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MEMORANDUM

DATE: December 10, 2009

TO: TechMIS Subscribers

FROM: Charles Blaschke and Blair Curry

SUBJ: Analysis of Final SIG Regulations and SEA Perspective of Highest Priority Initiatives to Implement ARRA Reforms

Based upon a pre-Federal Register notice, released on December 3rd, we have prepared our analysis in the attached Stimulus Funding Alert covering changes that have been made in the final School Improvement Grant Part G regulations. Some changes have implications for most TechMIS subscribers that are targeting these funds. The number of required and permitted uses, under the turnaround and transformation models, has been expanded. District officials and school principals need to be approached immediately if one expects future purchases and partnerships with LEAs.

Also attached is a Special Report on a survey conducted for the Center on Education Policy in which state education leaders in the SEA and governor's office identified priority initiatives they are currently using or plan to use to implement reforms under Race to the Top and School Improvement Grant funding. Some SEA-perceived priorities differ from those prescribed by the Administration in final guidance for RTTT and SIG funding. SEA priorities are likely to prevail even if state fiscal situations worsen next year.

And all of us at TURNKEY bring you season's greetings and wish you and your associates a happy and prosperous new year. We appreciate the opportunity to work with you.

Sincerely,

Charles & Blair

P.S. The next TechMIS issue will be in mid-January.

Stimulus Funding Alert: Final Regulations for the $3.5+ Billion in School Improvement Grants Contain Some New Subtle Changes Which Have Direct Implications for TechMIS Subscribers Who Plan to Target Eligible Districts/Schools Which Will Receive Competitive Grants Early Next Year

A Technology Monitoring and Information Service (TechMIS)
SPECIAL STIMULUS FUNDING ALERT

Prepared by:
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On December 3, the U.S. Department of Education released final regulations for the School Improvement Grants (SIG) program. Many education groups which had asked for greater flexibility in the four "prescribed" models in the earlier draft regulation were disappointed that many of their desired changes were not included. However, there are a number of subtle changes in the final regulations which have direct implications for many TechMIS subscribers who are targeting this $3.5+ billion initiative. Eligible schools are likely to receive five- to ten-fold increases in Title I funding over the next three years to transform the persistently lowest-achieving schools. Some of these SIG changes were also incorporated into the final Race to the Top regulations published earlier in November; these were described in the TechMIS Special Stimulus Funding Alert sent to subscribers on November 18th. The changes in this final set of SIG regulations having the greatest implications for most TechMIS subscribers are highlighted below.

One of the biggest operational problems confronting states/ eligible districts has been the delay in allocating School Improvement Grant section 1003(g) [known as Part G] funds, totaling $3.5 billion, to states which had already begun implementing school improvement efforts funded under the FY 2008 SIG Part G allocation. Because the new FY 2009 funds are not expected to be allocated to districts until February/April, many initiatives already underway have been put on hold or are able to "limp along" on carryover FY 2008 funds and the 4% SEA set-aside for school improvement. To remedy the situation, USED will be awarding immediately the full 5% SEA set-aside reserve for technical assistance, administration, and evaluation to help districts which are likely to receive the School Improvement Grants later. As noted in the new regulations, "Such technical assistance might include disseminating model processes to assist LEAs in carrying out needs assessments and screening partner organizations; initiating State or regional efforts to recruit and develop principals to serve in persistently lowest-achieving schools; attracting EMOs [Education Management Organizations] and CMOs [Charter Management Organizations] to the State to restart persistently lowest-achieving schools; and developing sample competencies that LEAs can use to review staff to work in a turnaround environment." Perhaps more critically, the regulations also state, "An SEA may also allocate some of the funds to LEAs in order to provide resources to ensure that those LEAs are ready to implement the interventions in their Tier I and Tier II schools if and when they receive a School Improvement Grant." Among the cited examples of the use of these funds by districts are needs assessments, recruitment and training of effective principals capable of implementing an intervention, and identifying and screening outside partners.

In addition, a new provision states that, "an LEA's application must include, among other items: the intervention the LEA will implement in each Tier I and Tier II school it commits to serve; evidence of the LEA's strong commitment to use school improvement funds to implement the selected interventions; a timeline for implementation; and a budget." One can infer that eligible districts/schools, in their applications, will have to have selected not only the one of the four models, but also some of the specific interventions they want to implement if the application is to be approved by the SEA. Another subtle change is greater involvement of the principal, who must be given "sufficient operational flexibility….to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates." Each LEA decides which of the four models it will use; only if an SEA takes over a persistently lowest-achieving school can the SEA dictate the model to be used. Hence, the earlier a marketer can approach such districts, including likely principals, the greater the opportunities for future purchases/partnering relationships.

In addition to providing the principal "sufficient operational flexibility," the turnaround model contains another new provision that requires an LEA to use "data to identify and implement an instructional program that is research-based and vertically aligned from one grade to the next as well as aligned with State academic standards." And, as we noted in our November 18th analysis of final Race to the Top regulations, the SIG final regulations emphasize that a turnaround model may include any other required and permissible activities under the "transformation model" and may be a "new school model."

In another change in the turnaround model, an LEA must use "locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students." And, instead of requiring an LEA to replace at least 50 percent of staff in a turnaround school, the new definition requires an LEA to screen and rehire "no more than 50 percent of the existing staff." Some opportunities may exist to help districts develop skills and competencies and ways of measuring them early during the planning process.

One subtle change under the "restart model" is the option of "converting" a school as an alternative to "closing it down" and "reopening" it. Moreover, throughout the comment and discussion section of the guidelines, increased reference is made to charter management organizations (CMOs) and education management organizations (EMOs) who can take a lead role in the restart model and also as a potential lead partner under the transformation model. In response to comments in the discussion section, USED argued that some EMOs "hired to turn around a low-achieving school may begin planning for the turnaround in late winter or early spring, hire and train staff in late spring and early summer, reconfigure and reequip the school -- including the acquisition of curricular materials and technology -- during the summer, and then reopen promptly in the fall, resulting in minimal, if any, disruption to students and parents." Later, USED states, "Restart operators, by definition, have almost complete freedom to develop and implement their own curricula and staffing plans…."

As we reported in the November 18th TechMIS Stimulus Funding Alert on the "transformation model" in RTTT assurances, the new SIG regulations reinforce greater flexibility and more "permitted" uses of funds under the transformation model including the following:

- An LEA must use "rigorous, transparent, and equitable evaluation systems for teachers and principals" that take into account data on student growth and other factors such as observation-based assessments of performance and collections of professional practices that are "designed and developed with teacher and principal involvement."
- An LEA must "reward staff who increase student achievement and graduation rates and remove those who, after ample opportunities have been provided to improve their professional practice, have not done so."
- An LEA may also provide "additional supports and professional development to teachers and principals" to implement effective strategies for students with disabilities and to ensure limited English proficient students acquire language skills to master academic content.
- An LEA may also "integrate technology-based supports and interventions as part of a school's instructional program."

Other required and permissible activities which were addressed in our November 18th Alert include:

- offering advanced STEM courses that "incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities."
- use of "re-engagement strategies, competency-based instruction, and performance-based assessments to increase graduation rates."
- establishing an early warning system to identify students at risk of dropping out.
- offering full-day kindergarten or pre-kindergarten.

Another subtle change related to using assessment data to inform instruction is the addition of the word "academic" to clarify "that the continuous use student data to inform and differentiate instruction must be promoted to meet the academic needs of individual students." In the same section, USED agreed with comments that an LEA should implement instructional programs "for which there is a sufficient body of evidence supporting improved student achievement. We do not believe a change is necessary however, because we do not use the term 'scientifically-based research,' and, therefore, do not invoke the stringent requirements in section 9101 (37) of the ESEA."

The final regulations also include a much more inclusive definition of "increased learning time":

"…using a longer school day, week, or year schedule to significantly increase the total number of school hours to include additional time for (a) instruction in core academic subjects…(b) instruction in other subjects and enrichment activities that contribute to a well-rounded education including, for example, physical education, service learning, experiential and work-based learning opportunities that are provided by partnering, as appropriate, with other organizations; and (c) teachers to collaborate, plan, and engage in professional development within and across grades and subjects."

Throughout the comment and discussion section of the regulations, there are numerous provisions providing greater flexibility and suggested alternative ways to meet requirements for rural districts. For example, it states, "If an education service agency is an LEA within the definition in section 9101 (26) of ESEA, it may apply for a School Improvement Grant on behalf of a number of LEAs, provided the educational service agency has the authority and capability to implement the rigorous whole-school intervention models required by this notice."

In a new section which could be of great interest to some TechMIS subscribers, an SEA must post, on its website, all final LEA applications for School Improvement Grants and include the amount of the LEA's grant and the type of intervention to be implemented in each Tier I and Tier II school. In certain SEAs, up to 25 percent of FY 2009 School Improvement Grant funding could be carried over to the next year. Applicants not funded for the initial year could receive funds subsequently; these could be considered possible leads.

Guidance provided to states for identifying the most persistently lowest-achieving schools places higher priority than before on high schools that receive Title I funding and that are in improvement, corrective action, or restructuring <u>and</u> eligible high schools in improvement, corrective action or restructuring that do not receive Title I funding and have a graduation rate less than 60 percent averaged over a number of years. Moreover, Tier III schools' criteria can be set by the SEA to include schools with low absolute performance but high growth rates over a number of years, or schools in the bottom six to ten percent of Title I schools in improvement, corrective action, or restructuring. Tier III schools have a much greater flexibility in determining what types of interventions, beyond the four prescribed models for Tier I and Tier II, and Tier III grant amounts can be much less than those allocated for Tier I and Tier II schools.

And finally, one question which we and the Center on Education Policy raised -- which was not addressed in the draft and only briefly in the final regulations -- is whether an SEA approved for a Differentiated Accountability Model (approved two years ago by USED) can continue its own approach to turning around lowest-achieving schools or whether the SEA has to abide by the new SIG requirements in this notice. The new guidance states that each of the nine differentiated accountability states have to "ensure that its LEAs use school improvement funds….in Tier I or Tier II schools consistent with these requirements." In other words, SEAs must ensure that LEAs which will receive portions of the $3.5 billion SIG funds will have to use one of the four intervention models for schools identified for Tier I and Tier II. However, the LEA may continue to use some of the SIG funds to serve the Tier III schools to continue initiatives previously funded under the USED-approved Differentiated Accountability Model. For example, in some of the nine states, such as Florida, a large portion of the FY 2008 funds have been used in schools identified for improvement for the first time to prevent them from failing one more year in which case they would have to offer SES and school choice. There will likely be some conflicts between new state definitions of Tier III schools compared to the definition used prior to the current regulations.

For a copy of the final regulation notice, go to: www.ed.gov/programs/sif/applicant.html

Special Report:
State Leaders' Priority Initiatives for ARRA Stimulus Reforms, Including Turning Around Lowest-Performing Schools, Differ from Administration's Perceived Effective Approaches, Suggesting the Types of Products and Services Which Will Have the Greatest Demand, Especially if States' K-12 Budget Constraints Worsen Next Year

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In the first of several expected reports over the next three years, the Center on Education Policy presents "perspectives from state leaders" on implementing reforms under the ARRA in *An Early Look at the Economic Stimulus Package and the Public Schools*. In the context of state education funding problems, which are likely to worsen in 2010 (as perceived by the majority of state education officials) state education leader respondents (mostly deputy state superintendents and governors' education policy officials) identified their priority initiatives in implementing the four ARRA education "assurances" in Race to the Top (over four-fifths of the states indicated they would be applying for RTTT grants) which differed from the widely-perceived Administration priorities, especially for turning around lowest-performing schools. Firms with products and services which can be used to facilitate implementation of these initiatives should have a "leg-up" in benefiting from new school improvement and reform funding.

Based on responses from 44 states and D.C., CEP reported "Strategies favored by more than half of the states to reform low-performing schools were improving teacher professional development, recruitment, and placement, and redesigning school schedules and calendars to increase time for instruction and teacher collaboration." While some of these activities were already underway in the majority of the states, activities such as closing low-performing schools, creating new schools, and contracting out management and other functions were reported as on-going activities in less than a third of the states. Improving recruitment, professional development, and placement were cited by the largest number of states as the strategy "most critical" to their reform agendas, which suggests that these activities will receive highest priority even if state K-12 funding worsens.

State officials were also asked about their experiences in providing assistance to districts to implement the four prescribed intervention models. As CEP notes, "More states report having experience with the transformation and turnaround models; fewer states have had experience with school restarts and closings. In addition, state officials indicated that districts in their state have implemented the turnaround and transformation models more often than they reported this for the other two models." CEP also reported on the perceived effectiveness of the approaches, indicating, "…the numbers of states that reported positive results from the turnaround and transformation models are roughly equal to the numbers that reported unknown, mixed, or negative results from these interventions….Fewer states reported that districts in their states have undertaken the restart and closure models. When they have been tried, states reported that these reforms have had mixed or negative results more often than positive ones." CEP also found that 15 states will have reform initiatives for turning around lowest-performing schools in place by 2010, with 16 states not having established a date by which reforms would be in place and operational.

States were also asked how much decision-making authority over the use of ARRA funds they would delegate to LEAs. Almost half of the 45 responding states said they would "balance state and local decision making under the law," with 12 expecting to "exert leadership" for uses of ARRA funds. CEP also reported, "Most states are making suggestions to school districts about ways to implement reforms envisioned by ARRA, and many states are providing districts with technical assistance and information." Over 95% of state leaders have also reported their agencies are taking an active role in developing reporting and accounting systems for the use of Title I and IDEA ARRA funds. CEP also reported, "…most state education agencies plan to permit districts to reduce local funding for special education services as a result of receiving additional IDEA resources through ARRA." As we have previously reported, under IDEA Section 613, districts can use up to 50 percent of their increase in IDEA funds to free-up local funds which can then be used to purchase any product or service allowable under ESEA, unless the state policies prohibit such reallocation. While USED has discouraged districts from taking advantage of this provision in the 2005 IDEA reauthorization, most state policies continue to "trump" Federal policies in this area. This could be good news for certain firms in districts that take advantage of this option which, according to the CEP survey, is allowed in 31 of the 41 states.

CEP findings on perceived state priorities for implementing reforms under the other Race to the Top assurances/priorities point to several growth opportunities. Under the ARRA assurance "Support for Educator Effectiveness and Equitable Distribution," CEP found that more than half the states plan to support teacher retraining and professional development, create a system that links student achievement data to individual teachers, or expand alternative pathways to teacher certification. Reflecting state priorities, CEP reported, "The reforms most often seen as critical were creating a data system to provide teachers of reading/language arts and math with data on their impact on student achievement (17 states); developing a teacher performance appraisal system that considers student achievement (16 states); creating systems to report on the effectiveness of educator preparation programs (14 states); and providing professional development for current educators (13 states)."

Under the "Support for Rigorous Standards and Assessments" assurance, about three-quarters of states reported reforms were underway to provide professional development on new standards and new assessments and how to use the data; about half of the states indicated an ongoing initiative to develop new curriculum materials to transition to the new standards and assessments. Professional development on new standards and assessments was felt to be "most critical in 16 of the 42 states."

About two-thirds of state respondents indicated that their state would request waivers to allow school improvement funds appropriated through ARRA to be allocated to non-Title I high schools, while seven of 39 responding states they indicated they had no plans yet in this area.

The telephone survey was conducted between August and October 2009 by Policy Studies Associates (PSA) (one of the highest-regarded evaluation firms in the country). A PSA official, who questioned findings from recent surveys (as we have also done), indicated a similar survey of a representative sample of districts will be conducted in the Spring 2010 for the Center on Education Policy, which for the last eight years has monitored implementation of NCLB and now will do the same regarding new ARRA reform initiatives.

For a copy of the report go to: www.cep-dc.org