring results.

The monitoring program should include:

- (1) Documentation of telephone calls and decisions made based on the calls; inclusion of results in the working and official grant files.
- (2) Development of a central mechanism to provide results from monitoring reviews and decisions made from telephone calls.

Recommendation 3:

Collaborate with Title VII State Grant Program grant recipients to increase consultation with LEAs to enhance the effectiveness of Title VII grant awards and provide an additional source of compliance oversight.

Recommendation 4:

Conduct a thorough monitoring review of the Grant TX(1). Document review results to support either terminating or continuing the grant.

OBEMLA Response

OBEMLA's response is included verbatim in the Appendix. OBEMLA's response focused on several areas:

- (1) OBEMLA better serves grantees through technical assistance conferences because of the numbers that can be reached. OBEMLA's response stated that it had now placed a high priority on monitoring

and developed new protocols, planning materials and schedules for monitoring grant activities.

(2) OBEMLA disagreed with our recommendation that SEAs receiving Title VII State Grant Program funds should be encouraged to monitor the LEAs receiving Title VII grants.

(3) OBEMLA disagreed with our determinations of inappropriate grant implementation and our finding that LEAs were not but should be requesting approval from OBEMLA before making modifications in the way that the grants are implemented. OBEMLA's response indicated that having LEAs request such approval would lead to micro management of the grant projects.

(4) OBEMLA concurred with our recommendations for improving its monitoring efforts and to perform a review of the Grant TX(1). OBEMLA disagreed with our recommendations to clarify the statutory requirements for OBEMLA and State-level monitoring.

OIG Rebuttal

The OIG is heartened by OBEMLA's renewed priority on monitoring and its efforts to prepare new monitoring materials such as guiding principles on monitoring, a site planning guide, a monitoring log to capture on-site and phone contacts with grantees, and a detailed grant monitoring instrument.

Concerning State level monitoring of LEAs, the OIG believes that monitoring can be a very useful tool in helping OBEMLA to identify cross-cutting issues that affect a multitude of grantees. We still believe that OBEMLA should encourage SEAs receiving State Grants to consult more frequently with LEAs to enhance the effectiveness of Title VII grant awards and provide an additional source of compliance oversight.

Concerning inappropriate grant implementation, OBEMLA did not submit documentation that would cause us to change our determinations. We reviewed a sample of grants from the three largest states receiving a majority of the Title VII grants. Our review provides examples of areas where OBEMLA should improve its monitoring efforts. OBEMLA argues that requiring LEA approval for

changes in grant implementation could lead to micro management of grant projects. However, 34 CFR 74.25 (b) and (c)(1) set the following requirement:

“(b) Recipients are required to report deviations from budget and program plans, and request prior approvals for budget and program plan revisions, in accordance with this section.

(c) For nonconstruction awards, recipients shall request prior approvals from ED for one or more of the following program or budget related reasons:

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).”

Based upon this regulation and 34 CFR 80.30 (d)(1) which further supports the need for prior approval for scope changes, the OIG contends that approvals for changes in scope should be obtained from OBEMLA prior to changes in implementation.

OBEMLA did not submit documentation that caused us to change our recommendation that the IASA should be revised to include clarification of the need for federal level monitoring reviews of grantees; however, we did combine Recommendations 1 and 4 in the final report. Our recommendation that OBEMLA collaborate with the SEAs more frequently to enhance the effectiveness of Title VII grants has not changed.

OTHER MATTERS

Use of Students' Native Language in Classrooms

Our survey of the IASA identified Congressional concerns about possible excessive use of the students' native language. To address these concerns, our audit included steps for testing the adequacy of controls over grant implementation. As we visited the various LEAs and schools in our sample, we observed classroom instruction and classroom layouts. We also interviewed teachers and students and reviewed classroom materials utilized in teaching. Teachers consistently used English in the bilingual classes as required by the grants. Consequently, we determined that the students' native language was not being used excessively in these grants and that the controls over language usage appear adequate. As a result of our audit, we found no evidence to support further testing in this area. Future OIG work concerning bilingual education issues will include testing of individual occurrences as they are noted.

Future Audit Coverage of Bilingual Education Grants

As this report indicates, our audit has identified management control weaknesses in grant monitoring. Therefore, future audit work will include reviewing the controls over Title VII grant implementation.

***STATEMENT ON
MANAGEMENT CONTROLS***

As part of our audit, we assessed the system of management controls, policies, procedures, and practices applicable to OBEMLA's administration of the Title VII grants. Our assessment was performed to determine the level of control risk for determining the nature, extent, and timing of our substantive tests to accomplish the audit objectives.

For the purpose of this report, we assessed the controls used for ensuring that bilingual program objectives are being met. The controls reportedly used by OBEMLA include:

- , On-site monitoring
- , Monitoring through telephone calls

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed monitoring control weaknesses which adversely affected OBEMLA's capability of ensuring that bilingual program objectives are being met. These weaknesses included not conducting on-site monitoring reviews and inadequate documentation of grant reviews completed through telephone calls. These weaknesses and their effects are fully discussed in the AUDIT RESULTS section of this report.

APPENDIX**MEMORANDUM****UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF BILINGUAL EDUCATION
AND MINORITY LANGUAGE AFFAIRS**

To: Carol Lynch
Regional Inspector General for Audit, Office of the Inspector General

Cc: Richard T. Rasa
Advisory and Assistance Director, State and Local Programs, Office of the Inspector General

Mike Smith
Acting Deputy Secretary

Susan Craig
Assistant General Counsel

From: Delia Pompa
Director

Subject: *Review of Monitoring Controls Used to Ensure Fulfillment of Title VII Bilingual Education Grant Program Objectives, ED Audit Control No. 04-60152*

Date: May 27, 1997

Thank you for the opportunity to respond to the above referenced audit. This memorandum provides analyzes each section of the draft audit report. If you have questions about this memorandum, please do not hesitate to contact me at (202) 205-5463.

Below are analyses of each section in the audit report:

1. "Background", pp. 1-2

The section paraphrases several sections of the Title VII statute. The second paragraph, on page 1, suggests that the encouragement of English proficiency is incompatible or "in contrast" to other aims of the act. Neither research nor the act makes that point. Thus I recommend that the audit report list all or portions of the findings, policy and purpose of Title VII (Section 7102).

May 27, 1997

Page 2

2. "Scope and Methodology," p. 3

The numbers referenced are incorrect. In 1995, OBEMLA awarded \$117 million to 663 grantees under the bilingual instructional services grant program. Although \$156 million was initially appropriated for this program in Fiscal Year 1995, a rescissions bill passed in the middle of the fiscal year reduced available funding by \$38.5 million. Of the 663 grants, 254 were awarded to California, 89 to New York, and 48 to Texas. Together, these states were home to 59 percent of all grantees.

3. "Audit Results - OBEMLA Monitoring," pp. 4-6

Paragraph 3, page 4, mischaracterizes the bilingual education program. The first sentence of the aforementioned paragraph lists statutory provisions of the act set by Congress, not Department of Education "policy" promulgated through regulation or disseminated through non-regulatory guidance. Further, federal bilingual education grants are awarded and administered by OBEMLA and, in the strictest sense of the word, managed by local education agencies receiving Title VII funds.

With regard to Paragraph 1, page 5, OBEMLA does provide technical assistance in implementing awarded grants, but does not provide assistance in completing the grant application. OBEMLA makes every effort to disseminate information regarding upcoming grant competitions, through the web site of its contractor, the National Clearinghouse for Bilingual Education (NCBE), the OBEMLA Fax Newsletter, and participation in various conferences of potential applicants. It is unreasonable to expect that every local educational agency potentially interested in applying for grant would be aware of relevant grant competitions. I should note that the NCBE web site is visited over 1.25 million times yearly by users of the Internet. The entire grant application for OBEMLA programs are now posted on the NCBE and the OBEMLA web sites.

It is extremely important to remember that the purpose of monitoring should be to help grantees improve grant implementation. Thus while on site monitoring in 1995 and 1996 was minimal, OBEMLA staff were able to dispense a great deal of technical assistance to grantees through professional conferences. While an on site monitoring visit may allow a program officer to reach a handful of grantees each outing, a conference allows program officers to reach hundreds of grantees at a time. At the most recent OBEMLA Professional Development Institute, held in conjunction with the 6,000 person conference of the National Association for Bilingual Education, OBEMLA program officers were able to contact at least 800 individuals working in school districts receiving Title VII funds. Thus the need to conduct systematic on site monitoring must be balanced against the need to dispense higher impact technical assistance through conferences. Both, of course, are possible and important.

As the audit was being conducted, OBEMLA reshaped its strategic plan and placed a high priority on monitoring. We have developed new protocols, planning materials, and schedules for monitoring

grant activities. The result of our effort is at least 27 on-site monitoring visits scheduled between April 14, 1997 and March 6, 1998 to Arizona, California, Colorado, Florida, Kentucky, Louisiana, Maine,

May 27, 1997

Page 3

Massachusetts, Michigan, Oklahoma, New Mexico, New York, Oregon, Tennessee, Texas, Utah, Virginia, and Wisconsin. I note that OBEMLA's renewed priority on monitoring has been made possible by additional salary and expenses funds allocated to each program office for monitoring by the Office of the Under secretary.

New monitoring materials include principles to guide monitoring, a site planning guide, a monitoring log to capture on-site and phone contacts with grantees, and a detailed grant monitoring instrument. A copy of the OBEMLA monitoring schedule, results of recent visits, and other relevant documents are attached.

With regard to paragraph 5, page 5, I must make it absolutely clear that the statement of one program specialist does not reflect the official position of nor official actions by OBEMLA. OBEMLA administers grants according to applicable statutes and regulations. Our intent is to ensure to assist grantees in implementing the highest quality grant possible. If a grantee is found to implementing a project in a manner inconsistent with the law, regulation, or their application, a program officer works with grantees to improve implementation. However, if such an effort is unsuccessful, OBEMLA will, as it has in the recent past, terminate funding. For example, an on site monitoring visit by OBEMLA staff in November 1996 encountered problems with grant implementation at the West Side High School in New York City. After discussions with the grantee, the school voluntarily terminated its grant. Another example is cited in the Office of General Counsel's memorandum reviewing the draft audit report. [See page 5 of memorandum from Susan Craig to Carol Lynch dated May 2, 1997]

4. "Audit Results - SEA and LEA Monitoring," pp. 6-7

This section is based on the assumption that State Education Agencies must monitor Title VII grantees. There is no legal grounds for such an assumption. The Office of General Counsel stated the following in its review of the draft audit report:

The Draft Audit Report questions whether a State educational agency (SEA) can meet its responsibilities under the Title VII State Grant Program, 20 U.S.C. § 7454, if it does not monitor Title VII grant recipients in its State ... We do not share this concern because SEA's are not required to monitor those grantee ... In a direct grant program, as distinct from a State administered program, SEA's do not have any responsibility either from allocating funds to eligible subgrantees or for monitoring compliance. 34 C.F.R. § 80.40(b) [See page 5 of memorandum from Susan Craig to Carol Lynch dated May 2, 1997]

Without additional funding, establishing new requirements on SEA's to monitor Title VII grantees, as

recommended in the draft audit report, would have to come at the expense of current activities permissible under the law, technical assistance and data collection, Section 7134(c)(1). It is important to remember that by law SEA's are required to serve all local educational agencies within the state that serve limited-English proficient students, not just those that receive funding under Title VII, Section 7134(c)(4). The \$219,260 that the Texas SEA received in 1995, for example, was used to

May 27, 1997

Page 4

provide technical assistance to and collect data from local educational agencies serving the state's 457,437 limited-English proficient students.

Moreover, the total appropriations available to State education agencies has been relatively constant. In fiscal years 1996 and 1997, Congress appropriated no funding for the bilingual education support services account, from which SEA grants are funded. Congress did approve reprogramming requests from the Department that permitted continuation of the SEA grant program, but the reprogrammed levels were significantly below the Department's budget request for bilingual education support services.

For these reasons and in light of the fact that the SEA's are not responsible for distributing bilingual education instructional services funds to local educational agencies, I do not believe it would be a judicious use of funds to expand legal requirements by SEA's to monitor local educational agencies. Nevertheless, OBEMLA plans to work with SEA's to determine a level of consultation on monitoring of local educational agencies that is consistent with the law and expected funding for the program.

5. Analysis of "Effects - Grant TX (1) ", pp. 8-12

I dispute several of the instances cited as inappropriate grant implementation. Most of the examples of inappropriate grant management are small variations in grant activities. Student needs, school resources available to the grantee, and the relative success of a particular instructional effort must all be weighed by the grantee as they implement the grant over five years. Grantees must be allowed sufficient flexibility to make minor changes in grant activities to adapt to changing grant conditions. The alternative would be to place unreasonably burdensome requirements on grantees to secure approval for every minor change in grant activities.

Examples of unapproved, inappropriate changes in grant activities cited in the report include a change in the number of days that students visit the literacy development center and 10 percent deviation in the amount of Spanish and English used in the dual language instructional model. Minor refinements to the plan of operation are to be expected and, indeed, some times welcomed because they may suggest that the grantee using the flexibility of the program to improve implementation. It is a matter of judgement as to whether small variations in program implementation such as those cited in the report would require formal approval by OBEMLA. As a practical matter, if OBEMLA were to require grantees to secure approval for minor program changes, there might be hundreds of such requests each month. Micro management of projects does not further the interests of the grantee nor the

government.

The emphasis of OBEMLA's programs is on outcomes. If a grantees' activities are substantially reflective of the application, the annual performance report documents measurable progress toward the goals of the grantee's application, and the annual performance report explains changes to program activities, OBEMLA would consider the grantee successful and award a continuation grant. If these conditions were met, OBEMLA would not commonly require grantees to secure approval for

May 27, 1997

Page 5

minor program changes. In the case of grant TX (1), OBEMLA will carefully examine the second annual performance report to assure that ongoing grant activities, including any changes to grant activities, have helped the grantee to fulfill its objectives.

With regard to paragraph 2, page 12, OBEMLA has determined that no Title VII funds were used to pay for electrical repairs. I urge your office to confirm and explain this information in the final audit report.

With regard to paragraph 3, page 12, it is unclear whether the teacher aide's translation duties were inappropriate. According the application, all teacher aides were to be devoted 100 percent to grant activities. However, school officials may choose to request work by school employees associated with the grant beyond a full work week. As stated in the report, OBEMLA is further investigating all of the matters cited in the report.

6. Analysis of "Effects - Grant TX (2) ", pp. 12-13

Regarding grant TX (2), I would offer the same analysis provided for grant TX (1). If a grantees' activities are substantially reflective of the application, the annual performance report documents measurable progress toward the goals of the grantee's application, and the annual performance report explains changes to program activities, OBEMLA would consider the grantee successful and award a continuation grant. If these conditions were met, OBEMLA would not commonly require grantees to secure approval for minor program changes. The fact that the project director of grant TX (2), as noted in draft audit report, expressed dissatisfaction with the techniques used by the ESL teacher suggests that possibility of self-correction.

7. Analysis of "Effects - Grant NY (1) ", p. 13

Onsite monitoring could not have prevented the local fiscal problems of grant NY (1). In fact, as noted in the draft audit report, OBEMLA retained grant dollars until the grantee could demonstrate that it could implement the grant as approved.

8. Analysis of "Need Improvements," p. 14

I urge you to strike the first sentence of paragraph 3, page 14: "The Department may grant millions of dollars each year which are not used as specified in Title VII." First, it is impossible to disprove that statement. Even if the draft audit report found no inappropriately implemented grants, the statement would still be true. Certainly, the draft audit report did not find that millions of Title VII were not used as specified in Title VII. The three grants cited in the draft audit report would have spent collectively spent less a million dollars through 1997. As argued above, two of the three grants mentioned in the report were not inappropriately implemented. Even the third, grant TX (1), provides weak evidence of inappropriate implementation, primarily relating to translation activities by a teachers aide.

May 27, 1997

Page 6

Finally, it is very difficult to draw conclusions about the implementation of all OBEMLA grantees on the basis of such a sample size. In 1995, OBEMLA awarded 663 grants. The audit examined the operations of 7 grantees.

9. Analysis of "Recommendations," p. 15

I disagree with recommendation 1 for the reasons mentioned in section 4 of this memorandum.

I strongly agree with recommendation 2 and have implemented such a plan as described in section 3. I commend the suggestion to better disseminate project outcomes and will work to devise ways to reach current and potential grantees.

I recommend that recommendation 3 be revised to reflect the changes suggested by the Office of General Counsel. [See memorandum from Susan Craig to Carol Lynch dated May 2, 1997]

I disagree with recommendation 4 because it is unnecessary. OBEMLA already had the legal authority to conduct monitoring. Additional funds for monitoring can be secured through the Department's allocation of salaries and expenses funds. Specification of monitoring requirements solely for the Title VII law would make it unique among Department programs and constitute unusual and unnecessary limits on program flexibility.

I agree with the need to further investigate grant Texas (1), suggested in recommendation 5, but disagree with the need for an unannounced visit. OBEMLA's goal should be to improve grantee outcomes in a cooperative environment. There is no reason to believe that the grantee is intent on concealing misdeeds. Unannounced visits are, as a rule, highly disruptive and may make it more difficult to work with the grantee in the future.

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