

DEPARTMENT OF EDUCATION**Intent To Repay to the State of Illinois
Department of Human Services Funds
Recovered as a Result of a Preliminary
Department Decision**

AGENCY: Office of Special Education and Rehabilitative Services, 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 (1994), the U.S. Secretary of Education intends to repay to the State of Illinois Department of Human Services (IDHS), under a grantback arrangement, an amount equal to 75 percent of the principal amount of funds recovered by the U.S. Department of Education (Department) as a result of a Preliminary Department Decision (PDD). This notice describes the IDHS' plan for the use of the repaid 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: We must receive your comments on or before July 6, 2001.

ADDRESSES: Address all comments about the proposed grantback to Syed M. Asghar, U.S. Department of Education, 400 Maryland Avenue, SW., room 3215, Switzer Building, Washington, DC 20202-6132. If you prefer to send your comments through the Internet, use the following address: syed.asghar@ed.gov.

FOR FURTHER INFORMATION CONTACT:

Syed M. Asghar. Telephone: (202) 205-3015. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain the document in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**A. Background**

In August 1998, the Department recovered \$4,942,253 from the IDHS under the terms of a Settlement Agreement entered into between IDHS and the Department on June 17, 1998, which resolved the audit determination of the June 20, 1997 PDD, bearing Audit Control Number 05-53012. The PDD originally sought a refund in the amount of \$11,173,422 for violations of the Office of Management and Budget (OMB) Circular A-87 relating to the charging of indirect costs to the State's Vocational Rehabilitation (VR) Services

Program grants for Federal fiscal years (FYs) 1993 and 1994.

The overclaimed indirect costs resulted from the organizationwide audit conducted in accordance with the Single Audit Act of 1984, Public Law 98-502, 31 U.S.C. 7501-7507, and the provisions of OMB Circular A-128, "Audits of State and Local Governments."

The claims involved the IDHS' administration of the State VR Services Program for Federal FYs 1993 and 1994. This program is authorized by the Rehabilitation Act of 1973, as amended (Act), 29 U.S.C. 701 *et seq.* The Act authorizes grants to assist States to meet the current and future needs of individuals with disabilities so that those individuals may prepare for and engage in gainful employment to the extent of their capabilities.

The PDD established the fact that IDHS' predecessor, the Illinois Department of Rehabilitation Services (DORS), had violated OMB Circular A-87 by overclaiming \$11,173,422 in FYs 1993 and 1994 as indirect costs to the VR program. Based on documentation submitted by IDHS after it filed its application for review of the PDD with the Office of Administrative Law Judges, the Department agreed on June 16, 1998 to reduce its claims from \$11,173,422 to \$4,942,252.38. In August 1998, IDHS refunded these funds to the Department. On November 15, 1999, the IDHS requested grantback of \$3,706,689, which represents 75 percent of these recovered funds.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA, 20 U.S.C. 1234h(a), provides that, whenever the Secretary has recovered funds under an applicable program because the recipient made an expenditure of funds that was not allowable, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the grantee affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this grantback requested by the IDHS if the Secretary determines that the—

(a) Practices and procedures of the IDHS and its predecessor that resulted in the findings have been corrected, and the State agency is, in all other respects, in compliance with the requirements of the applicable programs;

(b) IDHS has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program and, to the extent possible, benefits the population

that was affected by the failure to comply or by misexpenditures that resulted in the PDD; and

(c) Use of funds to be awarded under the grantback arrangement in accordance with the IDHS' plan would serve to achieve the purposes of the program under which the funds were originally granted.

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

Pursuant to section 459(a)(2) of GEPA, the IDHS has applied for a grantback totaling \$3,706,689, which is 75 percent of the principal amount of the recovered funds, and has submitted a plan for use of the grantback funds. The agency will use the funds for the following purposes:

IDHS proposes to use the entire sum of requested grantback funding, \$3,706,689, to augment case service provision by its counselors in its offices throughout the State. None of these funds will be used for administrative or operations expenses. Specifically, the major goal is to double the number of competitive outcomes while remaining at the same funding level. This means instead of successfully placing approximately 5,150 persons per year in competitive employment, IDHS projects a goal of 10,300.

Instead of continuing to purchase an increasing amount of services from community rehabilitation providers, IDHS will train counseling staff to perform some of these functions themselves. IDHS maintains that this is a more efficient use of available funds. Counseling staff will take over services such as job development, job placement, and vocational assessment.

Illinois is already on "order of selection" to serve customers having only significant and most significant disabilities and wants to avoid narrowing the order of selection any further than this. By using the grantback funds, the agency can open up more categories of disabilities for the provision of VR services.

The procedural violation, which led to the repayment of Federal funds, has been corrected by the IDHS. IDHS' non-compliance with OMB Circular A-87 was due to the absence of appropriate Illinois General Revenue Fund (GRF) appropriations to allow DORS to allocate DORS' indirect administrative costs between State and Federal VR program related monies. In July 1997, IDHS, in order to come into compliance with OMB Circular A-87, instituted a revised budgeting procedure.

An estimate is now prepared at the beginning of each State fiscal year to determine the amount of anticipated VR

indirect costs reimbursements. A second estimate is made as to the amount of overall administrative costs associated with the transitioned DORS' staff (those administrative staff funded from a non-GRF appropriation). Both of these estimates are compared to determine what proportion of the anticipated funding will not be covered by the receipt of Federal indirect cost reimbursements. IDHS then requests from the Illinois General Assembly sufficient GRF funding to allow the State of Illinois to pay its share of indirect costs.

Thereafter, whenever funding is required for administrative purposes, following the timeliness criteria mandated by the Cash Management Improvement Act, the indirect cost is calculated on the appropriate basis and drawn down from the Federal sources. As soon as this money is received, it is deposited into the Federal Vocational Rehabilitation Fund. At the same time, a proportionate amount of general revenue is drawn down to fund the non-Federal part of the operation. In this way, no overcommitment is made on receipts of Federal funds for administration, and only the appropriate parts associated with the Federal programs are claimed and deposited into the Federal Vocational Rehabilitation Fund.

With the use of this process, the cost principles disallowances are eliminated. If the estimate of overall administrative costs is in error, there may be small adjustments necessary at the end of the Federal fiscal years to accommodate the under or over receipt of Federal funds associated with the administrative operations. If the adjustments require additional Federal revenue funding, then either adjustments will be made in the succeeding year or at the time of audit finalization for the appropriate fiscal year period.

Since this procedure was instituted by the IDHS in July 1997, there have been no audit exceptions noted against the indirect costs charged to the Federal VR program and none are anticipated.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plan submitted by the IDHS. Based

upon that review, the Secretary has determined that the conditions under section 459(a) of GEPA have been met.

These determinations are 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. In finding that the conditions of section 459(a) of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or other investigations.

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 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 Illinois Department of Human Services under a grantback arrangement. The grantback award would be in the amount \$3,706,689, which is 75 percent—the maximum percentage authorized by statute—of the principal amount recovered as a result of the settlement agreement.

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

The IDHS agrees to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(a) The funds awarded under the grantback must be spent in accordance with—

(1) All applicable statutory and regulatory requirements;

(2) The plan that the IDHS submitted and any amendments to the plan that are approved in advance by the Secretary; and

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

(b) All funds received under the grantback arrangement must be obligated by September 30, 2001, in accordance with section 459(c) of GEPA.

(c) The IDHS must, no later than January 1, 2002, submit a report to the Secretary that—

(1) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and any amendments that have been approved in advance by the Secretary; and

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

(d) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(e) Before funds will be repaid pursuant to this notice, the IDHS must repay to the Department any debts that become overdue or enter into a repayment agreement for those debts.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.126 State Vocational Rehabilitation Services Program).

Dated: June 1, 2001.

Francis V. Corrigan,

Deputy Director, National Institute on Disability and Rehabilitation Research.

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