



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE INSPECTOR GENERAL

DEC 20 2004

Ms. Nina S. Rees
Assistant Deputy Secretary
Office of Innovation and Improvement
U.S. Department of Education
Federal Building No. 6, Room 4W317
400 Maryland Avenue, SW
Washington, D.C. 20202-5900

Dear Ms. Rees:

This **Final Audit Report** (Control Number ED-OIG/A03-E0009) presents the results of our audit of the U.S. Department of Education's (the Department) pre-award activities for the unsolicited grant to the Broad Foundation for the School Information Partnership (SIP).

AUDIT RESULTS

The original audit objective was to determine if the Department's grant to the Broad Foundation was awarded in accordance with applicable regulations and internal policies for unsolicited grant applications. Based upon our initial audit work, the audit objective was expanded to determine if the Department adequately verified that states' participation in the SIP would constitute compliance with the No Child Left Behind (NCLB) Act's report card requirements. Due to a lack of adequate documentation, we were unable to determine if the Department's unsolicited grant to the Broad Foundation was awarded in accordance with applicable regulations and internal policies. In addition, we found that Department officials and staff did not adequately verify that the information provided by the SIP would satisfy all of the NCLB Act's report card requirements.

A draft of this report was provided to the Office of Innovation and Improvement (OII) for review and comment. In its comments on the draft report, OII did not disagree with our findings. However, OII disagreed with all but one of our recommendations. We have incorporated OII's comments, where appropriate, into the report and provide OII's full response as an attachment to this report.

FINDING NO. 1 – THE OFFICIAL GRANT FILE DID NOT INCLUDE ADEQUATE DOCUMENTATION OF PRE-AWARD ACTIVITIES.

Documentation of the Principal Officer’s Determinations and Pre-Award Contact with the Broad Foundation.

OII’s official grant file for the Broad Foundation's grant did not include adequate documentation of determinations, specified in regulations and required to be made by the Principal Officer, and pre-award contact with the applicant. Additionally, if documentation of a determination existed, the documentation was not included or noted, if privileged information, in the grant file.

According to the Assistant Deputy Secretary for Innovation and Improvement, the Associate Assistant Deputy Secretary, and program officers, these determinations were made, but not always documented. The official grant file did not contain the documentation of the following determinations:

- The *Handbook for the Discretionary Grant Process* (Section 5.10.2, Unsolicited Applications) requires the Principal Officer to determine whether an unsolicited application should be considered for funding and under which program it should be funded using the detailed procedures for reviewing and funding an unsolicited proposal contained in EDGAR § 75.222. We found that the Office of the General Counsel prepared a memorandum, dated February 11, 2003, that discussed funding options for the Broad Foundation's proposal and recommended that the proposal be considered under the Fund for the Improvement of Education (FIE) program. However, this document was not referenced or noted in the official grant file.
- The *Handbook for the Discretionary Grant Process* (Section 5.10.2, Unsolicited Applications) and 34 C.F.R. § 75.222(b)(1) and (2) require the Principal Officer to determine whether there is a substantial likelihood that the application is of exceptional quality, its project outcomes have national significance for a Departmental program, and the application meets the requirements of all applicable statutes and regulations. No documentation pertaining to these determinations was found in the official grant file.
- The *Handbook for the Discretionary Grant Process* (Section 5.10.2, Unsolicited Applications) and 34 C.F.R. § 75.222(b)(3) require the Principal Officer to determine whether the selection of the project will not have an adverse impact on the funds available for other planned awards. We found that OII included the Broad Foundation's proposal in two memoranda, dated April 9, 2003, and May 9, 2003, that noted the fiscal year 2003 funding available for FIE discretionary grants and the unsolicited proposals that were recommended or supported. While the two memoranda indicate that the funding impact was considered, these memoranda were not referenced or noted in the official grant file.

In performing the review, we noted pre-award contact with the Broad Foundation that was not included in the official grant file. The significant pre-award contact that was not documented in the grant file included:

- An e-mail, dated July 1, 2002, from the Broad Foundation to the Secretary's former Chief of Staff inquiring about the Department's interest in supporting an expansion of Standard & Poor's School Evaluation Services (SES)¹ to states nationwide; and the former Chief of Staff's response, dated July 14, 2002, noting that the Department was supportive of the Broad Foundation's initiative but that federal support was subject to legal considerations.
- A memorandum, dated November 15, 2002, from the Broad Foundation to the former Deputy Secretary, outlining its proposal for philanthropic and federal support to provide incentives to states to adopt Standard & Poor's SES.
- An e-mail, dated December 3, 2002, from the Broad Foundation to the Assistant Deputy Secretary for Innovation and Improvement providing background information on the Broad Foundation's initiative.
- An e-mail, dated December 23, 2002, from the Broad Foundation to the former Under Secretary (the current Deputy Secretary) and Assistant Deputy Secretary for Innovation and Improvement transmitting the Broad Foundation's memorandum and draft plan of action (i.e., proposal), which was based upon a meeting held on December 6, 2002.
- Information on the January 29, 2003, meeting between officials from the Department, the Broad Foundation, Standard & Poor's SES, and Just for the Kids.²
- An e-mail, dated February 6, 2003, from the Broad Foundation to Department officials transmitting the Broad Foundation's memorandum of understanding.

The Assistant Deputy Secretary for Innovation and Improvement, Associate Assistant Deputy Secretary, and program staff did not believe that the determinations were required to be documented in the official grant file. However, the Department's *Handbook for the Discretionary Grant Process* (Section 5.12, The Official Grant File) states:

Program staff must create and maintain an official grant file for each application selected for funding and awarded a grant. The file holds the original application, reviewer's comments, required forms, grant award notifications, annual Grant Performance Reports, correspondence, decisions, and any other documentation relevant to the grant throughout its life cycle. This includes applications, reports,

¹ Standard & Poor's SES analyzes academic, financial, and demographic indicators and trends; provides comparative benchmarks; and presents impartial findings on school performance for parents, taxpayers, educators, and policy makers to assist in improving student achievement and school management.

² Just for the Kids is a non-profit organization that was founded in 1995 to raise academic standards and improve public education. Just for the Kids develops data-driven school reports that analyze student achievement data, studies high-performing schools to determine the causes of their success, and provides training to help educators replicate best practices.

or other documents submitted, processed, and maintained electronically. The content and organization of the official file is provided in Appendix L. Program officials must establish a secure area in their respective offices to store the official grant files for a program. Documents maintained electronically during the life of the grant must be printed and included in the official file when the grant is closed-out.

In addition, the Handbook's Appendix L notes that the grant file should include documentation of all pre-award contact with the applicant, including clarification calls prior to award of the grant.

Because the OII's official file for the grant to the Broad Foundation did not include adequate documentation of the Principal Officer's determinations and pre-award contact with the applicant, we were unable to determine if OII complied with all regulations and policies in awarding the unsolicited grant to the Broad Foundation.

Documentation of the Panel of Experts' Funding Recommendation.

In reviewing the panel of experts' Technical Review Forms for the Broad Foundation's grant application, we noted that the second review panel assigned high scores to the revised application in the areas of *national significance* and *the project is of high quality*. However, the review panel did not specifically state on the Technical Review Forms that the application should be funded as an unsolicited application. Regulations at 34 C.F.R. § 75.222(d)(2) require that a panel of experts determines whether the application is of such exceptional quality and national significance that it should be funded as an unsolicited application. In addition, 34 C.F.R. § 75.222(e) states that if the panel of experts highly rates the application and determines that the application is of such exceptional quality and national significance that it should be funded as an unsolicited application, the Department may fund the application. Furthermore, the Department's *Handbook for the Discretionary Grant Process* (Section 5.10.2, Unsolicited Applications), states that the panel of experts determines whether the application is of such exceptional quality and national significance that it should be funded.

According to OII officials, the panel of experts' high scores imply the recommendation to fund the grant application. In assuming that a review panel's high scores imply a recommendation to fund a grant application, the Department may fund a grant application even though the review panel may not recommend the application for funding.

Recommendations:

We recommend that the Assistant Deputy Secretary for Innovation and Improvement:

- 1.1 Ensure that pre-award contact with applicants and the required determinations concerning unsolicited grant applications are documented in the official grant files. The required determinations should be documented when they are made, or, at the latest, prior to the application being provided to the expert review panel.

- 1.2 Conduct a review, if the Broad Foundation or any of its partners submit any additional applications, to determine that there is a substantial likelihood that the proposed project is of exceptional quality and its outcomes are of national significance for a Departmental program.

We brought these issues to the attention of OII officials. In response, the Associate Assistant Deputy Secretary for Innovation and Improvement noted that their procedures would be revised. OII provided us with a draft memorandum to be placed in the grant file for a proposed fiscal year 2004 FIE unsolicited grant. The draft memorandum, to be signed by the Assistant Deputy Secretary for Innovation and Improvement, documents the determinations made and the rationale for the determinations. OII appears to have improved the documentation of the determinations for this fiscal year 2004 unsolicited grant application and should continue to use such a memorandum for all future unsolicited grant applications. The audit team did not review fiscal year 2004 unsolicited grant application files for documentation of pre-award contact between grant applicants and Department officials and staff. In addition, OII revised the Technical Review Form to request that the panelist indicate if the application is highly recommended, recommended, or not recommended for funding. Because OII revised the Technical Review Form, we have not included a recommendation to address this issue.

OII Comments:

OII concurred with Recommendation 1.1 and stated that they have revised their procedures for unsolicited applications. OII has alerted senior officers throughout the Department to inform them of any contact with a potential FIE grantee and to send documentation of such contacts to the FIE office for inclusion in the official grant file. In addition, OII will include a memorandum, signed by the Assistant Deputy Secretary, in the official grant file indicating that required determinations have been made.

OII disagreed with Recommendation 1.2 and requested that we modify the finding and recommendation. OII noted that before funding the application, the Assistant Deputy Secretary for Innovation and Improvement made a determination, though not documented, that the SIP project was of exceptional quality and its outcomes of national significance. In addition, a panel of experts reached the same conclusion. OII believes that, since the funding obligation has been completed and the original determinations of exceptional quality and national significance were made, further review would be neither necessary nor helpful. Furthermore, if OII received any additional applications from the Broad Foundation or its partners, OII would make a determination of the application's significance and quality at that time.

OIG Response:

We acknowledge OII's implementation of Recommendation 1.1. If OII's revised procedures are properly implemented, our concerns will be addressed. Based upon OII's comments regarding Recommendation 1.2, we have revised our recommendation to address any future applications which may be submitted by the Broad Foundation or its partners.

FINDING NO. 2 – The SIP May Not Provide All NCLB Act Report Card Requirements.

Despite various statements by members of the SIP, including the Department, that states' participation in the SIP will result in compliance with the report card requirements, the SIP website may not provide all the information required for the NCLB Act's state and local educational agency (SEA and LEA) report cards. This situation occurred because Department officials and staff did not adequately verify that the information provided by the SIP would satisfy all of the NCLB Act's report card requirements. Specifically, the SIP does not appear to provide the following required report card information:

- Section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, as amended by the NCLB Act (the ESEA), requires information to be provided on student achievement at each proficiency level on state academic assessments. The SIP provides information on the *percent of students at or above proficient*,³ but does not provide information on student achievement *at each proficiency level* (e.g., advanced, proficient, basic, and below basic).
- Section 1111(h)(1)(C)(vii) of the ESEA requires information to be provided on the performance of LEAs in the state regarding making adequate yearly progress, including the number and names of each school identified for improvement. The Department's non-regulatory guidance, issued September 12, 2003, clarifies this by noting that the number and names of each LEA and school identified for improvement, corrective action, and restructuring should be reported. The SIP does not appear to provide a statewide number or listing of LEAs and schools that are identified for improvement, corrective action, and restructuring. However, the SIP does provide information on the names of LEAs and schools identified for improvement through the SIP's search function or the SIP's webpage for each LEA and school.
- Section 1111(h)(2)(B)(i)(I) of the ESEA requires each LEA to report the number and percentage of schools identified for improvement and how long the schools have been so identified. The SIP does not appear to provide this information. However, the SIP's search function does provide the names of schools within an LEA that are identified for improvement.

As a result, if a state relies solely upon the SIP to disseminate SEA and LEA report card information, the state may not be fully compliant with all of the report card requirements under the NCLB Act. Members of the SIP have made various statements indicating that a state's participation in the SIP will result in compliance with the report card requirements of the NCLB Act. These statements include:

- The SIP Frequently Asked Questions states, "The U.S. Department of Education has determined that the reporting of state and district data through the SIP will fulfill the NCLB report card mandates, as long as states supply the necessary data to the SIP in a timely fashion."

³ The percent of students at or above proficient is the aggregate of the percent of students at the proficient and advanced levels.

- A September 17, 2003, dear colleague letter from the Department to state education officials states, "This unique public-private partnership is designed to assist you in meeting the letter and the spirit of the No Child Left Behind Act of 2001 as it relates to educational data reporting." In addition, the dear colleague letter states, "Participating in this initiative will allow you and your districts to be compliant with the report card requirements of No Child Left Behind, so long as all the necessary data are provided."
- In announcing the grant to the Broad Foundation, the Department's September 9, 2003, press release stated, "The partnership provides all 50 states the opportunity to use -- at no cost -- a special package of data services to immediately assist states and schools with the basic data analysis and reporting requirements of NCLB."
- In a January 29, 2004, press release announcing the launch of the SIP's website, the Department states, "The site, www.SchoolResults.org, displays timely, relevant and comparable school, district and state data required to be publicly reported by the NCLB Act."

This situation occurred because Department officials and staff did not adequately verify that the information provided by the SIP would satisfy all of the NCLB Act's report card requirements. Furthermore, some Department officials were aware that the SIP would not satisfy one of the NCLB Act's report card elements. In August 2003, a review of the NCLB Act's report card requirements and the information to be provided by the SIP by representatives from the Office of Educational Technology, Office of Elementary and Secondary Education, and Office of the General Counsel disclosed that the SIP's basic services, funded in part by the Department's grant to the Broad Foundation, would provide information on the percent of students *at or above proficient*, but would not provide information on student achievement *at each proficiency level*. The Deputy General Counsel was informed that this information would be available through hyperlinks from the SIP's website to SEAs' websites where such information could be found.

We noted that the SIP does provide hyperlinks to each SEA's website, where report card information, such as student achievement at each proficiency level, may be obtained if provided by the SEA. We reviewed the websites of five SEAs for information on statewide and LEA-level student achievement on the state academic assessments. In regards to statewide assessment information, three of the SEAs provided assessment results at each proficiency level (e.g., advanced, proficient, basic, and below basic). For the other two SEAs, the statewide assessment results were not readily available at each proficiency level; one SEA provided achievement results at the two highest proficiency levels, and the other SEA provided the percentage of students at or above the proficient level. In regards to LEA-level assessment information, one SEA provided achievement results at each proficiency level. Of the other four SEAs, one provided LEA-level achievement results at the two highest proficiency levels; one provided the percentage of students at or above the proficient level; one provided composite assessment scores at the LEA-level; and one did not appear to provide LEA-level achievement data.

We held discussions on this issue with representatives from the Broad Foundation and Standard & Poor's SES. In addition, we attempted to obtain information clarifying the data collected and reported by the SIP. The Associate Director provided the audit team with the SIP's data

collection template. We noted that the data collection template requests the information in question from SEAs, with the exception of information on how long a school has been identified for improvement, corrective action, or restructuring. However, if an SEA provides the information in question to the SIP, it does not appear that it is reported on the SIP website. Despite our requests for information from Standard & Poor's SES, no information was received.

Recommendation:

We recommend that the Assistant Deputy Secretary for Innovation and Improvement ensure that:

- 2.1 The SIP collects and presents on its website all of the report card information required under § 1111(h) of the ESEA, or, alternatively, ensure that the SIP fully discloses all limitations regarding the use of the SIP to comply with the report card requirements.

OII Comments:

OII disagreed with the recommendations in the draft report and requested that we modify the finding and recommendations. In regards to the draft report's recommendations, OII stated that it would be difficult, if not impossible, to require the SIP to collect and present all of the report card information because the Broad Foundation did not propose to do so in its approved grant application. In addition, OII stated that the SIP has decided to make the report card information in question available through links to state websites instead of on the schoolresults.org website. While OII did not agree with the recommendation to ensure that the SIP fully discloses all limitations regarding compliance with the report card requirements, OII stated that they will ask the SIP to consider amending its "Frequently Asked Questions" on the schoolresults.org website to clarify that, if states do not submit the necessary information, they would not be considered as meeting all report card requirements. OII will ask that the SIP make it clear that the information posted on the SIP's website, especially if no other links are provided by the state, may not meet all of the report card requirements. OII will also ask the SIP to note that, if states make all required information publicly available on the state's website and make that known to the SIP, the SIP will either include it on the schoolresults.org site or provide a direct link to the information on the state's site.

OIG Response:

In response to OII's comments, we revised the finding's three recommendations in the draft report by consolidating the three recommendations into one recommendation requesting that OII take corrective actions that will either result in all report card information being collected and made available by the SIP or having the SIP disclose all limitations regarding compliance with the report card requirements. We disagree with OII's comments that corrective action is not required.

We acknowledge that OII may not be able to require the SIP to collect and present all of the report card information because the Broad Foundation did not propose to do so in its approved grant application. However, the Broad Foundation may be willing to make the necessary changes, since as we note in our finding, with one exception, the SIP's data collection template requests the information in question from SEAs.

Unless changes are made to the SIP's information collection and reporting, the statements about the use of the SIP to comply with the report card requirements need to be changed. OII concurred that some may have had the wrong impression that participation in the SIP would result in compliance with the report card requirements. OII also stated that their communications made it clear that compliance depended on the type and timeliness of the data submitted by states. As we note in the finding, the Department's September 17, 2003, dear colleague letter to state education officials states, "Participating in this initiative will allow you and your districts to be compliant with the report card requirements of No Child Left Behind, so long as all the necessary data are provided." In addition, the SIP's Frequently Asked Questions states, "The U.S. Department of Education has determined that the reporting of state and district data through the SIP will fulfill the NCLB report card mandates, as long as states supply the necessary data to the SIP in a timely fashion." Since the SIP does not collect all of the required data, and does not report all of the data it collects, these statements do not adequately warn SEAs that participation in the SIP only is not sufficient to meet the statutory report card requirements. As a result, to be fully compliant with all of the report card requirements, SEAs and LEAs must disseminate, through their own website or other means, the report card information not presented on the SIP website.

BACKGROUND

The SIP is a public-private collaboration, funded by the Broad Foundation and the Department. The SIP has created a website, www.schoolresults.org, that presents school, district, and state data required to be publicly reported by the NCLB Act. The website provides analytical tools from Just for the Kids and Standard & Poor's SES to enable NCLB Act data to be used to improve education decision-making. The website and tools will be launched throughout 2004 and the NCLB Act data for all 50 states, Puerto Rico, and the District of Columbia will be part of www.schoolresults.org.

The Broad Foundation's mission is to dramatically improve K-12 urban public education through better governance, management, and labor relations. The main goals of the SIP are (1) to empower parents, educators, and policy makers with a set of analytical tools for use in education decisions; (2) to further the national dialog on improving academic progress and student results; and (3) to help all states and districts meet the report card requirements of the NCLB Act. Uses of the www.SchoolResults.org website include (1) dissemination of SEA and LEA report card data required by the NCLB Act; (2) educators can diagnose strengths and challenges of their districts, set goals, and find better performing schools from which to learn effective practices; (3) parents can obtain performance information on their children's schools; and (4) state and local policy makers can use the tools and benchmarks to monitor schools and districts to assist in policy decisions.

The SIP is a \$9.4 million project to be funded equally by the Broad Foundation and the Department. The Broad Foundation, as grantee, entered into contracts with Standard & Poor's SES and Just for the Kids. Of the SIP's \$9.4 million budget, up to \$7 million is allocated for Standard & Poor's SES' costs and up to \$2.4 million is allocated for Just for the Kids' costs.

On June 30, 2003, OII awarded the Broad Foundation a \$2,350,000 unsolicited grant (Award Number U215U030002) for the SIP. An additional \$2,350,000 award was made on April 6, 2004, bringing the total amount awarded to \$4.7 million. The grant was made under the Department's FIE program, which provides authority for the Department to support nationally significant programs to improve the quality of elementary and secondary education at the state and local levels.

The pre-award activities leading to the unsolicited grant to the Broad Foundation began one year before the grant was awarded on June 30, 2003. The first contact between the Broad Foundation and the Department occurred on July 1, 2002, when the Associate Director for the Broad Foundation contacted the Secretary's former Chief of Staff to gauge the Department's level of interest and support for a national roll out of Standard & Poor's SES. This was followed by August 2002 discussions between the Associate Director for the Broad Foundation and the former Director of the Office of Educational Technology. On November 15, 2002, the Associate Director for the Broad Foundation provided a memorandum to the former Deputy Secretary, outlining their proposal for philanthropic and federal support to provide incentives to states to adopt Standard & Poor's SES. A meeting was held, on December 6, 2002, to discuss the Broad Foundation's proposal. Representatives from the Broad Foundation, the Department, Just for the Kids, and Standard & Poor's SES participated in the meeting. The Department officials present at the meeting included the former Under Secretary (the current Deputy Secretary) and Assistant Deputy Secretary for Innovation and Improvement. Following the meeting, the Broad Foundation prepared a draft action plan (i.e., proposal), which was submitted to the Department on December 23, 2002. An additional meeting was held on January 29, 2003, between representatives of the Broad Foundation, the Department, Just for the Kids, and Standard & Poor's SES. The Office of the General Counsel prepared a memorandum, dated February 11, 2003, that discussed funding options for the Broad Foundation's proposal. The Broad Foundation submitted its first grant application to the Department on April 18, 2003. The application was reviewed and, in May 2003, received low scores from an outside review panel. On June 3, 2003, the Broad Foundation submitted a revised grant application. The revised application contained additional information on the initiative's expected outcomes, flexibility and scalability, analytical tools and data reporting, project management, marketing to states, budget, and website. A second review panel assigned higher scores to the revised application. The former Deputy Secretary approved the funding for the unsolicited grant to the Broad Foundation on June 26, 2003.

OBJECTIVE, SCOPE AND METHODOLOGY

The original audit objective was to determine if the Department's grant to the Broad Foundation was awarded in accordance with applicable regulations and internal policies for unsolicited grant applications. Based upon our initial audit work, the audit objective was expanded to determine if the Department adequately verified that states' participation in the SIP would constitute compliance with NCLB Act's report card requirements. The scope of the audit covered the Department's pre-award activities leading up to the June 30, 2003, grant award to the Broad Foundation and the Department's activities concerning the determination that states' participation in the SIP would constitute compliance with NCLB Act report card requirements.

To accomplish the audit objective, we held discussions with officials from OII, including the Assistant Deputy Secretary, Associate Assistant Deputy Secretary, Director for FIE, and Program Officers; the current and former Directors for the Office of Educational Technology; officials from the Office of the General Counsel, including Deputies General Counsel, an Assistant General Counsel, and a program attorney; current and former Counselors to the Secretary; the Director for the Strategic Accountability Service; officials from the Office of Elementary and Secondary Education, including the Chief of Staff and Acting Group Leader for the School Support and Technology Programs; a Special Assistant and a Policy Advisor in the Office of the Under Secretary; the Director for the Institute for Education Sciences; the Associate Director for the Broad Foundation; and the Managing Director for Standard & Poor's SES.

We reviewed applicable laws, regulations, and Departmental policies for unsolicited grant applications and the FIE program. We reviewed the OII's official grant file, including documentation of the Department's pre-award contact with the Broad Foundation, the grant application, and the review panel's Technical Review Forms. We reviewed the Office of the General Counsel's memoranda and files on the Broad Foundation and Standard & Poor's SES. We reviewed documentation of pre-award contact with the Department provided by the Broad Foundation. We also compared the NCLB Act's report card requirements for SEAs and LEAs to the information available on the SIP website.

We conducted on-site fieldwork from February 4, 2004, through July 22, 2004, at Department offices in Washington, D.C., and at Standard & Poor's offices in New York, N.Y., on May 26, 2004. An exit conference was held on July 22, 2004. We conducted our audit in accordance with generally accepted government audit standards appropriate to the scope of the audit work described above.

STATEMENT ON INTERNAL CONTROLS

For purposes of the audit, we obtained an understanding of OII's process for processing unsolicited grant applications and classified the management controls significant to the review's objective into the following areas:

- OII's evaluation of the unsolicited grant proposal.
- Expert review panel's evaluation of the grant application.
- Official grant file documentation.

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed management control weaknesses that adversely affected OII's ability to award the unsolicited grant to the Broad Foundation in accordance with applicable regulations and internal policies for unsolicited grant applications. These weaknesses include (1) a lack of documentation in OII's official grant file for the unsolicited grant to the Broad Foundation, and (2) OII did not require that the review panel state on the Technical Review Forms that the application should be funded as an unsolicited application. These weaknesses and their effects are discussed in the Audit Results section of this audit report.

ADMINISTRATIVE MATTERS

An electronic copy has been provided to your Audit Liaison Officer. We received your comments non-concurring with some of the recommendations in our draft report.

Corrective actions proposed (resolution phase) and implemented (closure phase) by your office will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System. Departmental policy requires that you develop a final corrective action plan (CAP) for our review in the automated system within 30 days of the issuance of this report. The CAP should set forth the specific action items, and targeted completion dates, necessary to implement final corrective actions on the findings and recommendations contained in this final audit report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved after six months from the date of issuance.

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

We appreciate the cooperation given us during this review. If you have any questions, please call Bernard Tadley, Regional Inspector General for Audit, at (215) 656-6279.

Sincerely,

A handwritten signature in black ink that reads "Helen Lew". The signature is written in a cursive, flowing style.

Helen Lew
Assistant Inspector General for Audit Services

cc. Dr. Eugene W. Hickok, Deputy Secretary
Edward R. McPherson, Under Secretary

Attachment



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INNOVATION AND IMPROVEMENT

Mr. Bernard Tadley
Regional Inspector General for Audit
Office of Inspector General
U.S. Department of Education
100 Penn Square East, Suite 502
Philadelphia, PA 19107

NOV 26 2014

Dear Mr. Tadley:

Thank you for the opportunity to comment on the Draft Audit Report regarding the Department's pre-award activities for the unsolicited grant to the Broad Foundation for the School Information Partnership (SIP) (Control Number ED-OIG/A03-E0009).

I want to thank you for your work, and the work of your associate, Jeffrey Nekrasz. You both performed your duties in a highly professional manner, and your suggestions have improved our own internal procedures.

We agree with some, though not all, of your recommendations, and in many cases have already implemented them. Please allow me to discuss each of your recommendations under the headings of your two findings.

Finding Number 1: The official grant file did not include adequate documentation of pre-award activities.

You recommended that I:

1.1 Ensure that pre-award contact with applicants and the required determinations concerning unsolicited grant applications are documented in the official grant files. The required determinations should be documented when they are made, or, at the latest, prior to the application being provided to the expert review panel.

As you noted, we have already agreed to revise these procedures. We have alerted senior officers throughout the Department to let us know, to the extent practicable, of any contact with a potential grantee under the Fund for the Improvement of Education (FIE), and we send documentation of such contacts to the FIE office for inclusion in the official grant file. Also, as you have noted, we have started including a memorandum, signed by me, in the official grant file indicating that required determinations have been made.

I appreciate you noting, in your draft report, that I did in fact make the required determinations for the Broad Foundation application, and other funded FIE projects, though I did not explicitly document these determinations in the manner that you have now recommended, consistent with

the Handbook for the Discretionary Grants Process. Again, I want to thank you for your suggestions, already implemented, that have strengthened our internal processes related to unsolicited applications.

You also recommended that I:

1.2 Conduct a review to determine if the SIP is a project of exceptional quality and its outcomes are of national significance for a Departmental program; and based upon the results of the review; make an appropriate decision on the Department's future involvement in the SIP.

I disagree with this recommendation. As mentioned above, I had made a determination, before funding the application, that the SIP project was of exceptional quality and its outcomes of national significance. In addition, a review panel of experts, in accordance with 34 CFR 75.222, also reached the same conclusion (though I did not explicitly document those determinations in the manner you have now recommended). Therefore, further review would be neither necessary nor helpful, since the funding obligation has been completed and the original determinations of exceptional quality and national significance were made. As for the Department's future involvement in the project, we have not received any additional applications from Broad or their partners. If we did receive an additional application, we would make a determination of its significance and quality at that time.

In light of this information, we request that you consider making appropriate modifications to your findings and recommendations in your final report.

Finding Number 2: The SIP may not provide all NCLB Act Report Card Requirements.

You recommended that I ensure that:

2.1 The SIP collect all of the report card information required under § 1111(h) of the [the Elementary and Secondary Education Act] ESEA.

I disagree with this recommendation. It would be difficult, if not impossible, to require the SIP to collect all of this information because it did not propose to do so in its approved grant application. Additionally, in our communications to states on this project, we indicated the report card requirements would be met, "as long as states supply the necessary data to SIP in a timely fashion." (See the Secretary's letter to Chief State School Officer's on this matter dated September 17, 2003.) While we concur that some may have had the wrong impression that participation in the SIP would automatically result in compliance with the report card requirements of the NCLB, our communications made it clear that it depended on the type and timeliness of the data submitted by states. Because of this, it is appropriate that we can only hold the Broad Foundation accountable for the terms in its application. However, as we discuss below, we will take action to ensure that there is a clear understanding of the relationship between State participation in the SIP and compliance with the report card requirements of NCLB.

In light of this information, we request that you consider making appropriate modifications to your findings and recommendations in your final report.

You recommended that I ensure that:

2.2 When the required information is provided by a state to the SIP, the information is presented or made available on the SIP webpage for that [State Educational Agency] SEA or [Local Educational Agency] LEA.

Again, we disagree with this recommendation. We cannot require the SIP to take this action, for the reasons mentioned above, and the partnership has decided, for legitimate reasons, to make this information available through links to state websites instead of on the schoolresults.org site itself. So, while much of the report card information is available in a “dynamic manner” directly on the SIP site, other data, such as the lists of schools in need of improvement, is provided conveniently but “statically” through a link to State sites. We believe this is a reasonable approach, and is certainly consistent with the SIP’s grant application.

In light of this information, we request that you consider making appropriate modifications to your findings and recommendations in your final report.

You recommended that I ensure that:

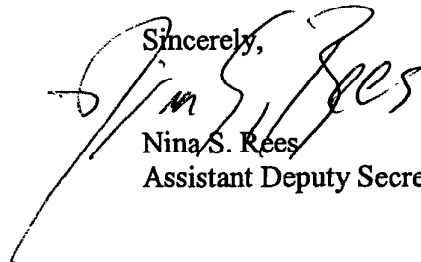
2.3 The SIP fully discloses all limitations regarding compliance with the report card requirements, in the event that the SIP is unable to provide all the report card information required under § 1111(h) of the ESEA.

In light of the information provided above, we do not agree that this recommendation is necessary; however, we will ask the SIP to consider amending its “Frequently Asked Questions” page (at www.schoolresults.org/pdf/FAQ.pdf) to clarify that, if states do not submit the necessary information, they would not be considered as meeting all report card requirements. We will ask that SIP make it clearer that the information posted on SIP, especially if no other links are provided by the state, may not meet all of the report card requirements listed in Section 1111(h) of NCLB. We will also ask them to note that, if states make all required information publicly available on the state’s website and make that known to SIP, SIP will either include it on the schoolresults.org site or provide a direct link to the information on the state’s site.

Conclusion

Thank you once again for your work on this important issue. Please let me know if there is any way I can be of additional assistance.

Sincerely,



Nina S. Rees
Assistant Deputy Secretary