



UNITED STATES DEPARTMENT OF EDUCATION

Office of Innovation and Improvement

Other than statutory and regulatory requirements included in the document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

August 4, 2016

Dear CSP SEA Project Director,

I am writing to provide guidance to help State educational agencies (SEAs) ensure that Federal funds accessed by public charter schools are used for their intended, appropriate purposes. The U.S. Department of Education (Department) serves as a resource to help with this important task and believes effective grants management will enhance the quality of educational services provided to students.

This letter focuses on the various responsibilities related to fiscal monitoring of Federal funds. This includes monitoring and oversight of Charter Schools Program (CSP) subgrantees and authorized public chartering agencies (*i.e.*, authorizers), consistent with applicable statutory and regulatory requirements, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([Uniform Guidance](#)) that were published in the *Federal Register* as interim final regulations on December 19, 2014 (79 FR 75867),¹ and became effective on December 26, 2014. The Department adopted the Uniform Guidance as final regulations on November 2, 2015 ([80 FR 67261](#)), with minor changes. In addition, we discuss the final priorities, requirements, definitions, and selection criteria ([Final Priorities](#)) for CSP grants to SEAs that were published in the *Federal Register* on June 15, 2015 ([80 FR 34202](#)), which apply to CSP SEA grants awarded in fiscal years (FYs) 2015 and 2016, and provide information regarding the Department's expectations with respect to fiscal monitoring and oversight of public charter schools. I am pleased to highlight these important requirements and related tools to help SEAs address these fiscal monitoring requirements.²

The Department frequently has provided technical assistance to CSP SEA grantees regarding their fiscal responsibilities in the administration and oversight of Federal funds, including expectations for monitoring and overseeing subgrantees and authorizers in the context of charter school closures. In this letter, the Department provides further guidance to SEA grantees in these areas and highlights key provisions of the Uniform Guidance that relate to CSP grants to SEAs (links to those key provisions are provided in Attachment 1 to this letter). The Department encourages all SEAs to review and consider how the CSP SEA program's [Final Priorities](#) and the [Uniform Guidance](#) can inform an SEA's administration of its charter school program, particularly with respect to public accountability and oversight of charter schools and authorizers.

¹ The Uniform Guidance is codified at [2 CFR part 200](#).

² On December 10, 2015, the President signed into law the Every Student Succeeds Act (ESSA) (P.L. 114-95), which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). To facilitate an orderly transition to ESSA, the Department is conducting a careful review of ESEA programs and activities, including CSP grant activities. In the coming months, the Department will provide additional guidance to States regarding the transition to ESSA.

Monitoring and Oversight of Authorized Public Chartering Agencies

CSP SEA grantees should exercise due diligence in ensuring high-quality authorizing practices, including taking steps to ensure that authorizers approve charters only for schools with ambitious and attainable academic achievement goals and the capacity to meet or exceed those goals. Since 2010, the Department's appropriations acts have required all CSP SEA grantees to demonstrate that State law, regulations, or other policies in the State where the applicant is located require that:

- A) Each authorized charter school in the State operates under a legally binding charter or performance contract between itself and the school's authorized public chartering agency that describes the rights and responsibilities of the school and the public chartering agency; conducts annual, timely, and independent audits of its financial statements that are filed with the authorized public chartering agency; and demonstrates improved student academic achievement; and
- B) Authorized public chartering agencies use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA as one of the most important factors when determining to renew or revoke a school's charter.

In addition, applications for CSP SEA grants in the FY 2015 and 2016 competitions were (and will be) evaluated on, among other things, the quality of the SEA's plan to monitor, evaluate, assist, and hold accountable authorizers. This selection criterion addresses the Department's expectations for how authorizers should establish measurable academic and operational goals for charter schools they authorize, monitor and report performance results to the public for their charter schools, and support charter school autonomy while holding charter schools accountable for results and meeting the terms of their charters or performance contracts. In addition, in these competitions, applicants were required to demonstrate that the State provides for periodic review and evaluation of each charter school by the authorizer at least once every five years, as required by statute, and that the State takes steps to ensure that such reviews and evaluations take place and that the reviews and evaluations include an opportunity for the authorizer to take appropriate action or impose meaningful consequences on the charter school, as necessary.

While State charter school laws vary with respect to an SEA's authority to take action against individual authorizers, some of the factors peer reviewers will consider when evaluating applications for CSP grants to SEAs under the selection criteria established for the FY 2016 competition relate to the quality of the SEA's plan to monitor and evaluate authorizers, including how well the SEA's plan will ensure that authorizers—

- Seek and approve charter school petitions from developers that have the capacity to create *high-quality charter schools*;³
- Approve charter school petitions with design elements that incorporate evidence-based school models and practices;
- Establish measurable academic and operational performance expectations for all charter schools;
- Monitor their charter schools on at least an annual basis, including conducting an in-depth review of each charter school at least once every five years, to ensure that charter schools are meeting the terms of their charter or performance contracts and complying with applicable State and Federal laws;

³ The term *high-quality charter school* is defined³ in the CSP SEA program's FY 2016 [notice inviting applications](#) for new awards (NIA) that was published in the *Federal Register* on June 15, 2015.

- Use increases in student academic achievement as one of the most important factors in renewal decisions; base renewal decisions on a comprehensive set of criteria, which are set forth in the charter or performance contract; and revoke, decline to renew, or encourage the voluntary termination of charters held by *academically poor-performing schools*;⁴
- Provide, on an annual basis, public reports on the performance of their portfolios of charter schools, including the performance of each individual charter school with respect to meeting the terms of, and the expectations set forth in, the school’s charter or performance contract;
- Support charter school autonomy while holding charter schools accountable for results and for meeting the terms of their charters or performance contracts; and
- Ensure the continued accountability of charter schools during any transition to new State assessments or accountability systems.

Financial Oversight and Management

Under the Uniform Guidance at [2 CFR 200.302](#), every recipient of Federal funds is required to have a financial management system that permits the preparation of reports required by general and program-specific terms and conditions and enables the recording and reporting of grant expenditures in a manner that provides adequate evidence to establish that grant funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award. Recipients of Federal funds must maintain records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award as part of an effective internal control system.

Such systems must be able to maintain adequate records and account for different funding streams and award types. For purposes of the CSP SEA grant program, the financial management system must trace the use of Federal funds to each individual subgrantee (*i.e.*, each charter school subgrant project funded under the CSP grant) and document that funds are used for allowable costs incurred during the program period. Also, as discussed in greater detail below, strong financial management systems are a key element for ensuring that grant assets are used during the grant period to meet grant objectives and that any disposition of such assets complies with applicable regulatory requirements (*see* Uniform Guidance at [2 CFR 200.313](#) and [200.314](#)).

Subgrantee Monitoring and Management

The Uniform Guidance at [2 CFR 200.331](#) prescribes requirements regarding subrecipient monitoring (*i.e.*, SEA monitoring responsibilities for each charter school subgrant project funded under the CSP grant). When monitoring subgrantees under the CSP, SEAs must evaluate each subgrantee’s risk of noncompliance with Federal statutes and regulations and the terms and conditions of the subgrant to develop appropriate monitoring procedures (§200.331(b)). SEAs must monitor all subgrantees to ensure that each subgrant is used for authorized purposes, in compliance with Federal statutes and regulations and the terms and conditions of the subgrant, and that performance goals are achieved. Specifically, pursuant to [2 CFR 200.331\(d\)](#), when monitoring subgrants to charter schools and other eligible entities, an SEA must, among other things—

- Review financial and performance reports;
- Ensure that subgrantees take timely and appropriate action on all deficiencies pertaining to the Federal award detected through audits, on-site reviews, and other means; and

⁴ The term *academically poor-performing charter school* is defined in the CSP SEA program’s [FY 2016 NIA](#).

- Issue a report or other form of management decision when the SEA identifies a performance or compliance issue with respect to the terms of the Federal award.

An SEA's procedures for monitoring subgrantees should address, among other things—

- Proper drawdown of subgrant funds;
- Compliance with Federal procurement requirements related to agreements between subgrantees and third-party contractors, including charter management organizations and education management organizations; and
- Implementation of appropriate corrective actions to address any deficiencies, whether such deficiencies are discovered through audits, on-site reviews, or other monitoring activities.

Charter School Closures

When charter schools close, whether due to an authorizer's revocation or non-renewal decision or the choice of the charter school operator, SEAs must ensure adherence to applicable laws that govern public school closures generally. In addition, for charter schools with active CSP subgrants, the SEA must ensure the CSP subgrant is closed out properly.⁵ The Department encourages SEAs to develop written procedures and guidelines to assist charter schools that close (whether they are active CSP subgrantees or not) in addressing various issues, including the transfer of student records, protection of personal information, placement of students in other public schools, and appropriate disposition of the charter school's assets.

The Uniform Guidance at [2 CFR 200.313](#) and [200.314](#) describes requirements for the disposition of equipment and supplies under a Federal grant or subgrant. Federal regulations define *equipment* as tangible property with a per unit acquisition cost of greater than \$5,000 or, if the SEA or subgrantee has a lower capitalization threshold, a per unit acquisition cost that exceeds the lower threshold. See [2 CFR 200.33](#). When a charter school closes, unless otherwise provided in Federal statutes or regulations or the Department's disposition instructions, the SEA must request instructions from the Department regarding the disposition of equipment with a value that exceeds the capitalization threshold defined in [2 CFR 200.33](#). If there is residual inventory of unused supplies with a total aggregate value exceeding \$5,000 when a charter school closes, the SEA must ensure that the supplies are used for other Federal awards, or the SEA must compensate the Department for the supplies. As these requirements highlight, it is critical that recipients and subrecipients of Federal funds maintain detailed and accurate expenditure reports and records related to property.

When a charter school closes, the SEA, charter school, and charter school authorizer should have systems and resources in place to facilitate a seamless transition of services for students, allowing them to continue their education with the least possible disruption. Such systems and resources may include, for example, procedures to help place students in other public schools and to transfer student records expeditiously while also protecting their personal information. In addition, the SEA, charter school, and charter school authorizer should have adequate systems and resources in place to help ensure that Federal funds are used for authorized activities and that assets purchased with Federal funds under the Department's grant programs are used and disposed of properly. For additional requirements regarding grant closeout, post-closeout adjustments, and continuing responsibilities, please see [2 CFR 200.343](#) and [200.344](#) of the Uniform Guidance.

⁵ See, generally, the Uniform Guidance closeout procedures at [2 CFR 200.343-200.345](#).

Technical Assistance

Over the past several years, CSP staff have provided technical assistance to SEAs regarding financial management systems, subgrantee monitoring and management, and the CSP SEA program’s applicable priorities, requirements, definitions, and selection criteria. We encourage all current and prospective CSP SEA grantees to review this information and consider improvements that can be made in administering CSP grants, particularly in areas related to risk assessment, monitoring, implementation of corrective actions, and record-keeping. The following chart provides links to some of the SEA Community of Practice webinars held by CSP staff over the past several years on these topics.

SEA Community of Practice Webinars:

<i>Date of Webinar</i>	<i>Webinar Title</i>
February 15, 2015	<u>SEA Data Management Tools for Risk Based Monitoring</u>
November 17, 2014	<u>Charter School Closure</u>
September 5, 2014	<u>Measuring Authorizer Quality</u>
June 25, 2014	<u>SEA Financial Management and Fiscal Controls</u>
August 29, 2013	<u>Virtual Schools Accountability</u>
September 27, 2012	<u>Performance Frameworks</u>

For your convenience, Attachment 1 to this letter provides a selection of relevant regulations from the Uniform Guidance. While these regulations do not comprise an exhaustive list of regulatory requirements applicable to CSP SEA grants, they provide a snapshot of some of the key requirements related to grants administration of which recipients of Federal funds should be aware. For any questions related to these provisions, or any other aspects of the CSP, we encourage you to contact the CSP team at charterschools@ed.gov.

Sincerely,

/s/

Stefan Huh
Director
Charter Schools Program

Charter Schools Program -- Grants to State Educational Agencies

Key Provisions of the Uniform Guidance Related to Fiscal Monitoring

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([Uniform Guidance](#)) apply to all new grant awards and non-competing continuation awards made on or after December 26, 2014 (*see* [2 CFR 200.110](#)). The Uniform Guidance also applies to any administrative actions or supplements made to those awards on or after December 26, 2014.

The following are links to a few key provisions of the Uniform Guidance that are directly relevant to the administration of grants and subgrants under the Charter Schools Program. This is not intended to be an exhaustive list, and the Department encourages recipients of Federal funds to review the provisions listed below as well as the Uniform Guidance generally. The Uniform Guidance is codified at [2 CFR part 200](#).

- [§200.300, Statutory and national policy requirements](#)
- [§200.301, Performance measurement](#)
- [§200.302, Financial management](#)
- [§200.303, Internal controls](#)
- [§200.313, Equipment](#)
- [§200.314, Supplies](#)
- [§200.328, Monitoring and reporting program performance](#)
- [§200.330, Subrecipient and contractor determinations](#)
- [§200.331, Requirements for pass-through entities](#)
- [§200.333, Retention requirements for records](#)
- [§200.343, Closeout](#)
- [§200.344, Post-closeout adjustments and continuing responsibilities](#)
- [§200.345, Collection of amounts due](#)