
**IMPLEMENTATION OF THE STATE
LEGALIZATION IMPACT ASSISTANCE
GRANTS UNDER THE IMMIGRATION
REFORM AND CONTROL ACT OF 1986**

STATE OF WASHINGTON



OFFICE OF INSPECTOR GENERAL
OFFICE OF ANALYSIS AND INSPECTIONS

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This study was conducted to determine the effectiveness of Washington's implementation of State Legalization Impact Assistance Grants funds awarded under the Immigration Reform and Control Act of 1986.

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EXECUTIVE SUMMARY

PURPOSE

The purpose of this inspection was to determine how effectively Washington implemented the State Legalization Impact Assistance Grants (SLIAG) program, to identify potential problems early in the process, and to identify good practices which all States could share.

BACKGROUND

The SLIAG program was established under the Immigration Reform and Control Act (IRCA) of 1986 to reduce the financial burden of providing public assistance, public health assistance, and educational services to eligible legalized aliens. In Fiscal Year (FY) 1988, \$928.5 million in program funds were allocated to States, and funds will continue to be allocated through FY 1991. These funds also cover administrative costs for implementing SLIAG at the State and local levels. Payments are made for public assistance activities generally available to all needy individuals and public health assistance services offered under the States' public health programs. The payments also cover educational services designed to assist eligible legalized aliens to attain a satisfactory level of performance in school and to achieve English language proficiency and citizenship skills necessary to become permanent residents. The Family Support Administration (FSA) is responsible for administering the program.

Because SLIAG was a new program, FSA realized that problems would surface early in its implementation. In addition to the normal difficulties encountered in creating new processes and procedures, FSA recognized that SLIAG would have unique problems. Some of these issues include the diversity of programs which SLIAG encompasses, cultural and language barriers associated with the service population, maintaining confidentiality of information, and the extremely short time frames for the grant award process.

METHODOLOGY

In response to the anticipated difficulties with implementing SLIAG, FSA requested that the Office of Inspector General (OIG) conduct reviews in 10 States to determine the progress of States' implementing this program. The FSA selected nine States and the District of Columbia because of the variety of programs they offered, the number of eligible legalized aliens in the population, or the amount of the grant award. The nine States are Arizona, California, Colorado, Florida, Illinois, Massachusetts, New York, Texas, and Washington.

Interviews based on structured discussion guides for each major program area, as well as documentation furnished by FSA and State and local officials, built the base of information for this report. This report represents the review conducted in the State of Washington and reports on its implementing the SLIAG program as of August 1988.

Both FSA and Washington were committed to identifying problems and developing innovative and effective solutions for them. Immediately following our on-site visits, FSA was given an outline of the State concerns identified in this report.

FINDING: Since 1987, FSA has held national conferences and issued information to States on implementing the SLIAG program.

- The FSA held several national conferences beginning in 1987 to share information with States on SLIAG legislation, the implications for States, the application process, and the documentation of costs.
- The FSA also provided States with “Question and Answer” issuances and demographic data from the Immigration and Naturalization Service (INS).

FINDING: Washington took immediate steps to plan for and implement SLIAG.

- Virtually all program staff indicated that the task force established by the Secretary of the Department of Social and Health Services and chaired by the single point of contact was instrumental in planning for and implementing SLIAG. This task force brought all participating State components together to initiate action to get SLIAG underway.
- The State has established a bilingual toll-free hotline for aliens to learn about SLIAG. This has helped the State to identify areas of concern that the alien population has about SLIAG.

FINDING: The State has instituted a separate form in the normal enrollment process to meet program requirements concerning identifying school-age eligible legalized aliens. This form will help protect confidentiality.

Nevertheless, there are some funds control vulnerabilities.

FINDING: The FSA’s definition of public assistance includes some public health assistance activities which created administrative and service delivery problems for Washington’s public health agencies.

FINDING: The FSA application review process created a number of significant problems for Washington. Also, the FSA’s application review process interfered with the State’s ability to plan for services.

- Delay in FSA issuing the implementing regulation resulted in the State's inability to properly plan for SLIAG.
- Numerous policy misinterpretations and disagreements resulted because FSA did not provide definitive written instructions to assist Washington in understanding SLIAG application requirements.
- The time frames were too short for submitting the initial SLIAG application, review and comment, and revisions of the application.
- No formal appeals process exists if programs or costs are denied in the first level review.

FINDING: Conflicting interpretations of the term "public charge" has caused uncertainties for the alien population as to what services they are entitled to receive without fear of deportation.

FINDING: At the time of the OIG review, several programs in the public assistance and public health assistance areas had not implemented effective methods to identify eligible legalized aliens and document the costs for services rendered.

FINDING: The providers which were rendering services under contract with the Division of Public Health and the Office of Superintendent of Public Instruction were not adequately and consistently obtaining information to verify the status of eligible legalized aliens.

As mentioned earlier, FSA and Washington have already initiated action on some of the recommendations in this report. Steps have been taken by FSA to provide States with more specific, formal guidelines for identifying and documenting actual program and administrative costs. However, FSA and Washington need to take additional actions in other areas as covered by the findings in this report.

RECOMMENDATION: The FSA should reconsider its position to classify certain public health services as public assistance and make appropriate adjustments to this position.

RECOMMENDATION: The FSA should make its application and grant award process more orderly. Specifically, FSA should

- provide definitive written instructions on the SLIAG application requirements and inform Washington of SLIAG policy, compliance, and reporting issues to minimize the confusion that occurred in the initial application process;

- ensure that sufficient time is allotted to the application process including Washington's initial application, FSA's review and formal comment, Washington's consideration of FSA comments and negotiation of disputes, and its submission of the revised application for FSA approval; and
- develop an appeals process to use if programs or costs associated with providing services are denied in the initial application process.

RECOMMENDATION: The FSA and the INS should further clarify what is meant by "public charge" and widely disseminate this information to the alien population who are concerned about their resident status.

RECOMMENDATION: The State should develop procedures in public assistance and public health assistance to identify eligible legalized aliens and document the costs for services rendered.

RECOMMENDATION: The State should ensure that its Division of Public Health and Office of Superintendent of Public Instruction are working with providers of services to obtain adequate and consistent documentation to verify the status of eligible legalized aliens.

COMMENTS

The FSA and the State of Washington both commented on the draft report and generally agreed with our findings and recommendations. Both indicated that steps have been taken to improve implementation of SLIAG. Their comments are included verbatim as Appendices B and C, respectively.

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INTRODUCTION

PURPOSE

The Family Support Administration (FSA) requested that the Office of Inspector General (OIG) conduct an inspection in nine States and the District of Columbia to determine how effectively the States implemented the State Legalization Impact Assistance Grants (SLIAG) program awarded under the Immigration Reform and Control Act (IRCA) of 1986. The inspection included reviewing mechanisms in place to identify these funds and determining whether present or projected policies and procedures adhere to FSA guidelines. The FSA also was interested in identifying potential problems early in the process and good practices which all States could share. This report presents the results of the inspection pertaining to the State of Washington.

BACKGROUND

Under IRCA, eligible legalized aliens may apply for permanent residency within a 1-year period after they are first eligible (i.e., by the 31st month after they receive temporary resident status).

This new population will increase the demand for State public assistance and public health assistance services significantly. It will also increase the demand for State educational services as these new residents obtain English language and civic skills needed to become U.S. citizens.

To help States defray many of the costs of providing public assistance, public health assistance, and educational services to eligible legalized aliens, IRCA authorized \$1 billion each year from Fiscal Years (FY) 1988 through 1991 for SLIAG grants, less an amount identified as the "Federal offset." With few exceptions, eligible legalized aliens are ineligible for federally funded public assistance program such as Aid to Families with Dependent Children (AFDC), food stamps, and Medicaid. The "Federal offset" is the estimated cost to the Federal Government of providing these services or benefits to those few legalized aliens who are eligible for them. In FY 1988, the law allocated \$928.5 million to States.

To receive SLIAG funds, States must apply to the FSA Division of State Legalization Assistance, which is responsible for approving applications and administering the program. The application must be approved in total for a State to receive any SLIAG funds. The FSA also provides States with technical assistance on policy issues and on the methods used to determine costs and verify actual costs.

The basic requirement for States to claim reimbursement is that costs must be allowable, reasonable, and allocable. State public assistance and public health assistance programs must be the same ones available to the general public. States cannot create new programs in these areas specifically for eligible legalized aliens. However, States may create new or additional education programs for eligible legalized aliens. States may also claim reimbursement for program administrative and SLIAG administrative costs.

Reimbursement for public assistance and public health assistance is limited only to the amount of State and local funds expended for SLIAG-related costs. The maximum SLIAG reimbursement for educational services is an average of \$500 per year per eligible legalized alien. Determining program administrative costs is made in accordance with the final regulation at 45 CFR 402.22.

The FSA is responsible for administering the program. Because SLIAG was a new program, FSA realized that problems would surface early in its implementation. In addition to the normal difficulties encountered in creating new processes and procedures, FSA recognized that SLIAG would have unique problems. Some of these issues include the diversity of programs which SLIAG encompasses, cultural and language barriers associated with the service population, maintaining confidentiality of information, and the extremely short time frames for the grant award process.

METHODOLOGY

The FSA selected nine States and the District of Columbia for the inspection because of the variety of programs offered, the number of eligible legalized aliens in the population, or the amount of the grant. The nine States are Arizona, California, Colorado, Florida, Illinois, Massachusetts, New York, Texas, and Washington. This report reviews Washington's implementation of the SLIAG program as of August 1988.

Prior to conducting the inspection, the OIG developed structured discussion guides for each major program activity at the State and local levels. In conducting this review, interviews were held with the Washington single point of contact, and the program managers and SLIAG coordinators at each individual program level. Because public health assistance, public assistance, and educational services are administered at the State level, there were no county SLIAG administrators to interview. Many of the programs were not implemented at the time of our review; therefore, we were not able to interview providers for public assistance or education.

WASHINGTON'S ORGANIZATIONAL STRUCTURE

The Department of Social and Health Services is the designated agency responsible for operating the SLIAG program for Washington. The director of the Immigration Assistance Program, within the Division of Income Assistance, has been appointed the single point of contact for the SLIAG program. He will be assisted by a financial manager from within the Office of Accounting Systems. Both managers have been appointed full-time to administer the SLIAG program, but will retain their former position titles. Both the Income Assistance Program and the Office of Accounting Systems are in the Department of Social and Health Services.

The following offices in the department make up the public assistance function for SLIAG: Division of Income Assistance, Division of Mental Health, Division of Medical Assistance, and the Bureau of Alcohol and Substance Abuse.

The Department of Community Development, separate from the Department of Social and Health Services, provides weatherization, energy assistance, emergency food, and shelter services to the State's general population. These programs are included in the public assistance portion of the SLIAG program.

The Division of Public Health and the Bureau of Parent and Child Health provide public health assistance services to the State's general population. The Bureau of Parent and Child Health is separate from the Division of Public Health. Nevertheless, by SLIAG definition, its services are included in the public health portion of the SLIAG program.

The Office of Superintendent of Public Instruction has overall responsibility for the State's SLIAG education program. Within that Office are the responsibilities for coordinating adult education and kindergarten through grade 12 programs.

FINDINGS AND RECOMMENDATIONS

Both FSA and Washington were committed to identifying problems and developing innovative and effective solutions for them. Immediately following our on-site visits, FSA was given an outline of the State concerns identified in this report.

FINDING: Since 1987, FSA has held national conferences and issued information to States on implementing the SLIAG program.

- The FSA held several national conferences beginning in 1987 to share information with States on SLIAG legislation, the implications for States, the application process, and the documentation of costs.
- The FSA also provided States with “Question and Answer” issuances and demographic data from the Immigration and Naturalization Service (INS).

FINDING: Washington took immediate steps to plan for and implement SLIAG.

- Virtually all program staff indicated that the task force established by the Secretary of the Department of Social and Health Services and chaired by the single point of contact was instrumental in planning for and implementing SLIAG. This task force brought all participating State components together to initiate action to get SLIAG underway.
- The State has established a bilingual toll-free hotline for aliens to learn about SLIAG. This has helped the State to identify areas of concern that the alien population has about SLIAG.

FINDING: The State has instituted a separate form in the normal enrollment process to meet program requirements concerning identifying school-age eligible legalized aliens. This form will help protect confidentiality.

Nevertheless, there are some funds control vulnerabilities. Findings and recommendations concerning these vulnerabilities follow under major topic areas.

PUBLIC ASSISTANCE

Assistance or Service Activities

The services provided under public assistance are:

- Supplemental Security Income - State supplement payment
- Emergency Assistance (cash)
- Food Stamp Program
- General Assistance for the Unemployable
- General Assistance for Pregnant Women
- Alcohol and Drug Rehabilitation Program
- supplemental food vouchers for Women, Infants, and Children
- Medical Assistance (non Title XIX medical services)
- Weatherization Services
- energy assistance payments
- emergency shelter and emergency food baskets
- Mental Health Services

The State has not created any new programs for SLIAG. As a result, the State will incur increased administrative costs and will have to institute new methods to identify eligible legalized aliens because the program definitions for public assistance and public health assistance are unique to SLIAG. For example, within the Women, Infants, and Children program, FSA defines the food vouchers as a public assistance service, while it defines the intake process, education, and counseling services as public health assistance services. The program will have to add mechanisms to identify and separate work activities, thus increasing administrative costs.

Documentation of Eligible Legalized Alien Status

Programs under public assistance require that the Temporary Resident Card (also known as the I-688 card) be used to verify that a client is an eligible legalized alien. A copy of the I-688 card is maintained in the client's case file. The same intake process for the general public will be used to process eligible legalized aliens and special agricultural workers who apply for public assistance. Specific codes will be assigned for these aliens during intake for identification and audit purposes.

The Division of Income Assistance and the Division of Medical Assistance have issued instructions to identify eligible legalized aliens. Program managers are concerned about the

lack of direction from FSA and INS about what categories constitute being a public charge as defined by the INS. Because the State has not received clear guidance it is unable to ease the fears of eligible legalized aliens regarding which services will jeopardize their resident status. Therefore, the State indicated that eligible legalized aliens are not applying for services they need and for which they are eligible. Most of the calls on the SLIAG hotline are about the public charge issue.

Program Costs

For public assistance programs, program costs will be charged to SLIAG based on the actual count of eligible legalized aliens served. The Division of Income Assistance and the Division of Medical Assistance have procedures to capture program costs when an eligible legalized alien applies for assistance. Coded data identifying the eligible legalized aliens are put into the computer system and are used to determine the program costs applicable to this population.

Program costs within the Department of Community Development and the Bureau of Alcohol and Substance Abuse will be incurred by contractors of services for the department. Program costs that are allowable are specified in the contracts with the providers. A monthly expenditure report details the expenditures by specific categories. Policies and procedures are referenced in the contract and an annual audit is conducted to verify the appropriateness of expenditures.

Program costs is one area where many respondents said that FSA guidelines were too changeable. The State feels that FSA is holding the State to artificial definitions of what services are to be claimed under public assistance versus public health assistance. The FSA provided guidance June 17, 1988, as to why some public health assistance programs are divided between public health assistance and public assistance.

Administrative Costs

During implementation, all of the time spent by the single point of contact and financial manager will be charged to SLIAG. The cost allocation plans and the indirect cost rates have not been revised for the programs. New rates and plans will be devised when programs are fully implemented. No program has received notice as to when the single state audit will be conducted since it is too early for this to occur.

To document SLIAG staff costs, the Division of Income Assistance, the Division of Medical Assistance, the Department of Community Development, and the Bureau of Parent and Child Health use time studies to calculate the amount of time spent by staff on all of the programs.

The Division of Mental Health has awarded its contracts for the year. The division is anticipating having to process approximately 100 contract amendments to implement changes for SLIAG. This will cause additional administrative costs due to the lateness of SLIAG funding and the many changes in FSA instructions. The State may be willing to forego

claiming SLIAG costs associated with processing eligible legalized aliens already in the system and the program start-up costs already incurred.

Drawdown of Funds and Cash Balances

The fiscal analyst within the Office of Accounting Services will drawdown SLIAG funds for all three programs. The State's accounting system for SLIAG funds will not change. The Department of Social and Health Services uses a 32-digit account code which captures each function within a program. The SLIAG activities will be given their own account code.

Programs will claim SLIAG funds by two methods. For example, the Division of Income Assistance within the Department of Social and Health Services programs, will first submit an estimate of monthly expenditures to the Office of Accounting Services. Each program will input program charges through the computer system using SLIAG codes. The financial manager within the Immigration Assistance Unit will review the summarized cost data for each program. Using this and other information, the fiscal analyst will submit the amount of actual expenses to a fiscal management analyst within the Office of Accounting Services. The actual monthly expense data will be compared to the expenses that were estimated for each program area and adjusted. The adjusted figure will then be drawn into each program's account.

The second billing method is by a monthly invoice for services rendered. This method is used by outside agencies or contractors providing services to the Department of Social and Health Services, for example, the Department of Community Development and the Office of the Superintendent of Public Instruction. The invoices are reviewed and approved based on the contractual agreement. The State also has a budget and accounting system that requires contractors to specify expenditures in each category of expenses and each source of income.

According to respondents, cash advances are generally not allowed in public assistance programs. However, the Bureau of Alcohol and Substance Abuse and the Department of Community Development will permit advances for start-up costs. Programs receiving cash advances will have to submit a plan specifying start-up activities and their costs. Expenditures will be verified and cash balances adjusted through the monthly reporting system and through an annual contractor audit. Each public assistance program audits its programs annually.

PUBLIC HEALTH ASSISTANCE

Assistance or Service Activities

The Division of Health and the Bureau of Parent and Child Services provide the following services under public health assistance:

- immunizations
- AIDS testing, treatment, and education
- tuberculosis - preventive therapy and treatment
- screening, education, and referral for sexually transmitted diseases, tuberculosis, adult dental disease, and diabetes
- Women, Infants, and Children - counseling, assessment, education, and referral services
- Perinatal Care Services
- Adolescent Pregnancy Planning Services

These are ongoing services; no new services have been implemented for SLIAG purposes.

Documentation of Eligible Legalized Alien Status

Public health assistance programs may serve individuals who have applied for amnesty as well as those who have achieved temporary or permanent resident status.

The reviewers visited a clinic and a county health department. The representatives at the health department were having problems in obtaining documentation to verify eligible legalized alien status. Patients often do not have the I-688 card with them. Because patients are requested to return with the I-688 card, follow-up has become a problem. Another problem is language. Many of the eligible legalized aliens speak Spanish and very little English, and the health department does not have a Spanish interpreter.

At the second provider site, the director learned during our visit that the health center had eligible legalized aliens as part of its patient population. The center had started to implement procedures to capture eligible legalized alien statistics and found none of their patients to be aliens. Later, recognizing that many of their patients speak Spanish and little English, they hired a Spanish-speaking outreach worker. The outreach worker found eligible legalized aliens that were using the Women, Infants, and Children program.

In the State of Washington, special agricultural workers with only a temporary work permit receive services and then leave the area. The provider is left without proof of eligible legalized alien status on which to substantiate a claim. The single point of contact has told providers to keep a list of the clients without I-688 cards. He hopes to obtain the approval rate for special agricultural workers who have applied for temporary resident status within Washington, and apply that rate to the number of special agricultural workers served.

The Division of Parent and Child Health and the Division of Health expressed concern about verifying eligible legalized alien status. Historically clients have been able to receive services without declaring their citizenship status. Program managers are concerned that requiring

clients to declare their citizenship status, whether they are legal or not, will deter people who need the health services.

Program Costs

Under SLIAG, funding for public health assistance is available for services that are part of the State or local public health programs. Washington plans to use a population ratio formula to calculate specific State and local SLIAG-related costs.

FINDING: The FSA's definition of public assistance includes some public health assistance activities which created administrative and service delivery problems for Washington's public health agencies.

- As noted above, FSA's definition of public assistance encompasses some public health assistance activities, which created administrative and programmatic difficulties for these agencies.
- As a result of the FSA policy, to obtain reimbursement for service costs, certain public health assistance programs will have to identify individuals as eligible legalized aliens. The State staff feel this procedure may cause some individuals to forego available services.

RECOMMENDATION: The FSA should reconsider its position to classify certain public health services as public assistance and make any appropriate adjustments to this position.

Administrative Costs

The State is retroactively identifying program administrative costs for program implementation. Clerical and data processing support costs accrued during the start-up period will be charged directly to SLIAG.

Cost allocation plans and indirect cost rates will be used for all programs once the SLIAG program is fully implemented. As with the public assistance programs, no public health assistance program has received notice of the date for their single state audit since the programs are not fully implemented.

Drawdown of Funds and Cash Balances

The procedures for the drawdown of SLIAG funds are the same for public health assistance programs as for public assistance.

Most of the programs within the Bureau of Parent and Child Health and the Division of Health deliver services through contractors. The contractors submit their invoices to the State programs using the second billing method previously described.

Cash advances are not allowed in either program. Expenditures are verified, and cash balances are adjusted through the monthly reporting system and through ongoing contract monitoring and review.

Each public health program, with the exception of the Parent and Child Health Services within the Bureau of Parent and Child Health, is audited annually. The Parent and Child Health Services program is audited every 2 to 3 years depending on the staff availability. In addition to the audits conducted by each program, the single point of contact plans to conduct its own fiscal reviews of the contractor's billings.

EDUCATION

Assistance or Service Activities

The services provided under the kindergarten through grade 12 program are bilingual education, English as a Second Language, and Technical Assistance for Bilinguals. The actual number of school districts eligible for SLIAG funding of these services had not been determined.

Education services provided under the adult education program are English as a Second Language, civics, literacy, citizenship preparation, adult basic education, child care, and transportation. The SLIAG services for adults will be provided by community colleges, vocational technical institutes, community-based organizations, and qualified designated entities. Most of the contractors will be in rural areas. At the time of review the Office of Superintendent of Public Instruction had not issued the request for participation to potential providers of services for adult education classes pending the receipt of SLIAG funding. Due to delays in SLIAG funding, the State was unable to provide the needed English as a Second Language classes in the cities of Wenatchee, Seattle, Yakima, and Tacoma. There is a two-year waiting list for adult English as a Second Language classes in Seattle.

The State questions what ancillary services, other than child care and transportation, are covered by SLIAG. The State wants outreach activities covered.

Documentation of Eligible Legalized Alien Status

The SLIAG program regulations will require the State to change its practice of biennially notifying schools not to ask students about their legal status. They will now have to obtain this information from the students. However, to safeguard confidentiality, they will use a separate form to document the status of eligible legalized aliens.

Both adult education and kindergarten through grade 12 programs plan for their enrollment procedures to provide an unduplicated count of eligible legalized aliens. The schools will keep a copy of the I-688 card (Temporary Resident Card) in the student's file for eligible legalized aliens in kindergarten through grade 12 programs. Adult education had not developed specific procedures at the time of the review.

Program Costs

For kindergarten through grade 12 and adult education programs, the grantee number will be assigned a SLIAG charge code to document program expenditures claimed. The contractor's program costs will be the number of qualified students times the cost per hour times the hours of attendance. The Office of Superintendent of Public Instruction allows the contractor to define the methodology of monitoring attendance hours.

Administrative Costs

The methodology for accounting administrative costs for SLIAG programs will be the same as for all other State education programs. A separate charge code for SLIAG will be assigned to the contractor's grantee number for claiming costs. Both adult education and the kindergarten through grade 12 programs use time studies to allocate time and resources to the proper funding source.

The Office of Superintendent of Public Instruction has directed its contractors to claim only direct administrative personnel costs up to a maximum of eight percent of total instructional costs. Revision to the indirect charge rate will occur once the program has been implemented.

The SLIAG funds may not be used to cover State administrative costs for education in excess of 1.5 percent of program costs. The acting SLIAG coordinator for the Office of Superintendent of Public Instruction states that the 1.5 percent cap will not cover administrative expenses, once travel for training and program monitoring is added. The State Refugee Program, Even Start, adult basic education, and vocational training programs have covered SLIAG start-up costs up to now. These costs include salaries, equipment, travel, outreach, and supplies. It will cost the Office of Superintendent of Public Instruction too much to go back and document what has been expended, especially with the 1.5 percent cap on administrative costs. However, he does not plan to request reimbursement for these costs.

Drawdown of Funds and Cash Balances

The Office of Superintendent of Public Instruction will follow the second billing method described under public assistance for the drawdown of SLIAG funds. The accounting system will not be changed for SLIAG, although expenditures related to eligible legalized aliens will be assigned a separate allocation code for documenting costs.

The Office of Superintendent of Public Instruction does not allow contractors cash advances. Contractors are reimbursed on a services rendered basis.

CROSSCUTTING ISSUES

FINDING: The FSA application review process created a number of significant problems for Washington. Also, the FSA's application review process interfered with the State's ability to plan for services.

- Delay in FSA issuing the implementing regulation resulted in the State's inability to properly plan for SLIAG.
- Numerous policy misinterpretations and disagreements resulted because FSA did not provide definitive written instructions to assist Washington in understanding SLIAG application requirements.
- The time frames were too short for submitting the initial SLIAG application, review and comment, and revisions of the application.
- No formal appeals process exists if programs or costs are denied in the first level review.

The State's SLIAG application was approved in a transmittal letter of July 12, 1988 from the Department of Health and Human Services. Subsequently, the State received its notice of grant award on August 16, 1988.

The delay of SLIAG funding, along with the lack of clear instructions about which services are covered by SLIAG funding, has delayed providing services to needy eligible legalized aliens. According to several program managers in public assistance, public health assistance and education, if State expenditures for eligible legalized aliens were reimbursed by SLIAG, the reimbursements could then have been used to provide services to other clients, some of whom are already citizens.

Likewise, the delay of SLIAG funding and operating instructions from FSA has resulted in higher administrative costs to SLIAG. The Division of Mental Health, for example, has already implemented its contracts for the new fiscal year. Once advised of the SLIAG program requirements the division will have to amend over 100 contracts. In addition, because of the delay in SLIAG funding, State funds have been used to implement SLIAG and hire staff in public assistance, public health assistance, and education. Many programs did not

identify work dedicated to SLIAG compliance, and these programs will now have difficulty identifying the costs attributable to SLIAG and requesting reimbursement.

RECOMMENDATION: The FSA should make its application and grant award process more orderly. Specifically, FSA should

- provide definitive written instructions on the SLIAG application requirements and inform Washington of SLIAG policy, compliance, and reporting issues to minimize the confusion that occurred in the initial application process;
- ensure that sufficient time is allotted to the application process including Washington's initial application, FSA's review and formal comment, Washington's consideration of FSA comments and negotiation of disputes, and its submission of the revised application for FSA approval; and
- develop an appeals process to use if programs or costs associated with providing services are denied in the initial application process.

FINDING: Conflicting interpretations of the term "public charge" has caused uncertainties for the alien population as to what services they are entitled to receive without fear of deportation.

- Eligibility workers in the public assistance programs and the public health assistance programs often cannot answer prospective clients' questions about the effect of receiving assistance on their residency status. As a result, eligible legalized aliens are not applying for services they need and for which they are eligible for fear of jeopardizing their citizenship status.
- Program managers are concerned about the lack of guidance from FSA and INS about what assistance categories constitute being a public charge as defined by the INS. Most of the telephone calls on the State's SLIAG hotline are about the public charge issue.

RECOMMENDATION: The FSA and the INS should further clarify what is meant by "public charge" and widely disseminate this information to the alien population who are concerned about their resident status.

FINDING: At the time of the OIG review, several programs in the public assistance and public health assistance areas had not implemented effective methods to identify eligible legalized aliens and document costs for services rendered.

Many public assistance programs were waiting to receive their SLIAG funding before implementing their particular SLIAG programs. While funding caused delays, the following

programs had not yet formulated procedures to identify eligible legalized aliens and document client-related costs: Bureau of Alcohol and Substance Abuse, Mental Health Program - Community and Institutional Services, and Department of Community Development.

The Bureau of Parent and Child Health had not implemented the SLIAG program pending receipt of SLIAG funds. Therefore, no systems for identifying eligible legalized aliens or SLIAG costs have been implemented. The program managers for Women, Infants, and Children know that eligible legalized aliens are a large part of the service population, even though procedures have not been set up to formally identify them.

RECOMMENDATION: The State should develop procedures in public assistance and public health assistance to identify eligible legalized aliens and document the costs for services rendered.

FINDING: The providers which were rendering services under contract with the Division of Public Health and the Office of Superintendent of Public Instruction were not adequately and consistently obtaining information to verify the status of eligible legalized aliens.

The Division of Public Health uses the designations listed on the I-688 card (Temporary Resident Card) to distinguish between eligible legalized aliens and special agricultural workers during the intake process. Instructions had been issued to State staff and to health providers by memoranda and manual issuances, as well as conducting on-site training sessions with many of the providers. Public health assistance providers were photocopying the medical examination form or the I-688A card (Employment Authorization Card) to document that the patients were potential eligible legalized aliens.

The Office of the Superintendent of Public Instruction was, at the time of this inspection, drafting the questions for its adult education grantees to use to identify an eligible legalized alien. The request for participation informs providers that SLIAG funds can be used to meet the educational needs of eligible legalized aliens. The providers are instructed to verify eligible legalized alien status by copying the I-688 card, I-688A card, or I-689 (Fee Receipt). However, the I-688 card is the only card that establishes a student as an eligible legalized alien.

RECOMMENDATION: The State should ensure that its Division of Public Health and Office of Superintendent of Public Instruction are working with providers of services to obtain adequate and consistent documentation to verify the status of eligible legalized aliens.

OIG RESPONSE TO COMMENTS

The FSA and the State of Washington both commented on the draft report.

The FSA

The FSA has generally agreed with the OIG report findings and recommendations. The FSA has taken a number of steps to improve implementation of the SLIAG program including clarifying program policies and procedures. The FSA has also clarified several subject areas and the State's organizational structure described in the draft report.

The FSA questioned the statement that the new population would significantly increase public assistance and public health assistance services. Early estimates indicated that large numbers of aliens would qualify to access the SLIAG program. The report recognized that information obtained during the review determined that substantial increases in workloads and expenditures could occur in these areas as well as in education. However, we understand from recent discussions with States' officials that demand for services is falling behind earlier projections.

The FSA raised a question about the State's concern that increased administrative costs would result because definitions of public assistance and public health assistance are unique to the SLIAG program. This State concern is viewed as part of the same issue regarding classification of some public health assistance activities as public assistance, which is addressed elsewhere in our response to FSA's comments.

The FSA Refugee Resettlement Program funds may have been used inappropriately. Apparently these funds were advanced to cover SLIAG start-up costs but the State is not seeking reimbursement from SLIAG. This situation will be referred to the Office of Audit, OIG, for further review.

The FSA questioned the allowability of costs for the bilingual hotline established by the State for aliens to learn more about the SLIAG program. The FSA stated these costs could not be considered allowable program costs because the hotline was not generally available to the State's population. A recent contact with a State official indicated that the hotline was established to respond to alien questions and concerns about all aspects of the SLIAG program. The State considers these costs as SLIAG administrative costs. These claimed costs as well as all of the State's claimed costs would, of course, be subject to FSA's review.

The FSA's definition of public assistance included some public health activities which created administrative and service delivery problems for Washington's public health agencies. The OIG recommended that FSA reconsider this position.

The FSA replied that they see this primarily as an issue of cost identification and that they will work with the States to develop methods of documenting costs which are consistent with FSA's responsibilities as stewards of public funds. We believe that FSA's actions to identify alternative methods is responsive to our concerns.

We continue to believe that a strict interpretation which permits public health costs to be claimed only for specific eligible legalized aliens is burdensome to the States and, in many cases, would require considerable revisions to the States' system or statutory requirements. However, we do agree that FSA's use of alternative systems, such as the Cost Documentation System and a revised population ratio method system which reflects usage, would be a positive effort to enhance cost effectiveness without requiring States to develop new systems or make considerable revisions to present systems. The population ratio method could be revised to consider not only eligible legalized aliens in the service population, but use of those services by the eligible legalized alien population based on information already obtained from program experience. Where appropriate, other alternatives might be used which would produce a more efficient system for the States and address congressional intent that the States would not be required to establish new or elaborate systems.

The FSA questioned the report's statement that Washington had already received an initial award letter and appropriations for the first half of 1988 before its FY 1988 application had been approved. Upon contact with the State, we found that the SLIAG application had been approved first before funds were given to the State. Modifications have been made in the report to reflect this information.

We reported that no formal appeals process exists if program costs are denied in the first level review. We agree with FSA's statement that the Grant Appeals Board does have jurisdiction over matters for withholding and repayment of SLIAG funds. However, it was the States' concern that an effective appeals mechanism be in place for issues involving programs or costs at the first level of FSA's review in the application process.

The FSA made numerous comments to clarify certain matters of fact, policy, or procedure. We have included these comments verbatim in Appendix B.

The State of Washington

The State has generally agreed with the OIG report findings and recommendations. Their comments are included verbatim in Appendix C. The State's comments also clarified several processes described in the draft report. We have made some modifications in the report based on the comments received from the State. Since the time of the on-site review, the State has taken significant steps to effectively implement the SLIAG program through procedural and system changes.

APPENDIX A

GOOD PRACTICES

A number of practices have been identified that other States could share.

1. Virtually all program staff indicated that the task force established by the Secretary of the Department of Social and Health Services and chaired by the single point of contact was instrumental in the planning for and implementing SLIAG. This task force brought all participating State components together to initiate action to get SLIAG underway.
2. The State has established a bilingual toll-free hotline for aliens to learn about SLIAG. This has helped the State to identify areas of concern that the alien population has about SLIAG.
3. The State has instituted a separate form in the normal enrollment process to meet program requirements concerning identifying school-age eligible legalized aliens. This form will help protect confidentiality.

APPENDIX B

FAMILY SUPPORT ADMINISTRATION'S COMMENTS



Memorandum

Date: September 22, 1989

From: Acting Assistant Secretary
for Family Support

Subject: OIG Draft Report: Implementation of the State Legalization
Impact Assistance Grants Under the Immigration Reform and
Control Act of 1986 - State of Washington (OAI-07-88-00450)

To: Richard P. Kusserow
Inspector General

Attached are the Family Support Administration comments on the above report. Many of our comments are technical in nature due to the complexity of the legislation and the fact that the SLIAG program was very new at the time of the review.

We appreciate the assistance and cooperation we have received from you in response to our request to conduct this round of reviews of the SLIAG program. The reports we received are very useful to us in understanding how States are implementing the program.


Catherine Bertini

Attachment

OIG DRAFT REPORT:
Implementation of the State Legalization Impact Assistance
Grants
Under the Immigration Reform and Control Act of 1986 -
State of Washington

The Family Support Administration's comments are divided into three sections: Comments on background information and other narrative material that does not relate directly to the draft report's findings, comments on the findings, and responses to the draft report's recommendations.

Narrative:

Page i (Executive Summary) -- The draft report says that SLIAG funds may be used for "educational services designed to assist eligible legalized aliens to attain a satisfactory level of performance in school and to achieve English language proficiency and citizenship skills necessary to become permanent residents." The final report should make clear that, by regulation, SLIAG funds may be used to provide adults any educational service authorized by the Adult Education Act.

Page 1 (Background) -- The draft report says, "This new population will increase the demand for State public assistance and public health assistance services significantly." The draft report isn't clear whose conclusion this is or upon what data and analysis the conclusion is based. The final report should clarify these points.

In the course of implementing SLIAG, we have discovered that neither State and local public health programs nor, with few exceptions, public assistance programs, inquire about legal status. This suggests that at least some aliens were using these services before legalization and that newly legalized aliens do not represent a "new population" for public assistance and public health assistance services. Preliminary cost data from States suggests that newly legalized aliens are accessing public assistance services at rates far lower than the general population. There are indications that a backlog of public health needs existed and was identified during the medical examinations required of all applicants for legalizations. However, there is no data to suggest that, other than this temporary bulge in demand for public health services, newly legalized aliens will generate a significant increase in demand for public health assistance or public assistance services.

Page 2 (Background) -- The draft report says that reimbursement for public assistance and public health assistance "is limited only to the amount of State and local funds expended for SLIAG-related cost." SLIAG funds may be used to pay any SLIAG-related cost, which is defined in regulation at 45 CFR 402.2 as the expenditure of funds (whether State, local, or SLIAG) for any purpose for which SLIAG reimbursement would be allowable. The

final report should make clear that State and local governments are not required to spend their own funds before drawing down SLIAG funds.

Page 3 (Washington's Organizational Structure) -- The draft report lists a number of services that the Department of Community Development, the Department of Public Health, and the Bureau of Parent and Child Health provide "to eligible legalized aliens." The final report should make clear that, by law, SLIAG funds for only those public assistance and public health assistance programs that are generally available, i.e., in which being an eligible legalized alien does not impact on eligibility.

Page 5 (Public Assistance) -- The draft report says, "The State has not created any new programs for SLIAG." As noted above, public assistance programs or activities must be generally available in order to receive SLIAG funds. Thus, the creation of "new programs for SLIAG" was not an option to States. The final report should clarify this point.

The draft report further says, "As a result, the State will incur increased administrative costs and will have to institute new methods to identify eligible legalized aliens because the program definitions for public assistance and public health assistance are unique to SLIAG." We do not understand this sentence. Program administrative costs, i.e., the cost of administering an ongoing program, will not change as a result of SLIAG. SLIAG administrative costs, i.e., costs incurred as a result of SLIAG, may be paid with SLIAG funds. The final report should clarify this point.

Page 6 (Public Assistance Program Costs) -- The draft report says, "The FSA had no written explanation as to why some public health assistance programs are divided between public health assistance and public assistance." In guidance issued June 17, 1988, we explained in detail the statutory and regulatory criteria for the two categories of services and gave detailed guidance as to what kinds of activities met the criteria for each. The final report should make this point.

Page 6 (Public Assistance Administrative Costs) -- The draft report says processing mental health contract amendments "to implement changes for SLIAG" will cause "additional administrative costs due to the lateness of SLIAG funding and the many changes in FSA instructions." It is not clear how costs will increase if there is no increase in staff. Nor is it clear why contracts would be amended as a result of SLIAG. The final report should address these questions.

Page 8 (Public Health Assistance Documentation of Eligible Legalized Alien Status) -- The draft report says that "special agricultural workers with only a temporary work permit" receive services, but the provider does not know whether they were granted status. The draft report says the provider "hopes to

obtain the approval rate for special agricultural workers who have applied for temporary resident status" and apply that rate to "the number of special agricultural workers served." The point of this paragraph is not clear. The cost of public health assistance services (but not public assistance or educational services) provided to applicants is allowable, so providers would need only documentation that an individual had applied for status. For public assistance and educational services, we have made available to States methods for determining by a statistical adjustment the proportion of applicants who were granted status. The final report should make these points.

Also on page 8, the draft report says that health providers are concerned "that requiring clients to declare their citizenship status, whether they are legal or not, will deter people who need the health services." Costs for programs or activities that meet the statutory and regulatory criteria for public health assistance can be established by using a population ratio method. We have made available to States other methods to establish costs for public assistance and public health assistance programs that do not involve checking the status of any program participant. Among these is the Cost Documentation System, developed by FSA with the cooperation of the Social Security Administration, the Immigration and Naturalization Service, and the General Services Administration, which allows costs to be established by matching the social security numbers of program participants with the social security numbers of newly legalized aliens. The final report should make these points.

Page 9 (Public Health Assistance Administrative Costs) -- The paragraphs under this heading appear to refer to SLIAG administrative costs rather than program administrative costs. The distinction is important because SLIAG administrative costs may be charged in full to the State's grant, while only a pro rata share of program administrative costs may be charged to the grant. The final report should make clear which kind of administrative cost is being addressed.

Page 19 (Education Assistance or Service Activities) -- The draft report says no new services have been added. But the previous paragraph, apparently quoting State officials, says that full services were not provided pending the flow of SLIAG funds. The final report should make clear whether the State planned to fund services directed specifically to eligible legalized aliens. Additionally, the draft report says, "The State questions what ancillary services, other than child care and transportation, are covered by SLIAG. The State wants outreach activities covered." The regulation and written guidance from FSA make clear that SLIAG funds may be used for any activity authorized by the Adult Education Act, including outreach. The final report should make these points.

Page 10 (Education Documentation of Eligible Legalized Alien Status) -- The draft report says that schools will have to ask students about their legal status in order to document the number of eligible legalized aliens attending school. This is not true. It is possible for school districts to ask whether students are eligible legalized aliens, as defined by IRCA, without asking whether their status is legal or illegal. Those who are not eligible legalized aliens would include other aliens residing here legally and citizens, as well as undocumented aliens. The final report should make that point.

Page 11 (Education Administrative Costs) -- The draft report notes that SLIAG start-up costs were covered in part by the "State Refugee Program," and that the State educational agency does not plan to seek reimbursement from SLIAG for those costs. The final report should note whether Federal refugee assistance funds were used for this purpose and that, if so, this was an improper use of those funds. (Eligible legalized aliens, by definition, are not refugees.)

Findings:

Finding: Since 1987, FSA has held national conferences and issued information to States on implementing the SLIAG program.

Comment: Since the OIG's onsite visits in August 1988, we have continued to provide assistance to States. We have conducted several more workshops and meetings to assist states in implementation. In October 1988, we issued a compendium incorporating the extensive formal guidance previously provided to States on methods of cost documentation. We also have provided assistance to individual States in the form of correspondence, telephone consultation, and onsite technical assistance. We have conducted initial program reviews of the major States and are in the process of planning further monitoring visits. We request that the final report reflect this continuing dialogue with States.

Finding: Washington took immediate steps to plan for and implement SLIAG.

Comment: Under this finding, on page 4, the draft report says, "The State has established a bilingual toll-free hotline for aliens to learn about SLIAG. This has helped the State to identify areas of concern that the alien population has about SLIAG." It is not clear what kind of hotline this would be. As noted above, only those public assistance and public health assistance activities that are generally available to the population may be funded with SLIAG. (This requirement does not apply to educational services.) Thus, SLIAG funding has no direct relationship to the availability of public assistance and public health assistance services to eligible legalized aliens.

Moreover, the cost outreach for public assistance or public health assistance programs directed specifically to eligible legalized aliens would not be allowable because it would not meet the "generally available" requirement. A later reference to the hotline, on page 5, states that most of the calls to the hotline relate to the circumstances in which acceptance of public assistance would lead INS to find that an individual was likely to become a "public charge," thereby becoming ineligible for permanent resident status. This reference would suggest that the hotline activity provides a service specifically for eligible legalized aliens. If so, costs associated with the hotline would not be allowable under the public assistance or public health assistance categories. Nor would the cost of an activity relating to the delivery of services to an individual be allowable as a SLIAG administrative costs. The final report should further describe this activity, whether its cost is an allowable use of SLIAG funds, and, if so, how it meets regulatory and statutory criteria. Also, in light of these questions, the OIG should consider whether to retain this program on the list of "good practices" in the appendix.

Finding: The FSA's definition of public assistance includes some public health activities. This created administrative and service delivery problems for Washington's public health agencies.

Comment: We question how the definitions of public health and public assistance create service delivery problems for State public health agencies. By statute and regulation, all programs or activities under both categories must be generally available. In practice, this means that SLIAG funds are available only to reimburse costs in ongoing, generally available programs. In most programs, immigration status is not a condition of eligibility. (The draft report notes that undocumented aliens access public health assistance services.) If the alien is eligible for services, he or she would receive those services regardless of whether they were reimbursed under SLIAG. The final report should clarify this point. The final report also should explain that the regulatory definitions of public assistance and public health assistance are based directly on section 204 of the Immigration Reform and Control Act of 1986 (IRCA), which created SLIAG.

Programs of public assistance are defined as programs that "provide for cash, medical or other assistance...designed to meet the basic subsistence or health needs of individuals" [section 204(j)(2)(A) emphasis added]. Consistent with IRCA's explicit inclusion of medical assistance under the public assistance category, State or locally funded programs that provide medical treatment to needy individuals are considered by FSA to be public assistance.

IRCA defines programs of public health assistance as programs which "provide public health services, including immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services" [section 204(j)(3)(A)]. These statutory definitions and the legislative history indicate that Congress intended to allow certain traditional public health functions under the public health assistance category and medical assistance to the needy under the public assistance category. In implementing SLIAG, we have followed that statutory framework. We have defined public health assistance as, among other things, programs or activities that "are provided for the primary purpose of protecting the health of the general public" [45 CFR 402.2]. The scope of programs included in that regulatory definition of public health assistance goes far beyond the specific activities listed in the IRCA.

The public assistance/public health assistance categorization issue is primarily one of cost documentation requirements, not the allowability of costs associated with any particular health program. Without the distinction between categories, Washington would likely use the population ratio method to establish costs for all programs run by the their health departments. Implicit in this method is the assumption that eligible legalized aliens will access programs in the same frequency and at the same cost as the general population. We do not believe this assumption to be appropriate for medical assistance programs that provide treatment to needy individuals, i.e., what the statute defines as a public assistance program. To the contrary, the information that we have to date indicates that allowing use of the population ratio method for these programs generally would overstate costs, dramatically in some cases. However, we would be willing to allow use of the population ratio method for any program for which there is an empirical basis to indicate that doing so would not overstate costs.

FSA realizes that many public assistance and public health programs do not routinely collect information on immigration status but has found many do collect social security numbers. That is why we funded and devoted substantial resources to developing a system that will match the social security numbers of program participants with those of newly legalized aliens. This system gives States information on the number of newly legalized aliens participating in a program and the cost of services to them. It is now available and allows States to establish costs for FY 1988 as well as current and future years. In May, we sent State SLIAG Single Points of Contact suggestions for other possible methods for establishing costs. None of these alternative methods requires setting up new administrative mechanisms or checking status of all program participants.

We will continue to work closely with States to develop methodologies to document costs for all programs in its approved applications.

Finding: The FSA application review process created a number of significant problems for Washington. Also, the FSA's application review process interfered with the State's ability to plan for services.

Comment: The draft report says that the time period for submission, review, revision and approval of the initial application was too short. We agree that it would have been preferable to have had a longer period of time between the publication of the final regulation and the deadline for submission and approval of FY 1988 and FY 1989 applications. However, the final report should note that, because of the way IRCA set up the allocation formula, one major reason for the compressed timeframe was that we could not award funds to any State until all States' applications had been approved. In order for us to run the allocation formula, which IRCA requires to include estimates of costs, we must have approved estimates for all States before we can calculate States' allocations.

The draft report says no formal appeals process exists if programs or costs are denied. The SLIAG regulation provides that the Grant Appeals Board has jurisdiction over issues related to the withholding and repayment of funds. For other matters, States may follow normal procedures for disagreeing with an agency finding.

The draft report says that Washington was notified "in September 1988 that its FY 1988 application could not be approved because it required revisions, even though Washington had already received an initial award letter....This caused a further delay in the release of SLIAG funds." This statement is incorrect. No State received FY 1988 grant funds until its FY 1988 application was approved. Applications under review during September 1988 were for FY 1989. The final report should correct this error.

Recommendations:

Recommendation: The FSA should reconsider its position to classify certain public health services as public assistance and make appropriate adjustments to this position.

Response: As discussed above, the primary issue relating to the definitions of public assistance and public health assistance is one of cost documentation. States would like to use the population ratio method for all programs run by their health departments. The final report should clarify whether the OIG is recommending that we allow use of the population ratio in

programs where, as discussed above, its use would likely overstate actual costs.

We believe that using the population method for all programs run by State health departments would be inconsistent with our responsibility to exercise fiscal responsibility in administering SLIAG funds. However, we recognize that some States may encounter difficulties in establishing actual costs, especially where ELAs are a small percentage of a State's population or for programs that few ELAs access. We will continue to work with States to ensure that a method is available to allow them to establish actual costs for each program in their approved applications, consistent with our responsibilities as stewards of public funds.

Recommendation: The FSA grant process should be made more orderly.

Response: This recommendation applies to the submission and processing of SLIAG grants only and should not be confused with the overall FSA grants management process. We have already made a number of significant changes in the SLIAG application and grant award process. As the draft report indicates, the timeframes for the FY 1988 and FY 1989 application processes were necessarily short. In effect, the States and FSA had to complete two application processes in less than a year. We do not expect similar problems for the FY 1990 and FY 1991 application processes.

To ensure that States have adequate time to prepare their FY 1990 applications based on empirical data, we have extended the deadline from July 15 to October 1. Additionally, we have encouraged States to submit as early as possible any new programs, questions, or issues, and have advised them that they may submit all or portions of their applications at any time. We now provide in writing all our comments on States' submissions. We issued extensive written guidance on the FY 1990 application process and the standards we will apply in reviewing applications.

The draft report also recommends that we develop an appeals process to use if programs or costs associated with providing services are denied in the initial application process. The Department's Grant Appeals Board already has jurisdiction over cases involving the repayment or withholding of funds. Normal channels within the Department are open to States that disagree with decisions made during the course of application review.

Recommendation: The FSA and the INS should further clarify what is meant by "public charge" and widely disseminate this information to the aliens who have raised concerns about their resident status.

Response: Under IRCA and the Immigration and Nationality Act, the INS alone is responsible for determining whether individuals are likely to become public charges. FSA cannot establish policy on this issue. Nor can FSA disseminate information directly to the alien population. INS is precluded by IRCA from providing names and addresses of eligible legalized aliens to outside agencies.

However, we agree that it is important that all concerned know INS policy on the public charge issue. We note that the INS Phase II regulation clarifies this issue. Additionally, INS representatives have made presentations at virtually all of our workshops and conferences. At these meetings, States have been able to ask questions and receive direct information from the INS. We have communicated to States all information provided to us by INS on this and other pertinent issues, and will continue our policy of disseminating any relevant information that we receive.

The Department also has indicated its support for a legislative change to allow States to use a small portion of their SLIAG grants to inform temporary residents of the requirements for adjustment to lawful permanent resident status and of the rights and responsibilities of lawful temporary residents. Such use is not permitted under current law.

APPENDIX C

WASHINGTON'S COMMENTS

Richard J. Thompson



Secretary

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Olympia, Washington 98501

September 20, 1989

Mr. Richard Kusserow
Inspector General
Office of the Inspector General
Washington, D.C. 20201

Dear Mr. Kusserow:

The attached document is the State of Washington's review and comment of the inspection report "Implementation of the State Legalization Impact Assistance Grants under the Immigration Reform and Control Act of 1986 - State of Washington". I have suggested a number of changes for clarification and accuracy.

While the state agrees with the bulk of the findings reported, and appreciates the recommendations offered, the time lag of over 1 year between the inspection and the publication of the draft report makes it of little real use. The majority of issues identified in the report have already been dealt with out of functional necessity.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "James Kainber".

James Kainber, Director
Immigration Assistance Program
OB 31-A
Olympia, WA 98501

Enclosure

Washington State
Comment on OIG Draft Inspection Report

OVERVIEW

The stated purpose of the Office of the Inspector General's (OIG) inspection of the implementation of the State Legalization Impact Assistance Grant (SLIAG) was to: (a) Determine the effectiveness of Washington's implementation of SLIAG, (b) identify problems early in the process and (c) to identify "good practices" to be shared with other states.

The text of the report does identify problems in the process and lists three "good practices", however, no qualitative or quantitative analysis is made regarding the effectiveness of Washington's implementation of the program. We feel that, considering the limitations placed on the state due to Federal delays and the lack of definitive policy and procedure at the time of the review, Washington state responded effectively and efficiently to the entire SLIAG process.

In addition to the omission of significant comment regarding Washington's effectiveness in implementation, there are several areas of the report that are confusing or inaccurate. The following suggestions and comments are made on a page by page basis with the intent of helping the OIG to make the final document more useful to the State and Federal agencies involved.

Executive Summary

The findings and recommendations in the executive summary are not paired. It would be easier to understand the recommendation as it relates to a finding if the recommendation immediately followed the finding. Additionally, numbering the findings and recommendations would help in referring to them.

The duplication of the detail in the findings and recommendations in both the text of the report and in the summary seems to be redundant. We suggest that the findings and recommendations be combined and generalized in the executive summary.

The comment following the third finding on page ii (also repeated on page 4 of the report) "there are some funds control vulnerabilities" is a very vague statement that seems to indicate that the state must have difficulty in the control of the way it utilizes or accounts for the use of funds. There are, however, no specific findings reported that address this alleged deficiency. We have no idea what vulnerabilities the report refers to and have no evidence that the states fiscal policies and accounting mechanisms have any lack of control or have vulnerabilities. This comment should be removed from the report and the preceding finding left as is.

Washington State
Comment on OIG Draft Inspection Report

The fourth finding reported on page iii is not correct. Both the Division of Public Health and the Office of the Superintendent of Public Instruction verify ELA status of clients by making a copy of the INS documentation for the client file.

The last sentence in the comment following the fourth finding on page iii states that FSA and Washington need to take "additional action in other areas". Please be more specific as to what action in what areas, refer to a specific recommendation or remove the comment.

Introduction

In the fourth paragraph on page 1 you mention food stamps as being among the programs for which Eligible Legalized Aliens (ELAs) are ineligible. In fact ELAs who "Special Agricultural Workers" are eligible for food stamps.

The second paragraph on page two is confusing and mixes unrelated statements about three subjects in a single paragraph. Also, the last sentence in this paragraph is inaccurate. States do have to request approval of the methodology in determining SLIAG Administration costs.

Washington's Organizational Structure

The first paragraph on page three is inaccurate in regard to positions and organizational structure. Please consider the following as a replacement:

"The Department of Social and Health Services (DSHS) is the agency designated by the Governor to operate the SLIAG program in the State of Washington. The Division of Income Assistance within DSHS houses the Immigration Assistance Program (IAP) which is directly responsible for SLIAG activities. The director of the IAP is the single point of contact for the SLIAG program. He is assisted by a fiscal manager and program managers who are full-time staff."

Findings and Recommendations

The comments under the third finding on page 4 mention "funding control vulnerabilities". Reference is made to further comment concerning these funding control vulnerabilities being contained under the major topic areas. However, after careful study of those findings and recommendations no detail or specifics can be found that concern fiscal or funding control or areas of vulnerability. This statement should be removed.

Washington State
Comment on OIG Draft Inspection Report

The first paragraph on page 6 references an "annual audit". In reality, contracted programs are monitored on an ongoing basis by IAP program managers. Mention is also made in the third paragraph on page 6 of the Single Audit Act. Please consider including the following statement as an accurate description of how the Single Audit Act affects SLIAG:

" The independent Office of State Auditor has a permanently assigned audit staff which conducts the annual audit required by the Single Audit Act. This staff audits all large federal programs with a single year grant of seven million dollars or more. This audit encompasses all Department of Social and Health Service (DSHS) programs and is a sampling of activity drawn from DSHS accounting/budgeting systems. Accordingly, it will be a potential sampling of SLIAG activities but not a comprehensive look at financial/program activities."

The third paragraph on page 6 should be corrected to indicate that the costs of IAP staff will be charged to SLIAG for the full period of the grant, not just during the implementation phase.

The last paragraph on page 6 mentions the financial manager. This should be the fiscal analyst.

The first three paragraphs on page 7 have inaccuracies. Please consider using the following language:

"Programs will claim SLIAG funds by two methods. In method one, each program will input program charges through the computer system using unique SLIAG account codes. The SLIAG financial manager with the Immigration Assistance Program will review the summarized cost data for each program and submit the actual monthly expenditures to a fiscal analyst in the central Office of Accounting Services. The actual monthly expenditure data will be included in a grant year-to-date expenditure total and compared to SLIAG grant funds already drawn. The necessary revenue draw is then adjusted, prepared, and drawn from SLIAG funds.

The second billing method is by a monthly invoice for contracted services rendered. This method is used by outside agencies or contractors providing services to the Department of Social and Health Services, for example, the Department of Community Development and the Office of the Superintendent of Public Instruction. The invoices are reviewed by Immigration Program staff and approved for payment if in accordance with the contractual agreement.

According to respondents, cash advances are generally not allowed in public assistance programs. However, the Bureau of Alcohol and

Washington State
Comment on OIG Draft Inspection Report

Substance Abuse and the Department of Community Development (DCD) will permit advances for start-up costs. Programs receiving cash advances will have to submit a plan specifying start-up activities and their costs. Expenditures will be verified by DCD/BASA staff and reviewed by Immigration Program staff before payment is made. Immigration Program staff and other program/contractor staff will conduct field monitoring visits of these activities during the contracted period of performance. Some of these activities will be sampled and audited during the annual Single State Audit." The next to last paragraph on page 9 refers to annual contractor audit. This should be replaced with "ongoing contract monitoring and review".

Documentation of Status

The second paragraph on page 8 is incorrect. Public Health programs may serve individuals who have only applied for amnesty as well as those who have achieved temporary or permanent resident status.

Education

The second paragraph on page 10 indicates that 11 of 293 school districts are eligible for SLIAG funding. The actual number of eligible districts has not yet been determined.

The third paragraph on page 10 mentions that SLIAG services will be provided by correctional facilities. This is in error as no correctional facilities are contracted to provide SLIAG services.

The fourth paragraph on page 10 states that "no new services have been added". This is in error. English language training and Civics training for ELAs is a new service and is allowable under the provisions of SLIAG.

The third paragraph on page 11 is confusing in regard to the 8% administrative cost of a contractor's total funding. Instead you should refer to the 8% of total instructional costs.

Crosscutting Issues

This heading, found on page 12, has no explanation about how and where these issues "crosscut". Many of the findings are duplicative of those reported elsewhere in the report.

The last finding on page 13 indicates that some programs have not yet implemented methods to identify ELAs and, in the following comment, states the reason for the delay is that Federal funds to pay for the development of those methods and procedures had not

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yet been received. However, the recommendation associated with that finding (page 14) states that the programs should go ahead and develop the procedures and makes no mention of the delay in Federal funding. We feel the recommendation should be that FSA immediately fund the State so that development may begin.

The fifth paragraph on page 14 is incorrect as it refers to Public Health program eligibility. SAWs are not treated differently from other applicants. All that is needed to be eligible for Public Health services is that an individual be an applicant under IRCA.

The sixth paragraph on page 14 is also incorrect. Contrary to what is stated, the Office of the Superintendent of Public Instruction request for participation specifies that to be eligible a student must be an ELA, ie. must have been adjusted to the status of temporary resident alien.

