

## Wide-Ranging Stimulus Guidance Balances Flexibility and Accountability

Washington, April 1 -- In a wide-ranging package of guidance released Wednesday, the U.S. Department of Education laid out procedures for granting billions of dollars in stimulus funds that will balance flexibility with tough accountability requirements.

The balance is illustrated by two provisions in the guidance. In terms of flexibility, the Education Department (ED) confirmed a March 16 School Grants 2009 [article](#) that said that school districts can use the stimulus law's "stabilization" dollars essentially as general aid, allowing them maximum flexibility to spend the money even on projects once thought to be forbidden, such as school construction. The \$48.6 billion fund is designed primarily to offset projected state and local budget cuts in education.

At the same time, the guidance discourages abuse with an important caveat buried in a parenthesis. The stabilization funds are subject to ED General Administrative Regulations, Office of Management and Budget (OMB) cost circulars, and the General Education Provisions Act (GEPA). Collectively, these laws and regulations establish standards for such things as procurement, audits, financial controls, non-discrimination and many other fiscal and management requirements. In particular, the OMB cost principles specify that costs must be "necessary and reasonable." Also, they contain a list of forbidden expenditures, including such things as lobbying and alcohol.

The stimulus legislation also contains unique reporting requirements. Any activity paid for with stimulus funds must be tracked separately with its own budget code. Districts must report such activities to the state; the state will send the information on to ED; and ultimately, it will be placed on the Obama administration's [stimulus web site](#). For any given stabilization project, districts will need to report to states the amount of funds spent or obligated, the completion status, and the estimated number of jobs created or retained due to the activity. On a more global level, states using stabilization dollars will have to report on the projects funded, the estimated number of jobs created, any tax increases averted, and the state's progress on the education reform "assurances" outlined in the application.

There is an informal "suitability" test. The Obama administration has promised unparalleled scrutiny of expenditures to avoid fraud and abuse. Unwise expenditures may end up widely publicized and may give erring school districts a lot of bad publicity. Also, ED Secretary Arne Duncan has stated that the way stabilization funds are used will help determine whether a given state is eligible for a share in \$4.35 billion in incentive grants later this year. In other words, if a state and its school districts merely use stabilization funds for business as usual, they may imperil their chances of getting even more money down the road.

"States that aren't doing the right thing will essentially eliminate themselves from competition," Duncan said in a conference call with reporters. "We have some significant carrots, and we also have the stick. If we have states playing shell games or ignoring our

requests for transparency, we'll be holding back billions of dollars for the second round of funding.”

Wednesday's announcement included applications and guidelines for the first two-thirds of the stabilization funds; the remainder will be released later. The department also released guidance on supplemental funding for Title I and the Individuals with Disabilities Education Act, as well as the vocational rehabilitation and independent living services programs.

The stabilization provision allowing for school construction may prove controversial, given the intense debate that led to the bill's passage. Several moderate Republicans agreed to the compromise that allowed the stimulus bill to become law on the condition that a line item for school modernization be jettisoned. Although modernization remained an allowable use of stabilization dollars, the lack of a line item dimmed the prospect for a large-scale use of funds to renovate schools. Now, ED's authorization to use stabilization funds to not only renovate schools, but to actually construct new ones — based not on an explicit provision, but a back-door loophole in the legislative language — seems like an unanticipated outcome.

Asked if ED's interpretation ran contrary to congressional intent, Duncan said new construction was necessary to deal with rampant overcrowding in many of the nation's schools.

“There's a need there,” he said. “... You have areas that are significantly overcrowded, and you have children who are jammed into buildings that can't hold them. That doesn't work.”—*by Andrew Brownstein and Charles Edwards*

*Watch School Grants 2009 for additional analysis on the guidance in the coming days.*