

Education TURNKEY Electronic Distribution, Inc.

256 North Washington Street
Falls Church, Virginia 22046-4549
(703) 536-2310
Fax (703) 536-3225

MEMORANDUM

DATE: March 10, 2009
TO: TechMIS Subscribers
FROM: Charles Blaschke
SUBJ: Special Stimulus Funding Alerts

Attached are Special Reports on Wave I guidance for education stimulus funding regarding allocation schedules and allowable uses of funds under the Title I, IDEA, and Fiscal Stabilization funding buckets. Over half of the funding for these programs will be allocated to states by the end of March or in the case of Stabilization funds, within two weeks after approval of the governors' applications for Stabilization funds. Beginning in Fall 2009, Title I School Improvement Grants (\$3 billion) will be available for distribution after guidance and requirements are issued by USED, as will Education Technology State Grants totaling \$650 million. Also beginning in Fall 2009, competitive grants will become available, following to-be-published USED guidance, for the Teacher Incentive Fund (\$200 million), Teacher Quality Enhancement (\$100 million), and Statewide Data Systems (\$250 million). The Incentive Funds (\$4.35 billion) will be made available as competitive grants in two waves -- Fall 2009 and Spring 2010 - - while the \$650 million for Invest in What Works and Innovation fund would be available to LEAs and non-profits through competitive grants also beginning in the Fall.

As further guidance becomes available, we will provide highlights to TechMIS subscribers. Please call Charles Blaschke if you have any questions.

Sincerely,

Charles

Title I Recovery Stimulus Funding Update: USED Wave I Guidance Released With Some Unexpected Changes

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

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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During the Chief State School Officers Conference on March 7th, copies of USED guidance on Title I and IDEA stimulus funds was made available along with the most likely schedule for releasing additional guidance on other stimulus funds such as School Improvement Grants. Below are highlights of the “Wave I” guidance, which includes some changes from that announced informally over the last several weeks, along with schedules and examples of how such funds could be used. As the guidance states, “Collectively, we must advance *ARRA*’s short-term economic goals by investing quickly, and we must support *ARRA*’s long-term economic goals by investing wisely, using these funds to strengthen education, drive reforms, and improve results for students from early learning through post-secondary education.” Later on, the guidance emphasizes, “These funds should be invested in ways that do not result in unsustainable continuing commitments after funding expires.”

Somewhat different from widely held expectations, only 50 percent of each state’s Title I stimulus funds -- totaling \$10 billion -- would be awarded at the end of March, with the remainder distributed after each state’s amended Consolidated Application, describing how it will meet the record keeping and reporting requirements, are approved -- most likely in the June-July timeframe. The guidance also states, “The fact that Title I, Part A recovery funds are FY 2009 funds does not preclude a state from awarding some or all of these funds to an LEA on the basis of existing, approved LEA applications.” The guidance also clarifies when such funds must be obligated, noting “in the absence of a waiver, an LEA must obligate at least 85 percent of its total FY 2009 Title I, Part A funds (including *ARRA* funds) by September 30, 2010. Any remaining FY 2009 Title I, Part A funds will be available for obligation until September 30, 2011.” The guidance does not specifically state by what date such 2009 funds must be actually spent.

The guidance also clarifies that “An LEA is eligible to receive Title I, Part A recovery funds if it is eligible under statutory eligibility criteria for “Targeted” and “Incentive” grant formulas of Title I. This means that slightly over 1,000 districts will not be receiving any of the stimulus funds. Moreover, the LEAs receiving the greatest amounts of Title I stimulus funding will be those districts with large numbers of Title I eligible students, mostly large urban districts.

One substantive change relates to the determination of district allocations of the \$10 billion in Title I

stimulus funds. The ARRA conference report, as we noted, on several occasions referred to Title I and Stabilization funds as being allocated in proportion to the district's allocation for regular Title I funding for 2008. In a discussion last week with the key USED official responsible for district allocations, Sandy Brown stated that the Title I stimulus allocations at <http://www.ed.gov/policy/gen/leg/recovery/index.html> was based on applying the newest Census data set. This means that the estimated district allocations are within a few percentage points of the final amount districts will receive after adjustments for the four percent set-aside and other state adjustments. However, the preliminary district allocations for the FY 2009 Title I, Part A funding have not been determined since Congress has yet to pass an FY 2009 budget. Even if the budget is passed along the lines described in the February 27th TechMIS Stimulus Alert update, such preliminary allocations would not likely be available until mid-April. Hence, TechMIS subscribers could use the preliminary FY 2008 Title I allocations in our April 7, 2008 report as a way to estimate the total FY 2009 allocation (stimulus recovery and regular Title I formula FY 2009 allocations) which will be received by districts that received large increases in FY 2008.

One of the biggest issues for districts and many TechMIS subscribers was whether all of the set-asides that apply to regular Title I funding would apply to the \$10 billion Title I stimulus bucket. The guidance is clear in stating that an SEA must reserve four percent for the school improvement set-aside of which at least 95 percent must be allocated directly to LEAs for school improvement activities (Note that this is separate from School Improvement Grants which also target mostly schools in corrective action and restructuring). USED will provide benchmarks for how much of the remaining amount can be reserved by the state for administration (i.e., 1-2%). For other set asides (i.e., the 20 percent set-aside for SES/public school choice and 10 percent for professional development for districts identified for the first time), the SEA is "invited" to submit waiver requests. An SEA could also seek a waiver to calculate the eligible per-pupil allocation for SES -- which in most districts is between \$1,500 and 1,800 -- by excluding some or all of the stimulus funds. If such a waiver is not requested, then the maximum SES fee that could be charged by third-party providers could almost double. A waiver can also be requested to increase the amount of carryover funds allowed to more than 15 percent. And last, a request for a waiver regarding "maintenance of effort" could also be made. The guidance states that USED cannot provide a waiver of the "supplement not supplant" requirement except under very unusual situations and refers to the most recent USED non-regulatory guidance (see June 7, 2006 TechMIS Special Report).

The likely net effect, if USED does approve many waiver requests for different requirements, is that the "national" Title I program, as far as the \$10 billion stimulus funds are concerned, will in reality be more than 50 separate states' and territories' Title I programs. This means firms with products funded out of certain set-asides will have to select targeted states which are conducive to sales opportunities for their products and services. As we have noted in previous reports, this guidance should be viewed in the context of whether some of the Title I final regulations mandated by the Bush Administration in its final days will be changed or modified. This is particularly applicable to overturning Bush rules not allowing districts identified for improvement to operate their own SES program -- which would create expanded opportunities for firms to partner with districts -- and the procedures for reallocating unspent 20 percent SES set-asides.

For the first time, USED guidance addresses the allowable uses of recovery funds, providing some specific examples that would align with the overall "principles" of the ARRA. Even though the examples provided are not prescriptive, they do indicate the uses of funds with which district officials

should be “comfortable” if a firm can fulfill or facilitate the activities that fall under these allowable uses.

One allowable use, which some districts will not like, is to ensure that recovery funds are used to provide “equitable services to eligible private school students.” Even though Title I funds cannot go directly to private schools, they could be used to purchase products and services which would remain the property of the district but could be provided on loan or other arrangements to the private schools. This could include professional development.

As provided for in the ARRA conference report, Title I funds can be used for early childhood program and activities. As such, USED will “provide additional guidance on opportunities to use ARRA funds to expand high-quality early childhood educational services.”

Other examples of potential uses of Title I recovery funds that are allowable under Title I and consistent with ARRA principles include:

- Training highly-effective teachers to serve as instructional leaders in Title I schoolwide programs and otherwise facilitating collaboration among instructional staff.
- Providing intensive, year-long training for teachers and principals, in elementary schools in “corrective action” or “restructuring,” related to the use of a new reading curriculum that aggressively improves “students’ oral language skills and vocabulary or, in some other way, builds teachers’ capacity to address academic achievement problems.”
- “Providing new opportunities for Title I schoolwide programs for secondary school students to use high-quality, online courseware as supplemental learning materials for meeting mathematics and science requirements.”
- The use of longitudinal data systems “to drive continuous improvement efforts focused on improving achievement in Title I schools,” which is a current “assurance” that schools that are in restructuring and corrective action must provide in order to receive School Improvement Grants.
- Providing professional development on the use of data to inform and improve instruction for Title I eligible students and the use of reading or math coaches for professional development in Title I targeted assistance schools.
- Expanding “fiscally sustainable extended learning opportunities” in targeted assistance schools, including before-school, after-school, during the summer, or extended school year.

Some of the implications of the above guidance were identified in previous stimulus alerts and updates while others are highly dependent upon USED approval of waiver requests from SEAs on specific requirements as well as final policy rulings on final Title I regulations published in the waning days of the Bush Administration. These will be provided shortly after discussions with SEA chiefs and staff along with USED officials.

In the meantime, feel free to call Charles Blaschke directly.

IDEA Recovery Stimulus Funding Update: Wave I Guidance on Funds Allocation Schedule and Allowable Uses of Such Funds

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

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256 North Washington Street
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The allocation process schedule for the \$12.2 billion IDEA portion of ARRA stimulus funding differs in several respects from Title I. It includes general allowable uses of such funds and examples of specific activities which could provide great opportunities for firms with products and services supporting such activities.

According to the new guidance issued March 7th, 50 percent of IDEA stimulus funding will be allocated to states by the end of March, with the other 50 percent awarded after USED approval of an amended FY application usually by October 1, 2009. The first 50 percent allocation to districts will be based on their FY 2008 allocation. Moreover, the guidance notes, “A state should make the Part B Grants to States and Preschool Grants recovery funds that it receives in March available to LEAs by the end of April 2009.” Similarly, “an LEA should use the IDEA recovery funds expeditiously. An LEA should obligate the majority of these funds during school years 2008-09 and 2009-10 and the remainder during school year 2010-11....All IDEA recovery funds must be obligated by September 30, 2011.”

At a general level, “allowable uses” of IDEA recovery funds fall under the general IDEA and other applicable requirements of the Education Department General Administrative Regulations (EDGAR), which require that IDEA recovery funds be used only for the “excess costs of providing special education and related services to children with disabilities, except where *IDEA* specifically provides otherwise.” Emphasizing that such funds should be used for “short-term investments that have the potential for long-term benefits,” the guidance provides some examples of allowable uses including:

- “Obtain state-of-the-art assistive technology devices” and related training to provide students with disabilities to access the general curriculum;
- Expand placement options for preschool children with disabilities by “developing the capacity of public and private school programs to serve these children.”
- “Develop or expand the capacity to collect and use data to improve teaching and learning.”
- Hire transition coordinators to work with employers in the community to develop job placements for youths with disabilities.”

Perhaps the most important use, which recent surveys suggest will be a major use of such funds, is to “provide intensive district-wide professional development for special education and regular education teachers that focuses on scaling-up, through replication, proven and innovative evidence-based school-wide strategies in reading, math, writing and science, and positive behavioral supports to improve outcomes for students with disabilities.”

The guidance also states that an LEA “may (or in some cases must) use up to 15 percent of its total *IDEA* Part B Grants to States and Preschool Grants for early intervention services for children in grades K through 12 who are not currently identified as children with disabilities, but who need additional academic and behavioral support to succeed in a general education environment.” We suspect that, as a result of the recovery stimulus funds under *IDEA*, the amount of funds allocated under the 15 percent set-aside for Early Intervening Services (RTI) in districts which have significant disproportionality will increase from about \$1.3 billion in 2007-08 to \$4 billion this year and next.

Another opportunity may exist under the so-called Local Adjustment Provision in *IDEA* which allows a district to use up to 50 percent of the increase in its annual allocation from one year to the next as long as the LEA uses those “freed up” local funds for activities that could be supported under ESEA. With the *IDEA* \$12.2 billion stimulus almost doubling the districts’ *IDEA* allocation, local funds could be freed up to purchase products and services that fall under district priorities that can be supported under the Elementary and Secondary Education Act. To the extent that districts use a portion of the *IDEA* increase for this purpose, this would reduce the 15 percent allocation for Early Intervening Services by that amount. Additional guidance is likely to be provided in this area, especially guidance related to how “freed up” local funds are to be reported.

The existing new guidance for the *IDEA* stimulus funding of \$12.2 billion is not as lengthy as guidance in other areas, perhaps due to the fact that the first 50 percent allocation to states and then districts will be based on the 2008 *IDEA* district allocations with the deadline placed on SEAs to reallocate state allocations to districts within a month after they receive the initial 50 percent funding at the end of March. These funds will be in districts hands most likely earlier than will district allocated funds under Title I. Further implications will be provided as a more in-depth analysis is conducted.

Stabilization Recovery Stimulus Funding Update: Guidance on Fiscal Stabilization Funding (\$54 billion)

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Falls Church, Virginia 22046-4549
(703) 536-2310 / (703) 536-3225 FAX

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The State Fiscal Stabilization Fund (SFSF) appropriations of \$53.6 billion, of which USED will award governors approximately \$48.6 billion, will be distributed in two phases: (I) within two weeks of receipt of an approvable SFSF application from the governor's office, 67 percent will be allocated; and (II) upon approval of a more detailed application, the remaining will be awarded. Additional guidance will be issued for governors to complete the application for Phase II funding. As the guidance notes, "The Department anticipates that the phase two funds will be awarded beginning July 1, 2009, on a rolling basis. If the governor's application demonstrates that Phase I funding will not be enough to cover all of the necessary restoration of state aid to education, then up to 90 percent may be awarded during the first phase.

States must use their allocations to help restore, for FY 2009, 2010, and 2011, support for elementary and secondary education to the greater of the FY 2008 or FY 2009 level. To receive this restoration funding, states must maintain State effort to the 2006 level. The guidance also suggests a different basis for allocation of remaining funds after the state has restored state support for K-12, as stated, "If any SFSF funds remain after the state has restored state support for elementary and secondary education and higher education, the state must award the funds to LEAs on the basis of the relative Title I shares but not subject to Title I program requirements." Initially, in the ARRA conference report, the remaining funds would be allocated to districts based on their proportional share of the state's 2008 allocation. It still remains unclear whether this holds or whether the remaining funds will be allocated to districts based on the FY 2009 preliminary Title I allocations which are not yet available.

In addition to the SFSF funds to be used to restore elementary and secondary funding levels, 18 percent could be used for a number of purposes, including school modernization, renovation, and repair. The guidance notes allowable uses of the 82 percent of SFSF funds (for K-12 and higher education restoration) as any activity allowable under ESEA, IDEA, Adult Education and Family Literacy Act and Carl Perkins Act. The guidance reiterates that, even though remaining Title I funds after restoration will be allocated to districts based on the Title I formula (2008 or 2009), it does emphasize that these funds can be used in a much more flexible manner than Title I allows. It also states that if an LEA uses funds for modernization, renovation, and repair, "they should consider the use of facilities for early childhood education and for the community and should create 'green' buildings." While the ARRA allows such

funds to be used for infrastructure, the guidance does not address specifically whether use of funds to purchase hardware and software is allowable. Some states and some districts will undoubtedly take advantage of a new rule which would allow SFSF dollars to restore state and local funds to “maintain effort” for the purposes of meeting the requirements under the Title I recovery funds. It states, “With prior approval from the secretary of education, a state or LEA may count program funds used for elementary or secondary education as non-federal funds to maintain fiscal effort under Department of Education programs that have maintenance-of-effort requirements.” Conceivably, these SFSF funds could also be used for local matching required for E-Rate applications.

The new SFSF guidance only briefly mentions the \$5 billion State Incentive Grant “Race To The Top” program, which includes the \$650 million “Invest in What Works Innovation” fund, without any subsequent guidance. Secretary Duncan indicated during the last week in February that RFPs will be available in April-May for states to apply for such funds with awards beginning after October 1, 2009. Because the SFSF funding is one of the more complex buckets of ARRA funds, one would have expected a much more detailed set of guidelines; however, it is likely that these details will be provided on a rolling basis and will answer some questions that we raised above. We hope to address how individual states plan to use such funds and suggest how districts should use such funds over the next few weeks.