



**UNITED STATES DEPARTMENT OF EDUCATION**  
OFFICE OF INSPECTOR GENERAL

DATE: September 27, 2007

CPA-07-02

SUBJECT: Amendment to December 1996 Audit Guide, *Compliance Audits (Attestation Engagements) for Lenders and Lender Servicers Participating in the Federal Family Education Loan Program* (Lender Audit Guide) – Prohibited Inducements Paid by Lenders to Postsecondary Institutions or Other Parties.

Dear Certified Public Accountant:

This letter amends the December 1996 Audit Guide, *Compliance Audits (Attestation Engagements) for Lenders and Lender Servicers Participating in the Federal Family Education Loan Program* (Lender Audit Guide), by adding procedures designed to identify prohibited inducements paid by a lender. The procedures described in this letter are mandatory for all audits conducted using the December 1996 Lender Audit Guide for audits with field work starting on or after (or still being conducted) 15 calendar days after the date of this amendment.

### **Compliance Requirements**

Section 435(d)(5) of the Higher Education Act of 1965, as amended (HEA), prohibits an eligible lender in the Federal Family Education Loan (FFEL) Program from offering or paying inducements in order to secure applicants for loans. This requirement is reflected in regulations at 34 C.F.R. § 682.200, in paragraph (5)(i) of the definition of “Lender,” which states that a lender may not offer

... directly or indirectly, points, premiums, payments, or other inducements, to any school or other party to secure applicants for FFEL loans, except that a lender is not prohibited from providing assistance to schools comparable to the kinds of assistance provided by the Secretary to schools under, or in furtherance of, the Federal Direct Loan Program.

The U.S. Department of Education has issued guidance concerning prohibited inducements. It may be accessed on the internet at:

<http://ifap.ed.gov/eannouncements/0914FFELProhibitedInducementGuidance.html>

## **Required Procedures**

To determine whether a lender has offered or paid prohibited inducements to schools, officials or employees of schools, or to other parties, the auditor must:

1. Obtain a written representation from management specifying whether the lender has offered, directly or indirectly, any points, premiums, payments, or other inducements, to any school or other party in order to secure applicants for loans;
2. Obtain and examine records of any agreements between the lender and any school, school-affiliated organization, or school employee that are related, either directly or indirectly, to the lender's providing FFEL Program loans to a school's students;
3. Obtain and examine records of any agreements not reviewed under Procedure 2 between the lender and any other party related to the FFEL Program (e.g., marketing agreements and agreements to locate loan applicants), and determine if the lender has offered or paid directly or indirectly, any points, premiums, payments, or other inducements, to secure applicants for FFEL loans; and
4. Examine disbursement records for evidence of prohibited inducements paid by the lender to schools or other parties in order to secure applicants for loans.

Any finding resulting from the application of these procedures must be reported.

## **Contact for Questions**

Questions about this letter may be directed to Kevin Winicker, Assistant Director, Non-Federal Audits, by e-mail to [kevin.winicker@ed.gov](mailto:kevin.winicker@ed.gov), or by fax to Mr. Winicker at 202-245-7088.

Sincerely,

/s/

Keith West  
Assistant Inspector General  
for Audit