

**DEPARTMENT OF EDUCATION****Intent To Repay to the Maine Department of Education Funds Recovered as a Result of Final Audit Determinations****AGENCY:** Department of Education.**ACTION:** Notice of intent to award grantback funds.

**SUMMARY:** Notice is hereby given that under section 459 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234h, the U.S. Secretary of Education (Secretary) intends to repay to the Maine Department of Education (Maine), under a grantback arrangement, an amount equal to 75 percent of the \$36,924 recovered by the U.S. Department of Education (Department) as a result of audit findings in 3 audits covering fiscal years (FYs) 1987, 1988, and 1989 (ACNs: 01-93025, 01-93245, and 01-13035G) and arising from Maine's administration of the Perkins Vocational Education Program; the Adult Education Program; the State Education Agency (SEA) Desegregation Program; and Title II of the Education for Economic Security Act of 1984 (EESA, Title II) program. The \$36,924 at issue in this notice of proposed grantback was recovered by the Department under the terms of two settlement agreements between Maine and the Department that related to findings resulting from audits of Maine's administration of these four programs. In these audits, the auditors reviewed the financial and program operations of the Maine Department of Education, including an evaluation of Maine's internal administrative control systems for a variety of Maine's education programs for FYs 1987, 1988, and 1989. This notice describes Maine's plan for the use of grantback funds repaid in the specific program areas herein described 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 September 29, 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, S.W., (Mary E. Switzer Building, Room 4320, MS-7324), Washington, D.C. 20202-7324.**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 two settlement agreements entered into by the Department and Maine, the Department recovered \$97,935 (ACNs: 01-93025, 01-93245, 01-13035G) and \$125,635 (ACNs: 01-93245 and 01-13035G) from Maine in full resolution of all claims arising from audits of the Maine Department of Education, covering FYs 1987, 1988, and 1989. On April 2, 1996, the Department's Office of Special Education and Rehabilitative Services published a notice of intent to award grantback funds in response to a grantback request submitted by Maine relative to the settlement repayments resolving the findings arising from Maine's administration of Part B of the then Education of the Handicapped Act, Chapter 1 of Title I of the Elementary and Secondary Act, and the Chapter 1 Migrant Education Program. The grantback request that is the subject of this notice is separate and apart from the grantback request that was the subject of the Department's April 2, 1996 notice. This grantback notice pertains only to the \$36,924 that was repaid by Maine as a result of findings arising from Maine's administration of the Adult Education Program, the Perkins Vocational Education Program, the SEA Desegregation Program, and the EESA Title II Program, for the years in question.

The Department's original claims arising from the audits conducted for FYs 1987, 1988, and 1989 were contained in program determination letters (PDLs) issued by various Department officials on March 27, 1991 (ACN: 01-93025), October 24, 1991, and June 29, 1992 (ACN: 01-93245), and March 31, 1992, and August 25, 1992 (ACN: 01-13035G). These claims arose, in part, from findings related to Maine's administration of funds awarded to Maine under the Carl D. Perkins Vocational Education Act, 20 U.S.C. 2301 *et seq.* (1988) (Perkins I); the Adult Education Act, as amended by the National Literacy Act of 1991; SEA Desegregation Program, Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000(c)-2000(c-5)); and EESA, Title II.

In the March 27, 1991, October 24, 1991, and March 31, 1992 PDLs, the Assistant Secretaries for the program areas for which the auditors issued findings determined that Maine had

violated a variety of Federal regulations by improperly charging legal fees incurred by Maine's Attorney General's Office and other miscellaneous attorneys to certain Federal programs. The Assistant Secretaries further determined that the charges incurred were not based upon actual benefits received or provided to those programs or upon any cost allocation plan that equitably distributed costs to programs benefiting from the services rendered.

In the June 29, 1992 and August 25, 1992 PDLs, the Assistant Secretaries for the program areas involved determined, in part, that Maine had failed to maintain accurate time distribution records for employees who worked on more than one cost objective.

The settlement negotiations resulting from Maine's appeals of the aforementioned PDLs culminated in two settlement agreements. The settlement agreement resolving the findings contained in the March 27, 1991, October 24, 1991, and March 31, 1992 PDLs was executed on December 2, 1992. On January 8, 1993, the Department received payment of \$97,935 in full settlement of the findings contained in those PDLs. The settlement agreement resolving the findings contained in the June 29, 1992 and August 25, 1992 PDLs was executed on November 8, 1994. On November 4, 1994, the Department received a payment of \$125,635 in full settlement of the findings contained in those PDLs.

**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 the—

(1) 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, provided that the recipient was notified of any noncompliance with those requirements and given a reasonable period of time to remedy the noncompliance;

(2) 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) Use of the funds to be awarded under the grantback arrangement 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, Maine has applied for a grantback of \$27,577, or 75 percent of the \$36,924 repaid to the Department in resolution of the findings related to the Adult Education Program, the Perkins Vocational Education Program, the SEA Desegregation program, and the EESA, Title II Program, in relevant portions of the two settlement agreements discussed in section B of this notice. Maine has submitted a plan for use of the \$27,577 in proposed grantback funds, consistent with the Adult Education Act, as amended by the National Literacy Act of 1991; 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; Title IV of the Civil Rights Act of 1964; and Title II of the Elementary and Secondary Education Act of 1965, as amended (Professional Development Program), which is the successor program to the EESA, Title II Program. Maine has stated that it plans to use the grantback funds to provide monitoring and technical assistance for its adult education programs; host regional meetings and workshops for adult education programs at the local educational agency (LEA) level; provide funds for vocational education staff development activities; upgrade computer equipment used by State vocational education administrators; host a conference related to the SEA Desegregation programs; and sponsor regional meetings for educators under the Professional Development Program. Specifically, Maine plans to use the requested grantback funds totaling \$27,577, to—

(1) Pay travel expenses for three consultants who will monitor Adult Basic Education (ABE) programs. The consultants will base the monitoring upon the performance objectives contained in the FY 1996 ABE application. The consultants will also provide technical assistance for adult

education program development and improvement (\$500);

(2) Provide at least two regional meetings and workshops for adult basic education administrators and staff who work in local adult education programs. The topics covered will include one or more of the following: Interagency Collaboration, Welfare Reform and Adult Education, FY 1996 ABE Standards, and an FY 1997 ABE Proposal Writing Workshop (\$996);

(3) Purchase computer equipment using vocational education funds for personnel in the Division of Applied Technology (DAT). This equipment includes one color Apple Laser Writer 12/600 PS, one high resolution flatbed color scanner, one CD-Rom drive/recorder, and one network server. The equipment will be used to provide more effective technical assistance to Maine's Regional Workforce Education Center. It will also allow DAT to provide better State leadership in the areas of professional development, curriculum development, program improvement, and accountability by giving it an enhanced ability to collect and to disseminate information (\$11,476);

(4) Facilitate vocational education staff development by allowing participation in a series of national conferences, meetings, workshops, and seminars sponsored by the National School-To-Work Opportunities Office, the Office of Vocational and Adult Education, the National Governors Association, the Council of Chief State School Officers, the High Skills State Consortium, Job for the Future and others. The topics to be covered include consolidation of performance measures and standards and occupational and industrial skill standards under the Perkins and the School-To-Work Opportunities Acts; integration of occupational skill development and related academic skill training; new formats for work-based learning; articulation of secondary and post-secondary occupational and technical education; organization of connecting activities; and information system development. The director of DAT will serve as the primary participant; however, other DAT professional staff will attend activities related to their specific areas of responsibility and expertise (\$10,000);

(5) Provide a two-day conference, co-sponsored by the Maine Leadership Consortium, that is designed to encourage women to move into the field of public school administration using SEA Desegregation funds. The conference would explore the specific barriers and difficulties experienced by female superintendents in the State and

seek to recommend actions that will allow professional organizations to more effectively attract and retain women in the superintendency (\$3,705); and

(6) Sponsor a series of six regional meetings under the Professional Development Program that are designed to bring educators from elementary, secondary, and post-secondary institutions together to discuss methods of alternative assessment, including portfolios and task development (\$900).

#### D. The Secretary's Determination

The Secretary has carefully reviewed the plan submitted by Maine and related 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 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 Maine Department of Education under a grantback arrangement. The grantback award will be in the amount of \$27,577, which is 75 percent—the maximum percentage authorized by the statute—of the relevant portion of funds recovered by the Department as a result of the three final audit determinations and two settlements in this matter.

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

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

(1) Maine 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 Maine's plan.

(3) Maine will, no later than December 30, 1996, 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 Numbers 84.002 Basic State Grants for Adult Education; 84.004 Title IV of the Civil Rights Act; 84.048 Basic State Grants for Vocational Education; and 84.164 Title II of the Education for Economic Security Act)

Dated: August 26, 1996.

Patricia W. McNeil,

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

Gerald N. Tirozzi,

*Assistant Secretary, Office of Elementary and Secondary Education.*

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