



U.S. Department of Education
Office of Inspector General

Florida Department of Education's Administration and Oversight of Emergency Assistance to Nonpublic Schools Grant Funds

September 23, 2024
ED-OIG/A23GA0135

ED OIG Oversight of Coronavirus Response Funds



NOTICE

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

Audit Services

September 23, 2024

Office of Governor Ron DeSantis
State of Florida
The Capitol
400 S. Monroe Street
Tallahassee, Florida 32399-0001

Manny Diaz, Jr.
Commissioner
Florida Department of Education
325 West Gaines Street
Tallahassee, Florida 32399-0400

Dear Governor DeSantis and Commissioner Diaz:

Enclosed is our final report, "Florida Department of Education's Administration and Oversight of Emergency Assistance to Nonpublic Schools Grant Funds," Control Number ED-OIG/A23GA0135. This report incorporates the comments you provided in response to the draft report. The U.S. Department of Education's policy is to expedite resolution by timely acting on findings and recommendations. Therefore, if you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Department of Education official, who will consider them before taking final Departmental action on this:

Adam Schott
Principal Deputy Assistant Secretary Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C.

We appreciate your cooperation during this review. If you have any questions, please contact me at (404) 974-9424 or Selina.Boyd@ed.gov.

Sincerely,

/s/

Selina Boyd
Regional Inspector General for Audit

Enclosure



Results in Brief

Florida Department of Education's Administration and Oversight of Emergency Assistance to Nonpublic Schools Grant Funds

Why the OIG Performed this Audit?

In response to the coronavirus disease 2019 pandemic (COVID-19), Congress passed three relief acts within a 1-year period that provided more than \$276 billion for an Education Stabilization Fund to prevent, prepare for, and respond to the COVID-19, including \$5.5 billion for the Emergency Assistance to Nonpublic Schools (EANS) program. The purpose of the EANS programs, authorized under the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) and American Rescue Plan (ARP), is to provide services or assistance to eligible nonpublic schools to address educational disruptions caused by the COVID-19 emergency.

Effective application and oversight processes help ensure that EANS funds are appropriately allocated and used for allowable purposes in order to help eligible nonpublic schools address the needs of students, families, and educators. Florida was awarded about \$434 million in EANS funds.

The objectives of our audit were to determine whether the Florida Department of Education (FDOE) designed and implemented (1) application processes that adequately assessed nonpublic schools' eligibility for EANS-funded services or assistance and complied with other applicable requirements and (2) oversight processes to ensure that EANS-funded services or assistance were used for allowable purposes.

What Did the OIG Find?

The actions that FDOE took to assess nonpublic schools' eligibility for CRRSA EANS-funded services and assistance and comply with other applicable requirements were generally adequate; however, it did not have written procedures for its CRRSA EANS application review and approval processes. Regarding FDOE's administration of ARP EANS, we found that the application that FDOE developed for nonpublic schools to apply for services and assistance did not ensure that it could use the application data to adequately assess nonpublic schools' eligibility. The ARP EANS application was not adequate because it included instructions that allowed nonpublic schools to use proportionality data as one of five data source options for estimating the number of students enrolled in their school that were from low-income families.

FDOE's oversight of its CRRSA and ARP EANS expenditure and inventory processes needs strengthening. Specifically, FDOE did not have formal written procedures for its expenditure review and approval processes. Also, FDOE's processes did not ensure that it obtained prior approval from the Department before funding nonpublic school equipment purchases with a per unit cost of \$5,000 or more. Additionally, FDOE did not ensure that it inventoried or tracked items, such as supplies, that were purchased with a per unit cost under \$5,000.

What Is the Impact?

FDOE's improper use of proportionality data resulted in it allocating \$34,309,398 in ARP EANS funds for services and assistance to 73 schools that may not have been eligible to receive ARP EANS services or assistance.

Not having formal written policies and procedures for expenditure review and approval processes could lead to missed opportunities to identify unallowable or questionable expenditures. Additionally, not having a process for obtaining prior approval increases the risk that Federal funds could be used for unallowable equipment or capital expenditure purchases. Finally, without a process for tracking and periodically checking on the use of EANS-funded purchases, FDOE does not have public control of all equipment and supplies purchased with EANS funds.

What Are the Next Steps?

We made four recommendations to FDOE to improve the administration and oversight of the EANS programs. FDOE did not state whether it agreed or disagreed with our recommendations, but described corrective actions related to three of our four recommendations.

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Introduction

Background

On March 13, 2020, the President declared a national emergency due to the coronavirus disease 2019 pandemic (COVID-19). In response, Congress passed three COVID-19 relief acts within a 1-year period that provided more than \$276 billion for an Education Stabilization Fund to prevent, prepare for, and respond to the COVID-19, including \$5.5 billion for the Emergency Assistance to Nonpublic Schools (EANS) program.

- The Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA), enacted on December 27, 2020, provided \$2.75 billion in funding for nonpublic schools to provide services and assistance addressing educational disruptions caused by COVID-19, as part of the Governor’s Emergency Education Relief Fund.
- The American Rescue Plan (ARP), enacted on March 11, 2021, provided another \$2.75 billion in funding to the EANS program, bringing the total amount of EANS funding to \$5.5 billion.

Purpose of the EANS Programs

The purpose of the EANS programs is to provide services or assistance to eligible nonpublic schools to address educational disruptions caused by the COVID-19 emergency. Under the CRRSA and ARP EANS programs, governors apply to the U.S. Department of Education (Department) for formula grants for the purpose of providing emergency services or assistance to nonpublic schools. Although a Governor applies for EANS funds and has oversight responsibilities as the grantee, the statutes require that the State educational agency (SEA) administer the programs. An SEA can use up to one-half of 1 percent of its total EANS allocation for administrative costs. SEAs can hire contractors to assist in administering and overseeing a State’s EANS programs. Importantly, nonpublic schools are not recipients of grant awards under the EANS programs but, instead, receive services or assistance provided by the SEA as requested in their application, to the extent resources are available.

SEA Administrative Responsibilities

According to CRRSA section 312(d), an SEA’s responsibilities to administer the EANS program include the following:

- Distributing information about the EANS program promptly to nonpublic schools in the State.
- Creating an application with which any eligible nonpublic school in the State may apply for services or assistance.

- Ensuring that eligible nonpublic schools provide the information required by section 312(d)(3)(B) related to enrollment of students from low-income families and a description of the emergency services requested from the SEA.
- Making an application easily available to nonpublic schools in the State as soon as possible but no later than 30 days after receipt of the EANS funds.
- Approving or denying each nonpublic school application promptly but no later than 30 days after the SEA receives the application from a nonpublic school.
- Determining what services or assistance the SEA will provide directly or through local educational agencies (LEA), other public entities, or contractors to each nonpublic school, as informed by an approved application and consultation, as appropriate, with the nonpublic school or its representatives.
- Ensuring the control of funds for the services or assistance provided to a nonpublic school, and title to materials, equipment, and property purchased with EANS funds, are in a public agency and a public agency administers the funds, services, assistance, materials, equipment, and property.
- Ensuring that all services or assistance provided, including any materials, equipment, and any other items used to provide such services or assistance, are limited to secular, neutral, and nonideological purposes.
- Obligating all EANS funds in an expedited and timely manner, to the extent practicable; however, obligating all EANS funds not later than 6 months after receiving the funds.
- Administering the EANS program in accordance with all applicable requirements.

Additionally, on or before the date it makes its ARP EANS applications for services or assistance available to nonpublic schools, an SEA must publish on its website (1) the minimum percentage it will use to determine whether a nonpublic school enrolls a significant percentage of students from low-income families, (2) the source(s) of poverty data it will use to determine counts of students from low-income families in a nonpublic school, and (3) the factors it will use to identify nonpublic schools as most impacted by COVID-19.¹

¹ Final Requirements for ARP EANS, Federal Register, Vol. 86, No. 131, (July 13, 2021).

Nonpublic School EANS Programs Eligibility

For purposes of the EANS programs, an eligible nonpublic school is an elementary or secondary school that

- is a nonprofit;
- is accredited, licensed, or otherwise operates in accordance with State law;
- was in existence prior to the date COVID-19 was declared a national emergency (March 13, 2020);
- did not, and will not, apply for and receive a loan under the Small Business Administration's Paycheck Protection Program (PPP) that is made on or after December 27, 2020. This limitation applies for as long as the nonpublic school is a participant in the EANS program under the CRRSA or the ARP Act.

The CRRSA and ARP Act also established separate criteria that SEAs were required to use to determine whether nonpublic schools were eligible to receive services or assistance. Under CRRSA EANS, SEAs were required to prioritize services or assistance to nonpublic schools that enrolled low-income students and were most impacted by the qualifying emergency (COVID-19). The ARP Act further restricted eligibility for services or assistance to nonpublic schools that enrolled a significant percentage of low-income students and were most impacted by the qualifying emergency. Because the ARP Act did not identify what constituted a significant percentage of low-income students, the Department established through a notice of final requirements in the Federal Register that, to be eligible for ARP EANS-funded services or assistance, the percentage of low-income students in a nonpublic school must be at least 40 percent, unless a State requested and received approval from the Department to use an alternate percentage based on circumstances in the State.

Allowable Uses of EANS Funds

The EANS programs allow a nonpublic school to receive services and assistance from the State's SEA or its contractors to address educational disruptions resulting from COVID-19. These services and assistance can include supplies to sanitize and clean school facilities, educational technology, and reasonable transportation costs, among many others. For a full list of services and assistance covered under the EANS programs, see Appendix B.

Florida's EANS Programs Administration

Florida was awarded \$212,978,041 in CRRSA funds and \$221,188,900 in ARP EANS funds to provide services and assistance to nonpublic schools affected by the pandemic. The Florida Department of Education's (FDOE) Office of Independent Education and Parental

Choice (IEPC)² is responsible for the administration and oversight of the EANS programs. IEPC made \$211,913,151 in CRRSA funds available to 514 nonpublic schools and \$220,082,956 in ARP EANS funds available to 490 nonpublic schools that it deemed eligible to receive services and assistance. IEPC used the remaining \$2,170,835 for administrative expenses, such as hiring vendors to assist with program administration. IEPC contracted with a vendor to use its financial payment system for processing nonpublic schools' EANS requests for services and assistance for both EANS programs.³ IEPC also contracted with another vendor to develop and process the ARP EANS application data, and to develop a Statewide inventory of equipment and information technology devices with a unit cost over \$5,000 that nonpublic schools purchased with EANS funds.⁴

² IEPC is responsible for overseeing FDOE's non-traditional schools (nonpublic, charter, virtual, and home school education).

³ FDOE paid this vendor \$608,271 for each EANS contract.

⁴ FDOE paid the vendor \$18,680.10 to develop the ARP EANS application and process the application data. FDOE will pay the vendor a total of \$765,710 over 3 years from CRRSA and ARP EANS funds for the inventory management services.

Finding 1. FDOE Generally Had Adequate Application Processes to Assess Nonpublic School's CRRSA EANS Eligibility

We found that the actions that FDOE took to assess nonpublic schools' eligibility for CRRSA EANS-funded services and assistance were generally adequate; however, FDOE did not have written procedures for its CRRSA EANS application review and approval processes. FDOE's lack of such written policies and procedures weakens its assurance that procedures are applied consistently. Regarding FDOE's compliance with other applicable requirements, we found that for the CRRSA EANS program, FDOE met the timelines required for the availability of nonpublic school applications, review and approval of the applications, and notification to the nonpublic schools regarding their application approval status. We also found that the technical assistance and guidance that FDOE provided to the nonpublic schools was timely and accurate. Because FDOE is no longer accepting or approving CRRSA EANS program applications, we are not making any recommendations for this finding.

Technical Assistance and Guidance Provided to Nonpublic Schools Regarding CRRSA EANS Applications

FDOE provided timely and accurate technical assistance and guidance to nonpublic schools as it relates to the CRRSA EANS program. FDOE accomplished this, in part, through email communication, its website,⁵ and webinars. The technical assistance provided information necessary for nonpublic schools to participate in FDOE's CRRSA EANS program. The technical assistance and guidance covered various topics, including the purpose and goal of the program, eligibility criteria, and the application process. FDOE also developed its own EANS Frequently Asked Questions guidance document. FDOE provided most of this technical assistance and guidance to nonpublic schools in February 2021, which was during the time that nonpublic schools were required to submit their applications. We determined that FDOE communicated clear, accurate, and timely technical assistance and guidance to nonpublic schools about the purpose of the CRRSA EANS program; eligibility, including how FDOE planned to determine the schools most impacted by the COVID-19 emergency; and how and when to submit their application.

⁵ FDOE's website included links to the Department's EANS FAQ guidance document, FDOE's EANS FAQ guidance document, a payment system user's guide, and the presentation slides from FDOE's four EANS webinars.

Adequacy of FDOE’s CRRSA EANS Application Processes and Its Compliance with Related Requirements

To be eligible to receive services and assistance under CRRSA EANS, nonpublic schools had to meet five eligibility requirements, including (1) be nonprofit; (2) be accredited, licensed, or otherwise approved to operate in accordance with State law; (3) exist and operate before March 13, 2020; (4) not have applied for or received a Small Business Administration PPP loan on or after December 27, 2020; and (5) not have had PPP loan support for the services it requested in the CRRSA EANS application.

In describing its application review and approval processes, FDOE officials explained that they used the sample application provided in the Department’s EANS frequently asked questions (FAQ) guidance document to create the CRRSA EANS application, which captured data that FDOE used to determine nonpublic schools’ eligibility. In the application, schools provided overall enrollment and low-income enrollment data from the 2019–2020 school year (grades K–12), indicated whether they received a PPP loan prior to December 27, 2020, included a statement on the impact COVID-19 had on school operations and education achievement, discussed current concerns and potential challenges and issues they had encountered while responding to COVID-19, and specified the categories of services and assistance that the school might request.⁶ In addition, schools were required to include the sources of the data they reported in their application, which could be from free and reduced-price lunch eligibility data, scholarship eligibility data, proportionality data,⁷ or parent surveys.⁸ Nonpublic school officials also had to sign the application that included affirmations relating to the truth and accuracy of the application data, the school meeting the five eligibility requirements, and the school’s understanding that FDOE will assume ownership and title to all materials, equipment, and property purchased using EANS funds. FDOE officials made the CRRSA EANS application available to nonpublic schools within 30 days of FDOE’s receipt of its EANS allocation from the Department (as required by Federal regulations), and it was available to them from February 2021 to March 2021.

⁶ The schools could select from 12 categories related to supplies to sanitize, disinfect, and clean school facilities; physical barriers to facilitate social distancing; and educational technology. See Appendix B for a full list of categories.

⁷ Proportionality is a method of deriving low-income data that was only permitted under CRRSA EANS.

⁸ Schools could use parent surveys that identify students whose household income does not exceed 185 percent of the Federal poverty level or parent surveys identifying students eligible for services under the Title I.

FDOE officials further explained that the nonpublic schools submitted their applications via email. FDOE's information technology department compiled all the data from the nonpublic schools' applications into an Excel spreadsheet. FDOE's IEPC reviewed the spreadsheet and determined an applicant to be eligible if the eligibility criteria were met and the applicant's data pertaining to the eligibility criteria were verified as accurate through comparison of information in other databases. For example, FDOE officials stated that they checked the Small Business Administration's PPP website to determine whether the applicant had received a PPP loan, and that they checked FDOE's Private School Scholarship databases, which contain data that schools submit in Florida's annual school survey,⁹ to determine the accuracy of the number of enrolled students and count of low-income students that the school put in its application.

FDOE officials went on to explain that an IEPC official notified each of the nonpublic schools of their application's approval or denial¹⁰ via email, within 30 days of receiving the applications (as required by the Department). For those schools that were approved, FDOE explained that they prioritized the schools by COVID-19 impact score, which FDOE calculated based on the applicant's data,¹¹ and then made funds available for all of the approved schools using a formula that took into consideration impact score and number of low-income students.¹² An FDOE official notified all of the approved schools that EANS funds had been made available to provide them with services and assistance. IEPC's former executive director then provided the contractor with the funding information for upload into the payment processing system.

We concluded that the processes FDOE officials described to assess nonpublic schools' eligibility for CRRSA EANS-funded services and assistance were generally adequate. We tested a nonstatistical, random sample of 10 CRRSA EANS applications (of 579 total

⁹ The scholarship databases include income-based thresholds that prioritize families with incomes at or below 185 percent of the Federal poverty level.

¹⁰ FDOE denied EANS applications for reasons such as the nonpublic school did not have any enrolled students, the school was not open as of March 13, 2020, or the school was for-profit.

¹¹ Seventeen items in Part E of the CRRSA EANS application quantified the impacts on school operations and instruction. Options in each item were assigned a numerical value, and the sum of those values became the impact score used in the methodology to make funds available to eligible schools.

¹² We did not perform a detailed review of the process used to make funds available to the schools because it was not within the scope of our audit.

applications),¹³ and determined that FDOE followed the processes they described and accurately assessed the eligibility status of the 10 (100 percent) nonpublic schools we sampled. However, it is still a good practice to document such procedures to ensure that the procedures are applied consistently.

A non-Federal entity must establish and maintain effective internal control over its Federal award that provides reasonable assurance that it is managing its award in compliance with Federal statutes, regulations, and the terms and conditions of its award (2 Code of Federal Regulations (C.F.R.) section 200.303(a)). These internal controls should be compliant with the Comptroller General of the United States guidance in U.S. Government Accountability Office's (GAO) *Standards for Internal Control in the Federal Government* or the Committee of Sponsoring Organizations of the Treadway Commission's *Internal Control Integrated Framework*, May 2013 (COSO Report). According to the COSO Report, a component of internal control is control activities. One principle of control activities is that an organization implements control activities through policies that establish what is expected and procedures that put policies into action. Further, the internal control responsibilities of the organization should be documented.

In addition, GAO Standards for Internal Control in the Federal Government, principles 12.02–12.04 state that management policies should document, in the appropriate level of detail to allow it to effectively monitor the control activity, the internal control responsibilities of the organization and its responsibility for an operational process's objectives and related risks and control activity design, implementation, and operating effectiveness. Additionally, management documents policies. Management communicates to personnel the policies and procedures so that personnel can implement the control activities for their assigned responsibilities.

IEPC's former deputy executive director stated that FDOE probably did not document the application review and approval processes for the CRRSA EANS program because of the short timeframe to make the funds available. An FDOE official stated that FDOE followed the criteria in the Department's FAQ document to create and conduct the application review and deem a school eligible or ineligible. However, having formal written policies and procedures to guide reviewers through review and approval processes helps to ensure that procedures are applied consistently. FDOE's lack of such written policies and procedures for the CRRSA EANS program weakens such assurance. Despite FDOE's lack of written procedures for its application review and approval

¹³ Our random sample of 10 CRRSA EANS applications included 5 (of the 514) that were approved and 5 (of the 65) that were denied.

processes, we are not making any recommendations for this finding because FDOE met all CRRSA EANS program application requirements, and because applications are no longer being accepted.

FDOE's Comments

FDOE did not provide any comments on Finding 1.

Finding 2. FDOE’s ARP EANS Application Processes Allowed Nonpublic Schools to Use Unallowable Data to Determine Low-Income Student Eligibility

The application that FDOE developed for nonpublic schools to apply for ARP EANS services and assistance did not ensure that FDOE could use the application data to adequately assess nonpublic schools’ eligibility. The ARP EANS application was not adequate because it included instructions that allowed nonpublic schools to use proportionality data¹⁴ as one of five data source options for estimating the number of students enrolled in their school that were from low-income families (schools could use any one or a combination of the five options). Proportionality data is a data source that the Department does not allow States to consider when determining if a nonpublic school is eligible for services and assistance under ARP EANS. Of the 490 nonpublic schools that FDOE determined were eligible to receive services and assistance using the \$220,082,956 in ARP EANS funds that it was awarded from the Department, 73 (15 percent) of the schools reported in their applications a low-income count that was based in whole or in part on proportionality data. FDOE made available a total of \$34,309,398 in ARP EANS funds to provide services and assistance to those 73 schools. Additionally, like FDOE’s CRRSA EANS processes, FDOE did not have written procedures that described its ARP EANS application review and approval processes. However, because FDOE is also no longer accepting or approving ARP EANS program applications, we are not recommending that it develop such procedures.

Regarding FDOE’s compliance with other applicable requirements, we found that for the ARP EANS program, FDOE met the timelines required for the availability of nonpublic school applications, review and approval of the applications, and notification to the nonpublic schools regarding their application approval status. We also found that the technical assistance and guidance FDOE provided to the nonpublic schools was timely and accurate, and that FDOE posted to its website the ARP EANS eligibility requirements, including allowable low-income data sources that schools could use for determining low-income student enrollment, except as it pertains to the use of proportionality data in the ARP EANS application.

¹⁴ In its application, FDOE defined proportionality data as the number of students enrolled in a nonpublic school who reside in a Title I school attendance area multiplied by the percentage of public-school students in that same attendance area who are from low-income families.

Technical Assistance and Guidance Provided to Nonpublic Schools Regarding ARP EANS Applications

FDOE provided ARP EANS technical assistance and guidance to nonpublic schools that was very similar to what was provided for CRRSA EANS, as it pertains to applications for the program. FDOE provided most of this technical assistance and guidance to nonpublic schools in October 2021, which was during the time that nonpublic schools were required to submit their applications. FDOE posted to its website the ARP EANS eligibility requirements, including allowable low-income data sources schools could use for determining low-income student enrollment (as required). As it pertains to FDOE's ARP EANS application processes, we did not identify any issues with the technical assistance and guidance except for FDOE allowing nonpublic schools to use proportionality data in the ARP EANS application.

Inadequacy of FDOE's ARP EANS Application Processes and Its Compliance with Related Requirements

We found that the application that FDOE developed for nonpublic schools to apply for ARP EANS-funded services and assistance did not ensure that FDOE could use the application data to adequately assess nonpublic schools' eligibility. FDOE used in its ARP EANS application the same four eligibility requirements that it used for CRRSA EANS. FDOE officials explained that they contracted with a vendor to develop the ARP EANS application. Nonpublic schools completed the ARP EANS application online. The application had four sections and included most but not all of the same data as the CRRSA EANS application. Unlike the CRRSA EANS application, the ARP EANS application did not require schools to indicate the impact that the COVID-19 had on school operations and educational achievement and did not include an expense category option to request reimbursement of expenses incurred.¹⁵ Similar to the CRRSA EANS application, in the ARP EANS application, nonpublic schools were required to provide overall enrollment and low-income enrollment data from the 2019–2020 or 2020–2021 school years (grades K–12), and they were required to use the same five sources of data that were included in the CRRSA EANS application, which included proportionality data. However, this should not have been permitted because for ARP EANS, the Department explicitly prohibited the use of proportionality data for obtaining low-income enrollment counts.

Out of 624 nonpublic schools that applied 89 (14 percent) schools submitted an ARP EANS application that incorrectly used proportionality data as a data source for

¹⁵ Reimbursement was not allowed under ARP EANS. All ARP EANS expenditures were direct payments to vendors.

estimating the number of students enrolled in their school that were from low-income families. A formula was built into the application that calculated the school's percentage of low-income students based on the enrollment and low-income data included in the application. Because ARP EANS restricted the eligibility of nonpublic schools to those with a significant percentage¹⁶ of students from low-income families most impacted by COVID-19, a count of such students in a nonpublic school's application based on an unallowable data source could cause the applicant to appear as eligible when they were not. Of the 89 nonpublic schools that included in their applications an estimated number of students from low-income families that was based, in whole or in part, on proportionality data, FDOE made ARP EANS funds available to 73 of them. Therefore, for those 73 nonpublic schools, it is unknown whether the schools were eligible for ARP EANS-funded services and assistance since data from a prohibited data source were used, in whole or in part, to determine the schools' eligibility. FDOE made available a total of \$34,309,398 in ARP EANS funds to provide services and assistance to those 73 schools.

FDOE officials made the ARP EANS application available to nonpublic schools within 30 days of FDOE's receipt of its ARP EANS allocation from the Department (as required), and it was available to them from October 2021 to November 2021. FDOE officials explained that they reviewed nonpublic schools' ARP EANS applications similarly to CRRSA EANS applications, with only two differences. First, a contractor compiled the applicant data into a spreadsheet for IEPC officials to review instead of FDOE's information technology department. Second, instead of the approved applications being ranked by impact score based on COVID-19's impact on the school's operations and instruction, the impact score was based on the enrolled percentage of students from low-income families¹⁷ that were most impacted by COVID-19 and the number of COVID-19 infections per capita in the community served by the nonpublic schools.

FDOE officials stated that they did not have written procedures for the ARP EANS application review and approval processes described to us. We tested a nonstatistical, random sample of 10 (2 percent rounded up) ARP EANS applications (of 624 total

¹⁶ The Department defined "significant percentage" as at least 40 percent. A State could have requested and received approval from the Department to use a lesser threshold percentage.

¹⁷ FDOE used the 40-percent threshold established by the Department in its notice of final requirements for the ARP EANS program to determine whether a nonpublic school enrolled a significant percentage of students from low-income families.

applications)¹⁸ to determine whether FDOE followed its processes and accurately assessed nonpublic school eligibility. We determined that FDOE followed the described processes and accurately assessed the eligibility status for 9 (90 percent) of the 10 applications we sampled. For the one (10 percent) remaining application, FDOE followed the described processes, but because its processes erroneously allowed the use of proportionality data to estimate low-income family count, which was used in this nonpublic school's application, the nonpublic school's eligibility was not accurately assessed. FDOE made available a total of \$37,508 in ARP EANS funds for that school to request services and assistance.¹⁹

Regarding the use of proportionality data for ARP EANS funds, the Final Requirements for ARP EANS, Federal Register, Vol. 86, No. 131, (July 13, 2021), provides a list of allowable data sources for obtaining a count of students from low-income families (proportionality data is not a source that is listed), and states that

[t]o obtain a count of students from low-income families enrolled in a nonpublic school under paragraph (c)(1), an SEA may use one or more of the following sources of data, provided the poverty threshold is consistent across sources—

- (i) Data on student eligibility for free or reduced-price lunch under the Richard B. Russell National School Lunch Act (43 United States Code (U.S.C.) 1751 et seq.);
- (ii) Data from the E-rate program administered by the Federal Communications Commission (47 C.F.R. 54.500, 54.505(b));
- (iii) Data from a different source, such as scholarship or financial assistance data; or
- (iv) Data from a survey developed by the SEA.

In addition, the Department held an ARP EANS webinar on February 24, 2022, during which it stated that proportionality data is not an acceptable data source for ARP EANS. The Department also sent a letter to States entitled “ARP EANS and the Use of Proportionality to Determine Non-Public School Eligibility” (July 29, 2022), which stated

¹⁸ Our random sample of 10 ARP EANS applications included 5 that were approved and 5 that were denied.

¹⁹ This is one of the 73 nonpublic schools (that used proportionality data) that FDOE made available a total of \$34,309,398 in ARP EANS funds.

that because proportionality is a methodology to derive an estimate and is not based on actual income data from the families of students enrolled in a nonpublic school, it cannot be used to determine school eligibility for ARP EANS. The letter also stated that if a State had mistakenly used proportionality or another proxy measure to determine the eligibility of nonpublic schools under the ARP program, it should contact the Department so that it could work with the State on a path forward to correct the error.

When we asked FDOE why the ARP EANS application included proportionality as an allowable data source, IEPC's current executive director stated that FDOE allowed nonpublic schools to use proportionality source data where student scholarship or free and reduced-price lunch data were not available. He also stated that FDOE believed that since proportionality data was allowed under CRRSA EANS and that it was consistent with statutory language, regulations, and prior data uses, FDOE would be able to use it. FDOE also believed that the Department's guidance on proportionality was not provided in a timely manner. According to the executive director, communication regarding proportionality was not sent directly to States until August 1, 2022—more than 6 months after FDOE had completed the application process.

Regarding FDOE's lack of written procedures for the ARP EANS application review and approval processes, as stated in Finding 1, Federal regulations require a non-Federal entity to establish and maintain effective internal control over its Federal award (2 C.F.R. section 200.303(a)), and that management documents in policies, its responsibility for an operational process's objectives and related risks, and control activity design, implementation, and operating effectiveness (GAO's *Standards for Internal Control in the Federal Government*, Principles 12.02–12.04).

When we asked FDOE why its ARP EANS application review and approval procedures were not documented, IEPC's former deputy executive director stated that they probably were not documented because of the short timeframe for making the funds available.

Because of the proportionality data error in FDOE's ARP EANS application, it is unknown whether the \$34,309,398 in ARP EANS funds that FDOE made available to 73 schools for services and assistance was allowable. Additionally, regarding FDOE's lack of written procedures for its ARP EANS application and approval processes, having such documentation helps to ensure that procedures are applied consistently. FDOE's lack of written policies and procedures for its ARP EANS program weakens such assurance.

Recommendation

We recommend that the Assistant Secretary for the Office of Elementary and Secondary Education require FDOE, in consultation with the Governor of Florida, to—

2.1 Obtain a revised ARP EANS application from the 73 nonpublic schools that used proportionality data (in whole or in part) to estimate its low-income student count and ensure that the schools include a revised low-income student count that is based on a proper data source. FDOE should use the revised counts to reassess the eligibility of the 73 schools and any EANS funds used to provide services to ineligible nonpublic schools must be reverted to Florida's Governor to be used for allowable purposes under the Governor's Emergency Education Relief Fund as authorized by the CRRSA Act or returned to the Department. Alternatively, FDOE could de-obligate EANS funds used to provide services or assistance to ineligible nonpublic schools and identify another allowable source of funds for such services or assistance.

FDOE's Comments

FDOE disagreed with Finding 2 and did not state whether it agreed or disagreed with the related recommendation. FDOE stated that some schools without available student scholarship[s] or free and reduced-price lunch data were permitted to use proportionality data consistent with CRRSA EANS. FDOE's application permitted this data source because FDOE officials believed it to be consistent with the statutory language, regulations, and prior uses of such data. FDOE stated that the application was published prior to informal, non-binding guidance by the Department's Office of Elementary and Secondary Education (OESE), which indicated OESE's interpretation that the use of proportionality would not be "data from a different source" and that it would not be permissible for ARP EANS. FDOE further stated that OESE's guidance on the issue was not timely to allow the State to modify allocations accordingly. FDOE explained that the first indication that OESE did not consider proportionality to be allowable was in a webinar it hosted on February 24, 2022. FDOE further explained that additional communication regarding proportionality was not sent directly to States until August 1, 2022—more than 6 months after FDOE had completed its application process.

FDOE also stated that proportionality data is a reasonable allocation methodology supported by prior guidance and regulations and is explicitly permitted in CRRSA EANS. FDOE stated that the statutory language makes no distinction between CRRSA EANS and ARP EANS that would indicate allowable data sources would change. FDOE explained that section 312(d) of CRRSA EANS lays out the application requirements for nonpublic schools, including "the number and percentage of students from low-income families enrolled by such nonpublic school in the 2019–2020 school year." FDOE further explained that in section 2002(a) of ARP, Congress simply appropriates additional funding for the EANS program and does not change application requirements, thereby implying that allocation should follow the same process as CRRSA.

FDOE went on to explain that the preamble to the final requirements for ARP EANS states that “except for the two exceptions noted in the statute, all of the requirements in the CRRSA EANS program apply to ARP EANS funds.” FDOE believes that this indicated that the programs should be treated similarly. FDOE also believes that the ARP EANS final requirements indicated that allowable data sources included

- (i) Data on student eligibility for free or reduced-price lunch under the Richard B. Russell National School Lunch Act (43 U.S.C. 1751 et seq.);
- (ii) Data from the E-rate program administered by the Federal Communications Commission (47 CFR 54.500, 54.505(b));
- (iii) Data from a different source, such as scholarship or financial assistance data; or
- (iv) Data from a survey developed by the SEA.

FDOE stated that because not all of Florida’s nonpublic schools participate in school meal or E-rate programs, and because surveys are time-consuming and can yield inaccurate or approximate data, FDOE used the option of “data from another source,” which it read to include proportionality data.

FDOE further stated that Florida did what Congress asked and allocated services to private schools promptly and consistent with a reasonable interpretation of Federal law and the program’s final requirements. FDOE stated that even if staff had been notified of the new interpretation prior to August of 2022, contacting private schools for additional data and reallocating ARP EANS at that late date would have been unworkable as well as inconsistent with the requirement to obligate funds within 6 months.

OIG’s Response

As stated in the finding, the Final Requirements for ARP EANS, Federal Register, Vol. 86, No. 131 (July 13, 2021), did not include proportionality data as an allowable data source for obtaining a count of students from low-income families. Also, as stated in the finding, the Department informed States in its February 2022 ARP EANS webinar that proportionality data was not an acceptable data source for ARP EANS. In addition, the July 2022 letter that the Department sent to States regarding the use of proportionality data to determine nonpublic schools’ eligibility for ARP EANS explained that because proportionality is a methodology to derive an estimate and is not based on actual income data from the families of students enrolled in a nonpublic school, it cannot be used to determine school eligibility for ARP EANS. The letter also stated that if a State had mistakenly used proportionality or another proxy measure to determine the eligibility of nonpublic schools under the ARP EANS program, it should contact the Department so that it could work with the State on a path forward to correct the error. As such, FDOE should have contacted the Department to assist it in identifying an

alternative data source that the 73 schools that incorrectly used proportionality data could use to determine their low-income student counts for ARP EANS eligibility purposes.

Finding 3. FDOE’s Oversight of its EANS Expenditure and Inventory Processes Needs Strengthening

We found that FDOE’s oversight of its CRRSA and ARP EANS expenditure and inventory processes needs strengthening. Specifically, FDOE did not have formal written procedures for its expenditure review and approval processes; however, the actions FDOE took to review and approve EANS expenditures generally ensured that both ARP and CRRSA EANS funds were used for allowable services and assistance, except for a specific category of expenditures that required prior approval from the Department. FDOE’s processes did not ensure that nonpublic schools’ equipment purchases with a per unit cost over \$5,000 received prior approval from the Department before making the purchases (as required by Federal regulations).

Regarding other requirements applicable to CRRSA and ARP EANS expenditures, we found that although FDOE inventoried nonpublic schools’ equipment and information technology device purchases over \$5,000 (in order to maintain public control of those purchases), FDOE did not ensure that it inventoried or tracked supplies that were purchased for under \$5,000 per unit cost in adherence with Department guidance.

Additionally, we found that, generally, FDOE communicated clear, accurate, and timely technical assistance and guidance to nonpublic schools regarding expenditure payment requests and allowable uses of funds, but the guidance and instructions did not inform the nonpublic schools that FDOE was required to obtain prior approval for some of the nonpublic schools’ purchases that it funded, and that FDOE would be inventorying or tracking supply purchases for under \$5,000, as explained above.

We also reviewed Florida’s drawdowns from the Department’s G5 grants management system and determined that Florida complied with cash management requirements.

Expenditure and Inventory-Related Technical Assistance and Guidance that FDOE Provided to Nonpublic Schools Was Generally Accurate but Did Not Cover All Requirements

FDOE provided technical assistance and guidance to nonpublic schools on expenditure payment requests, allowable uses of funds, and public control of equipment and supplies. The guidance and technical assistance were provided, in part, through FDOE’s website and webinars. FDOE also developed its own FAQ guidance document for the EANS programs and included expenditure-related information. FDOE provided most of this technical assistance and guidance to nonpublic schools in April and October 2021, which was before the schools could access their EANS funds. We determined that, generally, FDOE communicated clear, accurate, and timely technical assistance,

guidance, and instructions to nonpublic schools regarding expenditure payment requests and allowable uses of funds; however, the guidance did not inform the nonpublic schools that FDOE was required to obtain prior approval for some of the nonpublic schools' purchases, and that FDOE should be tracking the nonpublic schools' use of supplies purchased with a per unit cost under \$5,000, as explained in the sections below.

Issues with FDOE's EANS Expenditure Review and Approval Processes

FDOE officials stated that they do not have formal written procedures that specify how they review and approve expenditures for the two EANS programs, but the processes that they described to us, as well as the actions that they took, generally ensured that funds were used for allowable services and assistance. However, we found that FDOE's processes did not ensure that nonpublic schools' equipment purchases with a per unit cost over \$5,000 received prior approval from the Department before funding the purchases (as required by Federal regulations).

In describing its EANS expenditure review and approval processes, FDOE explained that eligible nonpublic schools did not have direct access to EANS funds. The schools could either use their own funds for allowable expenditures and then request FDOE to reimburse them from their available amount (for CRRSA EANS only); or they could order services or assistance through FDOE-approved vendors included in the contractor payment request system,²⁰ and either the nonpublic school or the vendor would submit a payment request to have the funds sent directly to the vendor (for both CRRSA and ARP EANS). The contractor payment request system was used for both reimbursements and direct payments. The system required the nonpublic school to provide the name of the vendor, the category of service or assistance received, and whether the funds were to come from CRRSA or ARP EANS. To support a payment request relating to reimbursements, the school had to submit supporting documentation such as vendor invoices, a purchase justification statement, and proof of payment. To support a payment request relating to a direct payment to a vendor, either the school or the vendor had to submit an invoice and a justification statement.

²⁰ Before nonpublic schools started submitting expenditure payment requests, FDOE provided the contractor with a list of its existing approved vendors. An IEPC program specialist approves any new vendor that is added to the payment system.

FDOE officials further explained that two IEPC program specialists (reviewers)²¹ reviewed all expenditure payment requests directly in the payment request system, using informal procedure documents that each reviewer had developed. Payment requests were approved if they were able to verify that the total amount requested for payment agreed with the invoice total, the delivery address was the school's address, the bill to address was the vendor's address, the invoice was fully itemized,²² the expenditure was for an approved category,²³ the expenditure was made on or after March 13, 2020 (for CRRSA EANS only), and the request included a justification statement, if applicable.

FDOE officials explained that on a weekly basis, the contractor submitted an invoice to IEPC for the total amount of all nonpublic school requests that had been approved by the reviewers. A program specialist reviewed the contractor's invoice and supporting documentation in the system to ensure that the invoice period was correct, the invoice totals matched the approved payment request, and the invoice included a line item for reimbursements (for CRRSA EANS only) and a line item for direct payments, and then submitted it to the executive director for approval. The program specialist then submitted the approved invoice package to Florida's Comptroller Office for payment to the contractor. The Comptroller's office drew down the EANS funds from G5 for the amount listed on the weekly invoice and sent the funds to the contractor, who paid the nonpublic schools (for reimbursements) and vendors (for direct payments) via electronic funds transfers.

We found that the processes FDOE officials described generally ensured that both ARP and CRRSA EANS funds were used for allowable services and assistance except for a specific category of expenditures that required prior approval from the Department. None of the processes FDOE described included a requirement to obtain prior approval from the Department for nonpublic schools' equipment purchases over \$5,000 per unit cost, which is a Federal requirement.

We tested nonstatistical random samples of EANS expenditures totaling 60 expenditures (30 funded by CRRSA and 30 funded by ARP EANS; each expenditure was at least

²¹ On an as-needed basis, another IEPC staff member helps with the reviewing and approving of payment requests.

²² The invoice must show what was being purchased, the quantity, the unit price, the extended price, and the ship to and bill to entity addresses.

²³ Approved categories are one of the 12 allowable EANS categories, such as supplies to sanitize, disinfect, and clean school facilities, and educational technology (see Appendix B).

\$5,000)²⁴ that amounted to about \$1.9 million, to determine whether FDOE followed the processes that it described to us and whether the expenditures were allowable. We found that FDOE followed its described processes and the expenditures we sampled were for allowable purposes. However, five (8 percent) of the expenditures²⁵ we sampled contained equipment with a per unit cost of \$5,000 or more, and we determined that FDOE did not seek prior approval from the Department before funding these purchases, nor does it have a process or policy to request prior approval. The applicable equipment purchases in the five expenditures totaled \$187,660.

According to 2 C.F.R. section 200.439(b), equipment and other capital expenditures with a unit cost of \$5,000 or more must have prior written approval of the Federal awarding agency or pass-through entity. According to 2 C.F.R. section 200.1, “equipment” is defined as tangible personal property having a useful life of more than one year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000.

Also, regarding written policies and procedures, as stated in Findings 1 and 2, Federal regulations require a non-Federal entity to establish and maintain effective internal control over its Federal award (2 C.F.R. section 200.303(a)). In doing so, management should document in policies its responsibility for an operational process’s objectives and related risks, and control activity design, implementation, and operating effectiveness (GAO’s *Standards for Internal Control in the Federal Government*, Principles 12.02–12.04).

When we asked FDOE why it did not obtain prior approval for equipment purchases over \$5,000, IEPC’s current executive director stated that the statute allows the pass-through entity to provide for the written approval of all proposed expenditures, including those of \$5,000 or more. He considered FDOE to be the pass-through entity for EANS and stated that its approval process has been documented. However, according to Department officials, FDOE is not acting as a pass-through entity for EANS. A pass-through entity is a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C.F.R. 200.74). Department officials further stated that, under the EANS programs, an SEA is not permitted to make subawards, therefore FDOE’s approval of payments would not constitute prior written approval for the purpose of 2 C.F.R. 200.439(b).

²⁴ Our sample included expenditures for items such as service contracts, laptops, printers, and smart board displays.

²⁵ The five expenditures were EANS direct payments to vendors.

When we asked FDOE about its lack of formal written procedures for its expenditure review and approval processes, FDOE's former IEPC deputy executive director stated that staff developed some informal²⁶ written procedure documents for their review and approval processes, therefore FDOE did not believe that it needed to develop or document any additional policy and procedures.

Regarding the lack of prior written approval, because FDOE did not obtain prior written approval from the Department for five equipment purchases that had unit costs of \$5,000 or more, it may have used EANS funds to purchase unallowable equipment totaling \$187,660. Furthermore, without a process to obtain prior written approval, there is a risk that Federal funds will be used for unallowable equipment or capital expenditure purchases of \$5,000 or more.

Regarding the lack of written policies and procedures, without formal documented policies and procedures for reviewing nonpublic school and vendor payment requests, reviewers may not fully understand what is expected of them or what they should be reviewing. This could result in inconsistencies in how FDOE personnel perform these reviews and in missed opportunities to identify unallowable or questionable expenditures that should be analyzed more closely.

Weaknesses in FDOE's EANS Inventory Process

We found that although FDOE had processes in place to inventory nonpublic schools' EANS-funded equipment and information technology device purchases with a per unit cost over \$5,000 (in order to maintain public control of those items), it did not have a process to inventory or track items that were purchased with a per unit cost under \$5,000, which is necessary to comply with Department guidance.

FDOE explained that it maintains a record of all EANS-funded purchases (regardless of price). However, it only inventories nonpublic schools' equipment and information technology device purchases over \$5,000. For such inventoriable items, FDOE explained that in February 2023, it contracted with a vendor (contractor) to develop a Statewide inventory system of equipment and information technology devices (such as computers, projectors, and televisions) with a unit cost of \$5,000 or more that nonpublic schools purchased with EANS funds. FDOE developed an inventory form that nonpublic schools were required to complete and submit to the contractor for equipment and information technology devices it purchased with a per unit cost of \$5,000 or more. The form required nonpublic schools to provide information such as the make, model, and serial

²⁶ FDOE staff that reviewed the expenditures developed their own notes to guide them through the expenditure review process.

number of the item; the use of the item; the payment processing system's order number; purchase price; purchase condition (new or old); purchase date; received date; current location; and disposal information if applicable. The form also required a nonpublic school official's signature affirming that the inventoried item had been properly labeled. Via email, the contractor provided instructions to all EANS-funded nonpublic schools regarding the use of the form, a link to access the inventory system to submit the form, and an inventory tag²⁷ template that the nonpublic schools are required to use to tag the equipment purchases.

Once the forms are received from the schools, the contractor matches the items included on the form to the related invoices in the EANS payment processing system. The contractor contacts (via phone or email) the school if they need clarification about the information included on the form or if any items are missing. If a school does not submit their inventory, the contractor will contact them and notify FDOE if the inventory is not received. If the nonpublic school fails to respond, FDOE notifies the school that future EANS payments will be on hold until they provide an accounting of their inventoried items. When the contractor determines that the school's submission is complete, they send the school an email notifying them that their submission is complete, along with a copy of their final inventory list. The contractor compiles the inventory data into a spreadsheet and provides it to FDOE, as well as copies of each school's individual inventory form.²⁸ The contractor is also required to provide FDOE with monthly reports on its progress. According to the contract, the contractor will update the inventory listing every 4 to 6 months until June 30, 2025.

None of the instructions that FDOE provided to nonpublic schools indicated that it would inventory or track these schools' use of supplies purchased with EANS funds with a per unit cost under \$5,000. Additionally, FDOE did not provide us with policies or procedures indicating that it had or has any plans to inventory or track nonpublic schools' use of supplies purchased with EANS funds with a unit cost under \$5,000.

Under some program statutes, a public agency (usually the subgrantee) must keep title to and exercise continuing administrative control of all equipment and supplies that the subgrantee acquires with program funds (34 C.F.R. section 76.661(a)). These equipment

²⁷ The inventory tag states that the equipment is owned by FDOE.

²⁸ For schools that are non-responsive or whose inventory the contractor is unable to reconcile, FDOE requires the contractor to compile and provide them with a spreadsheet listing the schools, along with a call and email log showing the correspondence between the school and the contractor.

and supplies may be temporarily placed in a private (for example, nonpublic) school if used for a project and removed when no longer needed.

According to 2 C.F.R. section 200.1, “supplies” refers to all tangible personal property other than equipment and could refer to a computing device if the cost is less than the lesser of the cost valued on the non-Federal entity’s financial statement or \$5,000, regardless of the length of its useful life.

According to section E-1 of the Department’s September 2021 EANS FAQ guidance document, to maintain control of EANS funds, an SEA must maintain records of the equipment and supplies it has provided to each nonpublic school. To maintain control over the EANS funds it uses to reimburse a nonpublic school, an SEA must ensure that the SEA or another public agency gains title to materials, equipment, and property for which it provides reimbursement.

Further, in a January 2023 Addendum to the EANS FAQ guidance document,²⁹ the Department stated that an SEA must maintain an inventory of all supplies placed in a nonpublic school and should implement periodic checks on the use of the supplies to determine whether the supplies are still in use and being used for allowable purposes. Periodic checks could include emails and surveys to collect needed information.

When we asked FDOE why it did not have a process to inventory or track items that were purchased with a per unit cost under \$5,000, IEPC’s current executive director provided a written response stating that FDOE developed the contract to inventory equipment following guidance in 2 C.F.R. section 200.313 and definitions in section 200.1. Therefore, FDOE believes that it is in compliance with section 312(d)(7) of CRRSA.³⁰ FDOE also stated that it maintains a record of every item that it approved for purchase, and that applicants were required to acknowledge in their applications that FDOE would assume ownership and title to all materials, equipment, and property purchased using EANS funds, including reimbursements.

Further, FDOE asserted that the Department’s EANS FAQ guidance document is nonbinding to the extent that it adds a requirement (e.g., requiring an inventory), especially where the guidance conflicts with the express language of existing

²⁹ FAQ, Disposition of Equipment and Supplies, EANS Program (January 23, 2023).

³⁰ This section requires that control of funds for the services or assistance provided to a nonpublic school, and title to materials, equipment, and property purchased with EANS funds, must be in a public agency, and that a public agency must administer the funds, services, assistance, materials, equipment, and property.

regulations. The Department’s guidance describes how SEAs might maintain administrative control of both equipment and supplies that continue to be used in a nonpublic school after the EANS performance period ends; however, it is equally relevant during the performance period. FDOE is responsible for administering the EANS programs in accordance with all applicable requirements. This extends to understanding if and how items purchased with EANS program funds are being used in nonpublic schools. Without a process for tracking and periodically checking on the use of EANS-funded supply purchases with a unit cost under \$5,000, there is an increased risk of supplies being lost, unused, or used for unallowable purposes.

Recommendations

We recommend that the Assistant Secretary for the Office of Elementary and Secondary Education require FDOE, in consultation with the Governor of Florida, to—

- 3.1 Formally document its expenditure review and approval procedures to guide FDOE personnel through the expenditure review and approval processes. The procedures should be designed to ensure compliance with applicable requirements, including those pertaining to EANS in both CRRSA and ARP EANS as well as the regulations at 2 C.F.R. Part 200 (Uniform Guidance).
- 3.2 Retroactively obtain prior written approval from the Department for the 5 equipment expenditures or return the \$187,660 expended for those equipment purchases and perform a review of the remaining equipment expenditures to determine whether there are additional purchases that require prior written approval. FDOE should also incorporate into its grants management policies and procedures a step to determine whether it is required to obtain prior approval from the Department for certain expenditures related to any Department grants, or whether it can provide prior approval for subrecipients.
- 3.3 Develop a process to track and periodically check on the use of EANS-funded supply purchases with a unit cost under \$5,000 to ensure that all supplies are accounted for and used for allowable purposes.

FDOE’s Response

FDOE did not state whether it agreed or disagreed with Finding 3 and the related recommendations. However, FDOE stated the corrective actions that it is taking or plans to take to address the recommendations. Regarding Recommendation 3.1, FDOE stated that it is developing procedures to guide personnel through the expenditure review and approval process and will utilize these procedures in the remaining weeks of ARP EANS.

Regarding Recommendation 3.2, FDOE stated that it will work with the Department's Office of State and Grantee Relations to comply with applicable statute and rule.

Regarding Recommendation 3.3, FDOE stated that it will work with the Department's Office of State and Grantee Relations to comply with applicable statute and rule. FDOE also stated that the Department's guidance relating to inventorying and performing periodic checks on the use of supplies purchased using EANS funds is non-binding and cannot be the basis for a finding.

OIG's Response

FDOE's proposed corrective action to address Recommendation 3.1 is responsive to the recommendation if the procedures it is developing are designed to ensure compliance with applicable requirements, including those pertaining to EANS as well as the regulations at 2 C.F.R. Part 200.

FDOE's proposed corrective action to address Recommendation 3.2 is partially responsive to the recommendation if it includes working with the Department to retroactively obtain prior written approval for the five equipment expenditures or returning the \$187,660 expended for those equipment purchases and reviewing the remaining equipment expenditures to determine whether prior approval is warranted. FDOE did not state a corrective action relating to the inclusion of steps into its grants management policies and procedures that addresses prior approvals for certain expenditures involving Department grant funds.

FDOE's proposed corrective action to address Recommendation 3.3 is responsive to the recommendation if the process it develops is designed to ensure EANS-funded supply purchases with a unit cost under \$5,000 are accounted for and used for allowable purposes.

We agree with FDOE's statement that the Department's guidance relating to inventorying and periodically checking supplies purchased using EANS funds is non-binding; however, as noted in the report, the finding is based on Federal regulation and internal control standards. The Department provides guidance to assist grantees with interpreting the law and it was used in the finding to clarify the requirements. As stated in the finding, 34 C.F.R. section 76.661(a) states that, "Under some program statutes, a public agency (usually the subgrantee) must keep title to and exercise continuing administrative control of all equipment and supplies that the subgrantee acquires with program funds. These equipment and supplies may be temporarily placed in a private (for example, nonpublic) school if used for a project and removed when no longer needed." The ARP EANS program is applicable to such statute. In addition, 2 C.F.R. section 200.314 states that if there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the

project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them. If FDOE does not keep an inventory of all EANS-funded supply purchases with a unit cost under \$5,000, it does not have public control of the funds and cannot determine the aggregate value of the supplies purchased with EANS funds when the EANS programs have ended.

Appendix A. Scope and Methodology

Our audit covered FDOE’s processes for reviewing and approving nonpublic schools’ applications and overseeing nonpublic schools’ use of EANS funds for the period March 13, 2020, through June 30, 2023.

To achieve our objectives, we reviewed and gained an understanding of the following laws, regulations, and guidance relevant to CRRSA and ARP EANS:

- CRRSA (P.L. 116-260, December 27, 2020), section 312 (“Governor’s Emergency Education Relief Fund”);
- ARP (P.L. 117-2, March 11, 2021), section 2002, (“Emergency Assistance to Non-Public Schools”);
- Department guidance, including the Certification and Agreement for Funding EANS Program under CRRSA; ARP EANS Webinar (February 24, 2022); FAQ, EANS Program as authorized by CRRSA and ARP (Updated September 17, 2021); Addendum to FAQ, EANS Program as authorized by CRRSA and ARP (January 23, 2023); FAQ, Disposition of Equipment and Supplies, EANS Program (January 23, 2023); the Department’s EANS Monitoring Protocol; Final Requirements for ARP EANS Federal Register Vol. 86, No. 131 (July 13, 2021); and the Department’s letter to States on ARP EANS and the Use of Proportionality to Determine Nonpublic School Eligibility (July 29, 2022);
- Florida’s Grant Award Notification for the CRRSA and ARP EANS programs;
- GAO’s *Standards for Control in the Federal Government* (September 2014);
- 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; and
- 34 C.F.R. Part 76, State Administered Programs.

We gained an understanding of FDOE’s application and oversight processes through interviews with key FDOE and contractor officials who had knowledge of or were responsible for establishing, administering, or overseeing the CRRSA and ARP EANS programs. To assess the reliability of the testimonial evidence, we compared information obtained from interviews with records related to FDOE’s application and oversight activities when provided by the interviewees. We concluded that the testimonial evidence we obtained was sufficiently reliable within the context of our audit objectives.

We assessed the adequacy of FDOE’s application and nonpublic school eligibility determination processes by (1) reviewing the applications that FDOE developed for the CRRSA and ARP EANS programs to determine whether they contained data fields that

would allow FDOE to properly assess a school's eligibility and prioritize schools as required by law, (2) assessing the timeliness of FDOE's dissemination of EANS program information and related applications, and (3) testing a sample of nonpublic schools' applications to determine whether FDOE properly determined the schools' eligibility.

We also gained an understanding and assessed the adequacy of FDOE's oversight processes through reviews of relevant documents and records. We reviewed documents identifying FDOE's offices and staff who had a role in establishing, administering, or overseeing the CRRSA and ARP EANS programs. We reviewed and evaluated the guidance and technical assistance (such as FDOE's FAQ document, webinars, and emails) that FDOE provided to nonpublic schools regarding use of CRRSA and ARP EANS funds. We also reviewed the informal procedure documents developed by reviewers to further our understanding of how FDOE reviewed and approved EANS payment requests for services and assistance.

We assessed the implementation of FDOE's oversight processes by testing samples of CRRSA and ARP EANS expenditures to determine whether they complied with applicable requirements. Specifically, we reviewed each expenditure to determine whether it was (a) connected to the pandemic, (b) authorized under applicable law and regulations, (c) reasonable and necessary in accordance with the Uniform Guidance, and (d) sufficiently supported. We also determined whether purchased equipment and supplies in the samples were properly approved and inventoried, if applicable.

Lastly, we reviewed Florida's drawdowns from the Department's G5 grants management system to determine whether Florida complied with cash management requirements.

Sampling Methodology

To determine whether FDOE designed and implemented application processes that adequately assessed nonpublic schools' eligibility for EANS-funded services or assistance and complied with other applicable requirements, we selected nonstatistical, random samples of applications for both CRRSA and ARP EANS—a total of 10 approved applications and 10 rejected applications from the universe of 1,203 nonpublic schools that applied for both programs. Specifically, we sampled 10 (2 percent) of the 579 nonpublic schools that applied to participate in the CRRSA EANS program. This consisted of 5 (1 percent) of the 514 nonpublic schools that applied and were deemed eligible and 5 (8 percent) of the 65 nonpublic schools that applied and had their applications rejected. For ARP EANS, we sampled 10 (2 percent) of the 624 nonpublic schools that applied. This consisted of 5 (1 percent) of the 490 nonpublic schools that applied and were deemed eligible and 5 (4 percent) of the 134 nonpublic schools that applied and had their applications rejected.

To determine whether FDOE’s oversight processes ensured that EANS funds were used for allowable purposes and that FDOE maintained public control of the assets acquired with those funds, we selected nonstatistical, random samples of nonpublic schools’ expenditures of CRRSA and ARP EANS funds of \$5,000 or more. We sampled a total of 60 (1 percent) of the 8,878 expenditures of \$5,000 or more that were charged to both EANS programs. For the CRRSA EANS program, we sampled 15 (1 percent) of the 1,564 expenditures that were reimbursement payments to nonpublic schools and 15 (< 1 percent) of the 4,377 expenditures that were direct payments to vendors. For the ARP EANS program, we sampled 30 (1 percent) of the 2,937 expenditures that were direct payments to vendors.

To determine whether FDOE complied with cash management requirements, we selected a nonstatistical sample using a systematic sampling design of the weekly invoices that the payment processing system vendor submitted to FDOE for both the CRRSA and ARP EANS programs during our audit period. For both EANS programs, we sampled the 3 weekly invoices that included the first, tenth, and twentieth orders of products or services that pertain to the sample of 30 expenditures we had previously selected to determine expenditure allowability.³¹ For CRRSA EANS, the sample represented 3 percent of the 110 weekly invoices that the vendor submitted for CRRSA EANS expenditures during the audit period.³² For ARP EANS, the sample represented 5 percent of the weekly invoices submitted for ARP EANS expenditures during the audit period.³³

The results of our testing apply only to the samples selected and cannot be projected.

Internal Controls

We obtained an understanding of all five areas of internal control (control environment, risk assessment, control activities, information and communication, and monitoring) as they related to FDOE’s processes for ensuring that nonpublic schools were eligible and used CRRSA and ARP EANS funds in accordance with applicable requirements. We

³¹ We judgmentally selected the intervals of selection with no known patterns in the invoices with these intervals.

³² The 3 CRRSA EANS invoices represent \$5,497,853 of the total \$172,467,347 in expenditures included on the 110 weekly invoices.

³³ The 3 ARP EANS invoices represent \$5,933,546 of the total \$96,778,170 in expenditures included on the 62 weekly invoices.

limited our internal control work to the two areas we deemed significant to the audit objective: information and communication and control activities.

Information and communication—identification of information requirements and communication throughout the entity.

Control activities—design of appropriate types of control activities, design of control activities at various levels, and documentation of responsibilities through policies.

As discussed in the findings, we concluded that FDOE’s application process (control activities) for assessing nonpublic schools’ eligibility for CRRSA EANS-funded services and assistance was adequate except for a lack of documented procedures (See [Finding 1](#)), its ARP application process did not ensure that FDOE could use the application data to adequately assess nonpublic schools’ eligibility (See [Finding 2](#)), and its oversight processes for its expenditure review and inventory system need strengthening (See [Finding 3](#)).

Use of Computer-Processed Data

We relied, in part, on computer-processed data (spreadsheets) provided by FDOE to select and review the CRRSA and ARP EANS nonpublic school applications that we sampled. Data provided by the applicants were summarized in spreadsheets. We obtained these computer-processed application data and a copy of the electronic applications. To assess the reliability and completeness of the data, we compared the fields in the applications to the fields in the spreadsheets and found that the fields matched, and that all fields contained in the applications were included in the spreadsheets.³⁴ Some of the fields included were total student enrollment, the data source used to determine the number of students from low-income families, and whether the school indicated that it received a PPP loan prior to December 27, 2020. Based on this assessment, we concluded that the data were sufficiently reliable for their intended use.

We obtained the universes of expenditures for both CRRSA and ARP EANS for the audit period. We used the universes to select samples of expenditures for detailed testing to determine whether FDOE’s oversight processes ensured that EANS funds were used for allowable purposes. To assess the completeness of the data, we compared total CRRSA and ARP EANS expenditures to amounts drawn down by FDOE from the Department’s G5 grants management system for the audit period. To assess the reliability of the expenditure data, we traced the expenditures to supporting documentation, such as invoices and reviewers’ notes for our sample of 60 expenditures (30 expenditures for

³⁴ We performed these steps for the applications that we sampled.

each EANS program). We did not identify any issues and concluded that the data were sufficiently reliable for their intended use.

We also relied on computer-processed data (inventory listing) provided by FDOE to determine whether FDOE maintained public control over EANS-funded assets. We assessed the reliability and completeness of these data by comparing the expenditures in our CRRSA and ARP EANS samples to the inventory listing. Based on this assessment, we concluded that the data were sufficiently reliable for their intended use.

Finally, we relied, in part, on computer-processed data (weekly invoices) provided by FDOE, and the Department's G5 grants management system to determine whether FDOE complied with cash management requirements. The G5 grants management system is the official system of record for the Department's grants data. As a result, we considered it to be the best available data for its intended purpose. To assess the reliability of the data, we traced payment amounts from the weekly invoices to FDOE's drawdowns from the Department's G5 grant management system during our audit period. To assess the completeness of the data, we compared total CRRSA and ARP EANS expenditures to amounts drawn down by FDOE from the Department's G5 grants EANS management system for the audit period. Based on this assessment, we concluded that the computer-processed data were sufficiently reliable for their intended use.

Compliance with Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We remotely conducted our audit from June 2023 through April 2024. We discussed the results of our audit with FDOE officials on April 2, 2024.

Appendix B. Allowable Uses of EANS Funds

According to section D-1 of the Department's September 2021 EANS FAQ guidance document, a nonpublic school may apply to receive services and assistance from the SEA or its contractors to address educational disruptions resulting from the COVID-19 emergency. These services and assistance include:

1. Supplies to sanitize, disinfect, and clean school facilities.
2. Personal protective equipment (PPE).
3. Improving ventilation systems, including windows or portable air purification systems.
4. Training and professional development for staff on sanitization, the use of PPE, and minimizing the spread of infectious diseases.
5. Physical barriers to facilitate social distancing.
6. Other materials, supplies, or equipment recommended by the Centers for Disease Control and Prevention for reopening and operation of school facilities to effectively maintain health and safety.
7. Expanding capacity to administer coronavirus testing to effectively monitor and suppress the virus.
8. Educational technology (including hardware, software, connectivity, assistive technology, and adaptive equipment) to assist students, educators, and other staff with remote or hybrid learning.
9. Redeveloping instructional plans, including curriculum development, for remote or hybrid learning, or to address learning loss.
10. Leasing sites or spaces to ensure safe social distancing, including guidelines and recommendations from the Centers for Disease Control and Prevention.
11. Reasonable transportation costs.
12. Initiating and maintaining education and support services or assistance for remote or hybrid learning or to address learning loss.

Under CRRSA EANS, but not ARP EANS, reimbursement is allowed for the expenses of any services or assistance described above that a nonpublic school incurred on or after March 13, 2020, except for:

- Improvements to ventilation systems (including windows), except for portable air purification systems, which may be reimbursed.

- Staff training and professional development on sanitization, the use of PPE, and minimizing the spread of the COVID-19.
- Redeveloping instructional plans, including curriculum development, for remote or hybrid learning or to address learning loss.
- Initiating and maintaining education and support services or assistance for remote or hybrid learning or to address learning loss.
- Any expenses reimbursed through a loan guaranteed under the PPP (15 U.S.C. 636(a)) prior to December 27, 2020.

Appendix C. Acronyms and Abbreviations

ARP	American Rescue Plan
C.F.R.	Code of Federal Regulations
COVID-19	Coronavirus Disease 2019
CRRSA	The Coronavirus Response and Relief Supplemental Appropriations Act
Department	U.S. Department of Education
EANS	Emergency Assistance to Nonpublic Schools
FAQ	frequently asked questions
FDOE	Florida Department of Education
GAO	U.S. Government Accountability Office
IEPC	Florida’s Office of Independent Education and Parental Choice
LEA	local educational agency
PPE	personal protective equipment
PPP	Paycheck Protection Program
SEA	State educational agency
U.S.C.	United States Code

FDOE's Comments



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Commissioner of Education

July 12, 2024

Selina Boyd
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
61 Forsyth Street, Room 19T30
Atlanta, Georgia 30303

Reference: Audit Control Number ED-OIG/A23GA0135

Dear Ms. Boyd:

Thank you for the submission of the draft audit report. The Florida Department of Education has the following responses to two of the findings:

Regarding Finding 2: FDOE's ARP EANS Application Processes Allowed Nonpublic Schools to Use Unallowable Data to Determine Low-Income Student Eligibility:

FDOE Response: Some schools where student scholarship or free and reduced-price lunch data was not available were permitted to use proportionality data consistent with EANS I. (CRRSA EANS) In our application, the FDOE permitted this data source because we believe it to be consistent with the statutory language, regulations and prior uses of such data. Additionally, the application was published prior to informal, non-binding guidance by the Department of Education's Office of Elementary and Secondary Education (OESE) which indicated OESE's interpretation that the use of proportionality would not be "data from a different source" permissible for ARP EANS.

A. Proportionality is a reasonable allocation methodology supported by prior guidance and regulations.

As noted, the Final Requirements for ARP EANS published in the *Federal Register* indicated that allowable data sources included "(i) Data on student eligibility for free or reduced-price lunch under the Richard B. Russell National School Lunch Act (43 U.S.C. 1751 et seq.); (ii) Data from the E-rate program administered by the Federal Communications Commission (47 CFR 54.500, 54.505(b)); (iii) Data from a different source, such as scholarship or financial assistance data; or (iv) Data from a survey developed by the SEA." Because not all our non-public schools participate in school meal programs or E-

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rate, and because surveys are time-consuming and can yield inaccurate or approximate data, we looked to the option of “data from another source,” which we read to include data on proportionality.

Notably, proportionality as a data source was explicitly permitted in CRRSA EANS. The statutory language makes no distinction between the CRRSA EANS and ARP EANS that would indicate allowable data sources would change. Section 312(d) of CRRSA lays out the application requirements for non-public schools, including “the number and percentage of students from low-income families enrolled by such non-public school in the 2019–2020 school year.” Then in Section 2002(a) of ARP, Congress simply appropriates additional funding for the EANS program and does not change application requirements, relying on the language passed in CRRSA and implying that allocation should follow the same process. The preamble to the Final Requirements for ARP EANS published in the federal register states that “except for the two exceptions noted in the statute, all of the requirements in the CRRSA EANS program apply to ARP EANS funds,” indicating that the programs should be treated similarly.

ARP does limit EANS services and assistance to non-public schools “that *enroll* a significant percentage of *low-income students and are most impacted by the qualifying emergency*” [emphasis added]. But CRRSA also requires States to identify schools that enroll low-income students, noting that: “[a] State educational agency receiving funds under this subsection shall prioritize services or assistance to non-public schools that *enroll low-income students and are most impacted by the qualifying emergency*” [emphasis added] (Section 312(d)(3)(C)). In fact, the only substantive change between these two programs (aside from ARP’s prohibition on reimbursements) is the shift from *prioritizing* such schools to the limitation *only* to serve schools with a “significant” percentage of those same at-risk students.

Further, the language referenced mirrors the allocation language in OESE’s own guidance for Title I equitable services. That guidance states that “[a]n LEA may apply the low-income percentage of each participating Title I public school attendance area to the number of private school children who reside in that school attendance area to derive the *number of private school children from low-income families* [emphasis added],” indicating that the information derived through proportionality calculations meets the standard set out in the statute. Given that guidance indicates these proportionality calculations in Title I yield a “number of... children from low-income families,” it was logical for FDOE to apply the same methodology to derive a “number and percentage of students from low-income families” for the purposes of ARP-EANS.

B. Agency guidance to the contrary was not provided in a timely manner which would allow the State to modify allocations accordingly.

Additional guidance provided by OESE on this matter was not timely or binding per 2 CFR 200.105(b). Florida received its Grant Award Notice (GAN) for ARP-EANS on September 28, 2021. Under EANS, States were required to obligate funds to schools within six months of receiving their allocations, giving

the State until the end of March to finalize the program. In the guidance for CRRSA EANS, OESE notes that “[c]onsidering the short timeframe, the Department encourages an SEA to allow for the use of existing, generally available poverty data to enable reasonable estimates of a school’s low income status rather than requiring a new data collection” and also says that “[a]lthough an SEA may develop a survey to collect poverty data, the Department discourages surveys because of the length of time they take.”

Acting quickly, FDOE released its ARP-EANS application to non-public schools in Florida on October 25, 2021, following the same model as EANS I. The State finalized its ARP-EANS eligibility determinations and allocations on January 25, 2022, using the sources of data indicated in its application: school meal data under the Richard B. Russell National School Lunch Act, E-Rate data, and “data from a different source,” such as scholarships, surveys and proportionality data. Of the 624 nonpublic schools FDOE allocated services to under ARP EANS, only 8.5 percent relied on proportionality data.

The first indication that OESE did not consider proportionality to be allowable was in a webinar hosted by OESE on February 24, 2022. Additional communication regarding proportionality was not sent directly to States until August 1, 2022 – more than six months after FDOE had completed the process.

Florida did what Congress asked and allocated services to private schools promptly and consistent with a reasonable interpretation of federal law and the program’s “Final Requirements.” Even had FDOE staff been notified of the new interpretation prior to August of 2022, contacting private schools for additional data and reallocating ARP-EANS at that late date would have been unworkable as well as inconsistent with the requirement to obligate funds within six months.

Regarding Finding 3: FDOE’s Oversight of its EANS Expenditure and Inventory Processes Needs Strengthening

FDOE’s Response: The Inspector General’s recommendations come in three parts. The FDOE will respond to each one in turn:

Recommendation 3.1: Formally document expenditure review and approval procedures to guide FDOE personnel through the expenditure review and approval processes.

- Response: The FDOE is developing procedures to guide personnel through the review and approval process and will utilize these procedures in the remaining weeks of ARP EANS.

Recommendation 3.2: Retroactively obtain prior written approval from the U.S. Department of Education for the five equipment purchases highlighted in this audit that had a per-unit cost of more than \$5,000 and perform a review of remaining equipment expenditures to determine whether there are additional purchases that require prior written approval.

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- Response: The FDOE will work with the U.S. Department of Education's State and Grantee Relations to comply with applicable statute and rule.

Recommendation 3.3: Develop a process to track and periodically check on the use of EANS-funded supply purchases with a unit cost under \$5,000 to comply with the Department's guidance.

- Response: The FDOE will work with the USDOE's State and Grantee Relations to comply with applicable statute and rule. FDOE notes that the USDOE's guidance is non-binding and cannot be the basis for a finding.

Sincerely,

Manny Diaz, Jr.
Commissioner of Education