

Congress of the United States
Washington, DC 20515

September 26, 2008

DEPARTMENT OF EDUCATION
OS/ES/CCCU

2008 OCT -1 A 9:59

Secretary Margaret Spellings
U.s. Department Of Education
400 Maryland Avenue, Sw
Washington, DC 20202-0001

Dear Secretary Spellings,

We are writing to request that the Department of Education direct any of the unobligated balances within the Office of Elementary and Secondary Education to the Upward Bound Math-Science Program at the University of Wisconsin-Green Bay (UWGB).

As you may be aware, UWGB sought a renewed Upward Bound Math-Science (UBMS) grant in 2006. Unfortunately, it was not approved because the school was not awarded any "prior experience points for post-secondary graduate rate," despite the University's participation in UBMS program since 1992. The University also submitted data that documented its successful post-secondary rate of graduation.


The Department of Education has acknowledged that the instructions in its application booklet and the formatting directions in its Annual Performance Report are inconsistent and has already begun revising the form for the next round of grants.

While we appreciate the Department's efforts to improve the upcoming application process, the past irregularities unfortunately resulted in UWGB missing the cut-off score and losing its grant. The University is actively pursuing alternate sources of funding to continue the program until the next grant cycle, but without funding to sustain the program in the interim, it is regrettably facing termination at the end of 2008.

Any funding that could be directed to the UWGB program from the Office's unobligated balances would make an immeasurable difference in the lives of students throughout the state of Wisconsin.

Thank you in advance for your consideration of our request.

Sincerely,


Steve Kagen, M.D.
Member of Congress


Herb Kohl
U.S. Senator



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

OCT 20 2008

Honorable Herb Kohl
United States Senate
Washington, DC 20510

Dear Senator Kohl:

Thank you for your letter of support for the University of Wisconsin-Green Bay (UWGB) Upward Bound Math-Science (UBMS) application for funding. In your letter, you requested that the Department of Education direct any of the unobligated balances within the Office of Elementary and Secondary Education (OESE) to the UBMS program at UWGB.

While we appreciate your interest in supporting your constituent, we are not able to comply with your request.

First, it is not possible to use funds appropriated for programs administered by OESE to support a grant under the Upward Bound Math-Science program. The Upward Bound program, which is administered by the Office of Postsecondary Education (OPE), is one of the TRIO programs for which the Department of Education receives a separate appropriation within the Higher Education account. Funding a TRIO grant would not be an authorized use of funds under any OESE programs.

Second, even if funds were available in the TRIO program to fund an additional application, it would not be fair or legally permissible for the Department to skip over other unsuccessful Upward Bound applicants with higher scores in order to fund UWGB. As you acknowledge, UWGB was an unsuccessful applicant in the TRIO UBMS competition in 2007 and was one of many applicants that did not score high enough to be funded. We have considered your arguments regarding the award of prior experience points and "irregularities" in the process. However, as former OPE Assistant Secretary Diane Jones explained in her prior correspondence with you, OPE examined the assignment of priority points to UWGB and determined that additional points were not warranted.

Third, the Administration is opposed to earmarks, and your request would constitute an earmark, as defined under the January 29, 2008, Executive Order (EO) *Protecting American Taxpayers From Government Spending on Wasteful Earmarks*. That EO directs agencies not to make awards on the basis of earmarks in non-statutory sources, including communications from Members of Congress. The EO also directs agencies to make all written communications from Members of Congress publicly available on the Internet within 30 days after receipt, so we will be placing your letter on the Department of Education website.

If you have additional questions, please do not hesitate to contact me.

Sincerely,

Thomas P. Skelly
Director, Budget Service

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
www.ed.gov



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

OCT 20 2008

Honorable Steve Kagen
House of Representatives
Washington, DC 20515

Dear Representative Kagen:

Thank you for your letter of support for the University of Wisconsin-Green Bay (UWGB) Upward Bound Math-Science (UBMS) application for funding. In your letter, you requested that the Department of Education direct any of the unobligated balances within the Office of Elementary and Secondary Education (OESE) to the UBMS program at UWGB.

While we appreciate your interest in supporting your constituent, we are not able to comply with your request.

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Third, the Administration is opposed to earmarks, and your request would constitute an earmark, as defined under the January 29, 2008, Executive Order (EO) *Protecting American Taxpayers From Government Spending on Wasteful Earmarks*. That EO directs agencies not to make awards on the basis of earmarks in non-statutory sources, including communications from Members of Congress. The EO also directs agencies to make all written communications from Members of Congress publicly available on the Internet within 30 days after receipt, so we will be placing your letter on the Department of Education website.

If you have additional questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas P. Skelly".

Thomas P. Skelly
Director, Budget Service

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