

DEPARTMENT OF EDUCATION**Office of Elementary and Secondary Education; Intent to Repay to the State of Alabama Department of Education Funds Recovered as a Result of a Final Audit Determination****AGENCY:** Department of Education.**ACTION:** Notice of intent to award grant-back funds.

SUMMARY: Under section 459 of the General Education Provisions Act (GEPA) (20 U.S.C. 1234th), the Secretary of Education (Secretary intends to repay to the State of Alabama Department of Education, the State educational agency (SEA), an amount equal to 75 percent of the principal amount of funds returned to the Department as the result of final audit determinations. The U.S. Department of Education's (Department) recovery of funds followed a Cooperative Audit Resolution and Oversight Initiative (CAROI) agreement entered into by the Lawrence County Board of Education and the Alabama State Department of Education to resolve issues relating to Lawrence County's compliance with the use of Federal funds. The CAROI agreement signed on March 25, 1997 required that Lawrence County repay a total of \$110,779.78, which was subsequently returned to the Department on March 19, 1997. This notice describes the SEA's plan, submitted on behalf of Lawrence County Board of Education, the local educational agency (LEA), for the use of the repaid funds and the terms and conditions under which the Department intends to make those funds available. The notice invites comments on the proposed grantback.

DATES: All comments must be received on or before September 6, 2000.**ADDRESSES:** All written comments should be addressed to Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Federal Office Building 6, Room 3W230, Washington, D.C. 20202-6132. Comments may also be sent through the Internet to: MaryJean_LeTendre@ed.gov**FOR FURTHER INFORMATION CONTACT:** S. Colene Nelson, U.S. Department of Education, 400 Maryland Avenue, SW, Federal Office building 6, Room 3E335, Washington, DC 20202-6132. Telephone: (202) 260-0979. Internet address: Colene_Nelson@ed.gov.

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SUPPLEMENTARY INFORMATION:**A. Background**

The Department has recovered \$110,779.78 from the Alabama SEA in satisfaction of claims arising from an audit of the Lawrence County Board of Education, conducted by the Alabama Department of Examiners of Public Accounts for fiscal years (FY) 1990 through 1993.

Some claims involved the LEA's administration of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, as amended in 1988, a program providing financial assistance to State and local educational agencies to address the special educational needs of educationally deprived children in areas with high concentrations of children from low-income families (Chapter 1). Additional claims involved the administration of the Even Start Program which provides funds for family-centered education projects to help parents become full partners in the education of their children, to assist children in reaching their full potential as learners, and to provide literacy training for their parents.

Specifically with respect to Chapter 1 for FY 1990 and 1991, the auditors found that competitive bids had not been taken for facilities renovations and, thus, the payments for those renovations were found to be in conflict with Federal procurement standards. The auditors questioned \$11,900.00 of Chapter 1 funds. The auditors also found that a part-time clerical assistant was paid \$480.00 through accounts payable rather than the normal payroll process. Other violations of Federal guidelines for compensation of personal services included:

(1) Twenty-five percent of a janitor's salary was paid from Chapter 1 funds where central office space occupied by Chapter 1 offices appeared to be less than five percent of the total floor space (\$5,126.06 in questioned costs);

(2) Salary payments exceeding the approved budget totaled \$17,361.67 and were identified as questioned costs of Chapter 1. Thus, questioned costs for FY 1990 and 1991 totaled \$34,867.73 of Chapter 1 monies.

For FY 1992 and 1993, a part-time employee was paid from Chapter 1 funds without approved from the Lawrence County Board for employment, resulting in questioned

costs of \$1,481.25. Furthermore, the Chapter 1 director was paid \$732.66 more than his approval salary in FY 1992, resulting in that amount of questioned costs. Also, the Chapter 1 Even Start Director was paid \$5,735.57 more than his approved salary during FY 1993, resulting in that amount of questioned costs.

The auditors further found that in FY 1993 the LEA purchased computer labs without obtaining timely approval and failing to follow proper purchasing procedures. \$182,165.99 was identified in questioned costs. Lastly, audit work revealed that during FY 1991 through 1993 Chapter 1 and Even Start funds as well as General Fund resources were expended for the renovation of a school building. However, there was no documentation reflecting the Lawrence County School Board of Education's approval of the renovation, nor supporting compliance with Alabama's building codes or their administrative and financial rules. No competitive bids were found to have been taken for materials or labor related to the renovation. Questioned costs under Chapter 1 were \$66,913.95 and those under Even Start were \$13,263.39. Total questioned costs for FY 1992 and 1993 were \$270,292.81. (Use of funds for construction or renovation is no longer allowable under either the Title I or Even Start program statutes.)

Summarily, audit exceptions resulting in a return of funds initially totaled \$305,160.54 covering four fiscal years, 1990 through 1993. This amount was reduced to \$110,780 because the SEA determined that some of the funds in question were actually used to provide satisfactory program services to eligible Title I students. Of this amount, \$10,995.35 related to the Even Start questioned costs, and the balance (\$99,784.65) to Chapter 1.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA, 20 U.S.C. 1234h, provides that whenever the Secretary has recovered program funds following a final audit determination, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this grantback arrangement if the Secretary determines that the—

(1) Practices or procedures of the SEA or LEA that resulted in the audit determination have been corrected, and the SEA or LEA is, in all other respects, in compliance with the requirements of the applicable program, provided that

the SEA or LEA was notified of any noncompliance with such requirements and given a reasonable period of time to remedy that noncompliance;

(2) SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exceptions; and

(3) Use of funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 459(a)(2) of GEPA, the SEA has applied for a grantback of \$83,085—75 percent of the principal amount recovered by the Department—and has submitted a plan on behalf of the LEA for use of \$74,838 of the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Title I, Part A, of ESEA, successor to Chapter 1, as well as \$8,247 of the grantback funds to provide funds for family-centered education projects to help parents become full partners in their children's education under Title I, Part B, of ESEA.

According to the plan, the LEA will equitably distribute the \$74,838 of grantback funds under Title I to the K–12 Title I schools in the district to purchase computers. Computer equipment will be used for each school listed below. There are two targeted assistance schools: Hatton Elementary and East Lawrence Elementary. Also, there are nine schools operating schoolwide programs: Hazlewood Elementary, Hazlewood High School, R.A. Hubbard School, Courtland High School, East Lawrence Middle, Moulton Elementary, Moulton Middle, Speake School, and Mt. Hope School. The LEA recently completed system networking for internet access. The updated equipment will help provide enhanced opportunities for Lawrence County's disadvantaged students attending high poverty schools to achieve to challenging academic standards. The

amount of \$8,247 will be used for Even Start personnel salaries and benefits.

D. The Assistant Secretary's Determination

The Assistant Secretary has carefully reviewed the plan submitted by the SEA. Based upon that review, the Assistant Secretary has determined that the conditions under section 459 of GEPA have been met. These determinations are based upon the best information available to the Assistant Secretary at the present time. If this information is not accurate or complete, the Assistant Secretary may take appropriate administrative action. In finding that the conditions of section 459 of GEPA have been met, the Assistant Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Assistant Secretary's Intent to Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Department must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which payment will be made.

In accordance with section 459(d) of GEPA, a notice is hereby given that the Assistant Secretary intends to make funds available to the SEA under a grantback arrangement. The grantback award would be in the amount of \$83,085.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The SEA and LEA agree to comply with the following terms and conditions under which payment under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved in advance by the Assistant Secretary; and

(c) The budget that was submitted with the plan and any amendments to

the budget that are approved in advance by the Assistant Secretary.

(2) All funds received under the grantback arrangement must be obligated in accordance with the SEA's plan but, in no event, after September 30, 2000 as required under 459(c) of GEPA.

(3) The SEA, on behalf of the LEA, will, not later than December 31, 2000, submit a report to the Assistant Secretary that—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget; and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditure of funds awarded under the grantback arrangement.

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(Catalog of Federal Domestic Assistance Numbers: 84.010, Title I, Improving Basic Programs Operated by Local Education Agencies; 84.213, Even Start—State Education Agencies)

Dated: July 31, 2000.

Thomas M. Corwin,

Acting Assistant Secretary for Elementary and Secondary Education.

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