UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT FOR LIMITED ENGLISH PROFICIENT STUDENTS

MEMORANDUM

TO: **SEA list serve**

FROM: **Assistant Deputy Secretary, Kathleen Leos**

DATE: **03/02/2006**

SUBJECT: **Clarification on Title III requirements**

Enclosed is a document from the US Dept of Education, Office of English Language Acquisition (OELA), that addresses issues and concerns raised at the SEA directors meeting, which was held in Washington, DC, Nov. 29, 2005. The document specifically addresses a number of issues concerning the responsibilities of LEAs and SEAs in those cases in which the eligible entity receiving a Title III subgrant is a consortium consisting of more than a single LEA. If you have any further questions or need for additional clarification, please contact me at 202-245-7100.

Regards,

Kathleen Leos
Assistant Deputy Secretary

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Questions and Answers Regarding Consortia of LEAs Under Title III, Part A

Under the Title III State Formula Grant Program, if an LEA does not have a sufficient number of limited English proficient (LEP) students enrolled to qualify for a minimum subgrant of $10,000 under Section 3114(a), it may – to be part of an eligible entity that meets this minimum -- apply for a subgrant jointly in consortia with other LEAs. A consortium of LEAs must meet the same Title III requirements applicable to all LEA subgrantees. However, SEAs are ultimately responsible for ensuring that all Title III subgrantees, including consortia, meet Title III requirements. As States have embarked upon providing Title III subgrants to consortia, numerous questions have arisen regarding the administration of subgrants to consortia and the responsibilities of the LEA members of such consortia, including accountability for consortia in meeting Title III annual measurable achievement objectives (AMAOs). These questions and their responses are presented below.

1. What is the definition of local educational agency?

Title IX, Section 9101 (26) defines "local educational agency" "in general" as "a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools."

2. What is the definition of educational service agency?

Under Title IX, Section 9101(17) the term "educational service agency" means "a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies." This definition may be useful for States and LEAs in determining the roles and responsibilities of State entities such as intermediate units and regional service centers.

3. What responsibilities does a consortium of LEAs have in terms of meeting Title III requirements?

A consortium of LEAs formed as an eligible entity for the purpose of receiving a Title III sub grant under Section 3114(a), is responsible for meeting all of the Title III requirements just like any other individual LEA subgrantee. In order to enter into a consortium, participating LEAs must develop a memorandum of understanding or alternative arrangement that outlines how the consortium will meet all Title III requirements, including: Title III AMAOs, parental notification to parents of participating LEP students, and participation in an improvement plan if the consortium as a whole, or individual LEAs within the consortium, fail to meet Title III AMAOs for two consecutive years. It is the responsibility of the SEA to provide guidance to LEAs in the State regarding the designation of a fiscal agent and any other information to be included in such agreements.

4. When must a LEA consortium designate a fiscal agent?

A consortium must designate one of the LEAs as its fiscal agent either in its consortium application to the SEA or in a separate contractual arrangement.

5. What is the role of the fiscal agent?

The fiscal agent is responsible for ensuring that consortium members fulfill their fiscal and programmatic responsibilities as subgrantees under Title III, including meeting the annual measurable achievement objectives (AMAO)'s defined in Section 3122 of the statute.

6. How does the fiscal agent ensure that the consortium members fulfill their subgrantee responsibilities?

The fiscal agent is responsible for taking steps, either on its own, through its LEA partners, or in conjunction with the SEA, that result in all participating LEAs meeting their responsibilities under Title III to the LEP children they serve.

7. What is the role of an educational service agency that is the designated fiscal agent for a consortium?

An educational service agency that is the designated fiscal agent for a consortium has the same role and responsibilities as any other LEA that has been designated fiscal agent.

8. How does a SEA determine whether a consortium has met Title III AMAOs?

An SEA must aggregate the data from all LEAs in a consortium to determine if the consortium as a whole met each of the Title III AMAOs.

9. How should a consortium of LEAs notify parents if it fails to meet Title III AMAO targets?

Under the parental notification requirements in Section 3302, an eligible entity that fails to meet the AMAOs in any year is required to notify the parents of LEP students served under Title III of that failure. In a consortium, the fiscal agent must ensure that such notice is provided to parents. The fiscal agent may either delegate this responsibility to each of the LEAs in the consortium, or the fiscal agent may choose to notify all the parents of the LEP children served by the consortium.

10. Must Title III funded consortia develop improvement plans if they do not meet Title III AMAOs?

Yes. All Title III funded LEAs, including a consortium of LEAs that do not meet AMAO targets for two consecutive years must develop an improvement plan (Section 3122(b)(2)). This improvement plan must address the factors that prevented the subgrantee from meeting AMAO targets.

11. What is the role of the fiscal agent to oversee the development and implementation of an improvement plan?

The fiscal agent is responsible for ensuring that an improvement plan is developed and submitted to the SEA. The fiscal agent can delegate the responsibility for drafting of the plan to its LEA members, in particular, those LEAs in the consortium that did not meet the AMAO's and would include in the plan the specific areas that caused the consortium to not meet the Title III AMAO's. The consortium memorandum of understanding or its application to the SEA should specify the responsibilities of both the fiscal agent and the individual LEAs with regard to developing and implementing the improvement plan. The fiscal agent could seek technical assistance from the State, both for itself and the LEAs in the consortium, on the preparation of an improvement plan. A fiscal agent that lacks the authority to compel an LEA to take steps required either by Title III or by the SEA to meet its AMAOs should seek assistance from its SEA.