
**THE RECERTIFICATION PROCESS
FOR FOREIGN SCHOOLS NEEDS TO BE IMPROVED**

FINAL AUDIT REPORT



**Audit Control Number ED-OIG/A01-90005
September 2000**

Our mission is to promote the efficient
and effective use of taxpayer dollars
in support of American education.



U.S. Department of Education
Office of Inspector General
Boston, MA



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

THE INSPECTOR GENERAL

MEMORANDUM

SEP 29 2000

TO: Greg Woods
Chief Operating Officer
Student Financial Assistance

FROM: Lorraine Lewis *Lorraine Lewis*

SUBJECT: FINAL AUDIT REPORT
The Recertification Process for Foreign Schools Needs to be Improved
ED-OIG/A01-90005

Attached is our subject audit report presenting our findings and recommendations resulting from our audit of the recertification process for foreign schools.

Please provide us with your final response to each open recommendation within 60 days of the date of this report indicating what corrective actions you have taken or plan, and related milestones.

In accordance with Office of Management and Budget Circular A-50, we will keep this report on the OIG list of unresolved audits until all open issues have been resolved. Any reports unresolved after 180 days from date of issuance will be shown as overdue in the OIG's Semiannual report to Congress.

Please provide the Supervisor, Post Audit Group, Financial Improvement, Receivables and Post Audit Operations, Office of Financial Officer and the Office of Inspector General with semiannual status reports on your corrective actions until all such actions have been completed or continued follow-up is unnecessary.

In accordance with the Freedom of Information Act (Public Law 90-23), reports issued by the Office of Inspector General are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act. Copies of this report have been provided to the offices shown on the distribution list enclosed in the report.

If you have any questions or wish to discuss the contents of this report, please contact Daniel Schultz, Regional Inspector General for Audit, at (212) 637-6271. We ask that you refer to the above audit control number in all correspondence relating to this request.

Attachment

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202-1510

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

NOTICE

Statements that financial and/or managerial practices need improvement or recommendations that costs questioned be refunded or unsupported costs be adequately supported, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations on these matters will be made by appropriate U.S. Department of Education officials. In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Table of Contents

Executive Summary	1
Audit Results	3
Finding: Ineffective Recertification	3
Recommendations	5
Auditee Response	5
OIG Reply	6
Other Matters	8
Background	9
Audit Objectives	9
Methodology and Scope	9
Management Controls	10
Audit Test Results	Appendix A
Auditee Response	Attachment

Executive Summary

The recertification process for foreign schools' Title IV, Federal Family Education Loan (FFEL) program participation has been ineffective because Student Financial Assistance (SFA) has not performed recertifications in a timely manner and has not based its recertification decisions on information required by the Higher Education Act. Specifically, SFA did not enforce statutory requirements for compliance audits from foreign schools and foreign medical school eligibility ratios. As a result, \$121,233,276 in Title IV FFEL funds were potentially at risk at improperly recertified foreign schools. The risk is that ineligible institutions and/or students have received funds to which they were not entitled.

The Higher Education Act (HEA) amendments of 1992, enacted July 23, 1992, provided that institutional eligibility shall expire "not later than five years after such date of enactment." As a result, SFA needed to recertify all participating institutions by July 23, 1997.

SFA properly identified the universe of foreign schools requiring recertification. However, our testing of SFA's recertification effort, which included 50 foreign schools that represented 84 percent of the foreign school FFEL volume, found that SFA did not base its recertification decisions on information required by the HEA. Included in these 50 foreign schools are 38 active high loan volume schools. SFA has made recertification decisions for 31 of the 38 schools; however, 22 of the 31 are missing compliance audits. Included in our testing were medical schools required to provide medical examination pass rate information and citizenship data. We found 79 percent of these medical schools failed to provide medical exam pass rate data. In addition, 12 percent failed to provide citizenship data or provided data that deemed them ineligible.

We recommend that the Chief Operating Officer for Student Financial Assistance:

1. Obtain and review all required documentation before making recertification decisions;
2. Implement controls to ensure required documentation is obtained and reviewed prior to making recertification decisions;
3. Establish definitive timeframes to receive the required information and if the school does not respond by the set time, take appropriate action(s) to terminate the school from participation in the FFEL programs; and
4. Document the basis for the statement that statutory requirements are not enforceable and report the findings to the Congress for consideration of changing the statute.

Auditee Response

SFA concurred with most of the OIG's finding and recommendations. However, SFA did not agree to implement all of the recommendations. SFA believes current HEA requirements for foreign institutions are extremely difficult, if not virtually impossible, to enforce. The two provisions that caused the most problems are the compliance audit and medical school pass rate requirements. SFA also stated that schools were unaware of, or confused regarding these requirements. The specifics of SFA's response are summarized following the finding and a complete copy is included as an attachment to this report.

OIG Reply

We reviewed SFA's comments but our findings and recommendations remain unchanged. SFA provided no basis to authorize certain schools to participate in the FFEL program without meeting the requirements of the HEA, or to authorize SFA to substitute reliance on other information to determine eligibility.

SFA provided additional documentation for schools included in our testing. We have made appropriate changes to the report to reflect this data.

Ineffective Recertification

SFA did not recertify foreign schools for Title IV FFEL program participation in a timely manner and improperly recertified foreign schools because it did not base its recertification decisions on information required by the HEA. Specifically, SFA did not enforce requirements for compliance audits and foreign medical school eligibility ratios. As a result, \$121,233,276 in Title IV FFEL funds were potentially at risk at improperly recertified foreign schools. The risk is that ineligible institutions and/or students have received funds to which they were not entitled.

The HEA provides that institutional eligibility shall expire not more than five years after the date of enactment and Section 487(c)(A)(1)(i) states the Secretary shall prescribe regulations to provide for “. . . a compliance audit . . . with regard to any funds obtained by it [institution]. . . .”

HEA Section 102 (a)(2)(A) also states foreign medical schools must meet the following criteria:

“. . . at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school . . . were not persons described in section 484(a)(5) [U.S. citizens or permanent residents] in the year preceding the year for which the student is seeking a loan under part B of this title; and

(II) at least 60 percent of the individuals who were students or graduates of the graduate medical school . . . taking the examinations administered by the Educational Commission for Foreign Medical Graduates [ECFMG] received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or

(ii) the institution has a clinical training program that was approved by a State as of January 1, 1992. . . .”

SFA must ensure institutions meet the statutory requirements for administrative capability and financial responsibility for recertification. Accordingly, SFA should review financial statements, compliance audits, program review reports, recertification applications and other relevant documentation. Some of the relevant specific review items should include foreign medical school ratios, significant findings and liabilities, accreditation, governmental approval, complaints against the institution, and default rates.

Our testing of 50 foreign school files¹, representing 84 percent of the FFEL funding for the period July 1, 1996 through July 30, 1998, found that SFA’s recertification effort has been untimely and ineffective. Based on our review of 50 school files, SFA has made 35 recertification decisions; 9 schools have

¹ Using National Student Loan Data System (NSLDS) data, we identified all foreign schools receiving FFEL funds during the period 7/1/96 – 6/30/98. From this universe we judgmentally selected 43 schools, representing approximately 84 percent of the FFEL funds for all foreign schools for that time period, and randomly selected seven schools from the remaining universe.

continued on month to month provisional status (considered eligible until a recertification decision is made); and 6 schools did not require recertification because they had closed or were otherwise ineligible.

Of the 35 foreign schools² with decisions, 26 (74 percent) were missing documentation required to make an appropriate recertification decision such as a compliance audit and medical school eligibility ratios. Further, 23 of the 35 are medical schools, of which 14 are required to provide medical exam pass rate data. However, 11 (79 percent) of the 14 medical schools failed to provide the data. Lastly, 17 medical schools are required to provide citizenship data; 16 provided citizenship data; however, one of the 16 provided data that deemed the school ineligible, yet SFA recertified the school. See *Appendix A* for details of missing or unacceptable data for the 35 schools with decisions.

Officials of SFA's Case Management & Oversight (CMO) stated that the statutory provisions regarding medical exam pass rates, U.S. citizenship rates, and compliance audits are not enforceable and are not considered in SFA's recertification decisions. The officials stated that medical exam pass rate information provided by the foreign medical schools is unreliable. The officials also stated that the agency administering the test (ECFMG) has been uncooperative in providing pass rate information to the Department. However, the Application for Institutional Participation requires foreign medical schools to provide pass rate information – not the ECFMG. This information must be provided under penalty of perjury.

The HEA requires compliance audits and foreign medical school eligibility information for participation in the FFEL program. CMO officials stated that such requirements are not enforceable. However, we did find some schools complying. Within our sample, nine schools provided compliance audits. Also, three foreign medical schools with recertification decisions provided medical exam pass rate data and 16 recertified medical schools provided citizenship data.

The National Board of Medical Examiners (NBME) maintains statistics for results of the United States Medical Licensing Examination. The exams are administered in three steps but just two are administered by ECFMG. NBME's web site reports the following average pass rates for foreign medical graduates – both of which are below the 60 percent pass rate required for a foreign medical school to be eligible to participate in the FFEL program:

- 49% for 1998 for Step I – Biomedical Science
- 48% for the 1997-98 cohort for Step II – Clinical Science.

Based on the medical exam pass rate statistics, SFA may have recertified medical schools that failed to meet the pass rate ratio.

²One school was granted a deferment status, meaning the students attending the school are eligible for in-school deferments for existing FFEL program loans but the school is not eligible to participate in the FFEL program. Accordingly, the school is not required to provide compliance audits or medical school eligibility information.

SFA's untimely and ineffective recertification of foreign schools was due to the low priority it assigned to the effort. In the Spring of 1997, SFA sent Applications for Institutional Participation to the 833 foreign schools identified as requiring recertification. In the Fall of 1997, SFA terminated 449 (96 of the 449 have since been reinstated) of these foreign schools from the FFEL program for failure to submit the application. SFA needed to recertify 377 of the remaining 384 foreign schools that submitted the application because seven are inactive in the FFEL program. SFA made its first recertification decisions in June 1998 and as of February 15, 2000, SFA has made decisions for 180 of the 377 schools (48 percent). The remaining 197 have remained on month to month provisional status.

Providing continued eligibility to schools that merely responded to its recertification effort and providing full and provisional recertification to schools without appropriate documentation is contrary to the HEA. Had SFA enforced the HEA, some foreign schools may have been determined ineligible to participate in the FFEL program.

Recommendations

We recommend that the Chief Operating Officer for Student Financial Assistance:

1. Obtain and review required documentation including compliance audits, medical school pass rates and citizenship rates.
2. Implement controls to ensure required documentation is obtained and reviewed prior to making recertification decisions.
3. Establish definitive timeframes to receive the required information and if the school does not respond by the set time, take appropriate action(s) to terminate the school from participation in the FFEL program.
4. Document the basis for its statement that statutory requirements are not enforceable and report the findings to the Congress for consideration of changing the statute.

Auditee Response

SFA generally concurred with recommendations 2, 3, and 4 and will set reasonable timeframes for submission of documentation and plans to work with the Office of Postsecondary Education to assess what changes in regulations and/or statute may be advisable.

SFA did not completely concur with recommendation 1, although it agreed that the HEA requires that compliance audits and medical school eligibility data be obtained. SFA believes current HEA requirements for foreign institutions are extremely difficult, if not virtually impossible, to enforce. The two

provisions that caused the most problems are the compliance audit and medical school pass rate requirements.

SFA stated that some schools were unaware of, or confused with respect to the audit requirements. SFA stated that OIG's 1997 audit guide informed public and private nonprofit institutions, which represent all of the schools cited for missing audits in the report, that they did not have to comply with that guidance. As a result, it decided to wait for publication of a revised audit guide before fully implementing this requirement. SFA will develop a "Dear Partner" letter for high volume (i.e. \$500,000 and higher) foreign schools that are not in compliance with the audit requirement. This letter will direct the schools to the OIG web site for the January 2000 revised audit guide. SFA provided compliance audits for two schools cited in the draft audit report for not providing a compliance audit. SFA agreed that citizenship data should be obtained, and it provided information for the four schools cited as not being in compliance in the draft audit report.

SFA stated that prior to March 1997, foreign schools were not aware of the requirement to maintain ECFMG pass rate data. Further, ECFMG would not provide the data to schools nor SFA acting on behalf of the schools. SFA stated it used pass rate data provided by the schools. However, for those schools that could not obtain the data, SFA relied on the quality of the other information in the school application and financial statements to determine the school's eligibility.

SFA stated they were pleased that the schools identified in the OIG's report meet the financial responsibility standards established under 34 CFR § 668.15.

OIG Reply

We reviewed SFA's comments but our findings and recommendations remain unchanged. SFA has provided an analysis regarding many of the challenges it faces in enforcing these requirements of the HEA. However, we found no basis to authorize certain schools to participate in the FFEL program without meeting the requirements of the HEA, or to authorize SFA to substitute reliance on other information to determine eligibility.

Regarding the comments on the compliance audit requirements, the July 1997 audit guide did not inform foreign public or private non-profit institutions that they did not have to comply with the guide. The guide stated, in part, "This guide is to be used by all institutions (including foreign schools) which administer SFA funds, with the exception of public colleges, State and local universities, and nonprofit institutions audited in accordance with OMB Circular A-133 or its predecessors. . . ." The guide excepted only those institutions, both foreign and domestic, that submitted audits under the Single Audit Act. Previously, the 1995 audit guide stated that "HEA requires annual financial and compliance audits. . . of Title IV HEA programs for all institutions that participate in: Federal Family Educational Loan. . . ." Therefore, audit guidance applicable to foreign schools has been available since 1995.

We agree with SFA's plan to send a "Dear Partner" letter to high volume schools that are not in compliance with the audit requirements; however, that proposal does not address how SFA will ensure compliance by institutions receiving less than \$500,000. We note that § 487(c) of the HEA, which authorizes a modified audit requirement for schools receiving less than \$200,000 annually, specifically excluded foreign schools. Section 498B(b) of the HEA, which directed the Secretary to review and evaluate how regulations and HEA provisions could be improved, streamlined or eliminated for schools receiving less than \$200,000 a year, also specifically excluded foreign schools.

Regarding the ECFMG medical examination pass rate data, we recognize that SFA has been unsuccessful in its effort to independently obtain the required data. However, it is the responsibility of the institutions to provide this eligibility data to document their continued eligibility for the FFEL program, and we found that 3 of 14 medical schools in our sample complied. SFA should ensure all medical schools accumulate and report this data.

We reviewed the citizenship data provided and the compliance audits provided by SFA. We have incorporated this data into the final report as appropriate.

Our audit testing found that SFA generally did have financial statements on file, and it had reviewed these statements. However, we did not conduct an analysis of these financial statements to conclude the schools met the financial responsibility standards set forth in 34 CFR § 668.15.

Other Matters

SFA placed one of the 50 sampled schools in deferment status on March 30, 1999, but this school was listed as certified and eligible in the Postsecondary Education Participant System (PEPS). Deferment status means students attending the school are eligible for in-school deferment for existing FFEL program loans but the school is not eligible to participate in the FFEL program. However, on September 10, 1999, this school was listed as certified and eligible in the PEPS. Based on NSLDS data, FFEL funds have not been awarded to students who attended the school during the period March 30, 1999 and September 29, 1999. However, because PEPS contains the official eligibility and certification status used by guaranty agencies for lending funds to schools, this information must be updated timely.

Auditee Response

SFA has implemented quality control measures to review PEPS data entry information using the Eligibility and Certification Approval Report implemented to ensure the proper status is entered into PEPS timely.

Background

The Higher Education amendments of 1998 established a performance based organization (PBO) for managing the operational functions of the Title IV, Student Financial Assistance programs. The Office of Student Financial Assistance was designated as the PBO and was reorganized in the fall of 1999 and renamed Student Financial Assistance (SFA).

Within SFA, Case Management and Oversight's responsibilities include determining institutions' eligibility to participate in the Title IV Student Financial Assistance programs; certifying institutions for participation; developing and implementing policies and procedures for monitoring institutions participating in the programs to ensure compliance with the HEA, regulations, and policies; and conducting on-site reviews of participating educational institutions.

Audit Objectives

The purpose of our audit was to determine whether SFA:

- Identified the universe of foreign schools requiring recertification;
- Made timely and proper recertification decisions; and
- Implemented adequate management controls over the recertification of foreign schools.

Methodology and Scope

To achieve the audit objectives, we selected a sample of 50 institutions from the universe of 517 institutions³ identified in NSLDS as located in foreign countries and receiving FFEL funds. Each foreign school in the universe participated in the FFEL program during the period July 1, 1996 through June 30, 1998. Forty-three of the 50 foreign schools were judgmentally selected and account for approximately 84 percent of the FFEL activity to foreign schools during the period. Seven additional institutions from the remaining foreign school universe were randomly selected for review. As part of the review, we compared the eligibility status reported on PEPS with the eligibility status in institutional files and determined if compliance audits and institutional eligibility information was obtained and reviewed. In addition, we tracked the status of the 833 foreign schools SFA identified as requiring recertification. Using SFA's case team decision/tracking systems and SFA eligibility lists, we traced the recertification status of the 384⁴ foreign institutions identified as requiring recertification as of July 23, 1997, and the reinstatement of 449 institutions terminated as of July 23, 1997.

We reviewed SFA's recertification policies and procedures and interviewed SFA personnel to obtain an understanding of the management controls over recertifications. We interviewed Office of General

³ Using NSLDS data, we identified all foreign institutions receiving FFEL funds during the period 7/1/96 – 6/30/98. This universe consisted of 517 institutions receiving over \$401 million in FFEL funds. This universe is less than the 833 identified by SFA because not all institutions identified by SFA received FFEL funding during the period 7/1/96 – 6/30/98.

⁴ SFA included seven institutions that were inactive. As a result, SFA needed to recertify 377 institutions.

Counsel officials regarding matters related to recertification of foreign schools. We reviewed the NBME web site regarding pass rates for foreign medical schools graduates. We also relied on detailed FFEL loan data maintained on the NSLDS.

To verify the accuracy of the universe of 377 foreign institutions identified by SFA as requiring recertification, we compared the information to key data elements maintained on the NSLDS. We also compared data maintained on PEPS to source documentation. Summarized totals of FFEL activity for selected schools obtained from the NSLDS were traced to detailed NSLDS loan record information to ensure the accuracy and reasonableness of the summarized totals. Based on our tests, we concluded the data were sufficiently reliable to meet the audit objectives.

The period of our audit was from July 23, 1997 to February 15, 2000. Updated data as of February 29, 2000 was incorporated into the findings presented. We performed our fieldwork at SFA headquarters in Washington, D.C. from April 6, 1999 through October 21, 1999. We conducted a follow-up site visit on March 1, 2000 and obtained additional information. The information has been incorporated into this report.

Our audit was conducted in accordance with government auditing standards appropriate to the limited scope of the audit described above.

Management Controls

As part of our audit, we made an assessment of SFA's management control structure, policies, procedures, and practices applicable to the audit scope. The purpose of our assessment was to determine the level of control risk; that is, the risk that material errors, irregularities, or illegal acts may occur.

We identified and classified the significant management controls into the following categories:

- Documentation; and
- Recertification decisions.

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the control structure. However, our assessment disclosed weaknesses specifically related to obtaining the required documentation and the quality of recertification decisions. These weaknesses are discussed in the body of this report.

Sample #	Decision by team	Decision Date	Compliance audit in file	Medical School	Medical school approved by 1/1/1992 *	Medical exam pass rate data reported by school *	Citizenship data reported by school *
1	Provisional	6/18/98	YES	YES	YES	N/A	N/A
2	Full	1/12/99	YES	YES	YES	N/A	N/A
3	Provisional	2/2/00	YES	YES	YES	N/A	N/A
4	Provisional	3/31/99	YES	YES	YES	N/A	N/A
5	Provisional	5/11/99	YES	YES	NO	NO	YES 78%
6	Full	6/18/98	YES	NO	N/A	N/A	N/A
7	Provisional	6/29/99	NO	YES	NO	NO	YES 94%
8	Provisional	8/19/98	YES	YES	YES	N/A	N/A
10	Full	2/9/00	NO	NO	N/A	N/A	N/A
11	Provisional	4/27/99	NO	YES	NO	N/A	YES 87%
12	Provisional	9/8/99	NO	YES	NO	NO	YES 69%
13	Provisional	4/27/99	NO	NO	N/A	N/A	N/A
14	Provisional	2/2/99	NO	YES	NO	NO	YES 83%
15	Provisional	6/15/99	NO	YES	YES	N/A	N/A
16	Provisional	6/29/99	NO	YES	NO	YES 62%	YES 73%
18	Provisional	10/23/98	NO	YES	NO	NO	YES 96%
19	Full	6/29/99	NO	YES	NO	N/A	YES 99%
20	Provisional	2/25/99	NO	YES	NO	NO	YES 97%
21	Provisional	10/13/99	NO	NO	N/A	N/A	N/A
23	Provisional	7/28/99	NO	YES	NO	NO	YES 95%
24	Provisional	8/25/99	NO	YES	NO	NO	NO
25	Full	9/29/99	YES	NO	N/A	N/A	N/A
27	Provisional	9/8/99	NO	YES	NO	YES 71%	YES 89%
28	Provisional	2/2/99	YES	YES	NO	YES 82%	YES 98%
29	Provisional	4/27/99	NO	NO	N/A	N/A	N/A
35	Provisional	2/2/99	NO	NO	N/A	N/A	N/A
37	Provisional	4/27/99	NO	YES	NO	NO	YES 99%
38	Provisional	8/25/99	NO	YES	NO	NO	YES 0%
39	Full	4/27/99	NO	YES	NO	N/A	YES 75%
40	Provisional	11/3/99	NO	YES	NO	NO	YES 98%
41	Full	8/3/98	NO	NO	N/A	N/A	N/A
44	Full	2/2/99	NO	NO	N/A	N/A	N/A
46	Provisional	4/27/99	NO	NO	N/A	N/A	N/A
47	Provisional	6/30/99	NO	NO	N/A	N/A	N/A
50	Deferment	3/30/99	N/A	N/A	N/A	N/A	N/A
Totals	35		YES - 9 NO - 25 N/A - 1	YES - 23 NO - 11 N/A - 1	YES - 6 NO - 17 N/A - 12	YES - 3 NO - 11 N/A - 21	YES - 16 NO - 1 N/A - 18

* HEA requires foreign medical schools to meet either the first two, or the last of, the following criteria:

- at least 60% of its medical school graduates from the preceding year must be non-US citizens;
- at least 60% of its medical students or graduates must receive a passing score on ECFMG administered tests; or
- the institution must have a clinical program that was approved by a state as of 1/1/92.

Yellow denotes noncompliance.



UNITED STATES DEPARTMENT OF EDUCATION

*Student Financial Assistance
Chief Operating Officer*

AUG 15 2000

Mr. Daniel P. Schultz
Regional Inspector General for Audit
U.S. Department of Education/OIG
75 Park Place, Room 1207
New York, NY 10007

Dear Mr. Schultz:

Thank you for the opportunity to review and comment on the Office of Inspector General (OIG) draft report entitled, *The Recertification Process for Foreign Schools Needs to be Improved* (Audit Control Number: ED-OIG/A01-90005), dated June 2000.

We are pleased to note that you determined Student Financial Assistance (SFA) had properly identified the universe of foreign schools requiring recertification. In addition, we are pleased you found that the foreign schools identified in the OIG's report meet the financial responsibility standards established under 34 CFR 668.15.

SFA concurs with most of the OIG findings and recommendations. However, we cannot agree to implement all of your recommendations. As you have noted in the report, we believe current Higher Education Act (HEA) requirements for foreign institutions are extremely difficult, if not virtually impossible, to enforce. The two provisions that cause the most problems are the compliance audit and the medical school pass rate requirements. Please see the enclosed appendix for discussion of these concerns.

We believe SFA's approach to implementing the HEA's requirements for foreign school participation needs to be placed in context. The majority of foreign schools have a low volume of borrowers each year. While SFA is committed to maintaining the fiduciary responsibility of the Federal Family Educational Loan Program on behalf of the American taxpayers, we are committed also to providing student access to international educational opportunities. We do not want to create barriers. Furthermore, some requirements and enforcement tools that work well in the U.S. do not work well, and are not understood and accepted willingly, on the international front. The International Education Policy released by the White House on April 10, 2000, supports us in our effort.

SFA believes that, through the collaborative effort of many Department offices, we can identify the necessary and appropriate requirements for foreign school participation and work together to implement them. Through SFA's extended outreach to schools to provide technical assistance, working with the Office of Postsecondary Education (OPE) to improve the current statute and regulations, and OIG/SFA's cooperative effort to develop an audit guide that is clear and more

Page 2 – Mr. Daniel P. Schultz

succinct, we can achieve our goal. Together, we can ensure that the Department's requirements provide guarantees that only U.S. students and residents that qualify for aid, and attend eligible institutions, are receiving the financial assistance they need to achieve their educational goals, and that we continue to support access to international education.

The appendix provides the Department's response to each recommendation. Again, we appreciate the opportunity to review and comment on the draft report.

Sincerely,



Greg Woods

Appendix

cc: Lorraine Lewis
Patrick Howard
Kay Jacks
Jim Lynch
Maureen McLaughlin

Response to OIG Draft Audit Report, “The Recertification Process for Foreign Schools Needs to be Improved,” Audit Control Number ED-OIG/A01-90005, June 2000.

Finding: Ineffective Recertification

Recommendation 1: *Obtain and review required documentation including compliance audits, medical school pass rates and citizenship rates [before making recertification decisions].*

Response: SFA does not completely concur with this recommendation. There are several reasons why we do not agree. The HEA Amendments of 1992 (Pub. L. 102-325) and the Higher Education Technical Amendments of 1993 (Pub. L. 103-208) require foreign schools to comply with the Student Assistance General Provisions (34 CFR Part 668) including the requirement for recertification and the requirement for the annual submission of compliance audits and audited financial statements. The Department notified foreign schools of these requirements in a March 1997 letter. A majority of the schools with the largest volume operate as domestic schools and they comply with requirements. However, full compliance for those schools that receive under \$100,000 in Federal aid would be costly, and few U.S. students attend these schools. With respect to enforcement of the compliance audit requirement, we note that not all schools received the guidance for compliance audits, some schools found the guidance confusing, and some schools were unaware of the requirement to report, which has made this requirement difficult to implement. Some provisions, such as the medical school pass rates, apply only to selected schools and are difficult to collect. We will review the guidance and recommend changes that will clarify the requirements and make it easier to understand and more cost effective to implement.

Compliance Audits

The top six foreign schools, accounting for approximately 58 percent of total FFEL loan volume at all foreign schools, have met the compliance audit requirement. Loan volume at these top six schools is nearly \$116 million annually out of the total \$200 million received by all foreign schools. Each of these schools operates much like a domestic school and has U.S. administrative offices that better understand Title IV requirements. Of the 27 schools cited for not submitting compliance audits, two of these foreign schools actually have submitted their compliance audits. Of the remaining 25 schools without a compliance audit on file, 18 are public universities and 7 are private-nonprofit institutions.

Many foreign schools have not complied with the requirement for submission of compliance audits because the available guidance was confusing. The audit guide that was in effect during the period of the OIG audit did not include clear guidance specific to foreign schools. In fact, the 1997 audit guide contained an introductory statement that the guide was to be used for foreign schools with the exception that if the school were public or private-nonprofit, the guide did not apply. Each of the schools cited for missing an

audit in the OIG audit report, is either a public or private-nonprofit institution. As most foreign schools are public and private-nonprofit, they believed they were exempt from the audit requirement. Accordingly, they thought they were in compliance with the requirements based on our written guidance. Because of this confusion, SFA decided to wait for publication of a revised audit guide before fully implementing this requirement.

When the audit guide was being revised, SFA requested the OIG to include in the audit guide a separate section for foreign schools that would cover the uniqueness of auditing foreign public and private-nonprofit institutions. The OIG did not agree to a separate section, but did provide some additional guidance to the schools' auditors. The OIG posted the revised SFA Audit Guide to the Web in January 2000, this guide is to be used for audits due after July 1, 2000. SFA believes that if there were a section in the audit guide that is specific to foreign schools, SFA could define the requirements better and have the audits focus on high-risk areas.

SFA has designated a point person in Case Management and Oversight who is responsible for overseeing the compliance audit requirement for foreign schools. The point person is tasked with reviewing the current SFA Audit Guide and developing a "Dear Partner" letter for those high volume (i.e., \$500,000 and higher), foreign schools that are not in compliance with the audit requirement and their auditors that will identify all applicable SFA requirements. That letter will direct the schools to the OIG web site for the audit guide.

SFA believes that the current compliance audit requirements do not focus on high-risk areas and place undue burden on foreign schools by requiring a costly audit for schools with low funding levels and few borrowers. As noted above, the majority of the participating schools are public or private, non-profit. Of the 523 foreign schools participating in the FFEL program, approximately 480 schools receive less than \$500,000 annually and most (just under 400) receive less than \$100,000. The FFEL program is the only Title IV program available to U.S. students enrolling directly at an eligible foreign school and the average cohort default rate is less than 5 percent. Congress has already provided relief from some of the financial statements submission requirements for foreign schools that receive under \$500,000 annually in FFEL program funds. Also, Congress has enacted several exceptions for compliance audits at small domestic schools. We believe similar relief is appropriate for compliance audits for foreign schools. SFA will review the current statute and regulations and work with OPE to determine what changes might be appropriate.

Medical Pass Rates and Citizenship Rates

OIG did not acknowledge that some foreign graduate medical schools do not have to meet the medical pass rate and citizenship rate requirements. Schools that do need to meet additional eligibility requirements for foreign medical schools can do so in one of two ways. First, a school can meet these requirements if it has a clinical training site approved by a State within the U.S. as of January 1, 1992 (and is currently approved).

Secondly, it can meet this requirement if during the academic year proceeding the year for which its U.S. students apply for FFEL program loans, at least—

--60 percent of those regular students enrolled full-time, and 60 percent of the school's most recent graduating class were non-U.S. citizens or U.S. residents; and if at least

--60 percent of its most recent graduating class passed any step of the examination sponsored by the Educational Commission for Foreign Medical Graduates (ECFMG).

There are approximately 100 foreign graduate medical schools. SFA's recertification process to date has accurately accounted for all of the additional eligibility criteria for 75 percent of the FFEL funding received by these schools. As indicated by the OIG, SFA appropriately approved eligibility for six foreign graduate medical schools based on their meeting the first requirement of having an approved clinical training program. Furthermore, included in the population of foreign graduate medical schools, are a number of Canadian schools whose students do not take their medical exams through the ECFMG.

For schools at which the remaining 25 percent of the FFEL funds are disbursed to students, the second criteria of the citizenship rates and medical school pass rates must be met.

With respect to the U.S. citizenship rates, SFA agrees that these rates should be obtained. Contrary to OIG's assertion that four schools examined did not meet this requirement, we have information and documentation that shows the required citizenship rate was met. This supporting documentation is available on request.

With respect to the medical school pass rates, the OIG questioned the eligibility of a number of individual foreign graduate medical schools by using aggregate medical school pass rate statistics. Further, it appears that the OIG looked at data on only one of the three parts of the ECFMG testing requirements. In completing the application, schools provide data for all three parts, or "steps" of the ECFMG test. Information from all three parts is used to determine foreign graduate medical school eligibility.

Prior to the March 1997 letter requiring recertification to participate in the Title IV programs, foreign graduate medical schools were not aware of the requirement to maintain ECFMG pass rates for reporting purposes. The schools attempted to obtain the data from ECFMG to meet this requirement for eligibility. ECFMG did not provide the data to schools, nor to SFA acting on behalf of the schools. In some cases, schools had collected the pass rate data from their students, and SFA used this information in determining the school's eligibility. However, for those schools that could not obtain the data, SFA relied on the quality of other information in the school application, as well as the results of research into other areas such as the financial statements, to determine the schools eligibility.

SFA agrees that complete medical school pass rates should be included in the determination of a foreign graduate medical school's eligibility. SFA has been working with the ECFMG to better understand its requirements and procedures. For those schools that are required to submit this information, SFA plans to continue assisting the schools in developing procedures for obtaining this information from their students for use in meeting the program reporting requirements.

Recommendation 2: *Implement controls to ensure required documentation is obtained and reviewed prior to making recertification decisions.*

SFA concurs with the need to review all pertinent information before making recertification decisions. Foreign schools are now required to submit all applications for decisions regarding approval to participate in Title IV programs electronically, and they are instructed to submit their supporting documentation directly to the Foreign Schools Team. The Team is implementing procedures to ensure that documentation is recorded as "received", put into special folders and inserted into the school's hard file. At the time of review, the analyst will determine whether the documentation is sufficient to commence the official review of the electronic application and will notify the school if the documentation is incomplete or missing. Team decisions will be made only on the basis of a materially complete application and appropriate supporting documentation. In addition, the Team will continue to research PEPS information, including audit, program review, and default data, as well as consult with professional colleagues in the field who have performed audits and program reviews.

Recommendation 3: *Establish definitive timeframes to receive the required information and if the school does not respond by the set time, take appropriate action(s) to terminate the school from participation in the FFEL program.*

SFA concurs that stronger adherence to timeframes for submitting applications and supporting documentation is necessary. With the implementation of the electronic application, SFA notifies schools of their recertification requirement 180 days prior to the expiration of the schools' Program Participation Agreements (PPAs). This notification also includes telephone, e-mail and fax contact information for the Foreign Schools Team. In order to assure continued funding until a final determination regarding recertification can be made, foreign schools are instructed to submit the electronic application and specific documentation 90 days prior to the PPA expiration date. SFA will also work with foreign schools to establish reasonable timeframes in which to submit additional clarifying documentation, being sensitive to the difficulties of international communication. This includes international time zones, differences in language and culture, and in their educational policies.

Recommendation 4: *Document the basis for its statement that statutory requirements are not enforceable and report the findings to the Congress for consideration of changing the statute.*

SFA concurs with the need to document problems encountered with enforcing the statute. SFA has documented the results of meetings with the Education Commission for Foreign Medical Graduates and its legal and practical reasons for not releasing examination pass rates. In addition, SFA will conduct discussions with foreign officials to determine what educational policies exist regarding the payment of tuition. In some countries, public institutions of higher education do not charge tuition or charge nominal tuition to their students. Where this is the practice, it is difficult for foreign schools to understand and comply with the Department's considerable fiscal and record keeping requirements. We will be working with the Office of Postsecondary Education to assess what changes in regulations and/or statute may be advisable.

Other Matters

SFA corrected the record of Neve Yerushalayim College for Women (Israel) on September 13, 1999 to reflect deferment only status as of March 30, 1999. As identified by the OIG, no funds were awarded to students attending this school during that time. SFA has implemented quality control measures to review PEPS data entry information using the Eligibility and Certification Approval Report implemented to ensure the proper status is entered into PEPS timely.

REPORT DISTRIBUTION LIST

No. of copies

Greg Woods Chief Operating Officer Student Financial Assistance.....	1
<u>Other ED Offices</u>	
Deputy Secretary, Office of the Deputy Secretary.....	1
Assistant Secretary, Office of Postsecondary Education.....	1
General Manager for Schools, Student Financial Assistance	1
Chief Financial Officer, Student Financial Assistance	1
Director, Case Management & Oversight, Student Financial Assistance.....	1
General Counsel, Office of General Counsel	1
Director, Office of Public Affairs.....	1
Director, Post Audit Group, Office of the Chief Financial Officer.....	1
<u>ED-OIG</u>	
Inspector General.....	1
Deputy Inspector General.....	1
Assistant Inspector General for Investigations	1
Assistant Inspector General for Analysis and Inspections	1
Assistant Inspector General for Audit (A)	1
Deputy Assistance Inspector General for Audit (A).....	1
Director, Student Financial Assistance Advisory & Assistance Team.....	1
Regional Inspectors General for Audit	6

