

New Mexico Performance Review Report FY 2018

12/26/2018

Commendations

0

Met Requirements

15

Recommendations

6

Action Required

7



U.S. Department of Education
Office of State Support
Office of Elementary and Secondary Education
400 Maryland Avenue, SW
Washington, DC 20202

Office of State Support Performance Review Process

The Office of State Support (OSS) provides coordinated policy development, performance management, technical assistance, and data analysis services through a state support team structure that deepens partnerships with States and more effectively supports their implementation of key reforms that will lead to improved outcomes for all students. OSS administers programs of financial assistance to State and local educational agencies and to colleges and universities. Under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), OSS administers several Title I programs of supplementary instruction and other services. This includes the School Improvement Grants program authorized in section 1003(g) of Title I, Part A, of the ESEA, as amended by the No Child Left Behind Act of 2001, and the Improving Basic Programs Operated by Local Educational Agencies (LEAs) under Title I of the ESEA, as amended by ESSA. Under Title II, Part A of the ESEA, OSS administers the Improving Teacher Quality State Grants. Under Title III of the ESEA, OSS administers the State Formula Grant Program for English Language Acquisition and Language Enhancement. OSS also administers the State Assessment Grant, Innovative Assessment and Accountability Demonstration Authority, and Flexibility for Equitable Per-Pupil Funding programs authorized in section 1201, 1204, and 1501 of the ESEA.

OSS is organized specifically to provide high-quality performance management and support to State education agencies (SEAs) in administering and leveraging the grant programs above, focusing on the SEA's quality of implementation while continually reducing the burden to the State in the exercising of the United States Department of Education's (the Department's) necessary stewardship and compliance role. Quarterly progress checks, Desk Reviews, and On-Site Reviews help ensure that SEAs are making progress toward increasing student achievement and improving the quality of instruction for all students through regular conversations about the quality of SEA implementation of OSS-administered programs.

The goals of the OSS performance review process are to conduct a State-centered, performance-focused review of all OSS programs through a single, streamlined process that results in improved and strengthened partnerships between the Department and States and encourages States to develop and effectively implement integrated and coherent consolidated State plans. To accomplish these goals, the OSS performance review process is organized by areas, which reflect the programmatic and fiscal requirements and priorities of OSS programs.

Performance Review Report

The Performance Review Report summarizes the results of the July 30 – August 2, 2018, OSS review of the New Mexico Public Education Department's (NMPED's) grant administration and fiscal management processes. The report is based on information provided through the review process, and other relevant qualitative and quantitative data. The primary goal of this review is to ensure that implementation of the four programs listed above is consistent with the fiscal, administrative, and select program requirements contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance: 2 Code of Federal Regulations (CFR) Part 200), the Education Department General Administrative Requirements (EDGAR), and the ESEA, as amended by the ESSA, and, where applicable, NCLB. In addition, the review covers State internal controls related to data quality and reporting and encompasses those fiscal and data reporting requirements applicable to the covered programs under both NCLB and the ESSA.

Section I: State Overview

As part of this document the OSS includes relevant State background information as a way of providing context for the review conversation. All data presented in Section I are reported by grantees to either the National Center for Education Statistics (NCES), Common Core of Data (CCD), or through standard oversight activities.

Section II: Grant Administration and Fiscal Management Performance Evaluation

The information provided in Section II is intended to help a State quickly assess whether there are sufficient capacities, infrastructure, and resources allocated to State activities by area, in a manner that enables the State to achieve its strategic goals for the reviewed Federal programs. The section provides the State and the OSS' rating of performance on grant administration of applicable Title I, Part A; Title II, Part A; Title III, Part A; and School Improvement Grant programs in fiscal year 2017. Each area rating is a reflection of how a State is addressing fiscal and cross program requirements. The State rating column is populated based on the self-assessment completed by the State prior to the review. OSS' analysis for each area is primarily based on evidence submitted by the State in the form of answers to the self-assessment questions, documents submitted by the State prior to the review, and the responses provided to questions during the review.

OSS' rating is also informed by evidence collected through public sources and other components of the performance review process. In some cases area ratings may overlap (e.g., Risk Assessment and Procurement) and feedback is provided in the cross-cutting subsection that appears at the end of Section II.

Ratings are based on a four-point scale, for which "met requirements with commendation" represents high quality implementation where the grantee is exceeding expectations; "met requirements" indicates that work is of an acceptable quality and the grantee is meeting expectations; "met requirements with recommendations" indicates there are quality implementation concerns and some improvements could be made to ensure the grantee continues to meet expectations; and "action required" indicates there are significant compliance or quality concerns that require urgent attention by the SEA and will be revisited until the State has remedied the issue.

Section III: Met Requirements with Commendation



This section highlights the areas where the State has exceeded requirements and is commended on the grant administration and fiscal management as identified in Section II of this report (*i.e.*, those areas categorized as "met requirements with commendation"). In addition, this section provides an opportunity for the OSS to highlight those areas where the State has implemented an innovative or highly successful system or approach. In these areas, the OSS is not recommending or requiring the State to take any further action.

Section IV: Met Requirements



This section identifies those areas where the OSS has determined that the State has met basic requirements of grant administration and fiscal management and is implementing those requirements in a satisfactory manner as identified in Section II of this report (*i.e.*, those areas categorized as satisfactory quality, “met requirements”). The description of satisfactory implementation by relevant area and requirement is an indication of an acceptable implementation quality level. In these areas, the OSS is not recommending or requiring the State to take any further action.

Section V: Met Requirements with Recommendations



This section identifies those areas where the OSS has quality implementation concerns related to grant administration and fiscal management as identified in Section II of this report (*i.e.*, those areas categorized as quality concerns, “met requirements with recommendations”). In these instances, the OSS is determining that the State is currently complying with requirements, but that improvements could be made to improve the efficiency or effectiveness of operations. Identified issues are grouped according to relevant area and requirement, with citations provided. For each issue listed, the OSS will provide a recommendation for improvement, but is not requiring the State to take any further action.

Section VI: Action Required



This section identifies those areas where the OSS has “significant compliance and quality concerns” (corresponds to “action required” in Section II). For those issues the OSS will outline the current practice, the nature of noncompliance, and the required action. Documentation of required action must be provided to the OSS within thirty (30) business days of the receipt of the final Performance Review Report.

State Overview¹



COVERED GRANT PROGRAMS

TITLE I, PART A; TITLE II, PART A (TITLE II); TITLE III, PART A (TITLE III), SCHOOL IMPROVEMENT GRANTS (SIG)



STUDENT CHARACTERISTICS

Enrolled:	340,365	Limited-English Proficiency: ²	16%
In Title I Schools: ³	69.5%	Eligible for Free & Reduced Lunch:	72%



RACIAL/ETHNIC BACKGROUND (%)

White:	23.6	Asian or Pacific Islander:	1.1
Hispanic:	61.3	American Indian/Alaskan Native:	10.2
Black:	1.9	Native Hawaiian/Other Pacific Islander:	0.1



SCHOOL & LOCAL EDUCATIONAL AGENCY (LEA) CHARACTERISTICS

LEAs:	151	FTE Teachers:	21,722
Schools:	892	Per-Pupil Expenditures: ⁴	\$9,403
Charter Schools:	94		



FEDERAL FUNDING⁵

Total:	\$144,351,342	Title III, Part A:	\$4,672,916
Title I, Part A:	\$119,664,883	SIG ⁶ :	\$3,879,545
Title II, Part A:	\$16,133,998		

¹ Data Source: The Department, CCD, 2015-2016 school year, unless otherwise noted (see <http://eddataexpress.ed.gov/> and <http://nces.ed.gov/ccd/elsi/> for additional information).

² Data from 2014-2015.

³ Schools eligible for Title I, Part A schoolwide programs are also included in the count of all Title I, Part A eligible schools. A Title I, Part A eligible school is one in which the percentage of children from low-income families is at least as high as the percentages of children from low-income families served by the LEA as a whole or because 35 percent or more of the children in the school are from low-income families. A schoolwide Title I, Part A eligible school has a percentage of low-income students that is at least 40 percent. Data is from 2014-2015.

⁴ Data Source: The Department, NCES, CCD, "National Public Education Financial Survey (State Fiscal)", 2013-2014 (Fiscal Year 2014), v.1a. (see <http://nces.ed.gov/ccd/elsi/> for additional information).

⁵ FY 2017 funds included above are from OSS administered programs that allocate funds to States using a statutory formula. The totals do not reflect all Department funds that flow to a State. States and other entities may also receive funds from grants that are awarded on a competitive basis.

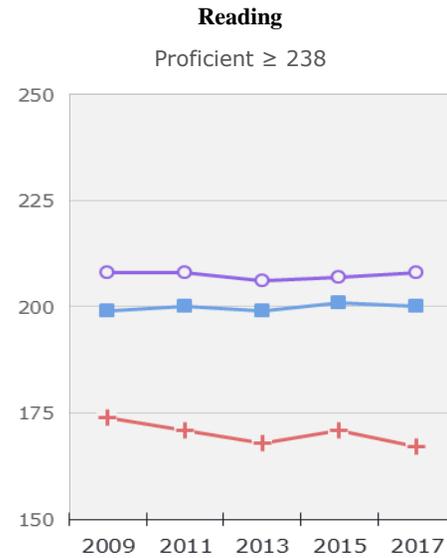
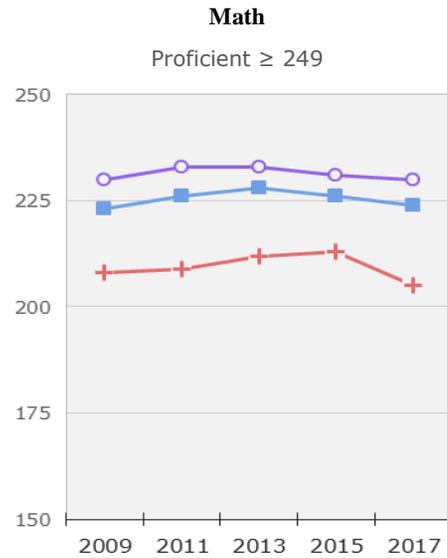
⁶ FY 2015

NAEP Average Scale Scores by Grade & Year

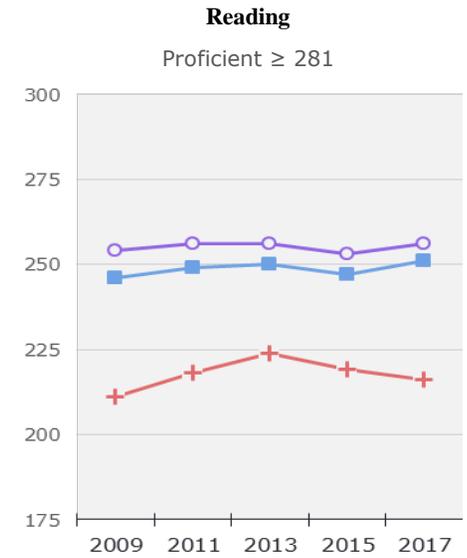
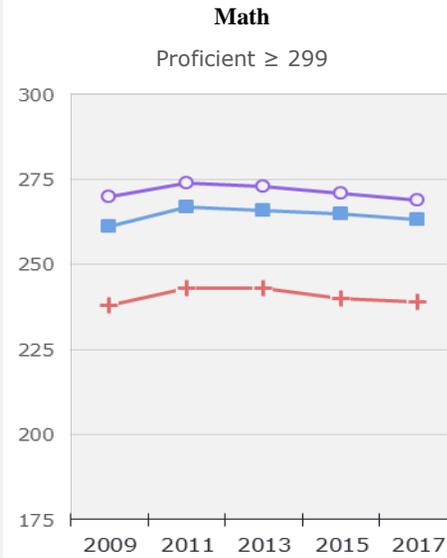
The National Assessment of Educational Progress (NAEP) is the largest nationally representative and continuing assessment of what America's students know. The NAEP mathematics and reading scales range from 0–500.

- All
- Low-income students
- ✚ EL students

Grade 4



Grade 8



	All	Low-Income	EL
2009	230	223	208
2011	233	226	209
2013	233	228	212
2015	231	226	213
2017	230	224	205

	All	Low-Income	EL
2009	208	199	174
2011	208	200	171
2013	206	199	168
2015	207	201	171
2017	208	200	167

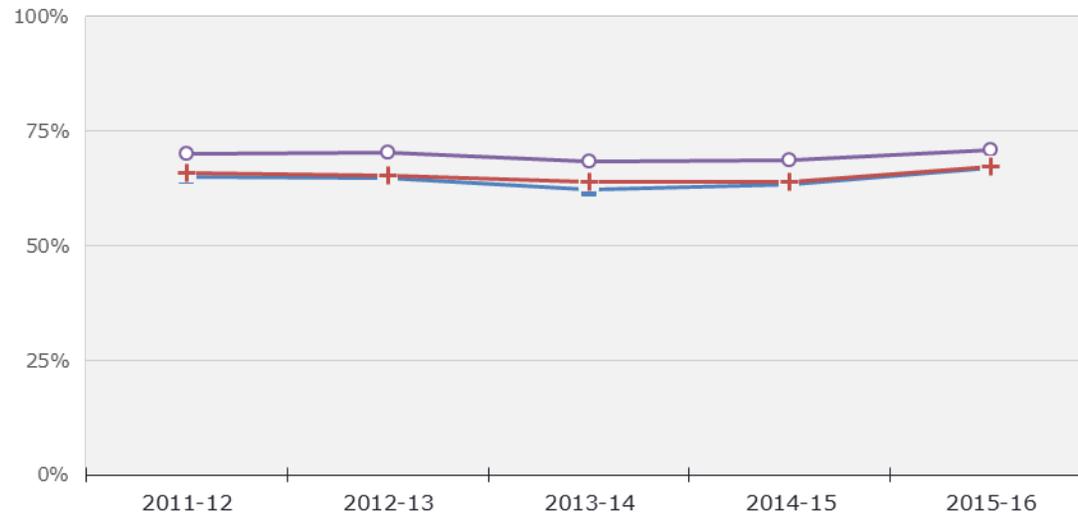
	All	Low-Income	EL
2009	270	261	238
2011	274	267	243
2013	273	266	243
2015	271	265	240
2017	269	263	239

	All	Low-Income	EL
2009	254	246	211
2011	256	249	218
2013	256	250	224
2015	253	247	219
2017	256	251	216

ADJUSTED COHORT GRADUATION RATE (ACGR) BY SCHOOL YEAR

The four-year adjusted cohort graduation rate is the number of students who graduate in four years with a regular high school diploma divided by the number of students who form the adjusted cohort for the graduating class. From the beginning of 9th grade (or the earliest high school grade), students who are entering that grade for the first time form a cohort that is “adjusted” by adding any students who subsequently transfer into the cohort and subtracting any students who subsequently transfer out, emigrate to another country, or die. There are some differences in State implementation of the ACGR requirements, leading to the potential for differences across in how rates are calculated. (See <http://www2.ed.gov/admins/lead/account/consolidated/index.html> for additional information on interpreting this data)

- All
- Low-income students
- ✚ EL students



	All	Low Income	EL
2011-12	70.0%	65.0%	66.0%
2012-13	70.3%	64.7%	65.4%
2013-14	68.5%	62.3%	63.9%
2014-15	68.6%	63.5%	64.0%
2015-16	71.0%	66.9%	67.4%

SECTION II

Grant Administration and Fiscal Management Evaluation

Dates of Review	July 30 – August 2, 2018
Reviewers	<p>Katherine Cox (Office of State Support)</p> <p>Lisa Sadeghi (Office of State Support)</p> <p>Michael Wells (Office of State Support)</p> <p>Christopher Fenton (Office of State Support)</p> <p>John Keefer (Management Support Unit)</p> <p>Shane Morrisey (Management Support Unit)</p>
LEA Participants	<p>Albuquerque Public Schools (Albuquerque, NM)</p> <p>Tierra Adentro of New Mexico Charter School (Albuquerque, NM)</p>
Current Grant Conditions	<p>Title I, Part A: Information needed on NMPED’s standards and assessment system under section 1111(b)(1) and (3) of NCLB, and as continued under section 1111(b)(1) and (2) of the ESSA. NMPED provided some information for review in February 2018. If not resolved in a timely manner, the Department may request additional information, revise this condition to require further action, or provide notice of its intent to take further administrative action.</p> <p>Title II, Part A: None</p> <p>Title III, Part A: None</p> <p>SIG: None</p>
Outstanding Findings	<p>Title I, Part A: None</p> <p>Title II, Part A: None</p> <p>Title III, Part A: None</p> <p>SIG: None</p>
High Risk Status	Not Applicable

Assessment Criteria Key



Met requirements with commendation

High quality implementation & compliance.



Met requirements

Satisfactory implementation & compliance.



Met requirements with recommendation

Satisfactory compliance with quality concerns.



Action required

Significant compliance & quality concerns.

		SEA	OSS
Accounting Systems and Fiscal Controls	A	●●●●	●●●○
Period of Availability and Carryover	B	●●●●	●○○○
Internal Controls (Control Environment and Control Activities)	C	●●●●	●○○○
Audit Requirements	D	●●●●	●○○○
Records and Information Management	E	●●●●	●●●○
Equipment Management	F	●●●○	●●●○
Personnel	G	●●●●	●●○○
Procurement	H	●●●●	●●●○
Indirect Costs	I	●●●●	●●●○
Charter School Authorization and Oversight	J	●●●○	●●●○
Reservations and Consolidation	K	●●●●	●●●○
Budgeting and Activities	L	●●●●	●●●○
Allocations	M	●●●●	●●○○
Risk Assessment	N	●●●○	●●●○
Subrecipient Monitoring	O	●●●○	●●○○
LEA Support and Guidance	P	●●●○	●●●○
Supplement Not Supplant	Q	●●●○	●●●○
Maintenance of Effort (MOE)	R	●●●●	●●●○
Comparability	S	●●●○	●●●○
Equitable Services	T	●●●○	●●●○
Data Quality	U	●●●○	●●○○
Transparency and Data Reporting	V	●●●●	●○○○
State Plan	W	●●●○	●●●○

Public School Choice	X		
Indicators	Y		
Annual Meaningful Differentiation	Z		
1003(A) School Improvement	AA		
Support and Improvement Plans	BB		

SECTION III

Met Requirements with Commendation

No areas reviewed were identified for commendation.

SECTION IV

Met Requirements

A.

ACCOUNTING SYSTEMS AND FISCAL CONTROLS



REQUIREMENT SUMMARY

An SEA shall expend and account for Federal funds in accordance with State laws and procedures for expending and accounting for State funds. State accounting systems must satisfy Federal requirements regarding the ability to track the use of funds and permit the disclosure of financial results. SEAs must have written procedures for determining cost allowability and must maintain effective control over all funds.

Uniform Guidance 2 C.F.R. 200.302

EDGAR 34 C.F.R. 76.702



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

During the review, the New Mexico Public Education Department (NMPED) provided the Department with its Grants Management Manual. The manual describes the Statewide Human Resources Accounting Reporting System (SHARE), which is used to submit, track, and trace NMPED's budget. SHARE provides management, general ledger, and human resource/payroll management capabilities and support.

LEAs use another system, the Operating Budget Management System (OBMS), which serves as a budget management system, budget adjustment request tracking system, and data warehouse system. NMPED uses this system to track and trace budget items and enhance reporting for subrecipients. NMPED reviews requests from LEAs sent via this system for allowability.

E.

RECORDS AND INFORMATION MANAGEMENT



REQUIREMENT SUMMARY

An SEA shall keep records that fully show the amount of funds under a grant award or subgrant, how the SEA used the funds, the total costs of Federally supported projects, the share of costs provided from other sources, records to show compliance with program requirements, and any other records needed to facilitate an effective audit. An SEA shall also take reasonable measures to safeguard and protect personally identifiable information (PII). PII is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual

Uniform Guidance 2 C.F.R. 200.79, 200.303(e), §200.333, §200.336(a)

EDGAR 34 C.F.R. §76.730-731



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

During the review, NMPED provided a copy of its records retention schedules as well as a copy of a training intended for personnel who manage official records. The NMPED Grants Management Manual states that NMPED and its subrecipients retain records for a minimum of five years from the date on which its final Financial Status Report is submitted.

During the review, NMPED explained that unique identifiers are used for students within its system to protect personally identifiable information (PII) from disclosure. Access to PII is limited based on need, and a list of individuals with access to PII within the NMPED system is reviewed regularly. Additionally, a risk vulnerability scan is run annually to help ensure the security of NMPED's information system.

G.

PERSONNEL**REQUIREMENT SUMMARY**

An SEA shall ensure that charges to Federal awards for salaries are based on records that accurately reflect the work performed. These records must be supported by a system of internal controls which provide reasonable assurance that the charges are accurate, allowable, and properly allocated.

Uniform Guidance 2 C.F.R. §200.430

DESCRIPTION OF SATISFACTORY IMPLEMENTATION

In the NMPED Grants Management Manual provided to the Department prior to the review, it is stated that semi-annual certification is required for single-cost objective employees. Personnel Activity Reports (PARs) are required for employees working on multiple cost objectives. PARS must be prepared at least monthly and be signed by the employee. Additionally, NMPED reviews time distribution records and compares actual costs to budgeted distributions on a quarterly basis.

H.

PROCUREMENT



REQUIREMENT SUMMARY

An SEA shall ensure that all relevant State procurement procedures are followed when procuring goods and services using Federal funds. An SEA must also maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specification of their contracts.

Uniform Guidance 2 C.F.R. §200.317, §200.322, and §200.326

DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NMPED's process for procuring goods and services using Federal funds is outlined in its Grants Management Manual. The manual outlines the procurement procedures for professional services contracts and for other types of purchases. Selection of procurement method and required competition level are dependent on the acquisition's expected purchase value. For micro-purchases, those purchases where competition is not required because of the minimal value of the transaction, NMPED staff must still evaluate both current and previous purchases to ensure that all qualified suppliers are being considered. Under the manual, all purchases regardless of value must be reviewed and approved by the NMPED Procurement Bureau before approval and finalization. The manual also outlines ethical considerations to be followed during procurement, including a section on avoiding conflicts of interest.

To ensure subrecipients are complying with all applicable Federal and State procurement requirements, NMPED provides training and guidance to LEAs. NMPED provided samples of training materials covering procurement requirements, with particularly helpful guidance outlining the overlap between Federal and State procurement requirements and clear explanations of which procurement requirement, Federal or State, is most restrictive and therefore must be followed for different transaction values. NMPED also reviews LEA procurement processes during the review of LEA Request for Reimbursements (RfRs). When reviewing RfRs that include procured goods or services, NMPED will request samples of procurement documentation to verify not only that the costs were allowable, but that applicable procurement requirements and required procurement methods were followed.⁷

⁷ During the review, NMPED noted that the primary method of exercising oversight of LEA procurement procedures and practices was through the review of LEA RfRs. During this process, NMPED staff occasionally request documentation related to procurement transactions which they review as part of their overall analysis of expenditure allowability. While this practice does provide some level of oversight of LEA procurement practices, as noted in the section of this report dealing with Subrecipient Monitoring, additional coverage during other fiscal monitoring activities could be beneficial.

I.

INDIRECT COSTS**REQUIREMENT SUMMARY**

An SEA shall ensure that indirect costs are only charged at the correct indirect cost rate. An indirect cost is a cost that is incurred for the benefit of the entire organization.

Uniform Guidance 2 C.F.R. §200.414

EDGAR 34 C.F.R. §76.560-569

**DESCRIPTION OF SATISFACTORY IMPLEMENTATION**

NMPED establishes LEA indirect cost rates each year with a methodology approved by the Department. These rates are published annually in the NMPED Federal Flowthrough Procedures Manual. NMPED uses the Request for Reimbursement (RfR) process to annually reconcile LEA indirect costs. If there has been an indirect cost overage, the RfR will be adjusted.

J.

CHARTER SCHOOL AUTHORIZATION AND OVERSIGHT



REQUIREMENT SUMMARY

The SEA provides information on OSS programs (i.e., allocations; applications; and requirements, including requirements for proper disposition of equipment and property) to all charter schools and LEAs and Charter Management Organizations (CMOs) or Education Management Organizations (EMOs) that oversee charter schools, has established internal controls related to the charter schools' relationships with their CMOs/EMOs, and has clear procedures that are systematically monitored for orderly closure, where applicable.

ESEA §1122(c) and 1125A(g)(3)

EDGAR 34 C.F.R. §74.42, §74.45-46, §74.48, §75.525(a), §75.525(b), and §80.36(b)

Uniform Guidance 2 C.F.R. §200.318(c)

Final Audit Report: ED-OIG/A02M0012



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NMPED provided the Department with descriptions and evidence regarding the process for charter school authorization in the State, both for State-authorized and LEA-authorized charter schools. To ensure that new charter LEAs are aware of funding opportunities, application requirements, and grant requirements, NMPED annually meets with charter LEAs for a full-day overview of Federal programs. Once charter LEAs are established and operating Federal programs, NMPED ensures that the charter LEAs are included in all Statewide conferences, regional trainings, and communications with LEAs. NMPED has defined significant expansion for charter LEAs and has established a process to review charter LEA attendance data to verify which schools have significantly expanded for the purposes of determining full and complete program allocation. As with traditional LEAs in New Mexico, charter LEAs are also included in the RfR review process and can receive on-site technical assistance visits where warranted. To facilitate charter closure, NMPED utilizes a closure checklist and an external contractor to oversee the closure process and ensure that all requirements are met.

K.

RESERVATIONS AND CONSOLIDATION



REQUIREMENT SUMMARY

The SEA shall ensure that the amount of program funds reserved for administration and other State activities does not exceed statutory limits for each program. SEAs are permitted to consolidate the administrative set-asides from several ESEA programs (Title I, Title IIA, Migrant Education Program, Negligent and Delinquent Youth Program, Rural and Low Income Schools Program, and the 21st Century Community Learning Centers Program) in order to administer them collectively.

ESEA §1003(a), §1003(g)(8), §1004(a)(1), §2113(c), §2113(d), §3111(b)(3), and §9201(a)

EDGAR 34 C.F.R. 299.4



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NMPED uses the sample reservations spreadsheet provided by the Department to set up the amount of allowable State reservations for each of the covered grant programs in the State's SHARE system and provides that information to NMPED program staff use to create each program's annual budget. NMPED staff use preliminary allocations during the budgeting process and then provide program staff with a final reservation when final allocation amounts are provided by the Department. NMPED uses an automated calculation to determine the amounts and performs monthly checks by program managers and quarterly checks by program directors to ensure the correct reservation amounts and use of funds are maintained. NMPED confirmed that reserved amounts are used only for allowable administrative and State activity expenditures. Where grant funds are consolidated, individual grant funds are tracked using unique identifiers through the SHARE system.

L.

BUDGETING AND ACTIVITIES



REQUIREMENT SUMMARY

An SEA and its subrecipients can only use program funds for allowable costs, as defined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements (2 C.F.R. §200), which include, among other things, the requirement that costs be reasonable and necessary for the accomplishment of program objectives.

Uniform Guidance 2 C.F.R. §200.403-408 and §200.420-475

EDGAR 34 C.F.R. §76.530

DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NMPED utilizes multiple review processes covering each stage of the grant cycle to ensure that LEAs use program funds only for allowable costs. During the review process for the LEA's initial application, NMPED evaluates LEA-level program budgets to ensure that all proposed uses of program funds are allowable under the Federal cost principles and aligned with the goals and purposes of the applicable program. Training and technical assistance are provided by NMPED staff both prior to and during the application process. During the award period, NMPED engages in ongoing reviews during the LEA RfR process. NMPED staff review RfRs to ensure expenditures align with budgets and plans. NMPED also provides LEAs with an application handbook that outlines Federal and State requirements and ensures program liaisons work closely with LEA staff during the budget preparation and application process, and in the post-award phase.

N.

RISK ASSESSMENT



REQUIREMENT SUMMARY

In order to determine the appropriate method and level of subrecipient monitoring, an SEA shall evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward.

Uniform Guidance 2 C.F.R. §200.331(b)



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NMPED performs an annual subrecipient risk assessment to identify which LEAs have a higher risk of noncompliance with Federal statutes, regulations, and the terms and conditions of Federal awards. NMPED includes information on staffing, audit results, previous monitoring findings, assessment, and accountability in their risk assessment. NMPED utilizes its risk assessment results to plan technical assistance activities and to identify necessary updates to guidance materials. In addition to its annual risk assessment, NMPED uses a risk assessment protocol during the LEA RfR process.

P.

LEA SUPPORT AND GUIDANCE



REQUIREMENT SUMMARY

An SEA shall have procedures for providing technical assistance and evaluating how project funds were spent, if they were spent in compliance with statutes and regulations, and if expected outcomes were achieved as a result of spending.

EDGAR 34 CFR 76.770

DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NMPED provides guidance and technical assistance to LEAs through a variety of methods. NMPED hosts webinars, publishes a technical assistance manual, conducts on-site technical assistance visits, provides information on the SEA website, and provides ad hoc guidance to LEAs. Additionally, NMPED staff regularly communicate program updates and guidance to LEAs through emails and calls. NMPED utilizes the RfR process as a means to identify issues requiring updated guidance or direct technical assistance. To ensure that guidance and technical assistance efforts are meeting LEA needs, NMPED utilizes a process taken from its State Systemic Improvement Plan (SSIP) in collaboration with the Title I bureau termed “Results Driven Accountability” for Title I elementary schools. The process involves review of student achievement data and alignment with program plans to drive the evaluation, activities, and outputs for all RDA programming.

Q.

SUPPLEMENT NOT SUPPLANT



REQUIREMENT SUMMARY

The State and its subgrantees must ensure that funds from the Title I, Part A, Title II, Part A and Title III, Part A programs are used to supplement not supplant State and local funds (as well as other Federal funds for the Title III, Part A program).

ESEA §1114(a)(2)(B), §1120A(b), §2113(f), §2123(b), and §3115(g)

EDGAR 34 C.F.R. §200.79

DESCRIPTION OF SATISFACTORY IMPLEMENTATION⁸

NMPED uses both pre-award and post-award checks to ensure that subrecipients use program funds to supplement, rather than supplant, State and local funds. During the application process, NMPED reviews proposed program budgets to determine whether any planned expenditures would result in supplanting of State and local funds.

Where proposed expenditures are determined to represent supplanting, NMPED provides technical assistance and requires subrecipients to remove the expenditures and resubmit the proposed budget. NMPED's consolidated subaward application requires assurances related to supplement not supplant requirements before a subaward application can be approved.

Once the budgets are approved and the subgrants are issued, NMPED reviews each submitted RfR to ensure that the actual expenditures align with the approved budget and that the expenditures would not result in supplanting. Finally, NMPED is developing a plan to include a review of compliance with supplement not supplant as part of the on-site LEA visits starting in school year 2018-2019.

⁸ Due to the timing of the review, requirements for supplement, not supplant were evaluated according to requirements outlined in NCLB. The Department provided flexibility to meet the supplement, not supplant requirements for the ESEA as amended by ESSA until the 2018-2019 school year. (<https://www2.ed.gov/policy/elsec/leg/essa/snstransition126.pdf>)

R.

MAINTENANCE OF EFFORT



REQUIREMENT SUMMARY

An SEA shall ensure that each LEA shall have an amount of funding not less than 90% of the amount available the preceding year.

ESEA §9521

EDGAR 34 C.F.R. 299

DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NMPED performs annual MOE calculations using LEA-level spending data from the OBMS. Student counts and funding amounts are reviewed to determine if the required minimum 90 percent level of effort has been maintained. Where NMPED identifies an LEA that fails to maintain effort in a given fiscal year, NMPED reduces the LEA's Federal program award in proportion to the deficiency, if no waiver was granted by the Department. NMPED reported they have not had any LEAs fail to meet MOE requirements in the last few years.

S.

COMPARABILITY**REQUIREMENT SUMMARY**

The SEA may only provide Title I, Part A funds to an LEA if State and local funds will be used in schools served by Federal programs to provide services that, on the whole, are at least comparable to services in schools that are not receiving Title I funds.

ESEA §1120A(c)

**DESCRIPTION OF SATISFACTORY IMPLEMENTATION**

NMPED requires LEAs to demonstrate comparability annually. The comparability report is made available online to LEAs in November and LEAs are required to complete their report by the second week in December. NMPED program staff review the submissions to ensure accuracy and when non-comparable schools are identified, NMPED requires the LEA to adjust staffing levels by mid-January. This process ensures any needed changes are made during the break between fall and spring semesters. NMPED also provides periodic training, guidance, and targeted technical assistance to LEAs regarding comparability requirements.

T.

EQUITABLE SERVICES



REQUIREMENT SUMMARY

An SEA shall ensure that LEAs use Federal funds to provide benefits to eligible children enrolled in private schools and to ensure that teachers and families of participating private school children participate on an equitable basis.

ESEA §1117, §8501

ESEA Regulations 34 C.F.R. 299.6, 34 C.F.R. 299.9

Title I Regulations 34 C.F.R. 200.62-67

EDGAR 34 C.F.R. 76.661



DESCRIPTION OF SATISFACTORY IMPLEMENTATION

NMPED requires LEAs to annually submit documentation that certifies that the LEA has conducted meaningful consultation and reviewed data needed to determine the amount of funds to be reserved for equitable services by each LEA. NMPED provides a compliance questionnaire for LEAs to use that documents the required consultation process from the previous year along with data procedures, program evaluation, and documentation of services provided. Private schools have access to the online application, and provide information on consultation and services. Once all documentation is received, NMPED staff verify the budgeted amounts for each LEA during the consolidated application review process. The equitable services share for each LEA and the applicable private schools is calculated and included in the LEA budget. LEAs are required to notify private schools of the equitable services allocation amounts, and NMPED follows up to ensure that information has been provided in a timely manner. The NMPED ombudsman works with LEAs and private schools to provide technical assistance, to facilitate LEA and private school communication, and to resolve disputes.

W.

STATE PLAN**REQUIREMENT SUMMARY**

Each SEA shall file a plan with the Secretary that is developed by the SEA with timely and meaningful consultation with certain individuals and groups, as specified in ESEA section 1111(a)(1)(A), and may submit a consolidated State plan for each of the covered programs in which the State participates and such other programs as the Secretary may designate. Each plan will remain in effect for the duration of the State's participation in the identified programs and shall be periodically reviewed and revised as necessary by the SEA to reflect changes in the State's strategies and programs. If a State makes significant changes to its plan at any time, such information shall be submitted to the Secretary in the form of revisions or amendments to the State plan.

ESEA §1111(a)(1)-(8), §8302

**DESCRIPTION OF SATISFACTORY IMPLEMENTATION**

The Department approved NMPED's State plan on August 9, 2017. To ensure the State plan is implemented as approved, NMPED assigned one staff member this task as his/her full time job and monthly meetings are held to review State plan implementation.

SECTION V

Met Requirements with Recommendation

G.

EQUIPMENT MANAGEMENT



ISSUE

During the review, NMPED noted that it rarely purchases equipment with Federal funds, with FY 2018 being the first fiscal year in the past five that it has done so. Nonetheless, NMPED provided clearly documented procedures for property management systems, including categories of items tracked within NMPED asset modules, references to statewide maintenance procedures, and requirements for completion of an annual physical inventory by the Audit and Accounting Bureau Chief.

To ensure that subrecipients are aware of equipment and supplies requirements, NMPED includes content on Uniform Guidance requirements for equipment and supplies in training materials provided to LEAs at annual conferences. However, the Department identified two areas where NMPED could improve its oversight of LEA equipment and supplies management:

1. Under NMPED procedures, where an LEA is planning to use funds for the purchase of an item costing greater than \$5,000, the LEA must first submit a form to NMPED requesting permission to make the purchase and receive approval for the purchase. During the review, however, NMPED staff noted that LEAs do not always request permission before making the purchase, but instead provide the form after the purchase has already been made (without any consequence for the purchasing LEA). Given that NMPED has determined that such purchases warrant additional scrutiny, failing to impose consequences where LEAs do not obtain permission before making such purchases increases the risk that items might be purchased that are not allowable.
2. NMPED noted that it discusses equipment purchases during LEA technical assistance visits but characterized these conversations as

REQUIREMENT SUMMARY

An SEA shall use, manage and dispose of equipment and supplies purchased using Federal funds in accordance with all relevant State laws and procedures. SEAs shall also ensure that equipment and supplies are used only for authorized purposes of the project during the period of performance (or until no longer needed).

Uniform Guidance 2 C.F.R. §200.313-314

GAO Green Book Principle 10.03

focused on the use of equipment toward program objectives rather than discussion regarding compliance with Federal and State equipment requirements. NMPED noted that LEA compliance with Federal equipment requirements are primarily reviewed by external auditors. While conversations regarding the use of items are important to ensure that LEAs are using program funds toward accomplishing goals, NMPED is missing the opportunity to exercise oversight of LEA equipment and supplies management procedures.



RECOMMENDATION

To address these issues, the Department recommends that:

1. NMPED consider imposing consequences on LEAs that purchase items with an acquisition cost greater than \$5,000 without obtaining proper approvals under NMPED procedures. Such consequences could include an on-site monitoring visit or desk monitoring review, an elevated risk score on NMPED's subrecipient risk assessment, or requiring the LEA to reimburse the Federal program and pay for the item out of State or local funds. Any of these steps could serve as a deterrent for an LEA to make such purchases without NMPED approval.
2. NMPED consider including equipment and supplies management requirements in its subrecipient monitoring activities. A formal review of LEA equipment inventory procedures, property records, and equipment disposal procedures could help ensure that LEAs are appropriately managing assets purchased using Federal funds and that purchased items are sufficiently safeguarded and accounted for.

M.

ALLOCATIONS



REQUIREMENT SUMMARY

SEAs shall ensure that, when subawarding funds to LEAs or other subrecipients, it makes subawards in accordance with applicable statutory requirements (including requirements related to the process for subawarding funds and the amounts to be subawarded to individual subrecipients).

ESEA §1124, §1124A, §1125, §1126(b), §2121, §2122(a), §2132, §3111(b)(1), §3114, §3116(a), §1003(g)(5), and §1003(g)(7)

EDGAR 34 C.F.R. §76.50-51, §76.300, and §76.789



ISSUE

During the review, NMPED described its process for calculating program allocations and awarding funds to LEAs. During the consolidated application process, NMPED notifies its LEAs about the application process and timeline via a variety of methods including emails to LEA leadership and memoranda to program directors. Once an LEA submits its consolidated application, NMPED's program bureaus complete allocation calculations for each program based on Department guidance. NMPED program staff works with program directors to review calculation data and verify amounts. After preliminary allocation amounts are reviewed and approved for each program, NMPED notifies all LEAs of their awards through award letters and email notifications to superintendents and Federal program contacts. Allocation adjustments are communicated to LEAs via letter and include required information for making budget adjustments within the specified timeframe.

Although NMPED was able to describe its process for calculating allocations, notifying LEAs, and awarding funds to LEAs, LEA staff reported that notifications for final, adjusted award amounts were provided to LEAs with insufficient time to make final adjustments, creating potential issues related to program budgets and activities.



RECOMMENDATION

The Department recommends that NMPED review its final calculation and notification process and make adjustments to ensure that final allocation amounts are provided to LEAs in a timely manner, allowing LEAs more time for planning and consideration in making final adjustments to their program budget and activities.

O.

SUBRECIPIENT MONITORING



REQUIREMENT SUMMARY

An SEA shall monitor local educational agencies (LEAs) and any other entities, including external providers, receiving Federal funds from programs covered in the Consolidated State Plan to ensure that performance goals are achieved and that subawards are used for authorized purposes and in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

Uniform Guidance 2 C.F.R. §200.331(d)



ISSUE

NMPED's post-award monitoring process includes a self-assessment, desk reviews, on-site reviews, and as necessary, post-monitoring follow up activities. NMPED provided samples of programmatic monitoring tools including a Title I, Part A onsite monitoring document, Title II, Part A subrecipient monitoring procedures and a Title III, Part A on-site notification letter. Additionally, NMPED uses the RfR process to review and monitor LEA compliance with program and fiscal requirements.

While NMPED includes some fiscal monitoring in its RfR process and review of audit reports and findings during annual reviews, NMPED's general monitoring process does not include a comprehensive review of fiscal requirements such as equipment management and personnel requirements, including time and effort. Additionally, in some cases documentation submitted by NMPED still aligned with the ESEA, as amended by the NCLB.



RECOMMENDATION

The Department recommends that NMPED review and revise its monitoring protocols and process to strengthen its review of fiscal elements, especially those required under Uniform Guidance. NMPED should also update its programmatic protocols for the 2018-2019 school year and beyond to ensure all subrecipient monitoring tools are aligned with the ESEA, as amended by ESSA.

U.

DATA QUALITY



ISSUE

NMPED provides to LEAs an online Student Teacher Accountability Reporting System (STARS) manual that contains a chart listing reporting dates for different data collections and instructions for operating the STARS online data collection system. NMPED also provides technical assistance on the system through the annual STARS conference and ongoing training and support throughout the year. NMPED also uses the National Forum Guide to Data Ethics as its training module for LEAs around FERPA, PII, and data security.

Business logic that occurs in the State's comprehensive data warehouse (STARS) enables NMPED to track students throughout the school year and across years for the calculation of the accountability graduation rate. NMPED also uses the eScholar educational data manager to validate template requirements, such as field data types and expected code sets.

In addition to the quality controls for STARS data, the NMPED Accountability Bureau conducts a two-phase validation process, which includes a cohort and graduation outcomes review. NMPED shares cohort membership rules with LEAs through publication of the Graduation Technical Manual, which outlines how high school students are classified and recorded in STARS.

NMPED ensures that it collects all required Federal program data from LEAs in accordance with established timelines through the EDFacts system. LEAs are able to log in to a secure EDFacts SharePoint site to download pre-built reports that correspond to their reporting needs. At the time of the review the NMPED EDFacts coordinator position was vacant and NMPED was unable to provide documented procedures for responding to data quality feedback from the Department. NMPED indicated that formally documenting its procedures in this area would be a priority of the new EDFacts coordinator.

REQUIREMENT SUMMARY

An SEA is required to have appropriate procedures in place to ensure that the data reported to the public and the Department are high quality (i.e., timely, complete, accurate, valid, and reliable).

ESEA §1111(h)(4)

Government Accountability Office's "Standards for Internal Control in the Federal Government" (GAO Green Book)

Uniform Guidance 2 CFR 200.303 and 2 CFR 200.328(b)

OMB Circular A-133 Compliance Supplement: Department of Education Cross-cutting Section

Final Audit Report: ED-OIG/A0600001

**RECOMMENDATION**

NMPED should formalize and document a process to address data quality feedback from the Department.

X.

PUBLIC SCHOOL CHOICE



REQUIREMENT SUMMARY

An LEA may provide all students that are enrolled in a school identified by the State for comprehensive support and improvement in accordance with ESEA section 1111(c)(4)(D)(i) with the option to transfer to another public school served by the LEA, unless prohibited by State law. The LEA must permit the student who transfers to another school to remain in that school until the student has completed the highest grade at that school. In providing students the option to transfer to another public school, the LEA must give priority to the lowest-achieving students from low-income families.

ESEA §1111(d)(1)(D)



ISSUE

ESEA section 1111(d)(1)(D)(i) allows an LEA to provide all students enrolled in a school identified by the State for comprehensive support and improvement under subsection (c)(4)(D)(i) with the option to transfer to another public school served by the local educational agency, unless such an option is prohibited by State law.

New Mexico State Statute §22-2E-4-D states that “In addition to any rights a parent may have pursuant to federal law, the parent of a student enrolled in a public school rated F for two of the last four years has the right to transfer the student in the same grade to any public school in the state not rated F or the right to have the student continue schooling by means of distance learning offered through the statewide or a local cyber academy. The school district or charter school in which the student is enrolled is responsible for the cost of distance learning.” As such, New Mexico State law does not prohibit public school transfer. NMPED indicated that all students had a choice option which is detailed in the annual parent right-to-know document. NMPED indicated that public school choice due to school identification was not tracked separately in the student information system, but that a unique code could be created to track this reason for transfer. NMPED does not monitor LEAs that provide students with this transfer option to ensure transfer priority is given to the lowest-achieving children from low-income families. NMPED also indicated that budgets are reviewed and no LEAs allocate funding towards transportation, therefore, it does not monitor LEAs to ensure that LEAs do not spend more than 5 percent of their allocation under subpart 2 to pay for the provision of transportation.



RECOMMENDATION

The Department recommends that NMPED consider tracking how many

students transfer from a school identified as comprehensive support and improvement using choice as the reason to ensure that transfer priority is given to lowest-achieving children from low-income families. Such data would also allow NMPED to track transportation spending should an LEA include transportation in its Title I, Part A budget.

AA.

1003(a) SCHOOL IMPROVEMENT



ISSUE

ESEA section 1003(b)(2)(A) requires that SEAs establish a method to allocate funds to LEAs that represent the geographic diversity of the State. While NMPED noted that there was not a specific focus on achieving geographic diversity as required by statute, the SEA did follow its own business rules in identifying and allotting 1003(a) sub-grants. Since approximately a third of the State's students attend school in one major LEA this may concentrate more of the funds in that geographic area which seems reasonable.

LEAs indicated that NMPED provided considerable technical assistance and support regarding application for and use of 1003(a) funds. However, LEA staff also noted that 1003(a) funds often arrived late in the year, requiring the LEA to complete funding decisions and supports for individual schools within a short period of time.



RECOMMENDATION

The Department recommends that NMPED consider including in its 1003(a) business rules a test to determine if any rural or smaller LEAs are overlooked or under-funded under proposed 1003(a) sub-grant allocations.

NMPED should also consider an identification and award process that allows LEAs adequate time post-award to make the best informed and most effective use of the awarded 1003(a) funds.

REQUIREMENT SUMMARY

An SEA shall allocate and oversee the administration of 1003(a) school improvement subgrants, so that LEAs and schools can effectively develop and implement comprehensive support and improvement and targeted support and improvement plans. The SEA must also conduct a rigorous review of 1003(a) subgrant applications to ensure that LEAs include all required elements.

ESEA §1003(a)-(f), §1111(d)(1)-(2)

SECTION VI

Action Required

B.

PERIOD OF AVAILABILITY AND CARRYOVER

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REQUIREMENT SUMMARY

The SEA may only charge a grant program for allowable costs incurred during the period of availability and any pre-award costs that have been authorized by the Department. Unless the Department authorizes an extension, the SEA shall liquidate all obligation incurred under the award not later than 90 calendar days after the end date of the performance period. If the SEA fails to obligate all funds by the end of the award year, it can "carryover" the remaining funds for a period of one additional fiscal year. Any funds not obligated by the end of the carryover period shall be returned by the SEA to the Federal government as an unobligated balance.

Uniform Guidance 2 C.F.R. §200.309 and §200.343(b)

EDGAR 34 C.F.R. §76.707 and §76.709



ISSUE

Under Uniform Guidance §200.309, charges to Federal awards are only permissible for allowable costs incurred during the period of availability as well as any pre-award costs that were authorized by a Federal grantor or a pass-through agency. (2. C.F.R. 200.309). If an SEA or LEA does not obligate all available funds during the first year of availability, the entity may obligate any remaining funds during a carryover period of one additional fiscal year. (34 C.F.R. 76.709). An SEA or LEA must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of availability. Under §412(b) of the General Education Provisions Act (GEPA), also known as the Tydings Amendment, grants issued for a fiscal year may be made available for obligation on the basis of an academic or school basis. (20 U.S.C. 1225b). As a result of these requirements, many Federal programs – including the Title I, Title II, Title III and SIG programs – have a total period of availability of 27 months (from July 1st of the award year to September 30th of the carryover year) and a subsequent liquidation period of 90 days (October 1st through December 30th).

Documentation provided prior to the review, as well as conversations with both SEA and LEA staff during the review, indicated that NMPED utilizes a period of availability for the Title I, Title II, Title III, and SIG programs that totals 24 months (July 1st of the award year to June 30th of the carryover year) rather than the full 27 months allowed under GEPA. While NMPED's sample LEA Grant Award Notices (GANs) included the correct dates for the period of availability

for awards (i.e., the full 27 months), additional content in the notices made clear that obligation was only permitted during the first 24 months of that period, with LEAs allowed an additional 90 days until September 30th to draw down funds to liquidate obligations. NMPED staff stated that no further obligations or encumbrances of funds are allowed after June 30th of the carryover year. An SEA must ensure that LEAs have the full 27 months to obligate or encumber program funds from the Title I, Title II, Title III, and SIG programs to maximize LEA spending and prevent the return of unobligated balances.

REQUIRED ACTION

Within 30 business days of receiving this report, NMPED must provide the Department with evidence that it has updated its policies and procedures to allow LEAs the full 27 months of the period of availability for the covered programs for both current awards and future awards, with a subsequent 90 days allowed for liquidation of the obligations. NMPED must also provide evidence that it has communicated this change to its LEAs.

C.

AUDIT REQUIREMENTS



REQUIREMENT SUMMARY

An SEA is responsible for both resolving the audit findings of subrecipients and for conducting audit follow-up activities and corrective actions for findings from the SEA's yearly Single Audit. An SEA is also required to ensure that subrecipients who meet the audit threshold are audited and the audits are reported according to established timelines.

Uniform Guidance 2 C.F.R. §200.303(d)(2), §200.331(d)(3), §200.331(f), §200.511(a), §200.512, and §200.521(c)

ISSUE

Under Uniform Guidance §200.331(d), an SEA is responsible for following-up and ensuring that subrecipients take timely and appropriate action and for issuing a management decision for all audit findings pertaining to Federal awards issued to subrecipients by the agency. (2 C.F.R. 200.331(d)(2),(3)). In order to meet its obligations under the Uniform Guidance, an SEA should have a process to identify subrecipients with audit findings pertaining to Federal programs subawarded by the agency and to follow-up and resolve findings in a timely manner.

NMPED staff indicated during review conversations that the SEA had not received audit findings in the past three fiscal years for any subrecipients pertaining to the Title I, Title II, Title III, or SIG programs. While NMPED described a process for receiving and internally disseminating audit reports to program staff for follow up, program staff did not have knowledge of any audit findings for the covered programs. However, a review of the records in the Federal Audit Clearinghouse revealed that several LEAs had audit findings related to one or more of the covered programs in the three most recent fiscal years, which NMPED would have been responsible for resolving under Uniform Guidance §200.331(d)(3). Given that NMPED was not aware of any findings for the covered programs during that time, NMPED did not satisfy its responsibilities for resolving subrecipient audits.

REQUIRED ACTION

Within 30 business days of receiving this report, NMPED must provide the Department with standard operating procedures for identifying Federal audit findings within LEA audit reports received from the State auditor, disseminating findings internally for follow-up and resolution (outlining the roles for NMPED Audit Bureau and program offices), and developing and issuing management decision letters. Procedures should include a description of

processes, timelines, and designation of responsible individuals or offices.

D.

INTERNAL CONTROLS



REQUIREMENT SUMMARY

The SEA shall establish and maintain a system of effective internal controls over Federal awards that provides reasonable assurance that the SEA is managing Federal awards in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards. These internal controls should be in accordance with guidance stated in the "Standards of Internal Control in the Federal Government" (GAO Green Book) or the "Internal Controls Integrated Framework" (Treadway Commission).

Uniform Guidance 2 C.F.R. §200.303



ISSUE

Under Uniform Guidance §200.303, an SEA must establish and maintain effective internal control over a Federal award that provides reasonable assurance that the SEA is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. (2 C.F.R. 200.303(a)). An SEA's internal controls should be in compliance with guidance contained in the "Standards for Internal Control in the Federal Government" (GAO Green Book) or the "Internal Control Integrated Framework" (Treadway Commission/COSO). Important elements of sufficient internal controls under both of these frameworks are an internal risk identification and assessment process, and a process for monitoring the operation of an organization's internal controls.

During the review, NMPED stated that it relied on A-133 audits as well as oversight from the New Mexico Department of Finance and Administration (DFA) in response to questions about its risk identification and assessment process. NMPED was unable to describe a formalized internal risk assessment process as required in both the GAO Green Book and the Treadway Commission/COSO. In addition, NMPED stated that it relies on communication from DFA and annual audits as a means of evaluating the performance of its internal controls system. Without a formal process in these areas, there is a risk that NMPED will be unable to sufficiently identify risks to agency operations, develop targeted strategies to mitigate identified risks, or make timely determinations regarding the ability of the controls that are already in place to protect against identified risks.



REQUIRED ACTION

Within 30 business days of receiving this report, NMPED must provide the Department with:

1. Documentation of a regular process (e.g., quarterly, annually, biannually, etc.) for identifying internal risks. This documentation should include:
 - a. The types of risk that will be evaluated and the indicators to be used in the assessment;
 - b. The process for establishing risk tolerances for different categories or types of risk;
 - c. The process used to complete the risk assessment (including identification of responsible individuals); and
 - d. The process used to respond to identified risks affecting the operation or performance of the organization.

2. Documentation of a regular process (e.g. quarterly, annually, biannually, etc.) for evaluating the performance and/or effectiveness of the agency's internal controls framework. This documentation should include a description of the process and its frequency, identify the staff responsible for performing such an evaluation, and include copies of any tools or checklists that will be used to accomplish the evaluations. While NMPED cannot rely solely on external auditors to complete evaluations of internal controls, the process developed can be complementary in scope to the work performed by the external entities.

V.

TRANSPARENCY AND DATA REPORTING



ISSUE

An SEA and its LEAs are required to prepare and annually disseminate report cards that include specific elements. Further, when reporting graduation rates, an SEA must follow ESEA §8101(25)(C)(iii), which states that a student who is retained in grade or who is enrolled in a program leading to a general equivalency diploma, or other alternative educational program that does not issue or provide credit toward the issuance of a regular high school diploma, shall not be considered transferred out and shall remain in the adjusted cohort (§1111(h)(1) and §8101(25)(C)(iii)). An SEA and its LEAs are also required to include on report cards the most recent available academic results in grade 4 and 8 on the State's NAEP reading and mathematics assessment. (34 C.F.R. 200.11(c)).

During the review the Department found several required data elements missing from the 2016-2017 school year report card. The missing data elements include:

- Information on student achievement on academic assessments at each level of achievement for the migrant subgroup;
- The percentage of students not assessed for all students and each subgroup of students;
- Information, both in the aggregate and disaggregated by high-poverty and low-poverty schools, on the professional qualifications of teachers in the State, including the number of teachers teaching with emergency or provisional credentials; and
- The percentage of students at each achievement level reported on the NAEP in the aggregate and, for State report cards, disaggregated for each subgroup (all students, economically disadvantaged, major racial and ethnic subgroups, students with disabilities, and students with limited English proficiency).



REQUIRED ACTION

The SEA must, within 30 business days of receipt of this report, submit a plan

REQUIREMENT SUMMARY

An SEA and its LEAs are required to prepare and annually disseminate report cards that include all required elements to the public in a timely manner.

ESEA §1003(f) and §1111(h)(1)

Title I Regulations 34 C.F.R. §200.11, §200.19(b)

that describes how and by what date the SEA will:

1. Disseminate accurate and complete SEA and LEA report cards for the 2016-2017 school year, that includes:
 - a. Information on student achievement on academic assessments at each level of achievement for the migrant subgroup;
 - b. The percentage of students not assessed for all students and each subgroup of students;
 - c. Information, both in the aggregate and disaggregated by high-poverty and low-poverty schools, on the professional qualifications of teachers in the State, including the number of teachers teaching with emergency or provisional credentials; and
 - d. The percentage of students at each achievement level reported on the NAEP in the aggregate and, for State report cards, disaggregated for each subgroup (all students, economically disadvantaged, major racial and ethnic subgroups, students with disabilities, and students with limited English proficiency).
2. Ensure, for the 2017-2018 report cards, that the SEA report card includes all required elements under the ESEA, as amended ESSA, consistent with ESEA §1111(h)(1).
3. Ensure, for the 2017-2018 report cards, that it publishes a report card for each LEA that include all required elements under the ESEA, as amended ESSA, consistent with ESEA §1111(h)(2).

Y. INDICATORS



ISSUE

ESEA §1111(c)(4)(B) requires an SEA to annually measure for all students and separately for each subgroup of students an academic achievement indicator; another academic indicator for elementary and secondary schools that are not high schools; a graduation rate indicator; a progress in achieving English language proficiency indicator; and not less than one indicator of school quality or student success. (§1111(c)(4)(B)).

In its State plan, NMPED described that all of the indicators consistent with ESEA §1111(c)(4)(B) would be calculated alongside the prior State accountability system for the 2017-2018 school year with a full transition to the ESSA-aligned system for the 2018-2019 school year. NMPED described in its State plan that in addition to the school grades being released as usual based on accountability determinations under its State accountability system, the SEA would create and distribute a transition year ESSA school grade report, which would include all ESSA-aligned indicators. NMPED was unable to provide documentation to demonstrate that this process had occurred. NMPED also gave inconsistent responses regarding which accountability system (State or ESSA-aligned) was used to identify schools for comprehensive and targeted support and improvement in the 2017-2018 school year, despite having committed in its State plan to using its ESSA-aligned system including the progress in achieving English language proficiency indicator to identify schools for the 2017-2018 school year. Some staff indicated that the State accountability system was used most recently, with a transition to ESSA-aligned indicators planned for the following school year. Other staff shared that a transitional report card would be disseminated by December 31, 2018, while other staff indicated that all ESSA-aligned indicators were used in the most recent accountability determinations. Staff at the LEAs could not describe which indicators were used for accountability and shared that those calculations are done at the State level.

Additionally, the academic achievement indicator must measure proficiency on the State's annual assessments, which must be the same academic assessments used to measure the achievement of all public elementary school and secondary

REQUIREMENT SUMMARY

An SEA must measure, on an annual basis, all required indicators for all students and each subgroup of students. For purposes of the academic achievement indicator, the SEA must ensure that at least 95 percent of all students and each subgroup of students are assessed annually on the State's reading/language arts and mathematics assessments.

ESEA §1111(c)(4)(B), §1111(c)(4)(E), §8101(23), §8101(25)

school students in the State and be administered to all public elementary school and secondary school students in the State. (§1111(b)(2)(B)(A)(i)(I); §1111(b)(2)(B)(A)(i)(II); §1111(b)(2)(B)(v)(I); and §1111 (c)(4)(B)(i)). NMPED indicated during the review that it uses a series of assessments for high school mathematics, but that students are not required to take each of the assessments in the series; therefore, there is not a single statewide assessment required of all students and instead data from multiple tests were used to calculate the academic achievement indicator.

Subsequent to the review, NMPED provided documentation that described its calculation of all indicators required by ESSA, including the progress in achieving English language proficiency indicator, for school identification in the 2018-2019 school year.



REQUIRED ACTION

Within 30 business days of receiving this report, NMPED must:

1. Provide a plan for calculating the academic achievement indicator, in accordance with §1111(c)(4)(B)(i), including the single test or tests that all students take that will be used to assess proficiency in mathematics in high school for accountability determinations beginning in the 2018-2019 school year.

This element is related to the subsequent element, annual meaningful differentiation.



RECOMMENDATION

NMPED should consider sharing information with its LEAs that clearly describes the accountability system used to produce school grades. This information should describe the indicators within the system and explain calculations so that LEAs are aware of the process and understand how they are being evaluated, including the impact (e.g., how schools are identified for comprehensive or targeted support and improvement).

Z.

ANNUAL MEANINGFUL DIFFERENTIATION



REQUIREMENT SUMMARY

A State must establish a system of annual, meaningful differentiation of all public schools in the State based on all indicators in the State's accountability system for all students and for each subgroup of students. Each academic indicator (academic achievement; "other academic" indicator for Elementary and Secondary schools that are not high schools; progress in achieving English language proficiency; and graduation rate for high schools) must receive substantial weight individually and, in the aggregate. Additionally, each academic indicator must receive much greater weight than the school quality or student success indicator(s), in the aggregate. The system must include the differentiation of any school in which any subgroup of students is consistently underperforming, as determined by the State, based on all indicators. Students must be included consistent with the partial attendance requirements in section 1111(c)(4)(F).

ESEA §1111(c)(4)(C), §1111(c)(4)(F)



ISSUE

SEAs are required to establish a system of meaningfully differentiating, on an annual basis, all public schools in a State that is based on all indicators in a State's accountability system. (ESEA §1111(c)(4)(C)). Based on the system of annual meaningful differentiation, the State must then identify schools for comprehensive and targeted support and improvement. (ESEA §1111(c)(4)(C)(iii); 1111(c)(4)(D), 1111(d)(2)(C)-(D)).

During the review, NMPED stated that in November 2017, it calculated its prior system of annual meaningful differentiation, which did not include the progress in achieving English language proficiency indicator required under ESEA §1111(c)(4)(B)(iv). NMPED stated that it subsequently calculated each school's progress in achieving English language proficiency indicator and incorporated the results into its accountability determinations in order to identify schools for comprehensive or targeted support and improvement. This contradicted previous statements that only the prior State system was used (which does not appear to have included the progress in achieving English language proficiency indicator). In addition, NMPED was unable to provide documentation that detailed which accountability system (State or ESSA-aligned) was used to identify schools for comprehensive and targeted support and improvement.

Subsequent to the review, NMPED provided documentation that it ran its accountability system using all indicators, including a progress in achieving English language proficiency indicator in December 2018 in order to identify any additional schools for comprehensive support and improvement. As a result, the State will identify one additional school for comprehensive support

and improvement. However, NMPED did not identify schools for additional targeted support using a system of annual meaningful differentiation that complies with statutory requirements (i.e., that includes the progress in achieving English language proficiency indicator). Additionally, it appears that NMPED is using a three-year average but this is not reflected in its approved consolidated State plan.

REQUIRED ACTION

Within 30 business days of receiving this report, NMPED must:

1. Provide evidence that it used its approved system of annual meaningful differentiation, including all required indicators, to identify schools for additional targeted support schools.
2. Provide evidence that the State notified the LEA with the one additional school identified for comprehensive support and improvement of the school's identification.
3. Submit a draft amendment to its State plan to reflect the fact that NMPED did not comply with its approved State plan to identify schools for additional targeted support in the beginning of the 2017-2018 school year using an accountability system that meets all requirements in ESEA §1111(c)(4). Specifically, the amendment should include an updated timeline for identification of these schools (pages 98-101) and updates to reflect its identification methodology (e.g., averaging data).

BB.

SUPPORT AND IMPROVEMENT PLANS



REQUIREMENT SUMMARY

Upon receiving notification from the State that a school has been identified for comprehensive support and improvement, an LEA shall, for each school identified by the State and in partnership with stakeholders, develop and implement a comprehensive support and improvement plan. Comprehensive support and improvement plans must be informed by all indicators, be based on school-level needs assessments, include evidence-based interventions, and identify and address resource inequities. Comprehensive support and improvement plans must be approved by the school, LEA, and SEA. Upon approval and implementation, a comprehensive support and improvement plan must be monitored and periodically reviewed by the SEA. The SEA shall notify an LEA of any school served by the LEA that is identified for targeted support and improvement, and the LEA shall notify such identified schools. An SEA shall ensure LEAs serving targeted support and improvement schools oversee such schools in developing and implementing targeted support and improvement plans. Targeted support and improvement plans must be developed in partnership with stakeholders, and approved by the LEA. Targeted support and improvement plans shall be informed by all indicators, include evidence-based interventions, and shall result in additional action following unsuccessful implementation after a number of years determined by the LEA. If a school is identified for additional targeted support, an LEA shall ensure that the school's targeted support and improvement plan also identifies resource inequities to be addressed through targeted support and improvement plan implementation. Upon approval and implementation, a targeted support and improvement plan (including a targeted support and improvement plan for a school identified for additional targeted support) must be monitored by the LEA.

ESEA §1003(b)-(f), §1111(d)(1)-(2)



ISSUE

SEAs are required to notify an LEA if any school in the LEA is identified for comprehensive support and improvement. LEAs with identified schools are required to develop a comprehensive support and improvement plan for the school to improve student outcomes in partnership with stakeholders. (§1111(d)(1)(A) and (B)).

An SEA must also notify LEAs of any school served by the LEA in which any subgroup of students, on its own, would lead to identification as a comprehensive support and improvement school. (§1111(d)(2)(C)) The identified schools must develop a school-level targeted support and improvement plan for the school to improve student outcomes in partnership with stakeholders and based on the indicators in the accountability system (ESEA §1111(d)(2)(B)). NMPED did not provide evidence that LEAs with one or more schools identified as comprehensive support and improvement or additional targeted support and improvement developed and implemented

support and improvement plans.

REQUIRED ACTION

Within 30 business days of receiving this report, provide documentation that NMPED:

1. Ensured that each LEA with one or more schools identified for comprehensive support and improvement developed and implemented a comprehensive support and improvement plan that meets the requirements in ESEA §1111(d)(1)(B) for each identified school; and
2. Ensured that each LEA with one or more schools identified for additional targeted support and improvement have reviewed and approved targeted support and improvement plans that meet the requirements in ESEA §1111(d)(2)(B) and 1111(d)(2)(C) for those identified schools.