

**DEPARTMENT OF EDUCATION****Intent to Repay to the South Dakota Department of Education and Cultural Affairs Funds Recovered as a Result of a Final Audit Determination****AGENCY:** Department of Education.**ACTION:** Notice of intent to award grantback funds.

**SUMMARY:** Under section 459 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234h (1988), the U.S. Secretary of Education (Secretary) intends to repay to the South Dakota Department of Education and Cultural Affairs (South Dakota), under a grantback arrangement, an amount equal to 75 percent of the principal amount of Vocational Education Basic Grant funds recovered by the U.S. Department of Education (Department) as a result of the final audit determination (ACN: 08-92255) in this matter. The Department's recovery of funds followed a settlement reached between the parties under which South Dakota refunded \$50,000, in principal, to the Department in full resolution of the Department's final audit determination for fiscal year (FY) 1988. This notice describes South Dakota's plan for the use of the repaid vocational education funds and the terms and conditions under which the Secretary intends to make those funds available. This notice invites comments on the proposed grantback.

**DATES:** All comments must be received on or before March 22, 1996.**ADDRESSES:** All written comments should be addressed to Dr. Marcel R. DuVall, Chief, Finance Branch, Division of Vocational-Technical Education, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue SW., (Mary E. Switzer Building, Room 4320, MS-7324), Washington, DC 20202.**FOR FURTHER INFORMATION CONTACT:** Dr. Marcel R. DuVall. Telephone: (202) 205-9502. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.**SUPPLEMENTARY INFORMATION:****A. Background**

Under a settlement agreement between the Department and South Dakota, the Department recovered \$50,000 from South Dakota in full resolution of all claims arising from an audit of the South Dakota Department of Education and Cultural Affairs, covering FY 1988.

The Department's original claim of \$150,000 was contained in a program determination letter (PDL) issued by the Assistant Secretary for Vocational and Adult Education on March 29, 1991. This claim arose from findings related to South Dakota's payment of interest charges on a State construction bond. The disputed funds were provided to South Dakota under the provisions of the Carl D. Perkins Vocational Education Act, 20 U.S.C. 2301 *et seq.* (1988) (Perkins I).

In particular, the Assistant Secretary determined in the March 29, 1991, PDL that South Dakota had not obtained prior approval for the use of these Federal funds for construction and that the \$150,000 had been used by the State in such a way as to supplant non-Federal funds. In addition, the Assistant Secretary determined that the \$150,000 in Federal funds had been used by the State to make interest payments on the construction bond debt, in violation of the prohibition against the use of Federal funds for making interest payments. See 34 CFR Part 74, Appendix C, Part II.D.7. (1988).

The parties entered into a settlement agreement on August 9, 1993, resolving fully all claims in this matter. In accordance with the terms of the settlement agreement, South Dakota repaid a principal amount of \$50,000 to the Department on August 26, 1993.

**B. Authority for Awarding a Grantback**

Section 459(a) of GEPA, 20 U.S.C. 1234h(a), the authority applicable to this grantback request, provides that whenever the Secretary has recovered funds paid under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this grantback arrangement if the Secretary determines that—

(1) The practices or procedures of the recipient that resulted in the violation of law have been corrected, and the recipient is in all other respects in compliance with the requirements of that program;

(2) The recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or

by the misuse of funds that resulted in the recovery; and

(3) The use of the funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

**C. Plan for Use of Funds Awarded Under a Grantback Arrangement**

Pursuant to section 459 of GEPA, South Dakota has applied for a grantback of \$37,500, or 75 percent of the recovered funds. South Dakota has submitted a plan for use of the proposed grantback funds, consistent with the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Perkins II), 20 U.S.C. 2301 *et seq.*, which is currently in effect. South Dakota plans to implement a State mentoring program for new postsecondary vocational-technical education instructors, who are drawn, in most cases, directly from the fields of business and industry. These individuals possess vast technical knowledge but have a limited teacher education background.

Specifically, South Dakota plans to use the requested grantback funds totaling \$37,500 to—

(1) Pay salary costs needed to provide one Statewide Coordinator, four Educational Mentor Specialists, four Division Mentor Specialists, four Support Mentor Specialists, and substitutes to assist with workshops and meetings (\$12,900);

(2) Facilitate travel to a three-day training institute for Coordinators and Division and Educational mentors, and for meetings between Education and State Coordinators and three University Coordinators to establish curriculum and articulation agreements (\$13,343);

(3) Contract services to provide eight, two-hour presentations by means of the Rural Development Telecommunication Network (RDTN). This system uses two-way audio and video communication to link a single instructional facility to off-site locations (\$1,920); and

(4) Provide printing, postage, and materials needed to carry out the mentoring program objectives (\$9,337).

Southeast Technical Institute in Sioux Falls, South Dakota, will serve as the lead institute for organizing and delivering the mentoring program to all statewide program areas. The basic curriculum entitled, "Foundations in Postsecondary Instruction," will be delivered by the mentor specialists using two lecture hours and two lab hours per week for one semester and also via the RDTN to the four State-supported, postsecondary technical institute site locations that will be utilized for instruction. "Foundations in

Postsecondary Instruction" will include the following topics: Classroom Discipline, Philosophy of Vocational Education, Curriculum Development, Teaching Styles, Teaching Applications, Outside Resources, Testing/Portfolio, Evaluation Feedback, and Special Populations.

#### D. The Secretary's Determination

The Secretary has carefully reviewed the plan submitted by South Dakota and other relevant documentation. Based upon that review, the Secretary has determined that the conditions under section 459 of GEPA have been met.

This determination is based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action at a later date. In finding that the conditions of section 459 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

#### E. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in

the Federal Register a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 459(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the South Dakota Department of Education and Cultural Affairs under a grantback arrangement. The grantback award will be in the amount of \$37,500, which is 75 percent—the maximum percentage authorized by the statute—of the principal amount of Vocational Education Basic Grant funds recovered by the Department as a result of the final audit determination and the settlement in this matter.

#### F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

South Dakota agrees to comply with the following terms and conditions under which payment under a grantback arrangement will be made:

(1) South Dakota will expend the funds awarded under the grantback in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that was submitted and any amendments in that plan that are approved in advance of the grantback by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance of the grantback by the Secretary.

(2) All funds received under the grantback arrangement must be obligated by September 30, 1996, in accordance with section 459(c) of GEPA and South Dakota's plan.

(3) South Dakota will, no later than January 1, 1997, submit a report to the Secretary that—

(a) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved budget; and

(b) Describes the results and effectiveness of the project for which the funds were spent.

(4) Separate accounting records must be maintained to document the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.048, Basic State Grants for Vocational Education)

Dated: February 13, 1996.

Patricia W. McNeil,

*Acting Assistant Secretary, Office of Vocational and Adult Education.*

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