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

STATE OF FLORIDA

**RICHARD P. KUSSEROW
INSPECTOR GENERAL**

EXECUTIVE SUMMARY

PURPOSE

The purpose of this inspection was to determine how effectively Florida 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 establishes a new program, FSA realized that problem areas 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, the 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 Florida and reports on its implementing the SLIAG program as of August 1988.

Both FSA and Florida were committed to identifying problem areas 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. The FSA and Florida have already initiated action on some of the findings and recommendations.

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.

FINDING: *Florida established a structure to identify organizational and program needs.*

- The Refugee Programs Administrator for the Department of Health and Rehabilitative Services is the single point of contact for Florida. The Governor’s placement of the single point of contact in the department ensures high visibility for SLIAG.
- Florida surveyed its public assistance, public health assistance, and educational services programs to assess the overall needs in providing expanded assistance to eligible legalized aliens.
- To assist eligible legalized aliens meet educational requirements for permanent resident status, Florida developed a new educational program called “Citizenship.”

FINDING: *Florida also took immediate steps to document expenditures and control disbursements.*

- Florida began planning modifications to the existing State Automated Management Accounting System to capture additional new data elements for SLIAG. Allowable expenditures will be identified by object codes or other mechanisms to prevent reimbursement for unallowable expenditures.
- Plans for implementing SLIAG include developing formal contracts, grants, or operating agreements with service providers such as the counties, a major hospital, and the Department of Education. Expenditure and disbursement controls will be an integral part of the formal agreements. The SLIAG services are provided on a cost-reimbursable basis.
- No cash advances or cash balances are anticipated. Contract compliance will be closely monitored according to established State standards.

Nevertheless, there are some funds control vulnerabilities.

FINDING: Florida's planned modification of its automated accounting system to control SLIAG expenditures and disbursements had not been implemented.

FINDING: The necessary formal operating agreements between the State, counties, and major providers containing the details for implementing SLIAG had not yet been formalized.

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

FINDING: At the time of the inspection, Florida had only broad, informal guidelines from FSA on the allowability of SLIAG costs and the documentation requirements which it could share with the counties.

FINDING: The FSA application review process created a number of significant problems for Florida. 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 Florida in understanding SLIAG application requirements.
- The time frames were too short for submitting the initial SLIAG application, FSA review and comment, and revisions of the application.
- The implementation of SLIAG-funded programs was delayed because of a significant delay in notifying Florida of the grant award.
- No formal appeals process exists if programs or costs are denied in the first level review.

As mentioned earlier, FSA and Florida have already initiated action on some of the recommendations made 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, additional actions are necessary in other areas on the part of FSA and Florida.

RECOMMENDATION: Florida should complete its planned modification of the automated system to control SLIAG expenditures and disbursements.

RECOMMENDATION: Florida should develop SLIAG operating agreements with the counties and providers as soon as possible.

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 issue written guidelines for determining and documenting SLIAG costs. In turn, Florida should ensure disseminating information for determining and documenting SLIAG program and administrative costs to the counties.*

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

- provide definitive written instructions on the SLIAG application requirements and establish a dialogue with Florida on 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 Florida's initial application, FSA's review and formal comment, Florida's consideration of FSA comments and negotiation of disputes, and its submission of the revised application for FSA approval;
- develop an appeals process to use if program or costs associated with providing services are denied in the initial application process; and
- revise the grant award process for approved applications so that the notice of grant award reaches Florida prior to the beginning of the fiscal year.

COMMENTS

The FSA and the State of Florida both commented on the draft report. The comments are included as Appendices B and C, respectively.

The FSA and the State generally agreed with our findings and recommendations. Both reported having taken a number of steps to improve implementing SLIAG. Where appropriate, we have modified the report based on their comments.

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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 any good practices which all States could share. This report presents the results of the inspection pertaining to the State of Florida.

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 programs 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 estimate 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 Florida'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 program and/or financial officials at the State capital in Tallahassee, two metropolitan counties (Dade and Broward), and a rural county (St. Lucie).

FLORIDA'S ORGANIZATIONAL STRUCTURE

Each State designated a single point of contact to administer and coordinate the SLIAG program. The Governor designated the Department of Health and Rehabilitative Services as the agency responsible for administering the SLIAG program in Florida. The SLIAG single point of contact is the Administrator of Refugee Programs. The State supervises and the counties administer the SLIAG program in Florida.

The Department of Health and Rehabilitative Services has 11 service delivery districts throughout Florida. District Administrators, who have the same standing as an Assistant Secretary, are appointed by the Secretary and directly responsible to the Deputy Secretary for Operations. The District Administrators have direct-line authority over all departmental programs operating in their districts.

The delivery of educational services for both school-age children and adults is handled by the Florida Department of Education. Its head is the Commissioner of Education who is an elected official. The designated point of contact in the education department responsible for securing and submitting required information relative to SLIAG is the Bureau of Compensatory Education at the State capital in Tallahassee. Adult education information and concerns are provided to the Bureau of Compensatory Education by the Bureau of Adult and Community Education. The two bureaus will administer and deliver SLIAG-related educational services to eligible legalized aliens of school-age (kindergarten through 12th grade) and adults.

The inspection revealed that the counties exercise significant autonomy and control over programs and other matters within their respective jurisdictions. Robust competition exists between the counties for available Federal and State program funds allocated by the State.

FINDINGS AND RECOMMENDATIONS

Both FSA and Florida 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. The FSA and Florida have already initiated action on some of the findings and recommendations.

***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:** Florida established a structure to identify organizational and program needs.*

- The Refugee Programs Administrator for the Department of Health and Rehabilitative Services is the single point of contact in Florida. The Governor's placement of the single point of contact in the department ensures high visibility for SLIAG.
- Florida surveyed its public assistance, public health assistance, and educational services programs to assess the overall needs in providing expanded assistance to eligible legalized aliens.
- To assist eligible legalized aliens meet educational requirements for permanent resident status, Florida developed a new educational program called "Citizenship."
- St. Lucie County and a local radio station are working jointly to broadcast available services (including those under SLIAG) in Creole to reach a large Haitian population.
- Broward County administrators conducted a ZIP code analysis to determine where concentrations of eligible legalized aliens resided in the county. Thus, local service delivery centers likely to be affected most frequently can be quickly identified, and areas where providers are needed can be targeted. This tool is

useful for the county in carrying out its program assessment and planning functions for expanding existing programs.

- In Dade County, Jackson Memorial Hospital uses an on-line computer to identify patients meeting Federal guidelines on poverty. These data are kept on file to aid hospital officials to administer service delivery programs including SLIAG. Jackson Memorial Hospital has also developed new SLIAG patient registration procedures indicating the required documentation for eligible legalized aliens.

FINDING: Florida also took immediate steps to document expenditures and control disbursements.

- Florida began planning modifications to the existing State Automated Management Accounting System to capture additional new data elements for SLIAG. Allowable expenditures will be identified by object codes or other mechanisms to prevent reimbursement for unallowable expenditures.
- Plans for implementing SLIAG include developing formal contracts, grants, or operating agreements with service providers such as the counties, a major hospital, and the Department of Education. Expenditure and disbursement controls will be an integral part of the formal agreements. The SLIAG services are provided on a cost-reimbursable basis.
- No cash advances or cash balances are anticipated. Contract compliance will be closely monitored according to established State standards.
- State and county officials indicated that existing internal controls, financial management standards, and reporting requirements applicable to programs serving the refugee population will be used for SLIAG wherever possible. No new or substantially augmented systems are planned. Ordinary modifications will be made to current processes as required to accommodate SLIAG implementation and monitoring.

Nevertheless, there are some funds control vulnerabilities. Findings and recommendations concerning these vulnerabilities follow under major topic areas. Findings and recommendations which affect more than one assistance program are discussed in the Crosscutting Issues section of this report.

PUBLIC ASSISTANCE

Assistance or Service Activities

Major public assistance programs provided by Florida that will incur SLIAG-related costs are as follows: Medicaid; AFDC; children's medical services; foster substitute care; primary health care; community care for the elderly; direct emergency assistance for food, clothing, shelter, and financial aid; home health care to low-income or indigent persons; housing; mental health; alcohol and drug abuse treatment; transportation for the elderly, low-income and handicapped clients; and domestic intervention.

State officials indicated that new programs for eligible legalized aliens are not anticipated. Existing systems and processes will be used wherever possible. However, it was disclosed that needs assessments were being conducted throughout the State to determine the impact on existing programs which were required to more effectively serve the eligible legalized alien population. At the time of the site visits, no new programs had been specifically established because of the availability of SLIAG funds.

Documentation of Eligible Legalized Alien Status

Documentation of eligible legalized aliens for SLIAG public assistance will be accomplished at the intake stage of processing. For example, Dade County has amended its Basic Intake Form to include a section for this population. Identity documents, e.g., those issued by the INS (i.e., I-688, Temporary Resident Card or I-688A, Employment Authorization Card, etc.) will be scrutinized and checked against a State-prepared list of acceptable identification. The single point of contact is now working with district directors to clarify and establish the list. These identity documents will also be photocopied and maintained in the client file for future reference. Quality assurance will include file reviews and contacts with eligible legalized alien family members to verify identity.

Program Costs

FINDING: Florida's planned modification of its automated accounting system to control SLIAG expenditures and disbursements had not been implemented.

The State recognized the need for modifying its accounting system to determine and document SLIAG costs. However, at the time of the review, the State had not implemented methodologies to do this. Program costs will be monitored by the mechanisms the State employs in documenting SLIAG funds from drawdown to claimed expenditure. Florida fiscal officials advised that the State Automated Management Accounting System will be modified by adding new coded data elements for SLIAG. Allowable expenditures will be defined by object codes or other mechanisms. Once these controls have been established, the State will make a standard accounting journal entry to move the funds from the State account to the grantee account. This results in a disbursement entry to the State's records and a receipt in the grantee's records. The grantee agency then advises the State on using the grant funds by

submitting claims for reimbursement. Claims containing unallowable items will be reduced accordingly by the automated system prior to payment authorization.

The State automated system also records monthly and year-to-date expenditures against budget allocations for salaries, expenses, and operating capital outlay. Expenditure rates are recorded monthly. These monthly rates project annual expenditures based on current spending levels and keep managers aware of potential surplus or deficit situations.

The Department of Health and Rehabilitative Services uses a standard contract management system for all contracted services. It is expected that contracts for some services will involve community-based organizations.

Any irregularities involving noncompliance with contracts that require planned corrective change will be incorporated in a corrective action plan. This plan will be developed cooperatively by the subcontractor and district contract manager. Financial, managerial, and administrative functions of subcontractors will ordinarily be reviewed at least annually.

All contracts will be cost-reimbursable. These are usually paid within 21 days. No cash balances are planned, nor are cash advances anticipated. However, if a cash advance is needed, the contractor must justify the request. The State will require contractors to account for interest on cash balances. Such sums are deducted from the face of the contractor's invoices. Where a county is a contractor of the State, e.g., for SLIAG services, a cap on the amount of funds a county can access is established in the contract. The State will re-examine and re-negotiate a higher limit where appropriate and issue a contract amendment, if warranted.

RECOMMENDATION: Florida should complete its planned modification of the automated system to control SLIAG expenditures and disbursements.

Administrative Costs

State fiscal officials said that actual administrative costs are monitored by creating cost pools using a coded data element called an "Other Cost Accumulator" in the State automated system. The State Cost Allocation Plan is followed in calculating costs as a percent of a claim.

At the county level, local officials advised that the actual administrative costs for each program (including SLIAG) is based on a percent of annual funding. This percent is predicated upon estimated staff needs and the county federally approved indirect cost rate for general and administrative costs. State claiming of program administrative costs is addressed in the final regulation at 45 CFR 402.22.

One county, however, did not have an indirect cost rate approved by the cognizant Federal agency. Other county officials were unclear about allowability of SLIAG costs. They indicated that they had only received broad guidelines from the State.

Drawdown of Funds and Cash Balances

The State draws down Federal funds only on an as-needed basis and no sooner than 3 days prior to the actual expenditure. "Need" is based on history of cost estimates. The State automated system produces grant award estimates for each quarter. Weekly averages are calculated based on known patterns, e.g., payroll. Draws versus expenditures are monitored monthly and expenditures versus earnings are reviewed quarterly.

The county must submit its application for funds to the State single point of contact. This request is included in the State's application to FSA for SLIAG funds. A notice is issued by the State to the county when the county application is approved. The county then provides the SLIAG-related services to eligible legalized aliens and submits invoices to the State for reimbursement.

FINDING: *The necessary formal operating agreements between the State, counties, and major providers containing the details for implementing SLIAG had not yet been formalized.*

This type of arrangement is usually controlled by a formal interagency agreement, contract, grant, or other device. At the time of the inspection, a major aspect of SLIAG implementation, i.e., the form and content of the controlling instruments, had not yet been determined.

RECOMMENDATION: *Florida should develop SLIAG operating agreements with the counties and providers as soon as possible.*

PUBLIC HEALTH ASSISTANCE

Assistance or Service Activities

Major public health programs that will incur SLIAG-related costs include immunizations, family planning, mental health, prenatal/perinatal care, child health, counseling and testing for AIDS, examination and treatment of sexually transmitted diseases, treating and follow-up of tuberculosis, direct inpatient and outpatient hospital services, rehabilitation and acute care, laboratory and pharmacy services, X-rays, and psychiatric consultation. Delivery of these services is accomplished through the Department of Health and Rehabilitative Services community health facilities in the counties, major health care providers, private physicians, and laboratories under contract.

In one county, officials have tentatively identified one new program for indigent patients. If adopted, it will reimburse physicians for services provided to these patients. Services are contracted out on a case-by-case basis and can include laboratory and pharmacy services, X-rays, and psychiatric consultation.

Documentation of Eligible Legalized Alien Status

Eligible legalized alien documentation for cost reimbursement in public health programs under SLIAG is not required if cost estimates are derived from a population ratio formula. However, some public health programs have been identified by FSA as "public assistance" and therefore require such documentation.

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

Several programs administered by the Department of Health and Rehabilitative Services are considered public assistance programs for SLIAG reimbursement purposes. The distinction is important because identifying a service as public assistance requires documenting costs incurred for individual eligible legalized aliens served. If a program or service is considered public health, the population ratio method for establishing costs can be used. Applying this method, costs are determined by the percentage of eligible legalized aliens in a service population to all members of the relevant service population. This percentage is applied to total program costs to determine how much can be reimbursed with SLIAG funds.

While there is no quarrel with the logic of FSA's definition of public assistance versus public health, the distinction created serious administrative and service delivery problems for public health agencies. These agencies, not the public assistance agencies, must develop and implement new processes for identifying individual eligible legalized aliens in order to document costs. Public health officials in Florida are concerned that asking patients about their legal status will seriously affect the willingness of patients who are illegal residents to access public health services. These people often enter the country with highly contagious diseases such as Hepatitis B and need treatment immediately. The effect of this policy on the public health in general is not known at this time.

Florida officials pointed out that FSA offered no satisfactory explanation for requiring Dade County's Jackson Memorial Hospital (the prime public health provider for eligible legalized aliens) to be considered engaged in public assistance rather than public health matters. This requirement has resulted in Jackson Memorial Hospital having to identify individual eligible legalized aliens receiving services and ask program eligibility-oriented questions, which is a process not normally done at the public health intake phase. Jackson Memorial Hospital officials find that the requirement creates new and difficult problems in administering the program and tends to confuse applicants for SLIAG-related services.

To fulfill the FSA requirement, new SLIAG patient registration procedures have been developed by Jackson Memorial Hospital indicating the required eligible legalized alien eligibility documentation. The documents are photocopied and retained in the patient's file for future reference. These policies and procedures have been in effect since May 20, 1988.

Other counties have requested providers to keep records documenting eligible legalized alien status. The counties are also developing a handbook depicting the various INS documents providers use in screening applicants for services.

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

Program Costs

Initial program costs were estimated using a population ratio formula based on what it now costs to provide services. By 1990, actual data will be used in calculating costs.

Some program costs will not require specific documenting because they were derived by a population ratio formula; other program costs must be documented by public health providers as "public assistance" to satisfy FSA requirements. Traditional methods will be used for ensuring that SLIAG funds are used to provide services only to the intended population and to avoid duplicate claims for reimbursement. These methods could include requiring acceptable identification, obtaining supporting documentation, being familiar with program guidelines, conducting training, and monitoring. However, at the time of the field visits, county officials were unsure of the specific requirements FSA may impose.

Applications for public health assistance services from eligible legalized aliens are processed no differently than other patients. However, intake forms are coded to denote eligible legalized aliens. In one county, a financial class code is also assigned. These are also the principal means for avoiding claiming reimbursement from SLIAG and other Federal programs. No distinction is made between aliens who perform seasonal agricultural services and those who have resided unlawfully in the United States prior to January 1, 1982, and are adjusting their status to lawful temporary resident for establishing allowable costs.

Identifying eligible legalized aliens for State match to Federal/State match programs is accomplished based on a class code and the documentation in the client's file.

The counties also have a review process in place for determining the allowability and accuracy of invoices from contractors and vendors in refugee programs. This process will accommodate SLIAG. A second review by county accountants is performed and a third review is done at the State level. These steps are similar to those described previously under Public Assistance. Contracts are cost-reimbursable only and are based on performance. Each contract is closely monitored.

Administrators reported that ordinarily, cash surpluses, if any, accrued by contractors must be reported to the State. Any resulting interest must be included. In addition, a project number is assigned to identify the funds throughout the life of the program.

Administrative Costs

State and county officials indicated that actual administrative costs for each program (including SLIAG) is based on a percentage of annual funding. That percentage had not yet been determined at the time of the site visits. The costs must be directly related to the SLIAG program. State claiming of program administrative costs is addressed in the final regulation at 45 CFR 402.22.

Drawdown of Funds and Cash Balances

Procedures for transferring SLIAG funds from the State to the county are in place and are, according to county officials, being followed. However, the formal instruments governing SLIAG implementation have not yet been negotiated by the State, the counties, or providers. In Dade County, a hospital administrator reported that SLIAG funds for reimbursement will be transferred from the county to Jackson Memorial Hospital based on monthly billings. It is expected that this item will be stipulated in the contract or operating agreement to be entered into between the State and the hospital.

EDUCATION

Assistance or Service Activities

Major educational programs that will incur SLIAG-related costs include kindergarten through grade 12, Adult Basic Literacy, English as a Second Language, Citizenship, and History. Educational services to adults will be provided primarily by the 58 school districts and 13 community colleges designated as the adult education local providers. Educational services will also be available through community-based organizations, both public and private, and qualified designated entities concerned with adult general education and immigrant education.

An overall needs assessment will be done through meetings with district education officials and the Federal programs coordinator to determine if new programs are required. Thus far, only one new program for adults (Citizenship) has been created due to the availability of SLIAG funds. This course assists eligible legalized aliens in meeting the requirements related to the English language and knowledge of the history and Government of the United States to attain lawful permanent resident status.

Documentation of Eligible Legalized Alien Status

Services under SLIAG will only be provided to those students who were born outside the United States and have completed less than 3 academic years of schooling in this country. Standard enrollment and registration procedures are followed as part of the eligibility process. Eligible legalized aliens are required to produce acceptable identity documents, e.g., evidence of lawful temporary residence (form I-688, Temporary Resident Card) at that time. Providers are required to maintain specific documentation on each eligible legalized alien to receive

reimbursement. A brochure explaining SLIAG has been produced and distributed statewide by the Department of Education.

Program Costs

The Department of Education exclusively uses the data provided by the INS (by way of FSA) to determine the number of eligible legalized aliens. Payments to providers are made on the basis of the lesser of \$500 per student or the providers' actual costs.

Workshops with the districts are now being planned to develop applications for submission to the Department of Education to implement SLIAG educational services. State officials advised that they are following the law and regulations in structuring the applications. Fund source code numbers to be incorporated in the State automated system will be used to ensure that SLIAG-related costs will not be mistakenly claimed under SLIAG and other grants.

Administrative Costs

The SLIAG administrative costs are determined by using the 1.5 percent limit for education cited in the Emergency Immigrant Education Act of 1984. This limit is incorporated into the SLIAG regulation. The SLIAG costs are distinguished from costs for other ongoing programs by using a system of titles and codes. As of March 31, 1988, an indirect cost rate of 17 percent was fixed by the cognizant Federal agency. This rate covers a portion of items such as utilities, rent, and, in some instances, staff salaries.

Department of Education officials advised that local education agencies will be audited annually. The audits will focus on documenting (1) administration of district programs, (2) student eligibility identification, (3) funds budgeted and allocated, (4) program curriculum and services, and (5) evaluation of students and programs.

Drawdown of Funds and Cash Balances

State education officials advised that no modifications to present accounting systems are planned to draw down and document SLIAG education funds.

The method ordinarily used to implement education programs is a grant from the Department of Education to the districts. Transfer of funds is accomplished by standard accounting journal entries. Drawdown follows State procedures previously described.

Although no contracts for delivery of SLIAG educational services had been let at the time of the field visits, monitoring and compliance of such contracts will be controlled at the district level. Standard contract compliance criteria are followed. For example, if a contractor requests an advance for working capital, a written report of cash on hand is required before the advance is authorized. During the contract review process, if large cash balances are discovered, a full review is conducted, a corrective action plan is developed, and close monitoring is performed by the district thereafter.

CROSSCUTTING ISSUES

Interviews with State and local administrators disclosed that certain aspects of SLIAG implementation were perceived to have had profound effects that reached beyond program lines. Below are the major issues that affected all three programs.

FINDING: *At the time of the inspection, Florida had only broad, informal guidelines from FSA on the allowability of SLIAG costs and the documentation requirements which it could share with the counties.*

Florida counties indicated that they had received little guidance on acceptable SLIAG costs from the State. The State advised that FSA had provided no formal direction on the allowability of costs or the documentation requirements for such costs. As a result, guidelines for determining the allowability and amount of actual program costs had not been developed for distribution throughout the State. In the interim, the guidelines for preparing the SLIAG application were being used by Florida officials. Estimated costs for FY 1990 and FY 1991 will be developed from FY 1988 and FY 1989 actual costs.

A hospital administrator expressed concern over the hospital's ability to retroactively identify many patients who applied for and received treatment, but who did not have a form I-688, Temporary Resident Card or I-688A, Employment Authorization Card when the treatment was rendered. Likewise, it would also be difficult to retroactively document costs for services to these patients. It was only later that the hospital learned from FSA that reimbursement for treatment must be documented by form I-688 or I-688A. Hospital officials are anxious that audit disallowances for reimbursement could result because of lack of required documentation. The aforementioned national conferences held by FSA and its publication of "Question and Answer" issuances have provided some guidance to the State and counties on the allowability of SLIAG costs. However, a need continues for formal guidelines on acceptable methods for documenting SLIAG program and administrative costs.

RECOMMENDATION: *The FSA should issue written guidelines for determining and documenting SLIAG costs. In turn, Florida should ensure disseminating information for determining and documenting SLIAG program and administrative costs to the counties.*

FINDING: *The FSA application review process created a number of significant problems for Florida. 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 the FSA had not provided definitive written instructions to assist Florida in understanding SLIAG application requirements.
- The time frames were too short for submitting the initial SLIAG application, FSA review and comment, and revision of the application process.
- Implementing SLIAG-funded programs was delayed because of a significant delay in notifying Florida of the grant award.
- No formal appeals process exists if program costs are denied in the first level review.

State and local SLIAG planning efforts had to be delayed pending release of the final rules. This setback, coupled with problems in the grant application approval process and the belated receipt of the FY 1988 grant award, caused last minute "scrambling" by the State and counties to implement SLIAG.

According to final regulations published March 10, 1988, States had to submit the FY 1988 application by May 16, 1988. Revisions were due by July 15, 1988, and the FY 1989 application had to be submitted by July 15, 1989. Due largely to these short time frames, FSA provided no formal feedback on revisions necessary in Florida's FY 1988 application. The information was transmitted verbally by telephone or personal conferences.

The FSA would not grant partial funding nor would FSA conditionally approve applications. If changes were not made in accordance with FSA's suggestions, the entire application was disapproved.

State officials reported that instead of providing written guidelines, FSA encouraged Florida to be "creative" in the State's initial application. Two subsequent submittals of the application were required by FSA before an "approvable" version was finally accepted. A senior county official said, "I was shocked at the waste of time and effort expended by the county to comply with FSA demands, only to be told that in the end the FSA-supplied population data, and no other, must be used in the application."

Thus, the confused application process resulted in planning and administrative problems and delays plus frustration by State and local officials in responding to changing FSA requirements.

Additionally, State and county administrators believe that cuts in the eligible legalized alien population estimates by FSA were, as one put it, "arbitrary and capricious." Officials who were interviewed asserted that FSA gave no reason for the reductions except that the figures were too high. In one county, an administrator said, "The Feds are in a no-risk situation with SLIAG, yet rejected good faith eligible legalized alien estimates by a county which has been

very close to the refugee population for a long time, and in the best position to assess the demographics of that population. The FSA's action has resulted in lost revenue to the county." However, differences exist between refugees and the eligible legalized alien population.

The FSA did not provide Florida with an appeals process when programs, costs, or methodologies were not approved. Thus, Florida had no choice other than to accept the FSA decision or forfeit all of the SLIAG funds for that fiscal year.

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

- provide definitive written instructions on the SLIAG application requirements and establish a dialogue with Florida on 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 Florida's initial application, FSA's review and formal comment, Florida's consideration of FSA comments and negotiation of disputes, and its submission of the revised application for FSA approval;
- develop an appeals process to use if program or costs associated with providing services are denied in the initial application process; and
- revise the grant award process for approved applications so that the notice of grant award reaches Florida prior to the beginning of the fiscal year.

OIG RESPONSE TO COMMENTS

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

The FSA

The FSA has generally agreed with the OIG report findings and recommendations (see Appendix B). The FSA has taken a number of steps to improve implementation of the SLIAG program including clarifying program policies and procedures. We have modified certain aspects of the report based on the comments received from FSA.

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's definition of public assistance included some public health activities, which created administrative and service delivery problems for Florida 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 State's 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.

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 State's 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 State Of Florida

The State has generally agreed with our findings and recommendations (see Appendix C). Since the time of the on-site review, the State has also 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. The Refugee Programs Administrator for the Department of Health and Rehabilitative Services is the single point of contact in Florida. The Governor's placement of the single point of contact in the department ensures high visibility for SLIAG.
2. Florida surveyed its public assistance, public health assistance, and educational services programs to assess the overall needs in providing expanded assistance to eligible legalized aliens.
3. To assist eligible legalized aliens meet educational requirements for permanent resident status, Florida developed a new educational program called "Citizenship."
4. St. Lucie County and a local radio station are working jointly to broadcast available services (including those under SLIAG) in Creole to reach a large Haitian population.
5. Broward County administrators conducted a ZIP code analysis to determine where concentrations of eligible legalized aliens resided in the county. Thus, local service delivery centers likely to be affected most frequently can be quickly identified, and areas where providers are needed can be targeted. This tool is useful for the county in carrying out its program assessment and planning functions for expanding existing programs.
6. Jackson Memorial Hospital has developed new SLIAG patient registration procedures indicating the required documentation for eligible legalized aliens.
7. Plans for implementing SLIAG include developing formal contracts, grants, or operating agreements with service providers such as the counties, a major hospital, and the Department of Education. Expenditure and disbursement controls will be an integral part of the formal agreements. The SLIAG services are provided on a cost-reimbursable basis.
8. No cash advances or cash balances are anticipated. Contract compliance will be closely monitored according to established State standards.

APPENDIX B

Family Support Administration Comments



DEPARTMENT OF HEALTH & HUMAN SERVICES

Family Support Administration
Office of Refugee Resettlement

Refer to:

Memorandum

Date: July 11, 1989

From: Acting Assistant Secretary
for Family SupportSubject: OIG Draft Report: Implementation of the State Legalization
Impact Assistance Grants Under the Immigration Reform and
Control Act of 1986 - Florida (OAI-07-88-00445)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:
FLORIDA

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 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 4 (Findings and Recommendations) -- The draft report says, "Since 1987, FSA has held national conferences and issued information to States on implementing the SLIAG program." 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 are in the process of conducting initial program reviews of the major States, and intend to visit selected other States as well. We request that the final report reflect this continuing dialogue with States.

Page 4 (Findings and Recommendations) -- The draft report lists a number of steps Florida took to identify "organizational and program needs." (Many of these steps also are featured in the Appendix, "Good Practices," which the draft report suggests could be emulated by other States.) It is not clear from the description of these steps that the statute and regulation limit use of SLIAG funds for public assistance and public health assistance to activities that are "generally available." This means that States may not use SLIAG funds to set up public assistance or public health assistance programs specifically for "eligible legalized aliens." The final report should make clear how this requirement relates to the State actions featured in the draft report.

Page 6 (Public Assistance) -- The draft report states, "State officials indicated that no new programs for eligible legalized aliens are anticipated." The draft report also says that the Broward County zip code analysis of eligible legalized aliens in the county could be used to "identify areas where providers of services will be needed." It is important to note that all programs of public assistance must meet three criteria. First they must be generally available to the population of the State. Secondly, they must be means-tested. Lastly, they must provide for the subsistence or health of the individual. As noted above, the requirement that the programs be generally available would preclude the State from developing any programs for "eligible legalized aliens." The final report should make that point clear.

Page 9 (Public Health Assistance) -- The draft report says, "In one county, officials have tentatively identified one new program due to the availability of SLIAG funds." As noted above, the statute and regulation require that programs of public health assistance be generally available to the population. The final report should make clear how the proposed new program would conform to that requirement.

Page 11 (Administrative Costs) -- The draft report says that "actual administrative costs for each program (including SLIAG) are based on a percent of annual funding. That percent had not yet been determined at the time of the site visits." The final report should note that acceptable methods for determining SLIAG and program administrative costs are outlined in Federal regulation. Several methods for determining the share of administrative costs in ongoing programs that are allocable to SLIAG and which are acceptable a priori are specified in the regulation at 45 CFR 402.22. This section of the regulation also permits use of other methods for determining program administrative costs that will document that these costs are "allowable, allocable to SLIAG, and reasonable." The process of determining SLIAG administrative costs, like all costs associated

with administering HHS grants, is governed by 45 CFR Parts 74 and 92 and relevant OMB circulars.

Page 12 (Education) -- The draft report says that the Department of Education "exclusively uses the data provided by INS (by way of FSA) to determine the allowable amount of SLIAG funds available to providers who serve the eligible legalized alien population." We assume that this description applies to the way the State determines funding priorities, and is not descriptive of its basis for paying providers. Because the IRCA and federal regulations specify limits on the use of SLIAG funds for education purposes (the lesser of \$500 per student or actual costs) the State Department of Education is required to make payments on the basis of providers' costs. The draft report should make this point clear.

Findings:

Finding:

The FSA's definition of public assistance includes some public health activities which creates administrative and service delivery problems for Florida public health agencies.

Comment:

We question how the definitions of public health and public assistance create service delivery problems for Florida 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.

Page 9 of the draft report notes that "there is no quarrel with the logic of FSA's definition of public assistance versus public health," but does not explain that logic or why the OIG recommends that FSA reverse its logic. The final report 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.

Regarding the draft report's concern, on pages 9-10, that aliens "often enter the country with highly contagious diseases and need treatment immediately," the final report should note that the treatment of dangerous contagious diseases, including tuberculosis and sexually transmitted diseases, is included in the statutory and regulatory definition of public health assistance.

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. The report notes that Florida officials feel that because of this issue, "States will not be able to claim reimbursement for their costs, which will have the effect of sequestering funds." Without the distinction between categories, Florida would likely use the population ratio method to establish costs for all programs run by the Commission on Public Health. 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. 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 staff 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. Recently, 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.

The draft report on page 10 says, "Florida officials pointed out that FSA offered no satisfactory explanation for requiring Dade County's Jackson Memorial Hospital...to be engaged in public assistance rather than public health matters." FSA informed Florida that the activities in question did not meet the statutory and regulatory criteria for public health assistance. In addition, guidance on allowable activities issued to States on June 17, 1988 described in great detail the kinds of activities which met the criteria for public health assistance and those that met the criteria for public assistance and how to distinguish between the two categories.

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

Finding:

At the time of the inspection, Florida had only broad, informal guidelines from FSA on the allowability of

SLIAG costs and the documentation requirements which it could share with counties.

Comment:

As the draft report notes, at the time of the inspection, FSA already had held several national conferences, beginning in 1987, and had provided States with "Question and Answer" issuances, which dealt with specific questions about allowability of costs. In June 1988, we issued detailed guidance on kinds of activities that met the statutory and regulatory criteria for each of the three categories of services for which SLIAG funds may be used (public assistance, public health assistance, and educational services). The regulation and its preamble provided guidance both about allowability of costs and requirements for establishing costs. Additionally, Federal staff spent extensive time in conversations with State officials answering questions about cost allowability and cost documentation. The final report should include this information.

Finding:

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

Comment:

The draft report on page 14 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, one reason for the compressed timeframe was that IRCA required that we allocate funds in part on the ratio of each State's estimated costs to total estimated costs for all States. This meant that we could not allocate funds until we approved estimates for all States. The final report should note this factor.

The draft report on page 14 says that "numerous policy misinterpretations and disagreements resulted because FSA did not provide definitive written instructions to assist Florida in understanding SLIAG application requirements." Had there been more time, we would have communicated more extensively in writing. (As noted

above, FSA did issue written guidance concerning allowability of costs.) Comments on Florida's FY 1989 application were made in writing in response to Florida's request.

The report on page 15 says no formal appeals process exists if programs or costs are denied. The final report should note that the Grant Appeals Board has jurisdiction over issues related to the withholding and repayment of funds. For other matters, the State may follow normal procedures for disagreeing with an agency finding.

The draft report on page 15 quotes State and county officials who "asserted that no reason was given by FSA for the reductions [in estimated costs] except that the figures were too high." In cases in which we did not accept initial State cost estimates, we communicated to the State that it had not provided data to back up its estimates. Because funding is based in part on each State's share of total estimated costs for all States, an individual State's cost estimates impact not only on its allocation, but also on all other States' allocations. (If one State's cost estimates were unrealistically high, it would receive more than its fair share of funds, which would mean other States would receive less than their fair share.) Therefore, it was necessary for us to apply consistent standards for evaluating the reasonableness of State estimates. (These standards are specified in the preamble to the regulation, 53 FR March 10, 1988, page 7855.) The draft report also quotes a county administrator who compares the eligible legalized alien population to refugees. It should be pointed out in the final report that these two populations are not necessarily analogous because of differences in the circumstances under which they entered the United States and in their demographic characteristics.

Recommendations

Recommendation:

The FSA should issue written guidelines for determining and documenting SLIAG costs.

Response:

FSA has issued such guidance. In October 1988, we issued a comprehensive compendium of guidance on "Establishing and Reporting Actual Costs," which we update as needed.

Since the OIG inspection, we have continued to provide specific guidance to States through national and regional meetings, through additional written guidance distributed to States, and through correspondence and conversations with individual State officials.

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: The draft report's recommendation refers to the FSA grant process, but the specifics indicate that it is referring to the SLIAG application and grant award process. The language of the recommendation should be more specific.

We agree that the application process should be conducted in a more orderly fashion than was the case for the initial submissions. 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 questions, issues, or descriptions of new programs, and have advised them that they may submit all or portions of their applications at any time. In order to reduce the possibility of misunderstanding, we have advised States that we will communicate all substantive questions and concerns on their FY 1990 applications in writing, as was done for States' end-of-year reports. We issued extensive written guidance on the FY 1990 application process and the standards we will apply.

The draft report on page 16 recommends that we "revise the grant award process for approved application so that notice of grant award reaches Florida prior to the beginning of the fiscal year." Under the regulation, that is not possible. For FY 1990, the deadline for submitting applications is October 1, 1989, and applications must be approvable by December 15, 1989. While we cannot run the allocation formula or award grants until all States' applications are approved, we expect to run the formula in January 1990. However, States have told us that, because they have FY 1988 and FY 1989 funding that they can carry over into FY 1990, the delay will not be a problem for them. For FY 1991, the deadline for filing applications is July 15, 1990, and applications must be approvable by October 1, 1990. We expect to run the allocation formula and prepare grant awards early in FY 1991.

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. We do not believe such a process is necessary. The Department's Grant Appeals Board 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.

APPENDIX C

Florida's Comments



STATE OF FLORIDA
DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES

July 7, 1989

RECEIVED
OFFICE OF THE INSPECTOR GENERAL
1989 JUL 14 AM 11:07

Mr. Richard P. Kusserow
Inspector General
Department of Health & Human Services
Office of Inspector General
Washington, DC 20201

Dear Mr. Kusserow:

Your report entitled "Implementation of the State Legalization Impact Assistance Grants Under the Immigration Reform and Control Act of 1986 - State of Florida" has been sent to my office for review and response. The report generally reflects an accurate understanding of the situation the state and the U.S. Family Support Administration (FSA) faced at the inception of implementation of the State Legalization Impact Assistance Grant (SLIAG) program. From the states perspective, it is important to note that FSA's final SLIAG regulation had only been released five months prior to the Inspector General's review and the state's application was not approved by FSA. Since that time, both the State and FSA have made enormous strides in implementing SLIAG. Below are our comments to the various findings of this report.

Public Assistance

Finding 1: Florida's planned modification of its automated accounting system to control SLIAG expenditures and disbursements had not been implemented.

Recommendation: Florida should complete its planned modification of the automated system to control SLIAG expenditures and disbursements.

Comment: At the time of this review, the State had not modified its accounting system. However, this system is now operational and the necessary control of SLIAG expenditures and disbursements is in place.

Finding 2: The necessary formal operating agreements between the State, counties, and major providers containing the details for implementing SLIAG had not yet been formalized.

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OFFICE OF
INSPECTOR GENERAL 317 WINEWOOD BLVD. • TALLAHASSEE, FL 32399-0700

GREGORY L. COLER, SECRETARY

Recommendation: Florida should develop SLIAG operating agreements with the counties and providers as soon as possible.

Comment: As the report indicates, Florida was delayed in developing SLIAG operating agreements with the counties because of the application approval process. Florida received a letter on July 11, 1988 approving the states original FY 1988 application. However, this application was amended with the 1989 application and approval was not received until October 24, 1988. Florida uses a formal contract agreement with the counties and these agreements could not be executed without an approved application.

The contract language for SLIAG was not developed at the time of this review. Today, we have executed contracts with the State Department of Education and all but a few participating counties.

Public Health Assistance

Finding 3: The FSA's definition of public assistance includes some public health activities which creates administrative and service delivery problems for Florida public health agencies.

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

Comment: Florida concurs with this recommendation. Our public health agencies are still wrestling with this issue. Documenting public health costs to the individual defeats the purpose of public health service units. These units are to provide public health services to those in need in order to protect the public from contagious health hazards. Asking immigration status of those requiring services sends a different message to the public.

We understand that FSA is interpreting the Immigration Reform and Control Act of 1986 to the best of its ability, but action should be taken to correct this situation. Otherwise, States will shoulder the health costs of this federal amnesty program.

Finding 4: At the time of the inspection, Florida had only broad, informal guidelines from FSA on the allowability of SLIAG costs and the documentation requirements which it could share with the counties.

Recommendation: The FSA should issue written guidelines for determining and documenting SLIAG costs. In turn, Florida should ensure the dissemination of

information for determining and documenting SLIAG program and administrative costs to the counties.

Comment: Since this review, FSA has issued a detailed manual covering SLIAG cost documentation. A copy of FSA's manual has been sent to participating counties and the Department of Education.

Finding 5: The FSA application process created a number of significant problems for Florida. Also, the FSA's application review process interfered with the States's ability to plan for services.

- o Delay in FSA issuing the implementing regulation resulted in the State's inability to properly plan for SLIAG.
- o Numerous policy misinterpretations and disagreements resulted because the FSA had not provided definitive written instructions to assist Florida in understanding SLIAG application requirements.
- o The time frames for submitting the initial SLIAG application, FSA review and comment, and revision of the application process were too short.
- o The implementation of SLIAG-funded programs was delayed because of a significant delay in notifying Florida of the grant award.
- o There is no formal appeals process if program costs are denied in the first level review.

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

- o provide definitive written instructions on the SLIAG application requirements and establish a dialogue with Florida on SLIAG policy, compliance, and reporting issues to minimize the confusion that occurred in the initial application process;
- o ensure that sufficient time is allotted to the application process including Florida's initial application, FSA's review and formal comment, Florida's consideration of FSA comments and negotiation of disputes, and its submission of the revised application for FSA approval;

- o develop an appeals process to use if program or costs associated with providing services are denied in the initial application process; and
- o revise the grant award process for approved applications so that the notice of grant award reaches Florida prior to the beginning of the fiscal year.

Comment: Since this review, FSA has established written instructions on the SLIAG application requirements, the review criteria and approval process. In addition, FSA has extended the FY 1990 application deadline to ensure states have sufficient time to submit their applications. The extension also allows states to document more cost, since the FY 1990 application is based on actual FY 1988 recorded costs. FSA has been attentive to both federal and state needs in this area since the first application.

The findings identified were real problems during the first and second applications. We believe both FSA and states learned a great deal as a result. Hopefully the FY 1990 application process will be a smooth one.

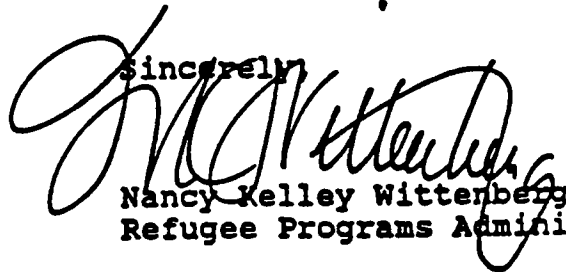
Florida strongly suggests that this report be used to inform Congress of the hardships states experienced in implementing SLIAG. States had little or no time to begin implementing SLIAG until applications were approved and grant awards were received let alone document costs.

This report could be an effective tool to dissuade Congress from cutting SLIAG funding. States have incurred costs but due to slow implementation on the Federal level, states have not been able to show costs when the first report to Congress was due.

Thank you for the opportunity to comment on this draft report. Should you have any questions, please contact me or Gary Crawford at (904)488-3791

With kind regards,

Sincerely,



Nancy Kelley Wittenberg
Refugee Programs Administrator

NKW:cym