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## **MEMORANDUM**

**DATE:** April 9, 2009  
**TO:** TechMIS Subscribers  
**FROM:** Charles Blaschke  
**SUBJ:** Special Stimulus Funding Alerts and Major Title I Regulatory Change

Included in this special TechMIS issue is important information which, for the most part, is good news to the vast majority of TechMIS subscribers. On the good news side, Secretary Duncan has called for the nullification of a 2002 regulation, imposed by then Deputy Secretary Hickok, which prohibited districts identified for improvement from providing their own SES. Because the regulatory change process is very time consuming, Secretary Duncan stated that districts wishing to seek approval from SEAs to provide their own SES programs could apply for waivers immediately. This will not only significantly increase SES participation rates, but also provide firms with expanded opportunities to partner with districts wishing to provide their own SES because between \$1 and \$2 billion of “freed-up” Title I funds will now be available for that purpose. Also included is a report “teased” from several recent guidance documents that identify likely major principles which will be followed in the future USED guidance for competitive grants to districts in the use of the \$3 billion increase in School Improvement Grants. More and more, USED officials are citing technology-based products, data-driven decision-making tools, and formative assessment systems as examples of allowable uses of Title I and IDEA stimulus funds.

On the bad news side, new guidance on State Fiscal Stabilization Fund (SFSF) stimulus funding -- as much as \$40 billion for education agencies -- will allow such funds to be used for school construction, an allowable “purpose” under Title VIII Impact Aid funds which is part of ESEA. To the extent districts decide to use such funds for construction, this will be at the expense of purchasing products and services offered by most TechMIS subscribers. It remains unclear in some states how much of the SFSF funds will actually end up in school districts’ hands.

Also attached is a listing of school districts across the country that are receiving the largest shares of the Title I stimulus funding. Please call if you have any questions.

Sincerely,

Charles

# Stimulus Funding Alert: School Improvement Grant Guidance

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

*Prepared by:*  
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Even though formal detailed guidance to states on how to implement the \$3 billion School Improvement Grant stimulus portion has not been published, a review of ARRA guidance in other areas, the first SIG guidance issued in October 2007, and the metrics on the degree to which school improvement occurs among schools in corrective action and restructuring strongly suggest important principles that will likely be included future SIG guidance.

New April 3<sup>rd</sup> guidance, in the form of a PowerPoint presentation, projects an “almost six-fold increase in funding” that ARRA will be directed to the lowest performing schools which demonstrate the greatest need and strongest commitment to school improvement. Such a projection is probably low, based on \$3 billion in School Improvement Grant (SIG) stimulus funding plus the \$550 million FY 2009 SIG regular allocation and a very large portion of the \$800 million to \$1 billion under the SEA 4% set-aside which will also be directed to lowest-performing schools (i.e., those in corrective action or restructuring). This six-fold projected increase also appears to be consistent with USED’s October 2007 guidance which calls for grants, not less than \$50,000 nor more than \$500,000, for each participating school (for FY 2007-08, the total amount appropriated was \$125 million which increased the next year to \$491 million and will increase to \$550 million in FY 2009). Because the ARRA conference report urged USED to “encourage” SEAs to set aside up to 40 percent of the SIG stimulus funding to serve the lowest performing middle and high schools, the \$500,000 per school cap could be increased to \$750,000 or even more under a waiver request.

Following the pattern established in the October 2007 guidance -- which stated that the FY 2007 SIG funds totaling \$125 million must be obligated by September 30, 2009 -- one can assume that the \$3 billion SIG stimulus funding, along with the regular FY 2009 SIG funding, plus the four percent SEA set-aside funding, would have to be obligated by September 30, 2011.

The expanded Title I guidance, also released in early April, includes several interesting provisions which are likely to be reflected in the School Improvement Grant guidance. One provision would encourage SEAs to allocate the School Improvement Grant stimulus and regular 2009 funding under Section 1003(g) to LEAs before allocating funds and reserves under Section 1003(a), the SEA 4% set-aside for school improvement, also targeting many schools in corrective action and restructuring. Moreover, the Title I guidance states that if the SIG 1003(g) funds are sufficient, the SEA could allocate some of the 4% set-aside funds, for example, to districts in improvement which have no schools in improvement or

to LEAs with schools on the SEA “watch list.” In addition, if an SEA receives approval from relevant local districts, the SEA could reallocate some of the 4% SEA set-aside for school improvement for activities to be provided by school support teams or education service agencies in lieu of allocating all of the 95 percent which would otherwise go directly to LEAs.

As we reported in the October 30, 2007 TechMIS Washington Update, the 2007 SIG guidance was unique in that it called for the use of data-driven decision-making tools and related professional development, not only as a means for improving schools in restructuring, but also as an end in itself. The guidance strongly suggested that, for schools to be considered eligible for SIG funding, they had to have in place or be prepared to implement quickly a system to provide continuous feedback on student progress using data-driven decision-making tools to inform instruction. The guidance provided some examples of how an LEA could demonstrate that it is making decisions regarding the use of school improvement funds based on data and that it has systems for continuous feedback. One of several examples cited would be a clear articulation of the data the district analyzed, the conclusions that were made, how proposed uses of school improvement funds addressed areas, and where the data indicate changes are needed to improve teaching and learning. Another example given was the use of data which indicate that a particular strategy (or combinations of strategies) contributes to improved student achievement in similarly situated schools.

This emphasis on the use of data-driven decision-making tools to inform instruction and monitor individual student progress was bolstered in the April 1, 2009 policy letter from Secretary Duncan to Chief State School Officers which supported the October 2008 final Title I regulations on restructuring. These regulations give states the flexibility “to determine what type of significant reforms addresses the particular issues that cause a school to be identified.” Noting that, in 2008, the Department began its Differentiated Accountability Pilot initiative which provides states with greater flexibility in targeting technical assistance and interventions on schools with the greatest need, the letter stated, “All states, even those that are not currently participating in this pilot initiative, are free to build upon statutory requirements and to develop differentiated responses based on the particular failures that caused a school not to make AYP.” Several of the states participating in the Differentiated Accountability Model pilot implemented an important incentive included in the October 2007 SIG guidance which would allow a district to renew its School Improvement Grant funding for up to two additional years after the schools met AYP and began exiting from their restructuring status. Other states have taken advantage of the flexibility in the October 2008 final Title I regulations which would allow a district to implement restructuring options (e.g., replacing the entire school curriculum and provide extensive professional development) during the first year of corrective action -- typically one to one and a half years earlier than previously permitted.

On April 1<sup>st</sup>, Secretary Duncan also sent a letter to governors which provided guidance on how to apply for the State Fiscal Stabilization Funds, totaling slightly over \$48 billion. One purpose of the letter was to seek governors’ “commitment” to the four essential areas of reform including “Improving achievement in low-performing schools, by providing intensive support and effective interventions in schools that need them the most.” In return, for receiving such funds, a state would have to report on the following:

- “the number of schools in restructuring status that have demonstrated substantial gains in student achievement, closed, or consolidated within the last three years; of the schools in restructuring status, the number of schools in the bottom five percent that have demonstrated substantial gains

- in student achievement, closed, or consolidated within the last three years;
- the number and percent of schools in restructuring status that have made progress on state assessments in mathematics and ELA during the last year.”

Even though reporting requirements under the to-be-published SIG guidance are likely to be more detailed, they are very likely to be generally similar to the stabilization fund report requirements placed upon governors. In addition, in states where K-12 budget cuts have been relatively small, governors may also allocate a significant portion of Stabilization Funds that remain, after restoration to the 2009 or later levels, for improving schools in corrective action or restructuring.

To view the April 13 PowerPoint ARRA guidance, go to:  
[www.ed.gov/policy/gen/leg/recovery/presentation/index.html](http://www.ed.gov/policy/gen/leg/recovery/presentation/index.html)

# Stimulus Funding Alert: Updated State Fiscal Stabilization Fund Program Guidance

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

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Expanded guidance from USED on State Fiscal Stabilization Funding (SFSF), published on April 1<sup>st</sup>, attempts to clarify on paper a number of issues, including allowable uses of such funds. However, in many states, particularly those which have experienced significant K-12 budget cuts over the last year or two, uncertainty will remain as to how much of such funds will actually be allocated to districts due to political battles among USED, governors' offices, and state legislatures.

One of the major issues regarding SFSF funds has been whether uses allowable under the purposes of Title VIII of the ESEA (Impact Aid) would also be allowed for districts receiving SFSF funds, even if the specific district did not receive any Impact Aid funding. Page 19 of the guidance states, "Because the ESEA includes the broad Impact Aid authority (see Title VIII of ESEA), an LEA may use Education Stabilization funds for activities that would be allowable under Impact Aid. This flexibility applies to all LEAs that receive Education Stabilization funds, and is not limited to those LEAs that also receive Impact Aid funds." On page 24, the guidance states, "Construction is allowable as an authorized activity under Title VIII of ESEA (Impact Aid)." According to high-level USED officials, in a press conference after release of the guidance, the above interpretation was based on the fact that the law refers to the "purpose" of Impact Aid, not to the "program" itself. However, the guidance is very explicit in stating, "It is important to note, however, that all funds appropriated under ARRA (including Education Stabilization funds that an LEA uses for activities authorized under Title VIII of ESEA) will be subject to stringent reporting requirements, which is in contrast to the minimal reporting requirements in place for funds appropriated under Title VIII of ESEA (Impact Aid)."

During the final passage of ARRA, the major "bone of contention" was whether SFSF funds could be used for school construction, a view which was vehemently opposed by the three Republican Senators who crossed the aisle to support final passage of ARRA. To the extent that governors "encourage" districts to use funds for such purposes, current ARRA support from the three Republican Senators will dissipate; moreover, if funds are used for school construction, the amount of SFSF funds used for purchasing instructional products, curriculum, professional development, etc. would be reduced.

On page 20 of the SFSF guidance, examples of allowable uses are reiterated, including "Among other things, the Education Stabilization funds may be used for activities such as: paying the salaries of

administrators, teachers, and support staff; purchasing textbooks, computers, and other equipment; supporting programs designed to address the educational needs of children at risk of academic failure, limited English proficient students, children with disabilities, and gifted students; and meeting the general expenses of the LEA.”

The April 1<sup>st</sup> guidance, along with the accompanying April 3<sup>rd</sup> PowerPoint presentation, provides general principles on authorized activities as follows:

- maximize short-term investments that can produce lasting results;
- minimize unsustainable ongoing commitments; and
- integrate coherent improvement strategies that are aligned with core reform goals.

In both documents, examples of many of the allowable uses under Title I and IDEA guidance (see March 10<sup>th</sup> TechMIS Special Alert) are reiterated, including:

- establishing a system for identifying and training highly effective teachers to serve as instructional leaders and modifying school schedules to allow for collaboration among instructional staff;
- strengthening the use of longitudinal data systems to drive effective decision-making and continuous improvement efforts and providing directly related professional development;
- extending time for learning, including activities provided before school, after school, during the summer, and over an extended school year;
- providing intensive year-long teacher training in reading instruction or intensive training for all teachers in new curricula, and the use of assessment data to improve instruction;
- Using high-quality online courses as supplemental learning materials to help secondary students meet core content requirements.

The April 3<sup>rd</sup> PowerPoint presentation, as well as a follow-up USED news conference also on April 3<sup>rd</sup>, includes several new allowable uses of SFSF, Title I, or IDEA stimulus funds, including:

- Training and dual certification for English language learner and special education teachers;
- Online individual education programs (IEPs) aligned to standards;
- Summer programs so that students can succeed in algebra and college preparatory classes;
- Technology to improve teaching and learning;
- Creation of accelerated tracks to college such as early college;
- Purchase of instructional software, digital whiteboards, and other interactive technologies and training of teachers in how to use them; and
- Hiring transition coaches to help graduating high school seniors find employment or get postsecondary training.

Secretary Duncan also said that, by [April 17](#), the USED will highlight the kinds of existing improvement efforts and programs in states and districts that should serve as models for the use of stimulus money.

Subscribers who have products, programs, or services that can help districts undertake the above activities or tools that can facilitate the use of effective “best practices” should consider working with entities that can implement quickly -- most likely using IDEA or Title I funds -- pilot programs which can be scaled up in the future so that when the \$650 million Innovation Fund applications are available, one can propose to scale up and or expand such approaches to additional districts, entities, schools, etc.

These “examples” are very likely to be priority activities included in future guidance for State Incentive and Innovation Funding. To review the April stabilization funds guidance and April 3<sup>rd</sup> PowerPoint presentation, go to: [www.learningpt.org/recovery](http://www.learningpt.org/recovery)

**Secretary Duncan’s Proposed Repeal of 2002 Regulation Prohibiting Districts and Schools Identified for Improvement to Be Supplemental Educational Services (SES) Providers Will Create Both Short-Term and Long-Term Opportunities for Firms Who Seek to Partner With Districts**

*A Technology Monitoring and Information Service (TechMIS)*  
**SPECIAL REPORT**

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April 9, 2009

In a letter, dated April 1<sup>st</sup>, to Chief State School Officers, Secretary Duncan indicated his intention to allow districts and schools identified for improvement to provide their own SES programs upon approval by state education agencies (SEAs). In addition to several other changes in Title I final regulations, Secretary Duncan stated, “Finally, I intend to propose to amend or repeal a regulatory provision that was issued in December of 2002 prohibiting a State from approving districts and schools identified for improvement to be supplemental educational services (SES) providers.” Later in the letter he also stated, “Because it will take some time to go through the rulemaking process for this proposed change, I will consider a waiver of this regulatory provision for the 2009-2010 school year.” The Secretary reminded the Chiefs that he “will consider a waiver that would allow a district to exclude the ARRA funds when determining (1) the amount the district must spend to meet the obligation for SES and public school choice-related transportation; and (2) the per-pupil amount to be spent for SES.” These changes will not only have a major impact on SES participation rates and district officials’ attitudes toward SES, but most importantly for many TechMIS subscribers will create specific immediate opportunities as districts allocate Title I stimulus funds, but also longer-term revenue streams.

The impact on district Title I programs should be immediate by increasing the number of eligible students participating in SES -- now about 15 percent nationally -- to 30-40 percent. Evaluations in districts such as Chicago (which was allowed to continue operating its own after-school tutoring SES program) have found that the actual per pupil cost is one-quarter to one-third the fees charged by third-party SES providers. Moreover, many of the administrative, logistical, and even recruitment problems associated with third-party operated SES programs are greatly reduced. Because of other provisions in the final Title I regulations published in October 2008, more districts and schools are likely to be identified for improvement and the number of schools in corrective action and restructuring will also likely increase (see November 2008 TechMIS Special Report). The extent of the eventual impact on district Title I programs, as Secretary Duncan noted, is whether districts wishing to provide their own SES programs meet the SEA approval criteria, including having data supporting the district’s demonstrated record of effectiveness. The net probable impact for firms which have appropriate

instructional programs, data-driven decision-making tools, and directly-related professional development services is that district purchases should at least double and possibly triple beginning this summer.

Another likely opportunity for firms with appropriate products and services is the greatly increased use of ARRA stimulus funding to invest in after-school, summer school, and other extended learning programs which could be sustained, using SES set-asides, after stimulus funding has been expended. Indeed, many of the districts with whom we have recently talked expect dramatic expansion of summer school, after-school, and directly related programs. A number of these districts will use stimulus funding for investment in instructional programs, infrastructure reporting and support, and attendance, recruitment, and directly related professional development initially and then use SES set-aside funding to cover operating costs in subsequent years. This scenario would be consistent with a policy which began to evolve during the last year of the Bush Administration through pilot programs which encouraged after-school programs funded under the 21<sup>st</sup> Century Community Learning Center program to provide SES as a means to sustain such programs after the five-year funding under 21<sup>st</sup> CCLCs ends.

A recent Education Commission of the States (ECS) “Idea Paper” provides a rationale for using Title I and other ARRA funds to enhance summer learning programs. Based on research conducted by Johns Hopkins University, two-thirds of the achievement gap in reading can be attributed solely to unequal summer learning opportunities. While at least 35 states support some type of summer learning initiatives, ECS has found that many states cannot determine how much, if any, state funds are being used for summer learning due to state formula and reporting issues. Noting that USED and Secretary Duncan have encouraged the use of Title I ARRA funds for summer learning and expanded learning programs, ECS recommends, among other things, that districts receiving Title I School Improvement Grants include a summer learning component and that, this spring, districts send parents a notice that their eligible children could participate in an SES program over the summer months. One of the major benefits of summer or extended learning programs is not only a narrowing of the achievement gap for low-income students, but also an opportunity to pilot innovative programs now and to develop a framework to collect data about “the most effective and scalable models for future public and private investment,” including providing a track record and justification when applying for competitive Innovation Funds to scale up and expand those program approaches which are effective. As the paper notes, “Additionally, such programs could leverage existing state and local funds and meet Secretary Duncan’s goal of moving beyond the status quo and developing innovative expanded learning time programs that could help states secure grants from the competitive Race to the Top fund.”

As we noted when the October 2008 final Title I regulations were promulgated by the previous Administration, associations representing district superintendents and boards of education were vehemently opposed to regulation Section 200-48(d) which had numerous conditions and criteria which LEAs had to meet mostly related to parent notification of availability of SES before districts were allowed to reallocate unspent portions of the 20 percent set-aside for SES on other allowable Title I products and services. Over the last six years, between 25-35 percent of total SES set-asides nationwide were unspent and reallocated for the most part for purchases of allowable products usually before the end of the fiscal year -- June 30<sup>th</sup> in more than 40 states. Based on the procedures for parent notification and parent recruitment under SES/school choice used in Chicago Public Schools, it is not surprising that Secretary Duncan is leaving this regulation intact. In his letter to the Chiefs, he stated, “Before a district spends funds reserved for choice-related transportation and SES on other allowable Title I activities, the

district must take certain action intended to ensure that it has met all demand for public school choice and SES....I recognize that there are concerns in the field about this provision.... I am committed to working with states and school districts to address any logistical challenges associated with these regulations.” The extent of the “concern,” however, is directly related to repealing the larger 2002 regulation prohibiting districts identified for improvement from providing their own SES. As more and more districts opt to provide their own SES and as SES participation rates increase, the amount of unspent SES set-aside is likely to be reduced dramatically, thus reducing the amount of unspent SES funding for end-of-fiscal year purchases.

In his letter to the chiefs, Secretary Duncan also reiterated two portions of the final October Title I regulations which require both LEAs and SEAs to indicate approved SES providers who are able to serve students with disabilities or limited English proficiency. Districts which are approved to provide SES are much more likely than most third-party SES providers to indicate they are capable of providing services for students with disabilities and English language learners. Indeed, if districts show this capability, many third-party SES providers who otherwise would report they “are able” to serve these two populations but who in reality do not have such capabilities, are likely to indicate they are not able to do so. As a result, the provision of SES for these two subgroups of students is likely to fall into the hands of the districts. One might reasonably expect districts that provide their own SES programs will likely use some of the stimulus funding to invest quickly in programs, tools, and professional development to provide such services. Indeed, the April 3<sup>rd</sup> USED guidance on potential uses of ARRA funds to drive long-term education reform and improvement lists one of the three uses to improve teacher effectiveness and equitable distribution as “training in dual certification for ELL or special education teachers.” During the last two to three years, as more and more third-party SES providers decline to serve students with disabilities or English language learners, the burden has already begun to shift to districts who have had to ensure such students were served by SES programs. Sales opportunities for firms with appropriate products and services should increase dramatically as more districts are allowed to provide their own SES programs. Title I and IDEA funds could increase per-pupil allocations to double or more the maximum SES fee allowable.

For a copy of the April 1 letter, go to: [www.ed.gov/policy/elsec/guid/secletter/090401.html](http://www.ed.gov/policy/elsec/guid/secletter/090401.html); to review the ECS-Johns Hopkins Idea Paper, go to: [www.ecs.org/clearinghouse/80/21/8021.pdf](http://www.ecs.org/clearinghouse/80/21/8021.pdf)