



**U.S. Department of Education
Office of Inspector General**



American Recovery and Reinvestment Act of 2009

New York State System of Internal Control Over American Recovery and Reinvestment Act Funds

Audit Report



New York State Capitol

ED-OIG/A02J0006

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES
REGION II

November 10, 2009

Dr. David Milton Steiner
Commissioner of Education
New York State Education Department
89 Washington Avenue
Albany, NY 12234

Timothy J. Gilchrist
Senior Advisor to the Governor for Infrastructure and Transportation
New York State Economic Recovery and Reinvestment Cabinet
Executive Chamber
State Capitol
Albany, NY 12224

Dear Dr. Steiner and Mr. Gilchrist:

This **final audit report** presents the results of our review of the designed systems of State-level internal control over American Recovery and Reinvestment Act funds in New York.

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 following Education Department official, who will consider them before taking final Departmental action on this audit:

Thelma Meléndez de Santa Ana, Ph.D
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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/

Daniel P. Schultz
Regional Inspector General for Audit

Abbreviations/Acronyms Used in This Report

ARRA	American Recovery and Reinvestment Act of 2009
CAPs	Corrective Action Plans
C.F.R.	Code of Federal Regulations
CUNY	City University of New York
ED	U.S. Department of Education
EDGAR	Education Department General Administrative Regulations
HESC	Higher Education Services Corporation
IDEA	Individuals with Disabilities Education Act Part B
IHE	Institutions of Higher Education
LEA	Local Educational Agency
NYS	New York State
NYSED	New York State Education Department
OAS	Office of Audit Services
OIG	Office of Inspector General
OMB	Office of Management and Budget
SEA	State Educational Agency
SFSF	State Fiscal Stabilization Fund
SUNY	State University of New York
Title I	Title I Part A of the Elementary and Secondary Education Act

New York State System of Internal Control Over ARRA Funds Audit

PURPOSE

The American Recovery and Reinvestment Act of 2009 (ARRA) places a heavy emphasis on accountability and transparency, and in doing so, increases the responsibilities of the agencies that are impacted by ARRA. Overall, the U.S. Department of Education (ED) is responsible for ensuring that education-related ARRA funds reach intended recipients and achieve intended results. This includes efficiently controlling funds at the Federal level, effectively ensuring that recipients understand requirements and have proper controls in place over the administration and reporting of ARRA funds, and promptly identifying and mitigating instances of fraud, waste, and abuse of the funds.

The purpose of our review was to determine whether agencies charged with responsibility for overseeing ARRA funds have designed systems of internal control that are sufficient to provide reasonable assurance of compliance with applicable laws, regulations, and guidance. Proper internal controls are essential for ensuring ARRA funds are administered properly and used in ways that coincide with the intent of ARRA. This report provides the results of the review we conducted at the New York State Education Department (NYSED) and the New York State Governor's Office (NYS Governor's Office). We focused our review on the design of State-level controls over data quality, cash management, subrecipient monitoring, and use of funds. These controls are a key aspect in the proper administration of ARRA funds for Title I Part A of the Elementary and Secondary Education Act (Title I), Individuals with Disabilities Education Act Part B (IDEA),¹ and the State Fiscal Stabilization Fund (SFSF).²

RESULTS

Our review consisted of an assessment of the designed systems of State-level controls planned for ARRA funds. At NYSED, this system consisted of controls established prior to the passage of ARRA with some modifications. Since ARRA is in its early stages, NYSED was still in the process of planning for implementation. Therefore, we reviewed the designed systems of State-level controls planned for ARRA funds at the time of our fieldwork.

NYSED and the NYS Governor's Office are making a proactive effort to ensure the proper administration of ARRA funds. For instance, the NYS Governor's Office set up an Economic Recovery Cabinet, including a sub-cabinet specifically focused on education. In addition, NYSED regularly attended meetings with the NYS Governor's Office. NYSED had also provided updated guidance as it became available to local educational agencies (LEAs) about permissible uses, proper administration, and reporting requirements under ARRA. It also strengthened its policy on disbursing advance payments to LEAs. However, we determined that the designed systems of internal control at the State-level should be enhanced for ARRA funds to provide reasonable assurance of compliance with applicable laws, regulations, and guidance.

¹ IDEA includes only Grants to States.

² Although our work also included reviews at selected local educational agencies (LEA) located in New York State, the results of our work at those selected LEAs will be provided in a separate report.

Based on our assessment, we concluded that NYSED should improve its monitoring of subrecipients and its controls over cash management at LEAs. For data quality, we noted that NYSED had made insufficient progress in establishing controls to ensure compliance with ARRA reporting requirements. Finally, we concluded that the NYS Governor's Office needs to clarify the roles and responsibilities of various affected State agencies administering SFSF funds. Given that much of the ARRA funding had not yet reached the States and localities, we could not validate nor test the accuracy of the statements made by officials regarding their accounting and tracking systems.

We provided a preliminary copy of our final audit report to the NYS Governor's Office and NYSED for review and comment on October 2, 2009. The NYS Governor's Office did not provide comments. In NYSED's comments to the preliminary report, dated October 16, 2009, NYSED did not fully agree or disagree with our findings and recommendations. Based on NYSED's comments, we have not modified our findings and recommendations. NYSED's comments are summarized at the end of each finding. The entire narrative of NYSED's comments is included as Attachment 2 to this report.

FINDING NO. 1: NYSED Needs to Improve Its Monitoring of Subrecipients to Ensure Adequate Oversight of ARRA and Other Federal Funds

NYSED indicated that it planned to monitor subrecipients of ARRA funds using the same methodology it used to monitor subrecipients of non-ARRA funds. NYSED stated that it planned to, but had not yet revised its protocols to reflect specific ARRA requirements. We reviewed NYSED's protocols for monitoring LEAs that received Title I and IDEA funds. We noted that NYSED had extensive programmatic monitoring protocols for Title I and IDEA. We also noted that NYSED disbursed information and guidance about ARRA to LEAs as it became available. It issued several memos to LEAs that provided up-to-date guidance about the appropriate uses and the proper administration of ARRA funds, as well as information about ARRA reporting requirements. NYSED's Office of Audit Services (OAS) completed a risk assessment of New York LEAs. NYSED quantified the risk associated with subrecipients administering SFSF, Title I, and IDEA ARRA funds based on certain factors related to each subrecipient's fiscal condition, timeliness of reporting, results of external audits, and results of Office of Management and Budget (OMB) Circular A-133 single audits. NYSED also indicated that it planned to perform an internal assessment of risk associated with its own administration of ARRA. However, NYSED's monitoring did not include procedures to verify LEA expenditures prior to payment nor ensure that LEAs had adequate fiscal systems. In addition, monitoring protocols had not been revised to address ARRA requirements.

NYSED Did Not Verify LEA Expenditures Prior to Payment

NYSED did not sufficiently monitor LEA expenditures. Specifically, NYSED did not verify that actual Title I and IDEA expenditures reported by LEAs on form FS-25 (Request for Funds for a Federal or State Project) and form FS-10F (Final Expenditure Report for a Federal or State Project) were supported, allowable, and in line with the approved budget prior to payment. NYSED requires LEAs to prepare and submit FS-25 forms to receive cash drawdowns throughout the school year for Federal grants. The FS-25 form is a Grants Finance fiscal report showing, for a specific project number, payments made to date, cash expenditures made to date, and cash expenditures anticipated in the next reporting period. By using FS-25 forms, LEAs may request cash drawdowns of up to 90 percent of the approved budget for expenditures

already made and anticipated cash needs for the next reporting period, or both. Anticipated cash needs may be projected for either the next month or quarter depending on the size of the approved grant budget. The final 10 percent drawdown is made to the LEA when an FS-10F form is submitted to Grants Finance and approved.

The FS-10F form is also a Grants Finance fiscal report that is due 90 days after the end date of the Federal grant. It is used to report all reimbursable expenditures made by the LEA for an approved grant. NYSED approved final expenditures and the final payment after comparing the aggregated reported expenditures to the approved budget costs for each cost category. NYSED uses an FS-10F long form and short form. The long form is a detailed report of final expenditures. The FS-10F short form is a summary of final expenditures. The long form can be required at the discretion of NYSED or where the short form is not submitted timely. Separate FS-25 and FS-10F forms must be submitted for each Federal grant. The FS-25 and FS-10F forms are to be submitted by the LEA directly to the Grants Finance office for approval.

NYSED did not sufficiently monitor LEA expenditures reported on forms FS-25. The FS-25 form does not require LEAs to provide detailed information for expenditures, such as the payee, check number, or check amount. NYSED did not require LEAs to provide the detailed information necessary to properly monitor LEA expenditures nor did it verify that LEA expenditures were supported, allowable, and in line with the approved budget prior to payment.

Furthermore, NYSED did not sufficiently monitor final expenditures claimed on the form FS-10F. The FS-10F short form does not require LEAs to provide detailed expenditure information, such as the payee, check number, or check amount. Although every LEA was required to maintain the detailed information requested on the FS-10F long form, they were not required to submit FS-10F long forms to NYSED. NYSED did not verify that LEA expenditures reported on FS-10F forms were supported, allowable, and in line with the approved budget prior to payment.

NYSED's Monitoring Protocols Need to be Strengthened to Address ARRA Requirements and to Ensure LEAs Have Adequate Fiscal Systems

NYSED's monitoring of subrecipients receiving Title I and IDEA funds was not sufficient. Although NYSED's program offices performed extensive programmatic monitoring and provided technical assistance to LEA's on a daily basis, NYSED did not perform sufficient fiscal monitoring to ensure that Title I and IDEA funds were administered properly. Specifically, NYSED's monitoring programs did not address fiscal areas such as LEA controls over financial recordkeeping, procurement, reporting, and payroll. See Attachment 1 for a list of fiscal controls and see the following for applicable regulations for monitoring subrecipients.

34 C.F.R. Parts 76 and 80 address the State Educational Agency's (SEA's) role in monitoring subrecipients Per 34 C.F.R. § 76.702, "A State and a subgrantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds."

According to 34 C.F.R. § 76.770,

A State shall have procedures to ensure compliance. Each State shall have procedures for reviewing and approving applications for subgrants and amendments to those applications, for providing technical assistance, for evaluating projects, and for

performing other administrative responsibilities the State has determined are necessary to ensure compliance with applicable statutes and regulations.

Finally, per 34 C.F.R. § 80.40(a),

Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

Lack of Specific Monitoring Over ARRA Funds

In addition, at the time of our field work, NYSED had not revised its current monitoring programs nor planned future monitoring that addressed ARRA requirements. For instance, NYSED was allocated about 81.8 percent (approximately \$2.46 billion) of New York State's total SFSF grants.³ The NYS Governor's Office indicated that NYSED would be responsible for monitoring these funds.⁴ However, NYSED had not developed a program to monitor SFSF grants.

NYSED stated that requiring monitoring at the expenditure level would result in an increased burden and cost to both the LEA and NYSED that was not justified by the risk of improper expenditures. NYSED also stated that the sheer volume of New York districts receiving ARRA funds precluded onsite verification of the fiscal elements identified in Attachment 1.

NYSED stated that it relied on single audits, NYSED's OAS audits, and audits conducted by the State Comptroller to identify unallowed and unsupported expenditures charged to Title I and IDEA grants and problems with fiscal controls. When we examined NYSED's OAS Web site, we noted that there were no internal or school district audit reports issued during calendar year 2009. Also, NYSED required school districts to submit corrective action plans (CAPs) for any audit findings. However, neither the Title I nor the IDEA program offices were able to provide a written plan describing how CAPs were used to target monitoring. In addition, these audits occurred well after payments were disbursed to the LEAs — too late for early detection of inappropriate use of funds.⁵

NYSED Needs to Revise Its Monitoring for ARRA Requirements

NYSED did not revise its monitoring programs or develop new monitoring programs to reflect ARRA requirements because it was waiting for guidance from ED on ARRA 1512 reporting requirements.⁶ NYSED completed a risk assessment of New York LEAs. NYSED stated that the risk assessment was used to identify a subset of recipients that are subjected to additional

³ NYSED is responsible for administering the majority (81.8 percent) of the SFSF funds allocated to the NYS Governor's Office. Other State agencies will administer the remaining portions of the SFSF allocation, including the State University of New York (SUNY), the City University of New York (CUNY), the Higher Education Services Corporation (HESC), and the New York State Housing Trust Fund Corporation/Division of Housing and Community Renewal.

⁴ According to the NYS Governor's Office, various State agencies have been designated with the responsibility of administering SFSF grants. However, there were no written agreements available defining roles, responsibilities, and expectations. (See Finding 4.)

⁵ For instance, single audits are not required to be filed until 9 months after the end of the audit period.

⁶ In August 2009, subsequent to our fieldwork, ED released guidance on ARRA monitoring of subrecipients.

monitoring; however, final protocols had not been identified and the level and extent of monitoring had not been established. In addition, NYSED stated that all ARRA grant programs will be required to submit FS-10F long forms. However, NYSED had still not determined how they were to use the FS-10F long forms to monitor the ARRA funds.

Some of ARRA's guiding principles include spending funds quickly, ensuring transparency and accountability, and reporting publicly on the use of funds. Given the current economic climate, many LEAs could be experiencing tight budget constraints. This situation could result in unallowed, unsupported, or fraudulent expenditures being charged to ARRA grants.

Reliance on audits that occur well after payments are disbursed to LEAs is not sufficient to ensure early detection of the inappropriate use of funds. To illustrate this, we conducted an analysis of single audit information reported for New York LEAs on *Data Collection Forms for Reporting on Audits of States, Local Governments, and Non-profit Organizations* filed with the Federal Audit Clearinghouse. We found that single audits for fiscal years 2006 and 2007 cited a total of 90 LEAs for audit findings reporting noncompliance with requirements for allowed or unallowed activities and allowable costs/cost principles. Twelve LEAs were cited in these areas for both years. In addition, an SEA will not have adequate assurance that its LEAs were properly administering and accounting for ARRA funds if LEAs' fiscal controls are not adequate. We found that LEAs with financial statement audits disclosing reportable conditions in internal controls increased from 128 LEAs (or 23 percent of LEAs that filed single audits) in fiscal year 2006 to 201 LEAs (or 36 percent of LEAs that filed single audits) in fiscal year 2007. Of these LEAs, 86 LEAs had reportable conditions in internal controls disclosed for both years.

Recommendations

We recommend that the Assistant Secretary for the Office of Elementary and Secondary Education (OESE) require NYSED to:

- 1.1 Develop and implement procedures, using a risk-based approach, to review mandatory FS-10F long forms to determine whether expenditures charged to ARRA are allowable and properly supported prior to payment.
- 1.2 Develop and implement procedures to monitor fiscal internal controls over financial record keeping, procurement, reporting, and payroll at subrecipients receiving ARRA funds.
- 1.3 Develop and implement monitoring procedures that address ARRA requirements, including those requirements specific to the SFSF program.

NYSED Comments

For Recommendation 1.1, NYSED stated that it would require LEAs to submit FS-10F long forms for all ARRA grant programs, and that a detailed review would be conducted based on risk. NYSED also stated that requiring monitoring at the expenditure level would result in an increased burden and cost to both the LEA and NYSED. NYSED indicated that the audit report asked for a level of detail in financial reporting by subgrantees that would violate 34 C.F.R. § 80.41(a)(2). NYSED's audit liaison later clarified that NYSED was concerned about information contained in Finding No. 1 about the FS-25 forms. He also stated that, as a result of

our audit, NYSED selected 30 LEAs for onsite review. While performing the reviews, NYSED planned to review support for information reported by the LEAs on FS-25 forms.

For Recommendation 1.2, NYSED emphasized that the sheer volume of New York districts receiving ARRA funds precludes onsite verification of the fiscal elements identified in Attachment 1. NYSED stated that it reviewed and monitored LEAs' fiscal status through information contained in annual financial statements, single audits, and audits conducted by the NYS Comptroller. NYSED stated that many of the bulleted items contained in Attachment 1 were basic requirements of NYS General Municipal Law. Specifically, NYSED stated that LEAs were required to establish an internal audit function to assess risk and evaluate internal controls. NYSED also stated that the Title I office includes fiscal monitoring in the fiduciary section of its monitoring protocol. In addition, NYSED restated that it required school districts to submit CAPs for any audit finding contained in audits, management letters, reports on internal controls, and single audits. NYSED also reemphasized that it completed an external risk assessment based on the results of audits, timeliness of reporting and fiscal conditions. This risk assessment was provided to key program managers to be used in monitoring. Furthermore, NYSED repeated that its OAS conducted additional audits as needed, and that it issued three final audits in 2009, all of which examined the use of Federal funds.

For Recommendation 1.3, NYSED stated that it is in the process of developing ARRA monitoring plans. The protocols had not been finalized, but the monitoring would include enhanced desk reviews, and onsite verification by program office and/or audit staff.

OIG Response

ARRA places a heavy emphasis on accountability and transparency. We were pleased that NYSED stated that it plans to perform onsite reviews of information reported on FS-25 forms at selected LEAs. Also, NYSED's plan to require LEAs to submit FS-10F long forms for all ARRA grants and conduct detailed reviews based on risk appears to be appropriate. These actions planned by NYSED are responsive to the discussion of this issue in Finding No. 1 and Recommendation 1.1. NYSED should ensure that its planned monitoring of the FS-10F forms include steps to review LEA expenditures to ensure they were supported, allowable, and in line with the approved budget prior to payment.

The criteria at 34 C.F.R. § 80.41(a) governs the forms to be used for submitting financial reports to Federal agencies. It does not prohibit NYSED from requiring the FS-10F long forms for subrecipient monitoring purposes. Recommendation 1.1 asks NYSED to use the FS-10F long form as a tool to more effectively conduct monitoring to determine whether expenditures charged to ARRA are allowable and properly supported prior to payment. OIG is not recommending NYSED to impose any new financial reporting requirements on LEAs; therefore, implementation of our recommendation would not violate 34 C.F.R. § 80.41(a)(2).

We agree that LEAs should use their internal audit function to assess risk and evaluate internal controls. NYSED should ensure that LEAs are in compliance with the NYS General Municipal Law that requires LEAs to establish an internal audit function. In addition, from our review of NYSED's monitoring protocols, it was not clear how NYSED used CAPs, single audits, and reports issued by the State Comptroller to monitor subrecipients. Therefore, we could not determine how NYSED used the reports to target and conduct monitoring. We also could not

determine whether and how follow-up on audit findings was conducted to ensure CAPs were actually carried out by LEAs. Also, NYSED's monitoring programs, including the Title I monitoring program's fiduciary section, did not include steps to ensure that the fiscal elements listed in Attachment 1 were reviewed. In addition, during an interim briefing we held with NYSED, its Title I Director stated that the Title I program staff were not qualified to monitor fiscal requirements. He also stated that training would be provided to the Title I program staff on monitoring of fiscal requirements. Furthermore, although NYSED's OAS has issued three audit reports during calendar year 2009, none of the reports were internal audits or school district audits.

We acknowledge NYSED's efforts for developing ARRA monitoring plans; however, NYSED should continue to work toward finalizing its ARRA monitoring protocols, especially since some ARRA funds have already been drawn down. NYSED should use the guidance issued by ED and OMB to ensure that all ARRA requirements are adequately captured in the revised monitoring programs.

FINDING NO. 2: NYSED Needs to Strengthen Its Controls Over Cash Management at LEAs to Ensure Adequate Oversight of ARRA and Other Federal Funds

NYSED indicated that it planned to use its current systems and policies to draw and distribute ARRA funds to LEAs. We noted that NYSED strengthened its policy on advance payments to LEAs. NYSED released a new policy memorandum stating that it would no longer make payments on anticipated expenditures (projections) to LEAs for the next quarter, regardless of the size of the grant. NYSED also urged LEAs to: 1) Coordinate the timing of cash requests with internal approvals for payment so that cash received from NYSED does not remain unused in a bank account for an extended period of time; 2) Pay out funds for activities as soon as possible after receiving cash requests; 3) Plan carefully for cash flow during the budget period and review cash requirements before each drawdown; and 4) Monitor cash receipts and payments regularly. However, even after the new policy implementation, NYSED needs to further enhance its controls to minimize the time lapse between the drawdown and disbursement of Title I and IDEA funds by LEAs. Also, NYSED did not have adequate procedures to ensure that LEAs were properly remitting interest earned on advances of Title I and IDEA funds.

NYSED's Procedures Were Not Adequate to Minimize Excess Cash Balances at LEAs
NYSED did not have adequate procedures in place to minimize the time lapse between the transfer of advanced funds to its LEAs and the disbursement of those funds by the LEAs.

According to 34 C.F.R. § 80.21(c),

Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.

In addition 34 C.F.R. § 80.21(b) states that,

Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee, in accordance with Treasury regulations at 31 C.F.R. Part 205.

LEAs are required to use FS-25 forms to request funds for expenditures that they had incurred and expenditure projections, or both, for the next month or quarter. LEAs could request up to 90 percent of the approved budget for that year with an FS-25 form if approved by the Grants Finance Office. However, NYSED historically did not request or review information about cash balances at LEAs before approving the FS-25 forms. Consequently, NYSED did not have adequate procedures to ensure LEAs expended cash advances within a reasonable amount of time.

During our audit we communicated to NYSED the issue regarding excessive cash balances at LEAs. Subsequently, on June 22, 2009, NYSED posted a notice on its Web site announcing it had revised its policy on advances requested on form FS-25 by the LEAs.⁷ It stated that NYSED would no longer make payments on anticipated expenditures (projections) to LEAs for the next quarter, regardless of the size of the grant. Payments would be made based only on actual expenditures to date, plus anticipated expenditures for the next month. This policy change eliminated cash requests for quarterly projections of anticipated expenditures. In addition, through the Frequently Asked Questions posted to the NYSED Web site on June 26, 2009, NYSED informed LEAs that they would be able to draw down up to 70 percent of their SFSF funds after September 1, 2009, and would be able to draw down the remaining 30 percent after April 1, 2010. NYSED also stated that LEAs would be required to submit expenditure reports to draw down funds and that disbursement of funds must comply with Federal regulations, specifically 34 C.F.R. § 80.21, regarding cash management.

Again, NYSED has been proactive in its efforts to strengthen controls over cash management at LEAs. However, we remain concerned that NYSED does not verify cash balances before approving cash disbursements to LEAs. NYSED relies heavily on LEAs to voluntarily comply with its policies. This is not adequate monitoring of LEAs to ensure compliance with cash management requirements for Federal funds.

NYSED stated that it was concerned it would be forced to delay payments to LEAs to verify cash balances prior to payment. NYSED indicated that it did not have adequate resources to monitor LEAs to minimize the time lapse between the drawdown and disbursement of Federal funds by LEAs and ensure the remittance of excess interest earned on Federal cash advances. During multiple interviews, key NYSED officials stated that several offices lacked adequate staffing levels and resources necessary to properly monitor LEAs.

NYSED's Procedures Were Inadequate to Ensure That LEAs Properly Remit Interest Earned on Federal Cash Advances

NYSED did not have adequate procedures to ensure LEAs were properly remitting interest earned on Federal cash advances. According to 34 C.F.R. § 80.21(i) "...grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency.

⁷ The new policy was effective July 1, 2009.

The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses.” When we asked key NYSED officials about the monitoring procedures for ensuring that LEAs remit excess interest on Federal cash advances, they stated that LEAs were required to know and follow all applicable rules and regulations and that those requirements were available on the NYSED Web site. NYSED officials explained that LEAs were invited to attend a training session developed by a law firm for NYSED that described all Federal regulations that LEAs were responsible to follow. However, we noted those training materials did not include information on properly remitting interest earned on Federal cash advances. Furthermore, NYSED did not have a process to ensure that interest earned by LEAs was returned to the U.S. Department of Education. We found NYSED’s Fiscal Guidelines lacked a policy on remitting earned interest amounts over \$100 back to ED.

Because NYSED did not have adequate procedures to ensure that LEAs expend cash advances within a reasonable amount of time, LEAs that request excessive amounts of ARRA funds may go unnoticed. This could also lead to LEAs earning excessive interest on advanced ARRA funds that are deposited into an interest-bearing bank account. Given the current economic climate, many LEAs could be experiencing tight budget constraints. LEAs may view interest earnings on ARRA funds as an additional source of revenue, especially if they are not aware they are required to remit such excess interest.

Recommendations

We recommend that the Assistant Secretary for OESE require NYSED to:

- 2.1 Develop and implement procedures, using a risk-based approach, to proactively monitor cash balances at LEAs before approving cash disbursements received from ARRA and non-ARRA funds.
- 2.2 Develop and implement monitoring procedures to ensure LEAs properly remit interest earned on all Federal cash advances.

NYSED Comments

NYSED indicated it was concerned that moving to a more restrictive cash management policy would be contrary to the intent of ARRA. For Recommendation 2.1, NYSED reemphasized that it was concerned it would be forced to delay payments to LEAs to verify cash balances prior to payment, causing an impact on cash flow and creating the risk of layoffs at the local level. NYSED stated that it would incorporate cash management reviews using a risk-based approach and that it would consider reviewing the reasonableness of cash balances based on information submitted. NYSED also stated that it believed the recent modification to its policy on advance payment appropriately addressed the real risks involved.

For Recommendation 2.2, NYSED stated that it is prepared to refine its procedures relating to the earning of interest and to make adjustments as needed to verify that advances previously made were justified. NYSED has notified all subgrantees of their responsibility to remit any interest earned on Federal funds over \$100 and to require reporting by LEAs of any interest earned on Federal advances.

OIG Response

Given the heavy emphasis ARRA places on transparency and accountability, we believe that our recommendations, as stated, are consistent with the intent of ARRA. NYSED's proposed steps appear to be appropriate; however, a more proactive monitoring approach is needed to ensure that LEAs expend cash advances within a reasonable amount of time, and that LEAs properly remit interest earned on Federal cash advances. NYSED's proposed cash management and cash balance reviews do not mention monitoring cash balances before approving cash disbursements to LEAs. As stated in Recommendation 2.1, NYSED should develop and implement procedures, using a risk-based approach, to proactively monitor cash balances before approving cash disbursements to LEAs received from ARRA and non-ARRA funds.

In addition, NYSED should develop and implement State-level procedures to ensure that LEAs properly remit interest earned on all Federal cash advances. NYSED's proposed procedures on earning interest only reminds LEAs of their responsibility to remit excess interest earned on Federal funds. A more proactive approach is needed to ensure LEAs do not earn excessive interest on advanced ARRA funds that are deposited into interest-bearing bank accounts.

FINDING NO. 3: NYSED Has Not Made Sufficient Progress in Establishing Controls to Ensure Compliance with ARRA Reporting Requirements

NYSED posted several documents to its Web site that provided updated information and guidance on ARRA reporting requirements. NYSED indicated that a series of meetings and workshops was planned with the NYS Governor's Office, NYS business officials, and KPMG⁸ in July and August to review the reporting requirements. However, NYSED had not made sufficient progress in establishing controls to ensure its readiness in meeting ARRA reporting requirements. Specifically, NYSED had not developed processes to collect, review, and report all required data elements in Section 1512 for Title I and IDEA funds. NYSED had not established any plan or method to ensure the accuracy, completeness, and timely reporting of the required data.

NYSED indicated that it had started developing an application process for LEAs to report certain data elements required by ARRA based on the existing process for expenditure reporting. These data elements include subrecipients' Data Universal Numbering System number, the projected number of jobs saved or created, and tax increase averted. However, NYSED had not established any plan or method to ensure the accuracy, completeness, and timely reporting of the required data. In addition, NYSED had not developed the methodology by which LEAs are to estimate the number of jobs created or saved to ensure ARRA recipients report consistent and reliable job number data.

According to Section 1512 (c) of Subtitle A of ARRA, each recipient that receives recovery funds from a Federal agency shall submit a report to that agency that contains, among other items, the total amount of recovery funds received from the agency, the amount of recovery funds that were expended or obligated to projects or activities, a detailed list of all projects or activities for which recovery funds were expended or obligated, and an estimate of the number of jobs created and retained by the project or activity.

⁸ KPMG was hired as a consultant by the NYS Governor's Office.

Also, per OMB reporting guidance issued on June 22, 2009, prime recipients are to (1) initiate appropriate data collection and reporting procedures to ensure that Section 1512 reporting requirements are met in a timely and effective manner, (2) implement internal control measures as appropriate to ensure accurate and complete information, and (3) perform data quality review for material omissions and/or significant reporting errors, making appropriate and timely corrections to prime recipient data and work with the designated subrecipient to address any data quality issues. This report is to be submitted on a quarterly basis.

NYSED indicated that it was waiting for additional guidance and assistance from ED and that it would be well positioned to fully comply with all ARRA reporting requirements once this guidance was made available.⁹ During our August 13, 2009, interim briefing, NYSED stated that it had questions about some required reporting elements, such as jobs saved. We are concerned that NYS may not have processes and controls in place to ensure required data are accurate and complete and submitted within the required timeframes of the 10th day after each quarter.

Recommendation

We recommend that Assistant Secretary for OESE require the NYS Governor's Office and NYSED to:

- 3.1 Work with the NYS Comptroller's Office to determine, define, and communicate the roles and responsibilities of State agencies and subrecipients to ensure that NYS meets the ARRA reporting requirements and to ensure processes and controls are developed to collect, review, and report all required data on a timely basis.

NYSED Comments

NYSED stated that the receipt of complete guidance from the Federal government played a factor in any perceived delay. NYSED stated that a web-based method was created to allow subrecipients to report the data to NYSED, and that at the time of its response, the first cycle of reporting was completed. NYSED stated that it was assessing the results of its initial submission and would make any needed procedural changes.

OIG Response

We acknowledge that NYSED's plan to assess the results of its initial submission and improve its procedures appears to be appropriate. However, NYSED had not provided any additional documentation or information to demonstrate that it had developed and implemented procedures or controls to ensure that the data were accurate and complete.

⁹ In September 2009, subsequent to our fieldwork, ED released guidance on ARRA Section 1512 Quarterly Reporting and ARRA Reporting on Jobs Creation Estimates by Recipients.

FINDING NO. 4: NYS Governor's Office Has Not Defined Roles of State Agencies Administering SFSF

The Governor's Office set up an Economic Recovery Cabinet to manage the development of State and local infrastructure projects financed through ARRA. The Cabinet will also oversee the distribution of Federal funds to ensure an equitable geographic distribution within New York. State agencies participating in the Cabinet include NYSED, the State University of New York (SUNY), and Division of Housing and Community Renewal. A sub-cabinet specifically for education was also set up. The Cabinet released a memo formalizing grant and award planning processes that it will use to review, approve, and monitor ARRA grant activities. In addition, according to NYSED officials, NYSED met regularly with the NYS Governor's Office. However, the NYS Governor's Office had not entered into written agreements with the State agencies that had been allocated SFSF funds and designated the responsibility of administering portions of New York's SFSF funds.

New York was allocated a total of about \$3 billion in SFSF funds (about \$2.47 billion for the Education portion and about \$549 million for the Government Services portion). The NYS Governor's Office planned to spend most of its SFSF grant on education, restoring budget cuts in State funding. The NYS Governor's Office appropriated portions of its SFSF award to programs administered by NYSED, SUNY, the City University of New York (CUNY), the Higher Education Services Corporation (HESC), and the New York State Housing Trust Fund Corporation/Division of Housing and Community Renewal. However, the Governor's Office had not delineated in writing the roles and responsibilities of each of these State agencies related to data quality, cash management, subrecipient monitoring, and use of funds for SFSF.

Grant Award Notifications issued by ED to the Governor's Office for New York's SFSF grants indicate that the grants are subject to the information in the approved State application and applicable laws and regulations, including Title XIV of ARRA, the General Education Provisions Act, and the Education Department General Administrative Regulations (EDGAR). The Grant Award Notifications include terms and conditions that indicated the Governor's Office is responsible for the following:

- Reporting and Registration Requirement under Section 1512 of ARRA, Public Law 111-5.
- Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Subrecipients.
- Reporting of Fraud and Misconduct.
- Reporting under Section 14008 of ARRA.

If roles and responsibilities are not properly established, there is a risk that proper controls over data quality, cash management, subrecipient monitoring and use-of-funds will not be implemented at the State agencies designated with the responsibility of administering portions of New York's SFSF funds. The NYS Governor's Office will run the risk of not complying with the terms and conditions of its SFSF grant. Further, since NYSED will be administering about 81.8 percent (approximately \$2.46 billion) of New York State's total SFSF allocation, a significant portion of these funds may face the same risks as Title I and IDEA described in the findings related to subrecipient monitoring and cash management.

Recommendation

We recommend that Assistant Secretary for OESE require the NYS Governor's Office to:

- 4.1 Enter into written agreements with each State agency that had been allocated SFSF funds and are responsible for administering portions of New York's SFSF funds to ensure compliance with terms and conditions included with the Grant Award Notification and applicable laws and regulations.

NYSED Comments

NYSED acknowledged that it had not entered into a written agreement with the NYS Governor's Office regarding SFSF; however, it stated that the roles and responsibilities were established through formal meetings and other contacts. NYSED stated that it was responsible for the controls over data quality, cash management, subrecipient monitoring, and use of funds by subrecipients.

OIG Response

We acknowledge that coordination efforts between NYSED and the NYS Governor's Office are a step in the right direction. However, without a written agreement to clearly establish those roles and responsibilities for administering the SFSF funds, there is a risk that all State agencies will not carry out their roles and responsibilities. As stated in our finding, this could lead to non-compliance of the NYS Governor's Office, as the prime recipient of SFSF funds, with the terms and conditions of its SFSF grant.

OTHER MATTERS

The scope of our audit originally included ARRA funds for Vocational Rehabilitation. As part of our work, we reviewed controls at NYSED related to Vocational Rehabilitation. NYSED administers Vocational Rehabilitation funds at the State-level, and at the time of our field work, NYSED provided contradicting information and had not finalized its plan for how it would use Vocational Rehabilitation funds received through ARRA. As a result, we were unable to identify and evaluate internal controls for ARRA funds for Vocational Rehabilitation and gather sufficient and appropriate evidence to answer the audit objective as it relates to ARRA funds for Vocational Rehabilitation. Therefore, we did not comment on internal controls for ARRA funds for Vocational Rehabilitation in this report. However, we expect that Vocational Rehabilitation will be included in the detailed testing we plan to conduct at a later date.

BACKGROUND

Per the Grant Award Notifications, NYSED was the recipient of Title I, IDEA, and Vocational Rehabilitation funds received through ARRA. The NYS Governor’s Office was the recipient of SFSF funds. Title I Part A, IDEA Part B, and Vocational Rehabilitation grant funds are administered by NYSED for New York State. NYSED was allocated \$1.692 billion for Title I, IDEA, and Vocational Rehabilitation through ARRA (See Table 1). On April 1, 2009, the U.S. Department of Education made available 50 percent of the funds for New York’s Title I, IDEA, and Vocational Rehabilitation authorized through ARRA. New York appropriated ARRA funding for Title I, IDEA, and Vocational Rehabilitation over the 2009-2010 and 2010-2011 school years. As of September 10, 2009, NYSED had not drawn down any funds.

Table 1. ARRA Allocations to NYSED	
	Total Allocated (in millions)
Title I	\$907
IDEA	759
Vocational Rehabilitation	26
Total	\$1,692

The NYS Governor’s Office was allocated another \$3 billion for SFSF (See Table 2). Of the \$3 billion, 81.8 percent of its allocation was awarded under the Education Stabilization funds and the remaining 18.2 percent was awarded under the Government Services Fund. NYS’s Application for Initial Funding Under the SFSF Program was approved on May 11, 2009. Within 2 weeks of this approval, the U.S. Department of Education made available 67 percent of the New York’s total SFSF allocation. As of September 10, 2009, NYS has drawn down \$49,900,000 in SFSF Education Stabilization funds.

Table 2. Allocations to NYS Governor’s Office	
	Total Allocated (in millions)
Education Stabilization	\$2,469
Government Services	549
Total SFSF	\$3,018

According to its approved SFSF application, the NYS Governor’s Office planned to use about \$2.34 billion of its Education Stabilization allocation to restore the level of State support for elementary and secondary education in FY 2010. Another \$83 million would be used to restore the level of State support for public institutions of higher education (IHEs) in FY 2010.¹⁰ The application also indicates that NYS planned to use its allocation for Government Services as shown in Table 3 below:

¹⁰ According to New York’s Application for Initial Funding Under the SFSF Program, about \$45 million remained after State support was restored for elementary, secondary, and postsecondary education in fiscal years 2009 and 2010. At a later date, the U.S. Department of Education will collect data on the remaining amount of funds to restore State support for elementary, secondary, and postsecondary education in fiscal year 2011 and award subgrants to LEAs.

Table 3. Planned Use of Government Services Funds (Allocation of \$549 Million)	
Category	Estimated Percentage Based on SFSF Application (%)
Elementary and secondary education (excluding modernization, renovation, or repair of public school facilities)	20
Public IHEs (excluding modernization, renovation, or repair of IHEs)	4
Other: <ul style="list-style-type: none"> • Restore support for student financial aid through the Tuition Assistance Program • Restore support for Preschool Special Education • Mortgage Foreclosure Prevention Program 	76

SCOPE AND METHODOLOGY

Our review consisted of an assessment of the designed system of State-level internal controls that NYSED and the NYS Governor's Office planned, at the time of our field work, to use in administering funds received under ARRA for the Title I, IDEA, and SFSF programs. For the SFSF program, we focused our review on the SFSF funds to be administered by NYSED. We reviewed the State-level controls related to data quality, cash management, subrecipient monitoring, and use of funds.

Our review was limited to assessing the design of the internal controls. Given that much of the ARRA funding had not yet reached the States and localities, we could not validate nor test the accuracy of the statements made by officials regarding their accounting and tracking systems. Also, during and subsequent to our fieldwork, NYSED and the NYS Governor's Office were continuing the process of designing and implementing internal controls for administering ARRA funds. Thus, the plans and processes reviewed during our audit may be modified or not implemented as designed. Also, since neither NYSED nor the NYS Governor's Office had disbursed ARRA funds at the time of our review, we may not have been aware of unique factors related to the administration of ARRA funds during our assessment of the design of internal controls.

To gain an understanding and assess the designed system of ARRA internal controls that NYSED and the NYS Governor's office planned at the time of our field work, we:

- Reviewed prior single audits and applicable reports issued by the Government Accountability Office, the U.S. Department of Education's Office of Inspector General, and the New York Office of the State Comptroller;¹¹
- Identified ARRA funds allocated to NYSED and the NYS Governor's Office for Title I, IDEA, Vocational Rehabilitation, and SFSF;
- Interviewed NYSED's program officials for Title I, IDEA, Vocational Rehabilitation and SFSF; and officials from the Office of Grants Finance, the Office of Fiscal Management, the Office of Audit Services, and the Office of the Senior Deputy Commissioner of Education;
- Interviewed the Chief Information Officer, the Deputy Commissioner for Operations and Management Services, and the Senior Deputy Commissioner of Education P-16 at NYSED;
- Observed processes and operations at NYSED's Office of Grants Finance;
- Conducted interviews and observed operations at NYSED's Adult Vocational Rehabilitation Manhattan District Office;
- Obtained and reviewed NYSED's written policies and procedures related to data quality, cash management, subrecipient monitoring, and use of funds for Title I, IDEA, Vocational Rehabilitation, and SFSF;
- Obtained and reviewed NYSED's monitoring protocols for Title I, IDEA, and Vocational Rehabilitation;

¹¹ We reviewed the New York State Office of Inspector General Web site and found no reports issued pertaining to Federal education funds. We also reviewed NYSED's Office of Audit Services Web site and found no reports issued for the calendar year 2009.

- Interviewed officials at the NYS Governor's Office including the Deputy Secretary for Education, the Assistant Secretary for Education, and representatives from the Division of Budget and the Governor's Economic Recovery and Reinvestment Cabinet;
- Interviewed officials at the New York Office of the State Comptroller, including the Deputy Comptroller, Division of Local Government and School Accountability; and
- Obtained and reviewed NYS's approved Part I SFSF application and various budget documents including NYS's 2009-2010 Enacted Budget.

We conducted our work at NYSED and the NYS Governor's Office. We discussed the results of our review and recommendations with NYSED on August 13, 2009.

Although we did conduct work at three LEAs, the results of those reviews were not presented in this report. None of our LEA work was used to form the conclusions on State-level controls presented in this report. We plan to issue a separate report providing the results of our LEA work at a later date.

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.

Attachment 1

Monitoring conducted by NYSED's Program Offices for both Title I and IDEA¹² did not include steps to ensure each subrecipient has:

- clear and comprehensive written policies and procedures for its accounting system;
- an existing standard financial recordkeeping system to be used for accounting for grant/contract funds;
- financial records that are properly maintained, reviewed, and up-to-date;
- an accounting system containing sufficient information and reflecting proper accounting treatment of financial transactions, including:
 - Bank account and cash balances;
 - Disbursement details of date, payee, name, account, expense classification, and other relevant information;
 - Separate accounting for funds from different sources;
 - Comparison of outlays to budgets;
 - Initial recording and subsequent clearing of cash advances; and
 - Accrual of expenditures to match costs to their proper award period;
- a recordkeeping system for monitoring its sub-grant-related activities that is appropriately and adequately documented;
- financial statements that are audited by an independent public accountant;
- clear and comprehensive written policies and procedures for procurement of goods and services;
- a fixed assets list containing sufficient information to identify items acquired by grant/contract funds;
- documentation of why and how the price was determined to be reasonable for sole source contracts;
- a bidding process that is adequately documented;
- functions for solicitation and evaluation of bids that are separate from selection of the contract award process;
- procedures to properly administer and monitor contracts;
- a recordkeeping system for monitoring its sub-grant-related procurement activities that is appropriately and adequately documented;
- a human resource/payroll manual with clear and comprehensive policies and procedures; and
- an appropriate and adequate effort reporting system, including proper review and approval of time allocation.¹³

¹² Bullets refer to Title I and IDEA, unless otherwise noted.

¹³ This bullet applies only to IDEA.

Attachment 2
NYSED Comments



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY
12234

DEPUTY COMMISSIONER FOR OPERATIONS
AND MANAGEMENT SERVICES
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E-mail: tsavo@mail.nysed.gov

October 16, 2009

Mr. Daniel P. Schultz
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
32 Old Slip – 26th Floor, Financial Square
New York, NY 10005

Dear Mr. Schultz:

The New York State Education Department (Department) appreciates the Inspector General's (OIG) efforts in assisting to ensure transparency and oversight of funding provided through the American Recovery and Reinvestment Act (ARRA). Prior to the commencement of your review, the Department had been actively reviewing its processes and procedures in preparation for the administration of the funds. Our initial focus was on developing processes for application review to enable the flow of funds, and developing a system for the receipt and reporting of ARRA data. We will carefully consider all of your recommendations.

As you acknowledge in your audit report (ED-OIG/A02J0006), we have modified some processes to address concerns with cash management. In addition, our Office of Audit Services (OAS), based on risk, will begin to look at interim payment requests, and section 1512 data. Our program monitoring teams are also reviewing protocols to accommodate ARRA where needed. However, compliance with many of your observations and recommendations would require changes to the fundamental way the Department administers federal grants. This would entail increased administrative costs and potentially delay the flow of federal ARRA funds to the sub-recipients. The question we face is: are the increased costs of enhanced controls necessary in comparison to the risks they would mitigate. It should be noted that in New York State almost 700 school districts, as well as other local educational agencies, will be receiving ARRA funds. New York is unique in the quantity and diversity of sub-recipients, including the largest local educational agency in the country, i.e. the New York City Department of Education.

Our more specific comments on the report's findings are discussed below.

FINDING 1: NYSED Needs to Improve its Monitoring of Sub-Recipients to Ensure Adequate Oversight of ARRA and Other Federal Funds

- ***Verification of Expenditures Prior to Payment***

The Department is fully in compliance with federal regulations regarding mandated requirements for sub-recipient financial reporting. The Education Department General Administrative Regulations (EDGAR) Section 80.41 (a) (2) relating to financial reporting prohibits grantees from imposing more burdensome reporting requirements on sub grantees than would be imposed by the federal reporting forms that states may use. The audit report appears to be asking for a level of detail in financial reporting by sub grantees that would violate Section 80.41(a) (2) and is unnecessary. Our system of financial reporting on federal grants has been in place for many years and has withstood federal audits. We believe that requiring the level of monitoring of expenditures proposed in the audit report would result in an increased burden and cost to both local educational agencies and the State that is not justified by the risk of improper expenditures. We believe that our risk-based approach to monitoring compliance effectively addresses reasonable concerns about the possible misuse of federal funds without running afoul of Section 80.41(a) (2).

Please note we do instruct agencies that they have to complete the FS-10F long form (Final Expenditure Report for Federal and State) and have it readily available for review upon request. However, they are not required to submit the long form to us unless they are late filing or the long form has been explicitly requested because an agency or program has been identified as high risk. (See, July 7, 2008, Guidance for Sub grantees, dated July 1, 2008, at: <http://www.oms.nysed.gov/cafe/guidance/fs10fsfreq.html>.) All ARRA grant programs will be required to submit the long form and a detailed review will be conducted based on risk.

- ***NYSED Monitoring Protocols Need to be Strengthened to Ensure LEAs Have Adequate Fiscal Systems***

As mentioned above, there are nearly 700 school districts in New York that will be recipients of ARRA funds. This sheer volume of districts precludes onsite verification of the types of information identified in the finding. However, the Department aggressively reviews and monitors districts' overall fiscal status through information contained in annual financial statements, Single audits, and audits conducted by the New York State Office of the State Comptroller (OSC). Many of the bulleted items contained in Attachment 1 are basic requirements of New York State General Municipal Law under which school districts operate. We disagree that there is significant risk in allowing federal funds to be paid to local educational agencies without verifying each time that the accounting systems, procurement systems, and other financial systems are compliant with state and federal law.

Since 2005, school districts have been required by Education Law §2116-b to establish an internal audit function to assess risk and evaluate internal controls, and boards of education of school districts have been required by Education Law §2116-c to establish audit committees to liaison with the district's external auditor, review the independent audit and assist the board in implementing any corrective action plans arising out of audits. School districts and charter schools are required to have independent audits conducted annually and to annually submit

them to the State Education Department. OSC has established a Uniform System of Accounts and an Accounting and Reporting Manual for School Districts, and conducts audits of school districts and boards of cooperative educational services on a regular and periodic basis. OSC is currently required to conduct an audit of every school district between March 31, 2005 and March 31, 2010. The Department's OAS also conducts additional audits as needed. OAS has issued 3 final audits in 2009 all of which examined the use of federal funds.

School districts are required to submit to the Department a corrective action plan on any audit finding. The Department receives and reviews corrective action plans related to school districts' actions to address findings contained in audits, management letters, reports on internal controls, and Single audits. These audits address the adequacy of the fiscal systems and fiscal controls used by school districts, and requiring repeated review of those fiscal systems and fiscal controls when they have previously been determined to be compliant would be unreasonable and wasteful of the resources of the state and local school districts. Under our charter school law, the charters must be renewed every five years, so their fiscal systems are subject to periodic review by a public charter entity (the State University of New York, a school district, or the Board of Regents).

The Department also sent over 1,000 letters to recipients either reminding them of their fiscal responsibilities or requesting specific corrective action plans. We believe this is a very comprehensive approach to ensuring school districts and charter schools maintain sufficient controls over fiscal reporting and use of funds. All of the Single audit findings on the use of federal funds, as well as the corrective action plans submitted by districts, are provided to Department managers responsible for the administration of the federal programs. Department managers have access to current year plus three prior year findings and corrective actions for use in monitoring activities. In addition, the recently completed external risk assessment, which was based on the results of audits, timeliness of reporting and fiscal condition, has been provided to key program managers for their use in monitoring.

In addition to fiscal monitoring outlined above, the Title I office also includes fiscal monitoring as part of their protocol. Title I monitoring is comprised of three components: 1. coordinated monitoring; 2. Title I targeted monitoring; and 3. Title I desk audits. All three of these monitoring protocols include a fiduciary section which includes a review of allowable activities/expenses, reviews of personnel records including required teacher certifications, payroll records, payroll certifications, allocation policies, equipment purchases and inventory lists, contract services, and travel related costs. Both the coordinated and targeted monitoring are conducted on-site and include visits to non-public schools that may be associated with the public school district. During non-public school visits we conduct a comprehensive review of equipment that may have been purchased by the public school district.

- ***NYSED Monitoring Protocols Need to be Strengthened to Ensure they Address ARRA Requirements and Needs to Revise its Monitoring for ARRA Requirements***

In addition to this ongoing oversight, we are developing ARRA monitoring plans. The monitoring begins with the application review to determine if proposed uses are in compliance with the intent of the law. Protocols have not been finalized, but the monitoring will include

enhanced desk reviews where LEA's will be asked to submit supporting documentation, and onsite verification by program office staff and/or audit staff as appropriate.

FINDING 2: NYSED Needs to Strengthen its Controls Over Cash Management at LEA's to Ensure Adequate Oversight of ARRA and Other Federal Funds

The report cites the Department for the lack of procedures to minimize the time lapse between the drawdown and disbursement of federal funds. The report specifically cites the advance payments, as well as any interim payment up to 90 percent. The report acknowledges that the Department has modified the interim payment process to only allow a one month prospective payment.

We are concerned that moving to a more restrictive cash management policy would be contrary to the intent of ARRA. Our analysis of payment data indicates that many sub grantees do not receive initial payments until significant time has elapsed. Local educational agencies are dependent upon receipt of advances of federal funds based on projected payroll costs on a regular basis in order to make their payrolls. Moving to a strict reimbursement system or delaying payments to local educational agencies in order to verify cash balances prior to each payment, will severely impact cash flow and create the risk of causing layoffs at the local level. As cited in the report, the Department has recently made changes to procedures relating to cash management such as limiting advances to estimated expenditures in the next month rather than the next quarter. We believe this approach appropriately addresses the real risks involved.

We are prepared to refine our procedures relating to the earning of interest and to make adjustments as needed to verify that advances previously made were justified. In addition, we will monitor cash balances on a risk-based approach. We have notified all sub grantees of their responsibility to remit any amount over \$100 of interest earned on federal funds and to require reporting by LEA's of any interest earned on federal advances. We are also considering methods to review the reasonableness of cash balances based on information submitted to the Department. We will also incorporate cash management review on a risk basis.

FINDING 3: NYSED has not Made Sufficient Progress in Establishing Controls to Ensure Compliance with ARRA Reporting Requirements

Clearly, this is a challenge facing all states, and the receipt of complete guidance from the federal government on the form and content of required reports factored into any perceived delay. In April 2009, the Department created a workgroup consisting of staff from many program offices to guide Department efforts in meeting ARRA Section 1512 data reporting requirements. A web-based method was created to allow sub recipients to report the data to the Department. At the time of this response we have completed the first cycle of reporting. We are assessing the results of our initial submission and will make any procedural changes that are needed.

FINDING 4: NYS Governor's Office has not Defined Roles of State Agencies Administering SFSF

We acknowledge that the Department has not entered into a written agreement with the Governor's office regarding SFSF. However, weekly meetings are held between the Department and the Governor's office in addition to daily contacts on an as needed basis. Through the formal meetings and other contacts, the roles and responsibilities have been clearly established. The Department is responsible for the controls over data quality, cash management, sub recipient monitoring and use of funds by sub recipients.

If you have any questions or would like to discuss our response, please contact James Conway at (518) 473-4516.

Sincerely,

/s/

Theresa E. Savo

c: Timothy Gilchrist
Duffy Palmer
Commissioner David Steiner
John King
Rebecca Cort
James Conway

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