



U.S. Department of Education
Office of Inspector General

Challenges for Consideration in Implementing and Overseeing the CARES Act

September 10, 2020
ED-OIG/X20DC0003

*Oversight of U.S. Department of Education's
Coronavirus 2019 Relief Efforts*



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

Audit Services

September 10, 2020

TO: Dr. Mitchell M. Zais
Deputy Secretary
Office of the Deputy Secretary

FROM: Bryon S. Gordon /s/
Assistant Inspector General for Audit

SUBJECT: Final Management Information Report, "Challenges for Consideration in Implementing and Overseeing the CARES Act," Control Number ED-OIG/X20DC0003

Attached is the subject final management information report that provides the Office of Inspector General's perspective on challenges the U.S. Department of Education may face as it implements and oversees the Coronavirus, Aid, Relief, and Economic Security (CARES) Act. We received your comments responding to our draft report.

We appreciate your cooperation during this review. If you have any questions, please contact Michele Weaver-Dugan at (202) 245-6941.

Attachment

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Introduction

This management information report provides the Office of Inspector General’s (OIG) perspective on challenges the U.S. Department of Education (Department) may face as it implements and oversees the Coronavirus, Aid, Relief, and Economic Security (CARES) Act. In preparing this report, we reviewed recent audit work performed by OIG and the Government Accountability Office (GAO) as well as OIG’s annual Management Challenges reports. We also reviewed challenges that the Department faced when administering education-related grant programs funded by the American Recovery and Reinvestment Act (Recovery Act), to include how the challenges were addressed and what lessons were noted as needing to be considered in the event that legislation providing a large yet temporary funding increase for new or existing programs (like the Recovery Act) was enacted in the future.¹

We identified challenges related to grantee oversight and monitoring, student financial assistance oversight and monitoring, and data quality and reporting that the Department should consider as it implements and oversees the CARES Act.

Background

On March 27, 2020, the CARES Act was signed into law, authorizing more than \$2 trillion to battle COVID-19 and its economic effects. The CARES Act provides \$30.75 billion for an Education Stabilization Fund to prevent, prepare for, and respond to coronavirus, domestically or internationally, including \$16.8 billion for State and local agencies and \$13.9 billion for higher education. The CARES Act also provides additional funding for the Project SERV grant program; Howard University and Gallaudet University; student aid and program administration; and oversight and audit of programs, goals, and projects funded by the CARES Act. In addition to these funds, the CARES Act allows the Department to provide waivers of certain statutory or regulatory requirements for State educational agencies (SEAs) and local educational agencies (LEAs) that request them, and includes student financial assistance provisions intended to provide emergency relief to borrowers facing financial challenges and struggling to make ends meet, and to allow institutions to more easily meet student needs.

As of September 3, 2020, the Department had obligated over \$29.8 billion for State and local agencies and higher education—97 percent of funds provided under the CARES Act.

¹ As part of this report, we did not assess and are not concluding on the effectiveness of the Department’s CARES Act-related implementation and oversight activities.

Education Stabilization Fund—State and Local Agencies

Elementary and Secondary School Emergency Relief Fund (\$13.2 Billion)

Section 18003 of the CARES Act provides for grants to be awarded by formula to SEAs who, in turn, must subgrant at least 90 percent of these emergency relief funds (also by formula) to LEAs to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the nation. LEAs can use these funds for any activity authorized by a number of Federal education laws² and a broad range of activities necessary to maintain the operations and continuity of services in LEAs, respond to coronavirus, and continue to employ existing LEA staff.

Governor’s Emergency Education Relief Fund (\$3 Billion)

Section 18002 provides for grants to be awarded by formula to Governor’s offices to support the ability of postsecondary institutions and LEAs most significantly impacted by COVID-19 to continue to provide educational services to their students and support their ongoing functionality. Funds can also be used to support any other postsecondary institution, LEA, or education-related entity that has been deemed essential for carrying out emergency educational services, including any activities authorized by a number of Federal education laws.³ Governor’s offices must determine which postsecondary institutions and LEAs in their States are most significantly impacted by COVID-19 and will receive funds.

Discretionary Grants to States (\$307.5 Million)

Section 18001 provides for discretionary grants to be awarded to States with the highest coronavirus burden. According to the Department’s website, grants will be awarded through two separate grant competitions. Education Stabilization Fund-Rethink K-12 Education Models grants (\$180 million) will provide support to SEAs to address the State-specific educational needs of students, their parents, and teachers in public and nonpublic elementary and secondary schools. SEAs must propose projects that do the following:

² The Elementary and Secondary Education Act of 1965, including the Native Hawaiian Education Act and the Alaska Native Educational Equity, Support, and Assistance Act; the Individuals with Disabilities Education Act; the Adult Education and Family Literacy Act; the Carl D. Perkins Career and Technical Education Act of 2006; and subtitle B of title VII of the McKinney-Vento Homeless Assistance Act.

³ See footnote 2.

1. provide funding through microgrants⁴ so parents can meet the educational needs of their school-age children through increased access to high-quality remote learning;
2. develop and/or expand high-quality course-access programs or statewide virtual schools; or
3. demonstrate a rationale to address the specific educational needs of their States, as related to remote learning.

Education Stabilization Fund-Reimagining Workforce Preparation grants (\$127.5 million) will provide support to help States create new educational opportunities and pathways that help citizens return to work (including short-term postsecondary programs), small businesses recover, and new entrepreneurs thrive.

Other Funding (\$307.5 Million)

Section 18001 also provides funding for programs operated or funded by the Bureau of Indian Education (\$153.8 million) and for outlying areas (up to \$153.8 million).

Education Stabilization Fund—Higher Education

Higher Education Emergency Relief Fund (\$13.9 Billion)

Section 18004 establishes funding for grants for postsecondary institutions, 90 percent of which (\$12.5 billion) will be provided by formula to postsecondary institutions to prevent, prepare for, and respond to coronavirus. Of the remaining funds, 7.5 percent (\$1 billion) will be provided by formula to postsecondary institutions to address needs directly related to coronavirus and may be used to defray expenses incurred by postsecondary institutions and for grants to students for any components of the student's cost of attendance. Another 2.5 percent (\$349 million) will be provided to postsecondary institutions that the Department determines have the greatest unmet needs related to COVID-19 and may be used to defray expenses. Postsecondary institutions must use no less than 50 percent of funds received under the Higher Education Emergency Relief Fund to provide emergency financial aid grants to students.

⁴ As defined in the Department's Notice Inviting Applications for the Education Stabilization Fund-Rethink K-12 Education Models grant program, a microgrant is an account established for a parent that provides funds directly to service providers to expand educational choice.

Other Funding and Provisions

The CARES Act provides \$100 million in additional funding to the Project SERV grant program to help elementary, secondary, and postsecondary institutions clean and disinfect affected schools, and assist in counseling and distance learning and associated costs. This is a significant increase compared to the average of approximately \$5 million awarded by the Project SERV program each year. Further, the CARES Act includes \$13 million and \$7 million for Howard University and Gallaudet University, respectively, to address challenges associated with the coronavirus. The CARES Act also provides \$40 million to the Department for student aid administration and \$8 million for program administration, as well as \$7 million to the OIG for salaries and expenses for oversight and audit of programs, goals, and projects funded by the CARES Act.

Section 3511 of the CARES Act provides for National Emergency Educational Waivers, allowing the Department to, upon the request of SEAs and LEAs, waive certain statutory or regulatory provisions if the Secretary determines that such a waiver is necessary and appropriate due to the COVID-19 emergency. Further, the CARES Act includes student financial assistance provisions intended to provide emergency relief to borrowers facing financial challenges and struggling to make ends meet, and to allow institutions to more easily meet student needs. These provisions include borrower and teacher assistance provisions, student financial assistance refunds and loan cancellations, and adjustments to lifetime Pell Grant and subsidized Direct Loan usage. In addition, both the CARES Act and the Secretary modified other student financial assistance program requirements applying to students, schools, and accreditors, to include waiving accreditor distance education review requirements for institutions working to accommodate students whose enrollment is interrupted as a result of COVID-19. Provisions within the CARES Act related to student loans are estimated to increase direct spending by \$8.5 billion.

CARES Act Reporting Requirements

Section 15011 of the CARES Act establishes reporting requirements on uses of funds. The CARES Act requires each agency to report on any obligation or expenditure of large covered funds⁵ on a monthly basis until September 30, 2021. Covered recipients⁶ are required to report, no later than 10 days after the end of each calendar quarter, on the (1) total amount of large covered funds received from the agency; (2) the amount of large covered funds received that were expended or obligated for each project or activity; (3) a detailed list of all projects or activities for which large covered funds were expended or obligated (including the name of the project or activity; a description of the

⁵ CARES Act funds that amount to more than \$150,000, including loans and awards.

⁶ Any entity that receives large covered funds.

project or activity; and the estimated number of jobs created or retained by the project or activity, where applicable); and (4) detailed information on any level of subcontracts or subgrants awarded by the covered recipients or its subcontractors or subgrantees.⁷

The Recovery Act

The Department experienced a similarly significant increase in appropriations in 2009 with the Recovery Act. The Recovery Act was signed into law on February 17, 2009, in the midst of what was then considered the most severe economic downturn since the Great Depression. Congress committed \$787 billion in public funds to spur economic activity, create and save jobs, and invest in long-term growth. Congress appropriated more than \$98 billion for education-related programs administered by the Department. Like the CARES Act, the Recovery Act established new formula and discretionary grant programs and significantly increased funding for some existing programs. Also similar to the CARES Act, the Recovery Act instituted several reporting requirements on agencies and recipients, emphasizing what were at the time unprecedented levels of transparency and accountability in how Federal agencies and recipients managed and used the funds.

⁷ The Department communicated to its grantees that, after consulting with the Office of Management and Budget (OMB), it currently interprets the CARES Act quarterly reporting requirements to be satisfied through existing Federal reporting mechanisms. The Department also noted that it was planning to specify additional forms of reporting on a less-than quarterly basis (such as on an annual or semiannual basis) to ensure full CARES Act compliance, and this reporting will likely include collecting recipient jobs data. We found that these additional reporting requirements were recently announced in the Federal Register for public comment.

Results

The funding provided by the CARES Act will bring with it additional challenges for the Department with regard to overseeing and monitoring the new grant programs and the new student financial assistance provisions, as well as ensuring quality data are reported. Oversight, monitoring, data quality, and reporting have been persistent challenges for the Department, appearing on the OIG's annual reports on the most serious management and performance challenges since at least FY 2008.⁸

Similarly, our audit work pertaining to the Department's administration of Recovery Act education-related grant programs and provisions identified challenges in these same areas. Our report titled "Lessons from Implementing the American Recovery and Reinvestment Act of 2009," (hereafter referred to as "Recovery Act lessons learned report") issued in September 2014,⁹ summarized the results of over 50 audit reports we issued pertaining to the implementation of Recovery Act programs and requirements by the Department, recipients, and subrecipients. The report provided OIG's perspective on challenges that were faced when administering education-related grant programs funded by the Recovery Act, how the challenges were addressed, and what lessons should be considered in the event that legislation providing a large yet temporary funding increase is enacted in the future, such as the CARES Act. The report identified challenges the Department faced in oversight, monitoring, data quality, and reporting, among other things. GAO Recovery Act and other reports also identified challenges in the same areas.

The Department should consider these persistent challenges and the lessons learned from its administration of the Recovery Act as it implements and administers the programs and provisions authorized under the CARES Act to reduce vulnerabilities to fraud, waste, abuse, noncompliance, and other issues that could impact a grantee's or subgrantee's ability to achieve intended programmatic results.

A draft of this report was provided to the Office of the Deputy Secretary for comment. In its response, the Office of the Deputy Secretary stated that unlike the Recovery Act, the Department was under enormous pressure by the CARES Act's own terms to expeditiously distribute the funding, and to do so with maximum flexibility. It noted that the Department did so, and on top of the already busy workload of awarding and disbursing grant funds in the ordinary course of business. The Office of the Deputy

⁸ See the following link for the list of Management Challenges reports publicly available on the OIG website: <https://www2.ed.gov/about/offices/list/oig/managementchallenges.html>.

⁹ <https://www2.ed.gov/about/offices/list/oig/auditreports/fy2014/x09m0002.pdf>

Secretary stated that it hopes the audit work of the Office of the Inspector General will take these facts into account. In response to these comments, the Inspector General assured the Deputy Secretary that OIG will continue to be fair and objective in reporting the results of CARES and all of our other audit work.

We did not make any substantive changes to the report as a result of the Office of the Deputy Secretary's comments. We did add a sentence noting the amount of CARES Act funding that the Department has obligated as of the date indicated. The full text of the Office of the Deputy Secretary's response is included at the end of this report.

Grantee Oversight and Monitoring

Effective oversight and monitoring of CARES Act programs and operations are critical to ensure that funds are used for the purposes intended and that goals and objectives are achieved. The Elementary and Secondary School Emergency Relief Fund, Governor's Emergency Education Relief Fund, and Education Stabilization Fund discretionary grant programs will provide nearly \$17 billion in grants to State and local entities, primarily to Governor's offices, SEAs, and LEAs.

Effectively overseeing and monitoring CARES Act programs and operations will be a significant challenge for the Department given the vast number of entities that will receive education-related CARES Act funding, even as the Department must continue its efforts to administer existing programs. Further, because CARES Act funding for many programs will pass through primary recipients, such as Governors' offices and SEAs, to subrecipients, such as LEAs or other entities, primary recipients have a substantial and critical role in overseeing and monitoring subrecipients' activities.

Challenges

Recent audits, as well as previous reviews of the Department's oversight and monitoring of the Recovery Act, highlight areas where the Department may face challenges as it oversees and monitors the CARES Act, including providing guidance, training, technical assistance, and outreach, and helping ensure effective subrecipient monitoring and independent oversight.

Department of Education Monitoring and Oversight

We have identified monitoring and oversight of grant programs as a persistent management challenge for the Department. OIG audits have continually identified internal control weaknesses and opportunities for improvement in the Department's oversight and monitoring of some grant programs. These weaknesses could limit the Department's ability to ensure that grantees demonstrate progress towards meeting programmatic objectives and properly safeguard and use Federal education funds.

Recent audits have found that the Department did not always provide adequate guidance to recipients, did not monitor recipients to ensure they had adequate internal control systems,¹⁰ lacked policies and procedures on monitoring grantees' performance and use of funds,¹¹ and lacked controls to ensure grantees followed grant requirements.¹² Further, a GAO audit found that the Department's grant staff did not consistently document required monitoring activities, grant files often did not contain certain key documents, Principal Offices did not establish detailed written procedures for supervisory review of grant files, and the Department did not develop guidance for grant staff working across programs and offices to effectively use its grants management system to share grantee performance information.¹³

Due to the various CARES Act programs, with different purposes, allowable uses of funds, and grant recipients, it will be vital for the Department to provide guidance, training, technical assistance, and outreach. As outlined in our Recovery Act lessons learned report, we found that the Department's timely guidance, training, technical assistance, and outreach were valuable to the implementation and oversight of Recovery Act funds. Within a few months of the Recovery Act's passage, the Department developed and issued general and program-specific guidance to inform recipients and subrecipients about applicable requirements as Recovery Act grant funds were made available, and updated this guidance as needed. We also found that the Department provided training, technical assistance, and outreach to recipients and subrecipients, particularly on new grant programs and for entities that may have been unfamiliar with Federal requirements.

¹⁰ "Nationwide Audit of Oversight of Closed Charter Schools," ED-OIG/A02M0011, September 28, 2018 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a02m0011.pdf>).

¹¹ "The Department's Oversight of the Indian Education Formula Grant Program," ED-OIG/A19Q0002, September 28, 2018 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a19q0002.pdf>).

¹² "Protection of Personally Identifiable Information in Statewide Longitudinal Data Systems," ED-OIG/A02O0008, March 15, 2018 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a02o0008.pdf>).

¹³ "Discretionary Grants: Education Needs to Improve Its Oversight of Grants Monitoring," GAO-17-266, April 18, 2017 (<https://www.gao.gov/assets/690/684173.pdf>).

With regard to our previous work related to Recovery Act programs, our audit of the Department's monitoring of Race to the Top program recipient performance¹⁴ found that oversight of the Race to the Top program had been robust. However, we also noted that the Department could potentially benefit from enhancements to its project management process, as we found the Department did not maintain the information that it needed to effectively monitor States in the most readily accessible and useful manner. Our inspection of the Department's monitoring of Investing in Innovation program grant recipients¹⁵ found that the Department provided substantive monitoring of grant recipients but did not hold grantees accountable when they did not respond or respond timely to Department requests. We also identified risks to the Department's process to adequately monitor these grantees in the future, including program officers' ability to adequately monitor grantees if their workloads were to increase. Lastly, the inspection found that Investing in Innovation program grant files did not always include documentation showing resolution of issues identified by program officers.

Further, our audit of the Department's implementation of the State Fiscal Stabilization Fund (SFSF) program¹⁶ raised several concerns with the Department's oversight of the program, including official correspondence not being maintained in official grant files and the possibility that the Department might not be able to effectively manage existing programs due to existing staff devoting a significant amount of time to Recovery Act work. The audit also raised concerns with the Department's plan to rely heavily on contractor support to ensure that States and their subrecipients comply with applicable Federal requirements and meet program goals, as reliance on contractor support would require effective contractor monitoring practices to reduce related performance risk.

¹⁴ "The Department's Monitoring of Race to the Top Program Recipient Performance," ED-OIG/A19M0003, January 3, 2014 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2014/a19m0003.pdf>).

¹⁵ "U.S. Department of Education's Monitoring of Investing in Innovation Program Grant Recipients," ED-OIG/I13M0001, February 21, 2013 (<http://www2.ed.gov/about/offices/list/oig/aireports/i13m0001.pdf>).

¹⁶ "U.S. Department of Education's Implementation of the State Fiscal Stabilization Fund Program," ED-OIG/A19J0001, September 24, 2010 (<http://www2.ed.gov/about/offices/list/oig/auditreports/fy2010/a19j0001.pdf>).

While GAO found¹⁷ that the Department’s SFSF monitoring approach prioritized helping States resolve monitoring issues and allowed the Department to target technical assistance to some States, it noted that some States did not receive monitoring feedback promptly, and that this feedback was not communicated consistently because the Department’s monitoring protocol lacked internal time frames for following up with States. GAO also reported¹⁸ that States and districts noted various challenges to their capacity to successfully report, oversee, and implement Recovery Act reform areas, and rural districts reported facing greater challenges than urban and suburban districts. However, the Department provided no specific technical assistance to rural districts.

Subrecipient Monitoring and Oversight

OIG audits have continually identified issues with subrecipient monitoring and oversight. Recent audits have identified weaknesses with monitoring processes and internal controls over procurement¹⁹ and insufficient documentation of subrecipient monitoring policies, procedures, and roles.²⁰ Our Recovery Act lessons learned report noted that the Department emphasized the importance of oversight in the Recovery Act technical assistance and guidance it provided recipients, to include holding a webinar covering the requirements and its expectations for subrecipient monitoring as well as best practices. However, despite the increased emphasis on oversight, guidance, and technical assistance efforts, our Recovery Act audits identified weaknesses in many recipients’ ability to effectively monitor their subrecipients. The most common issue we identified was that States had not sufficiently modified existing monitoring plans and programs to provide reasonable assurance of subrecipient compliance with Recovery Act requirements.

¹⁷ “Funding Retained Teachers, but Education Could More Consistently Communicate Stabilization Monitoring Issues,” GAO-11-804, September 22, 2011 (<https://www.gao.gov/products/GAO-11-804>).

¹⁸ “Education Could Better Support Grantees and Help Them Address Capacity Challenges,” GAO-15-295, April 13, 2015 (<https://www.gao.gov/products/GAO-15-295>).

¹⁹ “Puerto Rico Department of Education’s Internal Controls Over the Immediate Aid to Restart School Operations Program,” ED-OIG/A04S0013, July 17, 2019 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a04s0013.pdf>).

²⁰ “U.S. Virgin Islands Department of Education’s Internal Controls over the Immediate Aid to Restart School Operations Program,” ED-OIG/A04S0014, June 3, 2019: (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a04s0014.pdf>).

Independent Oversight

Recent audit work²¹ looking at three SEAs' oversight of LEA single audit resolution identified common and significant weaknesses in oversight. We found significant variation in the quality of oversight from one SEA to another, with two of the SEAs reviewed having significant weaknesses in their oversight activities. Deficiencies identified included not issuing management decisions for some or all LEA findings and issuing management decisions that did not include all required content. Two SEAs generally did not ensure that LEAs took appropriate corrective actions to resolve the underlying cause of the findings. All three SEAs had internal control weaknesses related to their oversight activities, including not assigning overall responsibility for managing the SEA's oversight of LEA audit resolution to a specific unit, incomplete or outdated policies and procedures, inadequate tracking systems for LEA finding resolution, and lack of a quality assurance process to periodically assess the effectiveness of the SEA's processes for overseeing LEA audit resolution.

Our Recovery Act lessons learned report noted that when additional requirements are attached to temporary funding increases in existing grant programs or when a new grant program is implemented, the Department's ability to make use of single audits for oversight and monitoring can be limited because the results may not be available before all or most program funds could be spent. Results from prior single audits covering existing programs helped the Department identify potential internal control and compliance issues before SEAs and LEAs began to spend significant amounts of Recovery Act funding. The Department used single audit results to help target technical assistance and oversight and to identify potential problem areas and high-risk recipients. However, due to the lag time between when grant funds are awarded and spent, and when single audit results are available, we found that single audit results may not have been timely for use in overseeing the Recovery Act programs. Given this time lag, it is even more important that the Department and SEAs work to resolve open single audit recommendations in order to reduce the risk of issues carrying over into new programs.

Further, this lag time delays when temporarily funded programs can be incorporated into States' Treasury-State Agreements, which address the proper timing of fund exchanges between the Federal government and States.²² Based on our review of the

²¹ "Management Information Report on State Oversight of Local Educational Agency Single Audit Resolution," ED-OIG/X09Q0006, March 16, 2017 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2017/x09q0006.pdf>).

²² Treasury State-Agreements are required by the Cash Management Improvement Act of 1990, as amended, whose main intent is for States to draw down Federal funds exactly when they are needed

Treasury-State Agreements for 12 States, we found that single audit data for 10 of the States did not include the 3 largest Recovery Act programs, including the nearly \$49 billion SFSF program. Because of the timing of single audit reporting, new programs and programs funded by large, temporary appropriations would not be included in a State's Treasury-State Agreement until at least the second fiscal year after the State first received the program funds, which could be after most or all of the funds had been spent.

What the Department Should Consider in Its Implementation of the CARES Act

The Department should consider the persistent challenges the OIG has identified regarding the oversight and monitoring of grantees as it implements and oversees the CARES Act. In its responses to OIG's Management Challenges reports, the Department continues to report progress in enhancing its grantee oversight processes and actions taken to improve outcomes across multiple program offices. These efforts included actions to implement risk-based oversight and monitoring and improving processes to provide timely and effective guidance and technical assistance. The Department reported that the Risk Management Services division continued its long-standing efforts to identify and mitigate risk across the Department's formula and discretionary grant programs and took actions across multiple offices to identify employee skill gaps in grants administration and then to develop strategies to close those gaps. The Department should assess the results of these efforts, identify the most promising approaches, and determine whether these best practices can be effectively applied in overseeing and monitoring CARES Act programs and operations. The Department should also continue its efforts to encourage effective collaboration and communication within and across program offices and take steps to ensure that its program offices are consistently providing effective risk-based oversight of CARES Act grant recipients—to include both technical assistance and monitoring.

Given the flexibilities offered by the CARES Act programs, the Department needs to ensure that its monitoring approaches support State and local efforts while providing effective oversight of financial stewardship and ensuring progress towards positive program outcomes. Further, it is important for the Department to continue to explore ways to more effectively leverage the resources of other entities that have roles in grantee oversight, including those conducting single audits, given its generally limited staffing in relation to the amount of Federal funding that it oversees, and ensure that

and for Federal programs to be interest-neutral, resulting in no gains or losses by either Federal or State governments.

SEAs have a process to do the same, including resolving LEA single audit findings in a timely manner and requiring adequate corrective actions for single audit findings.

The Department should also consider lessons learned from its oversight and monitoring of Recovery Act-specific grant programs and existing programs that received substantial increases in funding. This includes

- providing comprehensive and timely guidance, training, technical assistance, and outreach;
- developing internal monitoring protocols that have established timeframes for follow up and providing timely monitoring feedback;
- taking corrective action when grantees do not demonstrate adequate progress, such as designating grantees as high-risk;
- targeting technical assistance to grantees that may be experiencing additional challenges in overseeing and implementing grant programs, such as rural grantees;
- encouraging the modification of existing State monitoring plans and programs to provide reasonable assurance of subrecipient compliance;
- using single audits to target technical assistance and oversight and to identify potential problem areas and high-risk recipients; and
- ensuring CARES Act programs are covered in Treasury-State Agreements, as applicable.

As the Department considers the lessons learned from the Recovery Act, it should also consider how Federal requirements for oversight and monitoring have changed since the Recovery Act was passed and tailor its CARES Act efforts accordingly. OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), officially implemented in December 2014, and the Every Student Succeeds Act (ESSA), signed into law on December 10, 2015, both provide additional monitoring and other requirements for the Department and grant recipients and subrecipients that did not exist during implementation of the Recovery Act.

For example, Section 9203 of ESSA states that the Department must require each recipient of a grant or subgrant to display publicly the OIG Hotline contact information. The Department must also require grant applicants to provide an assurance that any information submitted when applying for a grant and responding to monitoring and compliance reviews is truthful and accurate, and require subgrant applicants to provide the same assurance to the entity awarding the subgrant. Relatedly, the Uniform Guidance states that non-Federal entities or applicants for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through

entity, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award, and that failure to make required disclosures can result in any number of remedies for noncompliance, including suspension or debarment (2 C.F.R. Section 200.113).

Section 9204 of ESSA states that the Department must (1) notify each grantee (and, if applicable, require the grantee to notify each subgrantee) of its responsibility to (a) comply with all monitoring requirements under the applicable program or programs and (b) monitor properly any subgrantee; and (2) review and analyze the results of monitoring and compliance reviews (a) to understand trends and identify common issues and (b) to issue guidance to help grantees address such issues before the loss or misuse of taxpayer funding occurs. The Uniform Guidance includes similar requirements for non-Federal entities who are responsible for conducting subgrantee risk assessments, assuring compliance with applicable Federal requirements and achievement of performance expectations, and taking enforcement actions against noncompliant subrecipients (2 C.F.R. Sections 200.328 and 200.331).

Student Financial Assistance Oversight and Monitoring

The Department will need to provide guidance to and rely on postsecondary institutions, contracted servicers, collection agencies, guaranty agencies, and accrediting agencies to effectively implement the CARES Act and related provisions. The Department must provide effective oversight and monitoring of the CARES Act provisions related to student financial assistance programs and participants to provide assurance that the programs are properly administered and are not subject to fraud, waste, and abuse. This includes the oversight and monitoring of the Higher Education Emergency Relief Fund, including ensuring schools use at least 50 percent of funds for awards to students, as well as the following CARES Act provisions, waivers, and flexibilities:

- borrower and teacher assistance provisions, which require the Department to take actions such as suspending payments, collections, and interest charges and modifying the service obligations associated with the Teacher Education Assistance and Higher Education grants and teacher loan forgiveness;
- student financial assistance refunds and loan cancellation provisions, which instruct the Department to waive the requirement for the institution or student to return applicable grant or loan assistance and to cancel the associated Direct Loans when a student withdraws from the university as a result of the pandemic;
- provisions to adjust lifetime Pell Grant and subsidized Direct Loan usage, which instruct the Department to exclude periods of enrollment that are not

completed because of the pandemic from the calculation of a student's lifetime Pell Grant limit and subsidized Direct Loan usage; and

- waivers of and flexibilities of program requirements, which authorize the Department to temporarily waive certain student financial assistance program requirements.

Further, while the CARES Act provides additional resources to the Department for student aid administration, Federal Student Aid (FSA)²³ will need to ensure it continues to provide adequate oversight of existing student aid program participants at the same time it implements and oversees the student aid provisions in the CARES Act.

Additionally, the Department will need to ensure that postsecondary institutions continue to meet required criteria for financial responsibility,²⁴ as the pandemic could negatively impact the enrollment and financial health of institutions. As a result, some may fail to meet the required criteria for financial responsibility.

Challenges

We have identified the oversight and monitoring of participants in the student financial assistance programs as an ongoing management challenge for the Department, to include the Department's oversight of contractors, postsecondary institutions, and accrediting agencies. Our audits of the oversight and monitoring of student financial assistance programs continue to identify instances of noncompliance as well as opportunities for the Department to further improve its processes.

Recent OIG audits have identified weaknesses with FSA's monitoring and oversight of loan servicers and postsecondary institutions, including failing to track all identified instances of loan servicer noncompliance and rarely holding loan servicers accountable

²³ FSA is responsible for implementing and managing the Federal student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, and oversees postsecondary institutions that participate in the Federal student aid programs.

²⁴ To participate in student financial assistance programs, postsecondary institutions must demonstrate that they are financially responsible by meeting general standards and performance and affiliation standards. Public schools meet the general standards of financial responsibility if their debts and liabilities are backed by the full faith and credit of the State or other government entity they are authorized by. A proprietary or private nonprofit school meets the general standards of financial responsibility if FSA determines, among other things, the school has a passing composite score, which reflects the overall relative financial health of a school. Generally, institutions that fail these criteria must either provide the Department with a letter of credit or cease participation in the programs.

for noncompliance with requirements,²⁵ and not ensuring postsecondary institutions completed corrective actions to address findings identified by public accountants in compliance audits and by FSA in program reviews related to satisfactory academic progress.²⁶ One OIG audit²⁷ also found that while FSA had adopted and implemented tools and processes for identifying at-risk Title IV schools and for mitigating potential harm to students and taxpayers due to a school closure, further improvements were needed, including improving its processes for reviewing a school's calculated composite score and school appeals of the score and implementing controls to prevent schools from manipulating composite scores to avoid sanctions or increased FSA oversight. A more recent OIG audit²⁸ found that FSA did not have adequate internal controls to reasonably ensure it consistently placed schools on a heightened cash monitoring payment status²⁹ when they submitted late annual financial statements or had composite scores that fell below the minimum financial responsibility score.

What the Department Should Consider in Its Implementation of the CARES Act

The Department should consider these persistent challenges the OIG has identified regarding the oversight and monitoring of student financial aid programs and participants as it implements and oversees the CARES Act. In its responses to OIG's Management Challenges reports, the Department has stated that it continues to improve the risk-based oversight and monitoring of the student financial assistance

²⁵ "Federal Student Aid: Additional Actions Needed to Mitigate the Risk of Servicer Noncompliance with Requirements for Servicing Federally Held Student Loans," ED-OIG/A05Q0008, March 5, 2019 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf>).

²⁶ "Federal Student Aid's Oversight of Schools' Compliance with Satisfactory Academic Progress Regulations," ED-OIG/A04S0012, July 17, 2019 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a04s0012.pdf>).

²⁷ "Federal Student Aid's Processes for Identifying At-Risk Title IV Schools and Mitigating Potential Harm to Students and Taxpayers," ED-OIG/A09Q0001, February 24, 2017 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2017/a09q0001.pdf>).

²⁸ "Federal Student Aid's Oversight of the Heightened Cash Monitoring Payment Methods," ED-OIG/A03Q0006, February 27, 2020 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2020/a03q0006.pdf>).

²⁹ The Department may place schools on a heightened cash monitoring payment method when it determines that additional oversight of the school's cash management of its student aid program funds is necessary because of financial, administrative, or compliance issues.

programs, including the oversight and monitoring of servicers and vendors, schools, accrediting agencies, and the provision of aid to program participants. Further, the Department has stated that it has worked to address weaknesses in the single audit process in order to improve its use as an oversight and monitoring tool, and that it plans to deploy an analysis model to continually monitor partner data and performance. The Department reported that it will, over the course of the next several years, implement additional risk-based procedures to evaluate an accrediting agency's ability to effectively determine and measure schools' compliance with accreditation standards, and will develop a risk-based methodology to identify agencies at higher risk of failing to meet statutory and regulatory requirements and additional procedures to prioritize oversight of those higher risk agencies. The Department has also stated that it has implemented an improved model for verification selection and evaluation data elements from the Federal student aid application and anticipates undertaking a 12-month pilot project to assess the incidence of error or fraud in determining monthly payment amounts under income-drive repayment plans. The Department should assess its efforts to improve the oversight and monitoring of the student financial assistance programs, identify the most promising approaches, and determine whether these best practices can be effectively applied in overseeing and monitoring the student financial assistance CARES Act programs and provisions.

Given the various student financial assistance programs and provisions in the CARES Act, the Department will need to ensure it effectively oversees and monitors the various participants in student financial aid programs. This includes

- working with contracted loan servicers, collection agencies, guaranty agencies, and others to implement borrower and teacher assistance provisions;
- working with postsecondary institutions and contracted servicers to implement student financial assistance refund waivers and loan cancellation provisions and monitoring these entities to ensure the correct Direct Loans are cancelled;
- working with and monitoring contractors to implement provisions to exclude periods of enrollment that are not completed because of the COVID-19 emergency from the calculation of a student's lifetime Pell Grant limit and subsidized Direct Loan usage; and
- monitoring postsecondary institutions and accreditors' use of waivers of and flexibilities for certain student financial assistance program requirements.

The Department will need to do this while continuing to provide adequate oversight of existing student financial assistance program participants. Further, the Department should consider its oversight and monitoring of postsecondary institutions and their ability to meet financial responsibility criteria, an area where recent audit work has found weaknesses, given the probability that the pandemic could negatively impact the

finances of institutions and cause some to fail to meet the required criteria for financial responsibility.

Data Quality and Reporting

The CARES Act implements several reporting provisions to provide transparency over how funds are used and their estimated impact on the economy. OMB Memorandum M-20-21, “Implementing Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (COVID-19),” notes that agencies must have processes to ensure that the data reported are of sufficient quality for public reporting and internal decision-making purposes. Administering the programs and operations funded by the CARES Act will require the Department to collect, analyze, and report on data for many purposes, such as evaluating programmatic performance, assessing fiscal compliance, and informing management decisions. The Department, its grant recipients and subrecipients, and other program participants must have effective controls in place to ensure that CARES Act reported data are accurate and complete given the Department’s reliance on these data as part of its operations.

Challenges

Data quality and reporting has been a persistent management challenge at the Department. OIG audits have continued to identify weaknesses in the quality of reported data and recommended improvements at the Department and at SEAs and LEAs. Among our findings are that SEAs’ internal controls failed to provide reasonable assurance that reported data were accurate and complete,³⁰ SEAs relied on incomplete subrecipient data for their own data reporting,³¹ and LEAs were not required to certify that controls over data were working as intended and that known issues were

³⁰ Findings based on a series of three reports on SEAs processes to calculate and report graduation rates: “Calculating and Reporting Graduation Rates in Utah,” ED-OIG/A06R0004, November 27, 2018 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a06r0004.pdf>); “Calculating and Reporting Graduation Rates in California,” ED-OIG/A02Q0005, January 11, 2018 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a02q0005.pdf>); and “Calculating and Reporting Graduation Rates in Alabama,” ED-OIG/A02P0010, June 14, 2017 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2017/a02p0010.pdf>).

³¹ “Puerto Rico Department of Education’s Reliability of Program Performance Data and Use of Adult Education Program Funds,” ED-OIG/A04O0004, February 22, 2018 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a04o0004.pdf>).

disclosed.³² Further, a recent GAO audit³³ found issues with the Department’s quality checks of district-reported restraint and seclusion data, including one quality check that applied only to very large districts and not to the vast majority of districts nationwide.

The CARES Act includes reporting requirements for grantees that are similar to those included in the Recovery Act, with the most significant difference being that the CARES Act limits reporting to large covered funds, while the Recovery Act did not institute a dollar threshold for reporting (see Background section for the specific CARES Act reporting requirements). Our Recovery Act work found that the Department took steps to improve data quality but that there were still accuracy and reliability issues.

Our Recovery Act lessons learned report noted that, consistent with OMB’s Recovery Act guidance, the Department established data quality review procedures to identify material omissions or significant reporting errors. The Department also instructed recipients and subrecipients to advise the Department if reported data contained known deficiencies, which exceeded OMB’s guidance for the reporting of data. However, while we found the Department’s processes to ensure the accuracy and completeness of recipient-reported data were generally effective, we still identified data quality issues such as recipients reporting data that were inconsistent with data in the Department’s grants management system, documentation in contract files, or information contained in other reports submitted by the recipients, and that the Department had inadequate controls and procedures to identify systemic or chronic recipient reporting issues. Further, GAO found³⁴ that the Department’s guidance provided recipients with suggested standard language to use in important narrative fields to ease the reporting burden. However, GAO determined that just 9 percent of the descriptions fully met OMB’s transparency criteria. Descriptions limited to the Department’s standard language were less transparent than those with specific information on the programs and activities subrecipients conducted in the State.

³² “New York State’s and Selected Districts’ Implementation of Selected Every Student Succeeds Act Requirements under the McKinney-Vento Homeless Assistance Act,” ED-OIG/A03Q0005, March 29, 2018 (<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2018/a03q0005.pdf>).

³³ “K-12 EDUCATION: Education Needs to Address Significant Quality Issues with its Restraint and Seclusion Data,” GAO-20-345, April 21, 2020 (<https://www.gao.gov/products/GAO-20-345>).

³⁴ “RECOVERY ACT: States Could Provide More Information on Education Programs to Enhance the Public's Understanding of Fund Use,” GAO-10-807, July 30, 2010 (<https://www.gao.gov/assets/310/308318.pdf>).

Our Recovery Act lessons learned report noted that States reviewed had potential data quality issues at the recipient or subrecipient level. Ineffective or nonexistent controls for tracking Recovery Act activities and implementing internal review processes hampered data quality. For some recipients, missing data, missing reports, untimely reporting, and inaccurate data marred data quality. Similarly, GAO’s initial review and analysis of recipient data³⁵ indicated that there were a range of significant reporting and quality issues, that not all recipients reported data, and that jobs data were reported inconsistently despite significant guidance and training provided by OMB and Federal agencies. Recipients also did not always use the data correction period to correct known errors. Likewise, GAO found³⁶ that a number of States reported job numbers using an older OMB methodology, not based on revised guidance. Our Recovery Act work showed that estimating the number of jobs created or retained as a result of Recovery Act funding was especially problematic for recipients and subrecipients and may have diminished the usefulness of the jobs data. Several factors contributed to reporting errors including inadequate recipient processes and controls for collecting, compiling, and reviewing jobs data.

What the Department Should Consider in Its Implementation of the CARES Act

The Department should consider these challenges and the lessons learned from its efforts to ensure quality Recovery Act data were reported and from recent OIG audits. This includes

- piloting new reporting requirements or mechanisms for new or existing programs, if time allows;
- establishing a formal process to identify and remediate situations where there are systemic or chronic reporting problems;
- providing assistance to and oversight of recipients to ensure their implementation of adequate and effective controls over data quality for key reporting elements; and

³⁵ “RECOVERY ACT: Recipient Reported Jobs Data Provide Some Insight into Use of Recovery Act Funding, but Data Quality and Reporting Issues Need Attention,” GAO-10-223, November 19, 2009 (<https://www.gao.gov/assets/300/298632.pdf>).

³⁶ “One Year Later, States’ and Localities’ Uses of Funds and Opportunities to Strengthen Accountability,” GAO-10-437, March 3, 2010 (<https://www.gao.gov/assets/310/301348.pdf>).

- requiring reporting entities to submit management certifications on data quality and to disclose known data limitations.

In its responses to OIG's Management Challenges reports, the Department has stated it is committed to strengthening the quality, accessibility, and use of education data. The Department reported it is developing a coherent and coordinated approach to data governance, data management, and data quality to ensure education data provide high value for internal decision makers and external stakeholders. This includes naming a chief data officer, statistical official, and evaluation officer, each of whom has responsibility for data quality within their own sphere of authority. Further, the Department reported it has established an agency-wide Data Governance Board to set and enforce policies for managing data as a strategic asset. The Department should consider how these recent efforts can be leveraged to ensure the quality of CARES Act data.

Conclusion

Just as it did under the Recovery Act, the Department is likely to face significant challenges as it implements the many programs, provisions, and other time-sensitive and critical requirements of the CARES Act. The Department must remain alert and take necessary actions related to these challenges to reduce vulnerabilities to fraud, waste, abuse, noncompliance, and other issues that could impact grantees', subgrantees', and student financial assistance program participants' ability to achieve intended results.

Appendix A. Scope and Methodology

In performing our work, we primarily drew on our experience from the audit work we performed related to the Recovery Act as summarized in the Recovery Act lessons learned report issued in September 2014, which covered Recovery Act audits and investigations conducted from February 2009 through June 2014. We also reviewed recent audit work performed by OIG and GAO as well as OIG's annual Management Challenges reports. Because we did not conduct Recovery Act work in the area of student financial assistance oversight and monitoring, potential challenges in this area that are presented in this report were based solely on recent audit work and OIG's Management Challenges reports.

To gain an understanding of the Department's responsibilities under the CARES Act, we reviewed applicable laws and OMB guidance, including the CARES Act and OMB Memorandum M-20-21, "Implementing Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (COVID-19)," April 10, 2020. We also reviewed the Recovery Act and OMB Memorandum M-09-21, "Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009," June 22, 2009.

Our work did not include an assessment of, and we are not concluding on, the effectiveness of the Department's CARES Act-related implementation and oversight activities.

We performed our work from April 2020 through July 2020. Except for reporting on our own Recovery Act activities, Management Challenges reports, and audits, we conducted the work for this management information report in accordance with the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Inspection and Evaluation*. Those standards require that we plan the work to obtain sufficient and appropriate data and other information to provide a reasonable basis for our conclusions. We could not conform to the independence standard when reporting on our own work related to management challenges or Recovery Act lessons learned, or with regard to any conclusions contained in this report based upon our own work. However, we believe that the information obtained provides a reasonable basis for the conclusions contained in the report.

Appendix B. Acronyms and Abbreviations

CARES Act	Coronavirus, Aid, Relief, and Economic Security
Department	U.S. Department of Education
ESSA	Every Student Succeeds Act
FSA	Federal Student Aid
FY	fiscal year
GAO	Government Accountability Office
LEA	local educational agency
OIG	Office of Inspector General
OMB	Office of Management and Budget
Recovery Act	American Recovery and Reinvestment Act of 2009
Recovery Act Lessons Learned Report	Lessons from Implementing the American Recovery and Reinvestment Act of 2009
SEA	State educational agency
SFSF	State Fiscal Stabilization Fund
Uniform Guidance	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Office of the Deputy Secretary Comments

Dear Sandra:

Thank you for the opportunity to review and comment on the draft Management Information Report titled “Challenges for Consideration in Implementing and Overseeing the CARES Act.”

We appreciate knowing of your upcoming review of the Department’s oversight and monitoring of grantees, student financial assistance, the quality of our data, and various reporting matters.

With the CARES Act—unlike the Recovery Act, Race to the Top, or the State Fiscal Stabilization Fund—the Department was under enormous pressure by the Act’s own terms to expeditiously distribute the funding, and to do so with maximum flexibility. We did so, and on top of the already busy workload of getting grants out the door in the ordinary course.

It is our hope that the audit work of the Office of the Inspector General will take these facts into account.

Sincerely,

Mick Zais, Ph.D.

Deputy Secretary