(703) 536-2310
Fax (703) 536-3225

Education TURNKEY Electronic Distribution, Inc.

256 North Washington Street
Falls Church, Virginia 22046-4549

M E M O R A N D U M

DATE: September 7, 2005

TO: TechMIS Subscribers

FROM: Charles Blaschke

SUBJ: Special Alert on New USED Waivers Increasing SES Flexibility

During the first week in September Secretary Spellings approved two waivers which will provide increased flexibility for district implementation of SES provisions. One waiver would allow Chicago Public Schools to use once again Title I to fund its SES afterschool program as part of the New SES Pilot Program; other urban district members of the Council of Great City Schools are likely to receive approval for similar waivers in the next few weeks. A second waiver was approved which will allow four districts in Virginia to provide supplemental education services for schools identified for improvement for the first time in lieu of having to offer parent choice transportation. These waivers are likely to increase funds actually used for supplemental education services and increased opportunities for firms to partner with districts who will provide SES services. Please call me if you have any questions.

Secretary Spellings Issues First Waivers Providing Greater Flexibility in District Implementation of SES Provisions Which Could Create Greater Opportunities for Firms Wishing to Partner With Districts

A Technology Monitoring and Information Service (TechMIS)
SPECIAL REPORT

Prepared by:
Education TURNKEY Systems, Inc.
256 North Washington Street
Falls Church, Virginia 22046-4549
(703) 536-2310 / (703) 536-3225 FAX

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Following her March speech calling for a "common sense approach" in providing flexibility to districts on a case by case basis (see April Washington Update items), Secretary Spellings announced two sets of first-of-their-kind waivers regarding supplemental educational services (SES), which could create immediate opportunities in certain districts, particularly those that have been identified for improvement.

On September 1, the Secretary announced that a waiver would be provided to Chicago Public Schools -- which last January was told that it could no longer use Title I funds to support its district-operated SES program -- to use Title I funding once again to continue its apparently very cost-effective afterschool program (see August Washington Update) under certain conditions. One condition is that CPS will increase significantly the percentage of an estimated 280,000 SES-eligible students who actually enroll and participate in SES programs provided by CPS and its more than 30 independent providers. Another condition is that Chicago will participate in the "New SES Pilot Program" announced by the Secretary that requires that Chicago and other districts, selected on a case-by-case basis, to allow SES programs to be evaluated by an independent third-party to identify effective SES practices which will then be shared with districts throughout the country. One important condition, particularly in Chicago, is that any rental fees paid by third party SES providers charged by the district must be reasonable. In a statement by the Education Industry Association reporting on the Chicago waiver, Steve Pines, Executive Director, indicated that a "competitive level playing field among public agencies and the provider community" would be encouraged. During the Education Industry Association's Eduventures conference in June, several officials of SES provider firms indicated that they were shying away from providing SES in Chicago (although one operated a number of alternative schools) because of rumors that the CPS rental fee for facilities would be in the neighborhood of $400-$500 per student. Officials familiar with the Chicago agreement suggested that reasonable rental fees would be in the neighborhood of $75-$100 per student pro-rated on attendance.

USED's September 1 announcement indicated that it was working with "the independent Council of Great City Schools to enter into flexibility agreement with select urban districts that are committed to providing SES to more eligible children." During the

2003-04 school year, more than 40 CGCS members operated their own SES programs; last year the number decreased to fewer than 15. Among the reasons for the decline was that many districts were identified for improvement and, under USED policy at that time, such districts could no longer use Title I funds to continue providing their own SES programs. It is unclear how many other CGCS districts will participate under the New SES Pilot Program. Unofficial estimates are between 10 and 15 additional districts. As reported by AP the day before the official announcement, a former senior aide at USED who had SES implementation responsibility, Michael Petrilli, now with the Fordham Foundation, stated, "I can't imagine other districts would not be eligible for this. I don't think they could justify keeping it to these few places." Reporter Kathryn Shek of Education Daily quoted Mike Casserly, Executive Director of CGCS, as having said, "We have an eye on where this flexibility will do the most good," which clearly indicates an important role being played by CGCS. On August 26, Los Angeles Unified School District requested a waiver, similar to the Chicago agreement, to continue operating its Beyond the Bell SES program even though LAUSD was identified for improvement earlier this year. Approval can be expected.

As we noted in the July 7 TechMIS Special Report, districts that have been identified for improvement that wish to continue providing district operated SES programs and which are located in one of the ten Edflex states, may obtain waivers to do so (current Edflex states are Colorado, Delaware, Kansas, Massachusetts, Maryland, North Carolina, Oregon, Pennsylvania, Texas, and Vermont). One can speculate that districts in these states are not likely to be part of the New SES Pilot Program. Districts located in Florida already are allowed to provide their own SES programs when schools are identified for improvement for the first time, even if the district is also identified for improvement. This policy was approved over a year ago by USED. Based on discussions which we had with district officials during the March CGCS annual legislative conference, the nature of questions that they posed during the conference to USED officials, and/or their inclusion in USED documents as having exemplary SES practices, one can speculate the following districts are likely candidates for inclusion in the New SES Pilot Program:

- Toledo, Ohio, and Rochester, New York, where the local teacher groups have been directly involved in providing/supporting district-operated SES programs;

- Clark County, Nevada (Las Vegas), where the local NEA affiliate is providing SES for a limited number of students;

- San Diego Unified School District which was included in the USED publication as having exemplary SES practices;

- Milwaukee Public Schools which was identified in another USED publication on exemplary practices of districts providing school choice;

- Forsythe County, Georgia, which was also identified by USED as having exemplary SES programs.

The second waiver is for the state of Virginia (and undoubtedly many more states as over 40 SEAs have requested such waivers over the last year) and will allow four districts to offer SES when a school is identified for improvement for the first time in lieu of the parent choice transportation option. As a letter from Secretary Spellings to Thomas Jefferson, President of the Virginia Board of Education states, "These four divisions would then offer SES and public school choice to eligible students enrolled in any school that moves to the second year of school improvement. The four divisions (districts) are Alexandria City, Henry County, Newport News City, and Stafford County." With only 1-2 percent of students eligible for parent choice transportation having taken such options over the last three years, offering SES first is not only "common-sensical" but also much more desirable than transferring students, according to the most recent Phi Delta Kappan poll of public school parents (see August TechMIS Washington Update). Unlike the Chicago case waiver which superseded USED Non-Regulatory Guidance, the Virginia waiver reverses specific provisions in the Law. The agreement with Virginia stipulates many of the conditions which any district must meet under the New SES Pilot Program initiative. However, it is a little bit more strict in requiring each division to submit a report describing the SES programs that were actually used, as well as evaluative information on the academic achievement of students participating in SES.

To the extent waivers allow large numbers of other districts to provide SES before parent choice transportation, a number of implications immediately come to mind. One is that more of each district's 20 percent set aside will be used for SES programs operated either by third-parties or the district itself. Depending upon timing of the waivers, it is likely that a large number of districts will opt to operate their own SES programs in schools identified for the first time, directly or through arrangements with new groups or even providers already in place (such as those conducting 21st Century afterschool programs) rather than independent third parties if, for no other reason, than administrative and logistical problems. However, one of the detailed conditions in the Virginia agreement is that at least two providers must be available from which the parents can choose one to serve their child. Another implication is that the district will be looking for a partner or third-party SES provider which has an approach/program that is very likely to succeed in increasing the performance of students in the specific subgroups which resulted in the school failing to meet AYP targets. And last, because USED is likely to allow SES before parent choice transportation option, the amount of funds earmarked for SES is likely to increase significantly in those districts participating under the waiver.

One condition under both waivers is that districts participating in the new SES pilot program must allow "continuous enrollment" in the SES program and that districts must spend the requisite 20 percent on SES until all eligible students for SES are served. As a result, the amount of unspent previous SES earmarks available for end of year spending is likely to be reduced this coming year and will be certainly less than the $600-$800 million that became available for carryover or end-of-year spending during the last two years.