



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES
Sacramento Audit Region

January 25, 2016

Control Number
ED-OIG/A09P0001

Dr. Mitchell D. Chester
Commissioner
Massachusetts Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148

Dear Dr. Chester:

This final audit report, “Massachusetts Department of Elementary and Secondary Education’s Oversight of Local Educational Agency Single Audit Resolution,” presents the results of our audit. The purpose of the audit was to determine whether the Massachusetts Department of Elementary and Secondary Education (ESE) provided effective oversight to ensure that local educational agencies (LEAs) took timely and appropriate action to correct single audit findings. Our review covered ESE’s processes and activities related to the resolution of LEA single audit findings that occurred in fiscal years (FYs) 2011–2013.¹ In this report, we use the term “audit resolution” to refer to all activities required to ensure that LEA single audit findings are fully and appropriately corrected. See the Background section for the specific requirements of the audit resolution process.

We determined that ESE’s oversight of LEA single audit resolution activities was not sufficient to ensure that LEAs took timely and appropriate corrective action. In many cases, ESE did not identify and require appropriate corrective actions for LEAs to take to adequately resolve their findings. Further, ESE did not have a tracking process for individual LEA findings and did not follow up on the status of corrective actions for many of the repeat findings covered by our review. Additionally, ESE generally did not communicate effectively with LEA officials regarding audit resolution, and none of ESE’s management decision letters that we reviewed met all Federal requirements for content.

We made a variety of recommendations to the Director of the Office of the Chief Financial Officer’s Post Audit Group within the U.S. Department of Education (Department) that would require ESE to bring its oversight of LEA single audit resolution into compliance with applicable Federal requirements and improve associated internal controls. Specifically, ESE should work proactively with all LEAs that have single audit findings and expand its audit resolution efforts for repeat findings, especially when repeat findings have or may have significant program or fiscal impacts. ESE should also develop written policies and procedures covering all facets of its oversight in this area, implement a formal tracking system so it can monitor the status of LEA

¹ Massachusetts LEAs operate on a fiscal year that begins on July 1 and ends on June 30.

corrective actions, and employ routine management reviews and periodic quality assurance reviews to assess the effectiveness of its oversight of LEA single audit resolution activities in the future.

ESE acknowledged that it had shortcomings in its oversight of LEA single audit resolution, but disagreed with some parts of the finding. ESE stated that it intended to review the recommendations and make improvements to its processes but did not state whether it agreed or disagreed with each recommendation. ESE expressed concern that the audit did not cover all of ESE's monitoring and oversight activities to support the effective delivery of public education in Massachusetts. ESE stated that even though it provides many different forms of fiscal and programmatic monitoring, our report leaves an impression that single audit resolution is ESE's only tool to ensure that LEAs use Federal funds appropriately. ESE also noted that its response to the draft audit report was designed to present a broader representation of its oversight work.

BACKGROUND

The Single Audit Act of 1984 established uniform audit requirements for State and local governments (recipients and subrecipients)² that receive Federal financial assistance. Many of these recipients receive annual grant awards from multiple Federal agencies. Before the Single Audit Act, the grant-by-grant audit processes of Federal agencies were not coordinated. This resulted in overlapping audits in some cases, which increased costs to the Federal government and placed an undue administrative burden on recipients. In other cases, recipients were not subject to any grant audits for multiple fiscal years. In 1990, the Office of Management and Budget (OMB) issued Circular A-133 to extend the single audit process to nonprofit organizations. In 1997, OMB revised Circular A-133 pursuant to Single Audit Act Amendments of 1996 to extend Circular A-133's coverage to audits of State and local governments. For fiscal years ending after December 31, 2003, recipients that spent \$500,000 or more in Federal awards during a fiscal year were required to have a single audit or program-specific audit conducted in accordance with OMB Circular A-133. In December 2013, OMB published final regulations for Uniform Grant Guidance (Title 2 of the Code of Federal Regulations (C.F.R.)), which consolidated and superseded requirements from eight OMB Circulars, including A-133, Part 200 of the Uniform Grant Guidance streamlined the administrative requirements, cost principles, and audit requirements for Federal awards, and increased the single audit expenditure threshold to \$750,000. Uniform Grant Guidance requirements became effective for recipients' fiscal years beginning on or after December 26, 2014.

² In the remainder of this report, the term "recipient" is inclusive of subrecipients unless otherwise noted.

As pass-through entities, State educational agencies (SEAs) are responsible for distributing Department grant funds to subrecipients. OMB Circular A-133 specifies the responsibilities of pass-through entities related to the administration of Federal awards.³ In their oversight role, SEAs are responsible for advising LEAs of the requirements associated with the use of Federal funds; monitoring LEAs' use of Federal funds to ensure they comply with laws, regulations, and grant agreements; and ensuring that LEAs achieve program goals. SEAs must also ensure that all LEAs that meet the expenditure threshold for a given fiscal year have a single audit performed.

As part of the single audit resolution process, the SEA must issue a management decision to the LEA stating whether the SEA sustains each audit finding⁴ and describing the corrective actions the LEA must implement. According to OMB Circular A-133, Section 400(d)(5), SEAs must ensure that LEAs take timely and appropriate action to correct any control weaknesses or instances of noncompliance identified through the single audit process. OMB Circular A-133 includes detailed requirements for the content of the management decision, the timeframe for its issuance, and related SEA responsibilities.

The Department does not directly monitor the LEA single audit resolution practices of SEAs. Instead, it relies on statewide single audits to identify SEAs that have incomplete or ineffective oversight processes for LEA single audit resolution. The Department is responsible for overseeing the resolution of single audit findings at SEAs that involve Federal education programs.

According to OMB Circular A-133, the auditee (SEA or LEA) holds primary responsibility for following up on its audit findings and ensuring that corrective action is taken. This responsibility includes the development of a corrective action plan to address each current-year finding and a schedule of prior-year findings that details the status of each prior finding. For unresolved prior-year findings, the SEA or LEA must describe any corrective action that has been taken to date and what remaining corrective actions are planned. For subrecipient audits, the SEA has an oversight role and must ensure that the LEA's planned corrective actions are appropriate and implemented timely. LEA and SEA officials must have a shared commitment to correcting LEA audit findings for the audit resolution process to be successful.

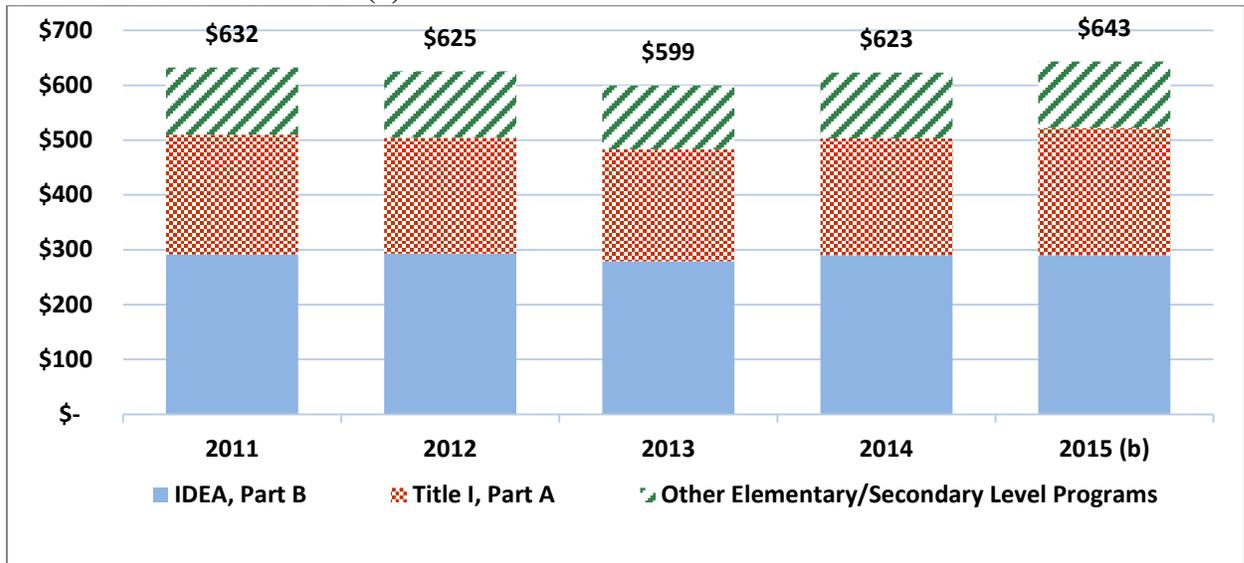
Massachusetts has received, on average, about \$625 million in Federal educational assistance each year since 2011. The two largest Federal elementary and secondary education grant

³ Although OMB Circular A-133 has been superseded by the Uniform Grant Guidance, the SEA requirements described in this report continue to be in effect under the new regulations. We cite OMB Circular A-133 requirements in this report because the Uniform Grant Guidance was not in effect during the period covered by the audit.

⁴ In this report, "audit finding" refers to a compliance finding for a Federal education program reported in the OMB Circular A-133 single audit, unless otherwise stated.

programs are Title I, Part A of the Elementary and Secondary Education Act (Title I), which assists LEAs and schools with high numbers or high percentages of children from low-income families, and Part B of the Individuals with Disabilities Education Act (IDEA), which assists States and LEAs in meeting the needs of children with disabilities. Figure 1 shows the total amounts of Federal elementary and secondary education funds that the Department awarded to Massachusetts from FYs 2011–2015 for Title I, IDEA, and all other Federal elementary and secondary education programs combined.

Figure 1. Federal Elementary and Secondary Education Program Funds Awarded to Massachusetts in Millions (a)



(a) Source: State Formula Grant Allocation Tables from the Department’s Web site. Award totals do not include Federal education funds awarded directly by the Department on a competitive basis.
 (b) 2015 grant totals are estimated.

Of the 401 LEAs operating in Massachusetts in FY 2012, 265 reported having a single audit performed. We reviewed single audit data from the Federal Audit Clearinghouse (Clearinghouse) and identified 28 Massachusetts LEAs that had at least one audit finding that repeated for 3 or 4 years from FYs 2010–2013.⁵ We judgmentally selected 6 of the 28 LEAs for review based on the number and significance of their repeat findings and the LEA’s size, based on student enrollment.⁶ Table 1 provides details about the six LEAs selected for review.

⁵ The Clearinghouse collects and disseminates information about the results of single audits of State and local governments and nonprofit entities. The U.S. Census Bureau administers the Clearinghouse on behalf of OMB.

⁶ The results of our work at the six selected LEAs cannot be projected to the population of all Massachusetts LEAs.

Table 1. Massachusetts LEAs Selected for Review

Selected LEA	Enrollment (a)	Repeat Finding(s)
Boston Public Schools	54,312	Noncompliance with cash management requirements
Worcester Public Schools	25,254	Incorrect indirect cost rate charged to Federal education grants, lack of controls over compliance with suspension and debarment requirements
Fall River Public School District	10,246	Lack of controls over equipment and fixed capital assets
Malden Public Schools	6,564	Personnel time and effort certifications not maintained, late and inaccurate financial reporting
Peabody Public Schools	5,972	Personnel time and effort certifications not maintained, late financial reporting
Bridgewater-Raynham Regional School District	5,301	Personnel time and effort certifications not maintained, late financial reporting, noncompliance with cash management requirements, late submission of single audit reports

(a) Student enrollment totals as of October 1, 2014. Source: 2014–2015 Enrollment by Grade Report obtained from ESE’s Web site.

Most LEAs in Massachusetts are organized as a department within their city or town, rather than as independent local government entities. Consequently, the LEAs are audited as part of the overall single audit for the city or town. The single audit threshold is based on the municipality’s total Federal expenditures, and municipalities generally receive funding from numerous Federal agencies. This may result in more LEAs being subject to a single audit than would otherwise be the case if the threshold was determined solely based on the LEA’s Federal expenditures. This form of organizational structure may also result in certain challenges and inefficiencies. For example, the LEA’s single audit reporting may be late due to delays in the overall audit of the city or town. In addition, city or town officials may disagree with LEA officials about the best course of action to resolve LEA audit findings.

ESE’s Audit and Compliance Unit (Audit and Compliance) is responsible for oversight of LEA single audit resolution at ESE. Audit and Compliance is also responsible for (1) identifying which LEAs are required to have a single audit each year, (2) receiving the audit reports and checking them for completeness, and (3) determining which ESE unit should issue the management decision for each applicable finding. Based on data available at the time of our review, Audit and Compliance issued about 80 percent of ESE’s management decisions.⁷ The remaining letters for audit findings associated with Federal education programs were issued by ESE’s Title I and Special Education program offices. As part of our review, we evaluated the

⁷ ESE communicated its decisions on individual LEA audit findings by issuing management decision letters. We calculated the percentage of management decision letters that Audit and Compliance prepared based on entries in ESE’s audit tracking file, which indicated whether Audit and Compliance or an ESE program office prepared each management decision letter.

audit resolution activities of the ESE program offices that oversee Title I and IDEA because they issued management decision letters relevant to our review and because of the large amount of funds they administered and the potential impact that significant audit findings could have on these two programs at the LEA level.

AUDIT RESULTS

ESE's oversight of LEA single audit resolution was not sufficient. In particular, ESE did not always work collaboratively or communicate effectively with LEAs that had audit findings to ensure that the LEAs took timely and appropriate corrective action. This was the case even for those LEAs that had significant audit findings that repeated over a period of many years. ESE's internal controls were not sufficient to ensure that it provided adequate oversight of the LEA audit resolution process. ESE also did not appear to make LEA audit resolution a high priority. Only one person in Audit and Compliance worked on audit resolution activities and did so on a part-time basis. ESE also did not comply with Federal requirements that prescribed how it should oversee LEA single audit resolution. Because of weaknesses in its oversight of LEA single audit resolution, ESE did not always identify and require LEAs to implement appropriate corrective actions. These weaknesses have also resulted in lengthy delays in LEAs implementing necessary corrective actions that would correct past deficiencies and prevent future audit findings. In some cases, Federal funds may not have been collected and remitted back to the U.S. Treasury.

We provided a draft of this report to ESE for review and comment on September 28, 2015. ESE provided its comments on November 6, 2015. Although ESE disagreed with some parts of the finding, it acknowledged that improvements were needed. ESE stated that it planned to take action to improve its oversight of LEA audit resolution but did not state whether it agreed with each of our recommendations. We did not change our finding or recommendations based on ESE's comments to the draft audit report. We summarized ESE's comments at the end of the finding and provided responses to its comments as warranted. We also included the full text of ESE's comments as Attachment 2 to this report.

FINDING – ESE Did Not Ensure That LEAs Took Timely and Appropriate Action to Correct Audit Findings

ESE did not always identify and require appropriate corrective actions for LEAs to take to resolve their audit findings. In many cases, ESE approved LEA corrective action plans included in audit reports that lacked necessary detail or would not correct the underlying condition that resulted in the finding. ESE also did not record or track individual LEA findings or the status of corrective actions and did not follow up with LEAs to ensure they timely implemented corrective

actions after ESE issued management decision letters. ESE did not expand its audit resolution activities for findings that repeated for multiple years, even in cases of significant noncompliance that resulted in substantial questioned costs. In one case, Audit and Compliance did not take action on a finding involving nearly \$2 million in Federal questioned costs even after ESE's own legal counsel rendered an opinion that supported the return of the Federal funds. Furthermore, ESE generally did not communicate effectively with LEA officials regarding audit resolution, either before or after the issuance of the management decision letter. Officials at LEAs in our review with significant repeat findings did not report any communication or contact with ESE related to the resolution of their findings. Finally, none of ESE's management decision letters that we reviewed met all OMB Circular A-133 requirements for content.

ESE Did Not Identify and Require Appropriate Corrective Actions

In Massachusetts, the management decision letter is the official mechanism for the SEA to communicate with the LEA regarding the resolution of its audit findings. The management decision letter provides crucial information including whether the audit finding is sustained, what corrective actions are required, and the timeframes for follow-up regarding the completion of the corrective actions. Before the SEA can determine what corrective actions the LEA should take on each finding, it must have complete information about the nature of the audit finding and the LEA's planned corrective actions, including the status of their implementation. If the SEA cannot obtain all pertinent information from the audit finding and corrective action plan in the audit report, SEA officials should contact the LEA to obtain additional details.

ESE's management decision letters did not always identify and require appropriate corrective actions to resolve LEA audit findings. In most of the cases we reviewed,⁸ ESE approved LEA corrective action plans described in single audit reports without contacting LEA officials for additional information, even when the corrective action plan did not provide sufficient information for ESE to evaluate whether the proposed actions would correct the finding. Fourteen of the 20 management decision letters that we reviewed stated that the LEA's planned corrective actions were reasonable, but ESE could not demonstrate that it contacted LEA officials to obtain information needed to assess the reasonableness of the corrective actions before approving them. Two other management decision letters that we reviewed did not address the corrective actions described in the audit report or specify other required actions. These 16 management decision letters covered corrective actions for 31 separate audit findings. We reviewed the corrective action plans for all 31 findings and found that 21 did not describe clear and specific steps that could reasonably be expected to correct the underlying condition of

⁸ We reviewed 14 management decision letters issued by Audit and Compliance for selected repeat findings at the 6 LEAs included in our review and 6 letters issued to 6 other LEAs by ESE's Title I and Special Education program offices. The 20 management decision letters addressed a total of 39 audit findings. The results of our review of the 20 management decision letters cannot be projected to the population of all management decision letters issued by ESE. See the Objective, Scope, and Methodology section of this report for a description of our methodology for selecting management decision letters for review.

the finding. Consequently, ESE did not ensure that LEAs took appropriate corrective action to resolve their audit findings, as required by OMB Circular A-133, Section 400(d)(5).

Three ESE units (Audit and Compliance, the Title I program office, and the Special Education program office) issued management decisions for audit findings associated with Federal education programs during the period covered by our review. We noted differences in the extent of communication that each unit had with LEAs before issuing a management decision letter. For example, the Title I program office provided evidence that it followed up with LEA officials to gain additional information about findings and planned corrective actions before issuing each of the three Title I management decision letters that we reviewed. The Special Education office provided evidence that it communicated with LEA officials prior to issuing one of the three management decision letters that we reviewed. However, Audit and Compliance did not provide evidence that it contacted LEA officials for additional information before issuing any of the 14 management decision letters that we reviewed.

ESE did not always identify and require appropriate corrective actions even for findings that repeated year after year and that could have significant monetary impacts. For example, Worcester Public Schools has a repeat indirect cost finding that auditors first reported in FY 2010 and remained unresolved in its FY 2014 audit report. The auditors identified nearly \$2 million in total questioned costs during this period. In 2010, the City of Worcester began charging a 3-percent indirect cost rate on education grants, even though the approved rate in the grant agreements was 1-percent. The city's cognizant agency⁹ approved a 3-percent indirect cost rate in 2010, and the city believed it was entitled to charge this rate on all Federal grants, including education grants. Worcester Public Schools disagreed with the city and contended that its school committee, which had approved the 1-percent rate, must authorize all education grant spending. At Worcester Public School's request, ESE's legal counsel reviewed the issue and in April 2012 determined that the 3-percent indirect cost rate approved by the city's cognizant agency did not apply to the education grants because the grants were passed through ESE. Counsel stated that ESE was the grantee and the Department was ESE's cognizant agency and concluded that 1-percent was the maximum rate that Worcester Public Schools could charge. In 2013, the city sent conflicting legal opinions from the city's solicitor and ESE's legal counsel to OMB and requested that OMB render a decision regarding the appropriate indirect cost rate that could be charged.

Over the 5 years that the indirect cost finding repeated, Audit and Compliance did not take reasonable measures to safeguard Department program funds. Upon learning about the finding and the dispute between the city and Worcester Public Schools, Audit and Compliance should have, at a minimum, instructed the city to charge the lower rate for education grants until the finding was resolved. Instead, Audit and Compliance's FYs 2011–2013 management decision

⁹ The cognizant agency is the Federal agency responsible for reviewing, negotiating, and approving indirect cost proposals on behalf of all Federal agencies.

letters stated, “[a]fter discussion with your staff the corrective action plans and steps that will be taken to resolve the findings...appear to be reasonable and in order.” However, the corrective action plans, which the city prepared, did not describe any steps to correct the finding. Instead, they provided background information regarding the city’s use of the 3-percent indirect cost rate, and in FYs 2012–2013, stated that the contrary opinions from the city’s Law Department and ESE’s legal counsel had been referred to OMB for determination. Officials at the city and Worcester Public Schools who were responsible for resolving this audit finding stated that Audit and Compliance had not contacted them regarding the finding.

In another example of repeat findings with the potential for significant monetary impacts, Boston Public Schools (Boston) has a repeat finding related to noncompliance with Federal cash management requirements that auditors first reported in FY 2011 and remained unresolved in Boston’s FY 2014 audit report. The finding states that Boston draws down its entire allocation for numerous Federal education grants before incurring program expenditures. For example, during its fiscal year beginning July 1, 2010, Boston drew down its entire grant allocations for Title I, IDEA, and other Federal education programs by August 31, 2010, even though it had incurred only a limited amount of costs. Boston had significant balances of unspent Federal grant funds remaining as of June 30, 2011 (fiscal year-end). Boston did not comply with Federal requirements to minimize the time between the drawdown of funds and the payment of expenses.¹⁰ The management decision letters that Audit and Compliance issued to Boston for the FY 2011 and 2012 findings indicated some disagreement with the auditor about the finding but did not state whether ESE had sustained the finding or what corrective actions were required.¹¹ Audit and Compliance’s management decision letters explained ESE’s approach to cash management rather than addressing the noncompliance identified in the finding and did not instruct Boston to modify its procedures to ensure they were aligned with Federal cash management requirements. Given the knowledge that Boston had held significant cash balances of unspent Federal funds over multiple grant periods, Audit and Compliance should have instructed Boston to calculate the interest earned on excess funds for all years in which a finding was reported and remit the interest to the Department.

ESE Did Not Track Findings or Follow Up on the Status of Corrective Actions

Audit and Compliance, the unit with principal responsibility for overseeing LEA single audit resolution for ESE, did not record or track individual LEA findings or the status of related corrective actions. Audit and Compliance tracked each LEA that had one or more findings only to ensure that it issued a management decision letter to each of these entities. This tracking

¹⁰ 34 C.F.R. § 80.21 requires subgrantees (subrecipients) to minimize the time between the transfer of funds and disbursement, and to remit interest earned on held funds.

¹¹ At the time of our fieldwork, ESE had not yet issued the management decision for 2013 because it did not receive the audit report until January 2015. An ESE official stated that the decision would likely be similar to the decision for the prior year.

process did not include information on individual findings at the LEAs or the status of corrective actions, and ESE only retained these records for the most recent year. An Audit and Compliance official stated that the agency did not track individual LEA findings or the status of corrective actions because the cost of doing so would outweigh the benefit. However, the tracking of audit findings is an essential component of an SEA's oversight of LEA audit resolution. Without a multiyear tracking system for individual findings, ESE cannot easily identify specific findings reported at individual LEAs across the State, determine how many times each finding has repeated, or effectively follow up to ensure that LEAs take timely corrective actions. In addition, Audit and Compliance lacks a valuable tool that could provide a control mechanism allowing it to periodically assess the pervasiveness of LEA risks of noncompliance with Federal requirements, the existence of systemic control weaknesses across LEAs, and the risk of improper payments.

Officials in each of the ESE units that had an oversight role in LEA single audit resolution for audit findings associated with Federal education programs stated that they generally did not follow up on the status of corrective actions after they issued management decision letters. Thus, although the management decisions typically approved each LEA's planned corrective actions, ESE officials did not subsequently contact LEA officials to ensure that the corrective actions were in process or completed. Section 400(d)(5) of OMB Circular A-133 requires the pass-through entity (SEA) to "ensure that the subrecipient takes appropriate and timely corrective action." Section 405(d) states that subrecipient "[c]orrective action should be initiated within six months after [the SEA's] receipt of the audit report and proceed as rapidly as possible."

ESE did not expand its audit resolution activities for LEAs with repeat findings. The content of ESE's management decision letters was typically identical from year to year, indicating that ESE officials did not reevaluate or modify the required LEA corrective actions for repeat findings to ensure that the LEA implemented appropriate corrective action. For example, the Bridgewater-Raynham Regional School District had a repeat Federal time and effort audit finding that was reported in FYs 2009–2012.¹² We reviewed ESE's management decision letters for FYs 2011 and 2012, which both stated that the LEA's planned corrective action was reasonable. The LEA's corrective action plan was identical for each year, stating, "[t]he District is currently in the process of implementing policies and procedures to address the administration of its federal programs. The District intends such policies and procedures will address 'time and effort' documentation in accordance with federal cost circulars." Officials at the LEA did not recall ESE officials contacting them about the resolution of this or any other repeat finding. To facilitate resolution of repeat findings, ESE could require LEAs with repeat findings to provide evidence that they had implemented the corrective actions that they have agreed to in prior years. ESE also did not expand its audit resolution activities even when audit findings resulted in

¹² The LEA had not yet issued its FY 2013 or 2014 single audit reports at the time of our fieldwork, so we do not know whether the finding has been corrected or repeated in those years.

significant questioned costs or situations where Federal funds likely should have been returned to the U.S. Treasury. For example, Audit and Compliance could not demonstrate that it took any action beyond issuance of the management decision letter to Worcester Public Schools for the indirect cost finding discussed earlier in this report. For this finding, ESE should have contacted the Department's Indirect Cost Group for guidance and assistance or promptly determined whether OMB was the appropriate agency to render an opinion on the matter.

ESE Did Not Communicate Effectively With LEA Officials Regarding Audit Resolution

ESE generally did not communicate with LEAs regarding their audit findings, either to obtain necessary information while preparing the management decision letter, or to ensure LEAs implemented needed corrective actions after ESE issued the management decision. We interviewed officials at six LEAs that had repeat findings during our audit period for which Audit and Compliance was responsible for overseeing resolution.¹³ Even though the management decision letters that Audit and Compliance issued to five of the six LEAs stated that ESE had communicated with the LEA officials before issuing the letters, the officials at these LEAs did not recall having been contacted by Audit and Compliance regarding their repeat audit findings. Audit and Compliance did not provide evidence that it had contacted officials at the six LEAs prior to issuing management decision letters.

ESE addressed its management decision letters to LEA superintendents, but in most cases, nobody appeared to have subsequently disseminated the letters to the appropriate action officials at each LEA. Officials who were responsible for audit resolution activities at four of the six LEAs were not familiar with the significance of the management decision letter in the audit resolution process and did not recall receiving any management decision letters from ESE related to their repeat findings. Because management decision letters are a central part of the audit resolution process, ESE should work with LEA officials to ensure that the officials responsible for implementing corrective action receive them. For example, ESE could distribute the letters directly to these LEA action officials with a copy to the superintendent.

OMB Circular A-133 does not specify the degree of outreach and communication that SEAs must have with LEAs related to single audit resolution, so long as SEAs fulfill the specific requirements for pass-through entities. However, proactive and cooperative engagement with LEA officials facilitates the audit resolution process by enabling the SEA to ensure that LEAs take corrective actions that are both timely and appropriate. The Department's guide on cooperative audit resolution provides guidance for how entities can improve communication and

¹³ We spoke with all staff at the LEA and the city who were identified as having a role in each LEA's single audit resolution process. This was generally the LEA's chief financial officer or business manager, and sometimes included LEA program officials, the LEA's superintendent, the city auditor, or other representatives of the city.

interaction during the audit resolution process.¹⁴ The guide states that oral communication between the auditee and oversight agency is an essential component of audit resolution and that complex or repeat findings may require full and open dialogue among all participants on a continuing basis. Although the guide targets cooperation between Federal and State agencies when resolving State level audit findings related to Federal programs, it also states that SEAs and LEAs can apply the tenets of cooperative audit resolution. Principles of cooperative audit resolution are also included in the Uniform Grant Guidance as a requirement for Federal agencies. According to 2 C.F.R § 200.25, “[c]ooperative audit resolution means the use of audit follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust, and developing an understanding between the Federal agency and the non-Federal entity.”

ESE’s Management Decision Letters Did Not Meet Federal Requirements

None of ESE’s management decision letters that we reviewed met all OMB Circular A-133 requirements for content. According to Section 405(a) of OMB Circular A-133, “[t]he management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. ... The management decision should describe any appeal process available to the auditee.” We reviewed 20 management decision letters that ESE issued for LEA findings in FYs 2011–2013 and determined that none of the letters contained all of the required content. Further, 16 of the letters did not contain any of the required content.

We also determined that ESE issued 4 of the 20 management decisions letters late. Section 400(d)(5) of OMB Circular A-133 requires the SEA to issue a management decision for subrecipient audit findings within 6 months of receiving the audit report. However, ESE did not provide evidence of the date it received LEA audit reports for FYs 2011 and 2012, and for FY 2013, many months elapsed between the date that an LEA’s audit report was completed and submitted to the Clearinghouse and the date that ESE received the report. For these reasons, we used the date that the LEA audit reports were completed in the Clearinghouse to determine whether ESE’s management decision letters were timely.¹⁵ Based on our assessment, ESE issued the 4 management decision letters between 1 and 4 months late.

ESE did not issue two required management decision letters. At the time of our fieldwork, Audit and Compliance had not issued a management decision letter to Boston for its FY 2013 audit

¹⁴ U.S. Department of Education, Cooperative Audit Resolution and Oversight Initiative (1999). “Discovering New Solutions Through Cooperative Audit Resolution: A Guide. Washington, D.C.

¹⁵ Under the Uniform Grant Guidance (2. C.F.R. § 200.521 (d)) the SEA is required to issue the management decision letter within 6 months of the date that the audit report is accepted by the Clearinghouse, rather than the date that the SEA received the audit report, as specified by OMB Circular A-133.

findings. An ESE official stated that Audit and Compliance had not issued the management decisions because it did not receive Boston's FY 2013 single audit report until January 2015. However, we confirmed that the audit report was submitted to the Clearinghouse on time in March 2014. Audit and Compliance attributed its late receipt of the report to a collection error. Audit and Compliance also did not issue a management decision to Fall River Public School District for two findings identified in its FY 2012 audit. An ESE official stated that Audit and Compliance did not issue these management decisions because the findings were not applicable to any of ESE's programs. However, because the audit report identified the findings as applicable to the Title I and Special Education programs, ESE was required to issue a management decision letter, even if it did not sustain the findings.

Factors Underlying ESE Weaknesses in Overseeing LEA Audit Resolution

We concluded that ESE's internal controls were not sufficient to ensure that it provided adequate oversight of the LEA single audit resolution process. ESE did not have written policies and procedures identifying the Federal requirements for SEA oversight of LEA single audit resolution, such as the processes that ESE personnel should follow when reviewing each LEA finding and corrective action plan or developing the management decision letter. ESE also did not have policies and procedures describing the methods for, and how frequently it should, follow up on LEA activities to ensure that LEAs took appropriate corrective action within agreed-on timeframes or to describe more intensive audit resolution oversight practices for repeat findings. Further, ESE did not have a quality assurance process to periodically evaluate its oversight of LEA single audit resolution. As a result, ESE had no means to systematically detect errors, control weaknesses, or noncompliance with regulatory requirements. Finally, ESE did not have a process to facilitate management control and oversight of the LEA single audit resolution function. For example, the senior official with authority over Audit and Compliance did not receive reports on the status of LEA findings across the State or other metrics to gauge the effectiveness of ESE's audit resolution activities or to provide guidance on the appropriate actions that ESE should take to resolve significant repeat findings.

The timely and appropriate resolution of LEA single audits did not appear to be a priority for ESE based on its allocation of resources. Audit and Compliance was responsible for overseeing the LEA single audit resolution process for ESE. At the time of our review, Audit and Compliance had a director and seven staff members, but the director was the only person overseeing LEA single audit resolution. One staff member reviewed LEA single audit reports for completeness but was not involved in the audit resolution process. The remaining staff members had duties that were also unrelated to LEA single audit resolution, such as performing internal control and grant monitoring reviews at LEAs. The amount of work required to identify appropriate corrective actions for 100 or more¹⁶ LEA audit findings each year, produce

¹⁶ ESE did not track the number of individual findings in each year. This figure is an OIG estimate based on analysis of available data.

management decision letters for each finding that meet applicable requirements, track and follow up on the status of LEA corrective actions on prior audit findings, and expand audit resolution activities for repeat findings appears to be beyond the capacity of one person working part-time on these tasks.

As a result of the weaknesses in ESE's oversight of LEA single audit resolution identified in this report, most LEAs received limited or no guidance from ESE on how to properly resolve their audit findings, putting Federal education program funds and program outcomes at risk. Many LEAs did not receive instructions from ESE regarding appropriate steps to correct their findings, even when their corrective action plans lacked necessary detail or included steps that would not correct the findings. In addition, significant amounts of questioned costs may go uncollected for multiple years. For example, the City of Worcester's indirect cost findings from FYs 2010–2014 resulted in nearly \$2 million in questioned costs. It is also possible that other LEAs in Massachusetts could have weaknesses in their cash management process that are similar to those identified in Boston. ESE officials could not demonstrate that ESE had collected questioned costs related to any LEA finding that occurred in FYs 2011–2013. Based on our analysis of single audit data from the Clearinghouse and review of related audit reports, about 10 percent of Massachusetts LEAs that submitted audit reports to the Clearinghouse had at least one finding that repeated for 3 or 4 years during FYs 2010–2013. This was among the highest number of LEAs with repeat findings in any State. The repeat findings included those described earlier as well as multiple findings at other LEAs related to inaccurate or untimely financial reporting for Federal education grants, insufficient documentation of personnel time and effort charged to Federal grants, and failure to check the Federal suspension and debarment list before awarding large-dollar contracts to vendors, among other issues.

We used a judgmental selection process to choose sample LEAs and management decision letters for review. As a result, we cannot project our results to the population of all LEAs in Massachusetts or all management decision letters issued by ESE. However, based on the pervasiveness of issues we identified in our sample items and the high proportion of repeat findings among Massachusetts LEAs, it is possible that the results identified in this report are not limited to the LEAs and management decisions included in our audit.

Recommendations

We recommend that the Director of the Office of the Chief Financial Officer's Post Audit Group require ESE to—

- 1.1 Take immediate action to ensure that all LEAs that currently have unresolved repeat findings, including those highlighted in this report, take prompt and appropriate corrective actions. ESE should initially prioritize the resolution of the findings with the greatest program or fiscal impacts and contact the Department for guidance and assistance, as necessary.

- 1.2 Design and implement written policies and procedures for overseeing the LEA single audit resolution process to ensure that ESE's activities result in timely and appropriate correction of LEA audit findings. The policies and procedures should cover the entire audit resolution process, including the review of each LEA finding and corrective action plan, preparation of management decisions, follow-up activities, and steps to effectively resolve repeat findings.
- 1.3 Establish a tracking system for individual LEA audit findings that includes data for current and prior years to facilitate effective oversight and timely LEA finding resolution. Once ESE enters an audit finding into the tracking system, it should not remove the finding until the LEA has fully implemented all required corrective actions.
- 1.4 Ensure that management decision letters meet regulatory requirements such as clearly stating whether ESE sustains the auditor's finding, timely issuance, and communicating appropriate corrective actions the LEA must take. ESE should also establish a timeframe for LEAs to complete corrective actions.
- 1.5 Implement routine internal management reviews covering the status and performance of ESE's oversight activities related to LEA single audit resolution and a periodic quality assurance process for the oversight activities to detect and correct errors, control weaknesses, and noncompliance with regulatory requirements.

ESE Comments and OIG Responses

We summarize ESE's comments to specific parts of our finding and provide our responses in the following sections. See Attachment 2 for a copy of the full text of ESE's comments.

ESE General Comments

ESE stated that it understood that the audit was focused on its oversight of LEA single audit resolution and agreed that this was an important part of ESE's oversight work. However, ESE expressed concern that the audit did not cover all of ESE's monitoring and oversight activities to support the effective delivery of public education in Massachusetts. ESE stated that even though it provides many different forms of fiscal and programmatic monitoring, our report leaves an impression that single audit resolution is ESE's only tool to ensure that LEAs use Federal funds appropriately.

OIG Response

We agree that SEAs have an important oversight role that extends beyond LEA single audit resolution. As noted in the Background section of this report, SEA responsibilities include advising LEAs of the requirements associated with the use of Federal funds; monitoring LEAs' use of Federal funds to ensure they comply with laws, regulations, and grant agreements; and ensuring that LEAs achieve program goals. Our audit focused on ESE's oversight of LEA single

audit resolution because the single audit is a primary control mechanism used by Federal agencies to ensure accountability for Federal awards. The single audit helps to ensure that Federal funds are safeguarded against improper use and that Federal programs operate as intended. Our focus on the single audit resolution process is not intended to diminish the value of ESE's other LEA monitoring and oversight activities.

Indirect Cost Finding in the City of Worcester

ESE Comments

ESE stated that its financial and programmatic staff, as well as its legal counsel, have weighed in on the recurring indirect cost finding in the City of Worcester and are in agreement that the city was charging an unallowable indirect cost rate for education grants. However, ESE strongly disagreed with two statements in the draft report.

ESE disagreed that it should have contacted the Department's Indirect Cost Group for assistance regarding resolution of the finding. ESE believed it had taken the proper approach by waiting for OMB to provide guidance on the appropriate indirect cost rate that the City of Worcester could charge on education grants. ESE explained that the City and Public Schools of Worcester were looking for an independent voice to decide the outcome of their disagreement and that input from another education unit (that is, the Department) would not resolve the matter.

ESE also disagreed that it should have immediately required the return of questioned costs resulting from the finding. ESE stated that it intentionally did not request funds back from the City of Worcester. ESE thought it was prudent to let the appeal to OMB run its course and wait until OMB rendered an independent decision on the finding. ESE said that if its opinion was ultimately upheld, it would request a refund of all questioned costs, including interest. ESE added that if it recouped the questioned costs as proposed by OIG, and OMB ultimately decided in favor of the city, ESE would be in the position of refunding the questioned costs with interest after some of the grant awards that the funds applied to had closed.

OIG Response

We did not recommend the immediate return of questioned costs to the Federal government. We did state that ESE should have required the City of Worcester to charge the lower indirect cost rate until the finding was resolved, and it is still our position that using the lower rate while the finding is unresolved is appropriate.

As the oversight entity charged with issuing management decisions for LEA audit findings associated with its pass-through grants, ESE has the legal authority to determine the appropriate actions needed to resolve those audit findings. Additionally, the Department delegates authority to SEAs to develop and approve indirect cost rates for their LEAs. Thus, ESE had the authority to decide the appropriate indirect cost rate that the city could charge and resolve the finding. ESE should have contacted the Department's Indirect Cost Group if it desired guidance or technical assistance related to the finding. OMB was not the correct authority to decide the

matter. Additionally, according to a Worcester Public Schools' official, as of November 30, 2015, OMB had not responded to the City of Worcester's 2013 request that it render an opinion on the finding.

In its comments to this report, ESE stated that it concurred with the finding that Worcester was charging an indirect cost rate that was higher than the allowable rate. We noted in the report that ESE's counsel had already rendered an opinion that Worcester was charging the wrong indirect cost rate for education grants. ESE had the authority and responsibility to timely resolve this issue and safeguard Federal funds. ESE could have ensured that the finding was resolved as early as 2011, which would have prevented the apparent unallowable use of more than \$1.5 million in Federal funds. However, as a result of ESE's inaction, the finding remains unresolved.

Cooperative Audit Resolution

ESE Comments

ESE referenced the Department's Cooperative Audit Resolution and Oversight Initiative (CAROI) three times in its comments. ESE stated that it has dedicated limited resources to follow-up activities related to single audit findings (which it described as an "after the fact" activity) and instead uses the bulk of its resources to conduct field visits to grantees, enabling ESE to highlight issues and offer assistance before an audit period. ESE described this approach as being consistent with the principles of CAROI and said this proactive approach with LEAs is beneficial and productive. ESE also stated that it had followed the concepts of CAROI in its oversight of the indirect cost finding in the City of Worcester.

OIG Response

CAROI's purpose is to reduce audit findings, and it achieves this purpose through a two-pronged approach: it provides a cooperative framework for resolving existing audit findings and supports proactive oversight activities to identify and correct problems before they become audit findings. As described in this report, ESE generally did not engage in cooperative audit resolution activities with its LEAs. In many cases, including the indirect cost finding in the City of Worcester, ESE could not demonstrate that it had taken any actions to resolve LEA findings beyond the issuance of management decision letters. We agree that proactive oversight for preventative purposes is important. However, it is critical that ESE work to address and effectively resolve known instances of noncompliance and control weaknesses that have been reported through the LEA single audit process.

Tracking of Audit Findings

ESE Comments

ESE stated that the Audit and Compliance unit has never been designated as responsible for tracking and monitoring all LEA findings and management decision letters for ESE. The primary role of Audit and Compliance is to collect all LEA audit reports, review the reports for

completeness and adherence to standards, and notify ESE program units when there is a finding regarding one of their programs. ESE explained that Audit and Compliance has taken on responsibility for additional duties, including preparation of some management decision letters, because it was efficient to do so.

OIG Response

We found that the Audit and Compliance unit maintained a spreadsheet to track high-level information regarding LEAs that had audit findings and the associated management decision letters. More generally, we found that the Audit and Compliance unit was responsible for nearly all of the principle functions related to ESE's oversight of the LEA single audit resolution process. In light of its already established responsibilities in this area, Audit and Compliance appears reasonably well-positioned to assume an official tracking role for ESE. However, ESE may assign responsibility for monitoring and tracking the LEA audit resolution process to any unit that it deems best suited for this role.

Content and Timeliness of Management Decision Letters

ESE Comments

ESE agreed that its management decision letters lacked content required by Federal regulations. However, ESE disagreed with our finding that it had issued some management decision letters late because we used the dates that the audit reports were completed and submitted to the Clearinghouse as ESE's date of receipt for the reports. ESE noted that we referenced the new requirements of the Uniform Grant Guidance in a footnote. Under OMB Circular A-133 requirements, timeliness of management decision letters was measured from the date that the SEA received each LEA's audit report. However, under the new Uniform Grant Guidance, timeliness is now measured from the date the audit report was submitted to the Clearinghouse. ESE noted that the Uniform Grant Guidance became effective for ESE on July 1, 2015, and thus the OMB Circular A-133 requirement was in effect during the audit period.

OIG Response

As stated in the report, ESE did not provide evidence of the date that it had received LEA audit reports for FYs 2011 and 2012. Since ESE did not provide its actual date of receipt, we could not use this date to assess the timeliness of its management decision letters. As a result, we used the date that the FY 2011 and 2012 audit reports were submitted to the Clearinghouse to assess timeliness for those years.

ESE did provide the dates that it had received audit reports for FY 2013. However, we found that ESE's date of receipt for one LEA's audit report was nearly 6 months after the report had been completed and submitted to the Clearinghouse. Because of this, and to ensure that our analysis was consistent from year to year, we decided that the date that the audit reports were submitted to the Clearinghouse was the most appropriate measure of timeliness for FY 2013 as well.

SEAs have a responsibility to be proactive to ensure that they receive each LEA's audit report in a timely manner. As noted in this report, the SEA is responsible for ensuring that all audit findings contained in LEA audit reports are corrected timely and appropriately. The SEA is also responsible for ensuring that each LEA that meets the Federal expenditure threshold has a single audit performed. To fulfill these responsibilities, the SEA must obtain each LEA's single audit report promptly. The SEA should also follow up on any cases where it has not received an LEA's audit report by the regulatory deadline.

In a footnote to this report, we explained that the Uniform Grant Guidance changed the requirements related to determining timeliness of management decision letters. The footnote was included to provide the reader with contextual information. It was not used as criteria to support the finding. We stated in the Background section that OMB Circular A-133 was in effect during our audit period.

OTHER MATTER

According to Section 200(a) of OMB Circular A-133, non-Federal entities with Federal grant expenditures that meet or exceed a specified threshold are subject to single audit requirements in that year. ESE did not have a process to obtain year-end Federal expenditure data from its subrecipients to determine which had met the single audit expenditure threshold. Instead, ESE used historical information to anticipate which LEAs would likely meet the expenditure threshold. Because ESE did not use the correct expenditure data, it could not identify with certainty which subrecipients should have a single audit or ensure that it oversaw the resolution of all findings associated with Federal education programs.

To correct this issue, ESE could explore options for obtaining each subrecipient's total Federal expenditure data soon after the end of the fiscal year and determining which entities are required to have a single audit for that year. Since many of ESE's subrecipients are municipalities that receive Federal awards from numerous pass-through entities, ESE should ensure that it obtains Federal expenditure data from all applicable sources. One option could be for Massachusetts to designate a single State agency to compile expenditure data for all recipients of Federal funds, identify the entities that are required to have a single audit each year, and communicate that information to the State agencies that administer Federal pass-through grants.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine whether ESE provided effective oversight to ensure that LEAs took timely and appropriate action to correct single audit findings. Our audit covered ESE's processes and activities related to the resolution of LEA single audit findings that occurred in FYs 2011–2013.

To achieve our audit objective, we performed the following procedures:

1. Reviewed applicable sections of the Single Audit Act of 1984, OMB Circular A-133, the OMB Circular A-133 Compliance Supplement dated March 2014, and the Uniform Grant Guidance to gain an understanding of the oversight responsibilities of the Department and SEAs related to LEA single audit resolution.
2. Reviewed reports issued by the Department's Office of Inspector General and the U.S. Government Accountability Office that addressed various aspects of SEA oversight of LEAs, including the resolution of LEA audit findings.
3. Interviewed officials with the Department's Office of the Chief Financial Officer's Post Audit Group, Risk Management Service, Office of Elementary and Secondary Education, and Office of Special Education Programs to gain an understanding of how the Department monitors SEA oversight of LEA single audit resolution.
4. Judgmentally selected six Massachusetts LEAs for review (see "Sampling Methodology" below).
5. Reviewed the FYs 2011–2013 single audit reports for ESE and the six LEAs (if available in the Clearinghouse) to identify information relevant to the audit objective, including significant or repeat findings and areas of internal control weakness at the entities.
6. Interviewed ESE officials and reviewed ESE's written policies and procedures to gain an understanding of ESE's oversight processes related to LEA single audit resolution and other areas relevant to the audit objective.
7. Interviewed officials at each of the six LEAs to obtain information about the repeat findings and to evaluate the nature and extent of ESE's interaction with the LEAs related to the resolution of the findings.
8. Obtained 20 management decision letters that ESE issued to 12 LEAs for 39 audit findings (see "Sampling Methodology" below) and reviewed the letters for adherence to

regulatory requirements for content. We performed additional procedures to determine whether ESE had issued the management decision letters timely. We also obtained and reviewed any other available documentation regarding ESE communications with the LEAs related to the resolution of audit findings.

9. Evaluated ESE's internal control over LEA single audit resolution by reviewing ESE's policies and procedures, internal audit tracking sheets, and other relevant documentation; interviewing ESE and LEA officials; and testing the content and timeliness of management decision letters.

Sampling Methodology

Selection of LEAs. We extracted and analyzed data from the Clearinghouse to identify Massachusetts LEAs that had repeat audit findings during the audit period. We identified 28 LEAs that had findings that repeated for 3 or 4 years from 2010–2013. We obtained and reviewed the single audit reports for each of the 28 LEAs to gain more information about the nature and significance of the repeat findings. To achieve our objective, we judgmentally selected 6 of the 28 LEAs for review based on the following factors: (a) significance of the repeat findings, (b) number of years that the findings repeated, (c) total number of repeat findings at the LEA, and (d) the size of the LEA in terms of student enrollment. The six LEAs we selected for review were Fall River Public School District, Worcester Public Schools, Boston Public Schools, Malden Public Schools, Bridgewater-Raynham Regional School District, and Peabody Public Schools. The results of our work at the six selected LEAs cannot be projected to the population of all Massachusetts LEAs.

Selection of Management Decision Letters. We requested copies of the management decision letters that ESE issued for 30 audit findings reported in FYs 2011–2013 at the 6 selected LEAs. ESE provided 14 management decision letters that covered 27 of the 30 findings. ESE officials informed us that, at the time of our fieldwork, ESE had not issued management decision letters for the three remaining findings. The 14 letters were issued by ESE's Audit and Compliance unit. Based on interviews with ESE officials and our review of the spreadsheet that ESE used to track the issuance of management decision letters for the most recent year, we determined that the Title I and Special Education program offices also issued management decision letters for audit findings associated with Federal education programs. To ensure that our sample of management decision letters included letters issued by each of the three groups, we judgmentally selected six additional management decision letters from the tracking sheet for review. The six letters included three letters issued by the Title I office and three letters issued by the Special Education office for FY 2013 findings at LEAs that we did not select for review. The six additional management decision letters were issued to the public schools of Chelsea, Greenfield, Leominster, Falmouth, Weymouth, and Palmer, and covered a total of 12 findings. The results of our review of the 20 total management decision letters cannot be projected to the population of all management decision letters issued by ESE. We could not determine the total number of

management decision letters that ESE had issued during the audit period because ESE did not maintain multiyear information of this kind.

We held an entrance conference with ESE officials and performed audit work at ESE's offices in Malden, MA, in January 2015. We interviewed officials at Fall River Public School District and Worcester Public Schools at their offices in January 2015 and interviewed officials at Boston Public Schools, Malden Public Schools, Bridgewater-Raynham Regional School District, and Peabody Public Schools by telephone in February and March 2015. We discussed the results of our audit with ESE officials on July 30, 2015.

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 finding and conclusions based on our audit objective.

ADMINISTRATIVE MATTERS

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

This report incorporates the comments that you provided in response to the draft audit report. 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 Department of Education official, who will consider them before taking final Departmental action on this audit:

Charles Laster
Director, Post Audit Group
Office of the Chief Financial Officer
U.S. Department of Education
550 12th Street SW
6th Floor
Washington, D.C. 20202

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 calendar 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.

We appreciate the cooperation and assistance extended by your employees during our audit. If you have any questions or require additional information, please do not hesitate to contact me at (916) 930-2399.

Sincerely,

/s/

Raymond Hendren
Regional Inspector General for Audit

Attachments

Attachment 1

Abbreviations, Acronyms, and Short Forms Used in this Report

Audit and Compliance	ESE Audit and Compliance Unit
Audit finding	Compliance finding for a Federal education program reported in an OMB Circular A-133 single audit
Boston	Boston Public Schools
CAROI	Cooperative Audit Resolution and Oversight Initiative
C.F.R.	Code of Federal Regulations
Clearinghouse	Federal Audit Clearinghouse
Department	U.S. Department of Education
ESE	Massachusetts Department of Elementary and Secondary Education
FY	Fiscal Year
LEA	Local Educational Agency
OMB	Office of Management and Budget
SEA	State Educational Agency
Uniform Grant Guidance	Title 2 of the Code of Federal Regulations

Auditee Comments on the Draft Audit Report



Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000
TTY: N.E.T. Relay 1-800-439-2370

November 6, 2015

Raymond Hendren
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
501 I Street, Suite 9-200
Sacramento, California 95814-2559

Dear Mr. Hendren:

The Department of Elementary & Secondary Education (ESE) acknowledges and appreciates the time and effort contained in this review by the USED OIG audit. We respect the professional interactions between USED OIG, ESE and LEA staff during your audit. While we may have differing views of the Department's oversight of LEA federal funds activity, we share a cooperative approach to identifying opportunities to work in partnership with our LEAs, USED and USED/OIG.

General Observation

The Department understands that the focus of this audit was focused on ESE's SEA role in providing effective oversight of LEA corrective action findings to ensure timely and appropriate corrective action. While this responsibility is an important part of the Department's oversight of local schools and districts, it does not represent the entirety of the daily work conducted in the agency to support the effective delivery of public education in the Commonwealth. We have concerns that the singular focus of this audit does not present an accurate representation of all of the Department's district oversight work in the expenditure of federal education funding.

While LEA Single Audits have an important place in the overall accountability structure, they are not the only requirement utilized by ESE. Through federal regulations and Compliance Supplements from OMB, the SEA is now required and tasked with providing many different forms of fiscal and programmatic monitoring and oversight that takes many shapes and forms with greater success in our dealings with the LEAs. The message of this report, while it carries importance, is single focused in its nature. ESE's response is designed to present a broader representation of our work.

ESE Response to Audit Results

The Department appreciates the audit's view that ESE audit resolution process is insufficient. We will intend to review the offered recommendation and make improvements to our processes. The audit

leaves an impression that Single Audit resolution is the only tool to ensure our oversight of the utilization of federal education funds in our LEAs. The impression is inaccurate and fails to recognize the amount of ESE's effort that does occur on a daily basis across the Department.

The report's chart shows that a number of the findings in the districts reviewed were for personnel time and effort certifications not maintained and late financial reporting. These were for mostly lack of semi-annual certifications and districts submitting their SEA mandated final grant report later than the 60 days allowed. These Single Audit findings at the LEA are derived from basically reviewing files and not in-depth research involving the LEA staff. This was a long ongoing problem we noted years ago and is one of the primary reasons we started on site, internal control interviews and reviews at the LEA business office and administrative staff level.

We have found that it has been more beneficial to use the CAROI process to assist the LEA staff in finding ways to resolve issues and directing them to resources in federal, state and other district offices. The report correctly points out that the Audit and Compliance Unit has dedicated limited resources in the follow up of Single Audit findings (after the fact) and instead uses 75% of its staff positions to conduct field visits of our grantees which enables us to highlight issues and offer assistance prior to an audit period (proactive).

In this manner we can accomplish many different things as compared to just financial reviews. The Single Audit simply cites lack of lack of semi-annual certifications, but the Audit and Compliance Unit staff hands out examples of forms and compliance documents along with facilitating contact with staff in other districts that have found appropriate ways to process their systems.

Most districts that are Single Audit eligible only review singularly or a combination of the Title I, Sped or the School Lunch programs. The Audit and Compliance Unit over the past few years have directly reviewed eligible spending under the Title IIa, Title III, Perkins, Ed Jobs, Kindergarten and Adult Basic Education funds to name a few programs. The Department has found that this is a more viable way of reviewing our 1,100 grantees (LEA's are approximately 400 of these) and being a watchdog of the federal and state resources that we issue to these entities.

Regarding the finding that ESE did not ensure that LEA took timely and appropriate action to correct audit findings, we acknowledge that we fall short in the boilerplate, technical and regulatory language that is missing from the MD letters. The level of specifically identifying each component for correcting the underlying conditions for each finding vary with the levels of the involved issues or severity of the findings themselves. Due to the timing of these audits the LEAs and their cities and towns are already into the subsequent year of their audit work as the follow up would be commencing.

We do feel that we should comment on one finding highlighted in the report and our reasons for not expanding on a significant finding. The USED OIG audit stated *"In one case, Audit and Compliance did not take action on a finding involving nearly \$2 million in Federal questioned costs even after ESE's own legal counsel rendered an opinion that supported the return of the Federal funds"*. Admittedly this is a longstanding issue that has strong feelings on both sides of the situation. We are in agreement with the OIG staff and the independent auditors regarding the difference between the City of Worcester and the LEA disagreement about indirect cost rates being used on grants. However, we strongly disagree with the OIG staff on two of their suppositions regarding this topic in this report.

The first one is their suggestion that we should have approached the US ED Indirect Cost Group section

for assistance on this matter. At this point the LEA, our Department's financial and programmatic staff along with our legal office have all weighed in on the matter and concurred with the LEA's position. As we have already explained, the reason that the City and LEA have approached OMB and requested that they weigh in and help decide this is that they are looking for an *independent* voice on the issue. Another education unit coming down on the side of the LEA was not about to tip the scales on this one.

The second point was that we should have immediately requested the funding back and the amounts be returned to the federal government. The report states that we are putting federal funds at risk. Our Department has been involved and monitoring this situation and have made a conscious decision not to request the funds back *at this time*. This case is still in litigation as it were. We feel that it is much more prudent to let this process run its course until an independent decision is rendered and issued to both parties. If our opinion is upheld, as we believe it will be, we will request a refund of all questioned cost (federal and state grants) including interest. However, in the event that OMB decides in the City's favor, if we had followed the OIG stance of immediately recouping the funds, we would be in the position of refunding the questioned costs with interest and some of the grant awards these apply to would have already been closed. It is our position that we have taken the proper course of action on this case and have been following CAROI concepts since the beginning of this matter.

In regards to the comment that ESE did not track findings or follow up on the status of corrective actions we note that the Audit and Compliance Unit has never been designated by the Department as responsible for the tracking and monitoring of all LEA findings and Management Decision letters for the Department as stated in the report. It's primary role was and is the collection point of all received audit reports (Single Audit and otherwise), the desk review of the reports for completeness and adherence to standards and the notification to Department units if there was a grantee finding regarding one of their programs.

The unit took on the responsibility of responding to general findings that may or may not have affected multiple programs such as the earlier mentioned lack of semi-annual certifications and districts submitting their SEA mandated final grant report later than the 60 days allowed. From a production standpoint it did not appear efficient for multiple program to research and respond to the same minor finding in a report that listed multiple programs. This process entailed a majority of reported findings and enabled the cited program staff to expend their efforts on direct program issues that required their expertise to work with the LEAs.

The report comments that ESE did not communicate effectively with LEA officials regarding audit resolution and questions that we are sending the information to the Superintendent directly, instead of the staff who may directly deal with the issues mentioned. If a "responsible person" is not listed in the audit finding it is very difficult from an oversight position to know at any particular one of over 400 LEAs who the individual is that is best suited to address the issue. So it is prudent to approach the known factor of the leadership position within the District. This is similar to the initial and ongoing correspondence from the OIG staff to the SEA in this audit. Additionally, we have had long standing workings with Superintendents requesting that correspondence be sent to their office so that they are ensured that they are made aware of potential issues and situations regarding the Department and their district.

The report comments that ESE's management decision letters did not always meet OMB Circular A-133 requirements for content or timeliness. We acknowledge that we fall short in the boilerplate, technical and regulatory language that is missing from the MD letters. With the commencement of the new Uniform Grants Guidance, the Department is convening an internal group to construct the new documentation and processes that we will have to maintain. We will include information regarding the resolution of LEA audit findings in this process.

Regarding the determination of when a report was received in some cases the auditors are considering the dates that the reports were completed and submitted to the Clearinghouse and footnoted this decision using the Uniform Grant Guidance. The Uniform Grant Guidance did not become effective for the SEA until July 1, 2015 which is after the commencement and scope of this audit. Based on this fact we were under the OMB requirements of six months after receipt of the reports. We disagree with the auditor making a supposition in this instance.

Other Matter

The report references "Other Matter". One comment was that ESE did not have a process to obtain year-end Federal expenditure data from its sub recipients to determine which had met the single audit expenditure threshold. Instead, ESE used historical information to anticipate which LEAs would likely meet the expenditure threshold. The auditors suggested that *"to correct this issue, ESE could explore options for obtaining each sub recipient's total Federal expenditure data soon after the end of the fiscal year and determining which entities are required to have a single audit for that year. Since many of ESE's sub recipients are municipalities that receive Federal awards from numerous pass-through entities, ESE should ensure that it obtains Federal expenditure data from all applicable sources."*

For years ESE staff would combine by financial information from its internal grants award system and its USDA nutrition reimbursement funds to isolate by entity, who would qualify for a Single Audit based on our pass through funds. Over the past two fiscal years we have been migrating our grant pass thru funds to a different system, thereby having three systems that do not automatically combine information. Since ESE had no significant increase in pass through funding (in fact one of our major programs, Race to the Top, was eliminated) it was determined that to identify potential Single Audits based on educational and USDA funding would be decided based on historical data. It was felt that this would be statistically sufficient for the identification of these entities.

While we could use the state's accounting system (MMARS) to attempt to determine which municipalities received federal funds by the various state departments this approach would not be comprehensively valid for a number of reasons. Some of these are:

- Were the payments made to municipalities as a vendor as compared to a pass thru grant?
- State agencies such as Universities and Colleges that have their own accounting systems and only report expenditures to the Commonwealth on an aggregate basis.
- Other pass through funds come from State Authorities who are legally independent and have their own systems along with those funds from Private Universities and Colleges, or sub granted from original pass thru funds.
- Additionally there are direct grants from the Federal government to these entities.

The OIG uses the phrase “*soon after the end of the fiscal year*”; however the Commonwealth’s financial statements are not completely closed until six months after the end of the fiscal year. We determined after looking at all of these variables it seemed that using a historical basis was a much more efficient and prudent method for identifying potential Single Audit eligible entities.

The auditors also suggest that one option could be for Massachusetts to designate a single State agency to compile expenditure data for all recipients of Federal funds, identify the entities that are required to have a single audit each year, and communicate that information to the State agencies that administer Federal pass-through grants. This suggestion should be made to a state oversight agency that would have the ability to attempt to conduct this project, not one of approximately one of 160 state departments. Secondly, any system as suggested would be cumbersome at best as it would also be constrained by all of the points listed above and potentially more.

One last additional comment is that the OIG staff spells out that this report is *draft... predecisional..and the Department should not show or release its contents... or improper disclosure*. However, in the distribution of that draft report the OIG did just that by issuing it to outside entities such as the Massachusetts State Auditor’s Office.

In conclusion the Department recognizes its shortcomings in this topic matter; however we maintain that this resolution of these Single Audit findings is only one of the many tools that we employ to ensure our oversight of the utilization of federal and state education funds in our LEAs. We strongly believe that we are much more productive by following CAROI principles and being proactive in our dealings with our districts in financial and programmatic issues.

We would be happy to discuss the content of this letter before the finalization of your audit report. We additionally look forward to addressing those areas where improvement can be achieved.

Sincerely,

Signature on file

William Bell
Associate Commissioner for Administration & Finance