MEMORANDUM

TO: U.S. Department of Education’s Offices of State and Grantee Relations and Elementary and Secondary Education

FROM: Tiffany Sanderson, Senior Policy Advisor, Office of South Dakota Governor Kristi Noem

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CC: South Dakota Department of Education:

Dr. Ben Jones, Ms. Mary Stadick Smith, Mr. Cody Stoeser

DATE: July 20, 2020

RE: South Dakota’s Initial Report for Governor’s Emergency Education Relief (GEER) Funds

# State’s Process for Awarding GEER Funds

South Dakota will grant GEER funds to LEAs to address COVID-19-related responses and planning, including to address remote learning and services to support students’ needs due to extended school closures. The State will also grant GEER funds to our four technical colleges for short-term, online certificate programs. Called UpSkill, the program will allow workers displaced due to COVID-19 to pursue more stable careers in high-demand fields in the state. Completion of the certificate programs will set these individuals up both for short-term advancement in their chosen career fields and the ability to continue toward a specialized diploma or degree at the technical colleges in the longer term.

Grants to the technical colleges will be announced in the next 10 days. The grant application period for LEAs will open in the same timeframe. Grant applications will be accepted, reviewed, and announced throughout the summer and early fall.

Since COVID-19 arrived in March 2020 and schools have been addressing its impact, the Governor’s policy staff and the Department of Education have been in routine communication with school administrators, school boards, teachers and faculty, and education associations. This has included a combination of individual phone calls and emails, large group webinars, small group meetings, and surveys. This collaborative approach to issue identification and problem solving made clear how the GEER funds could support those most significantly impacted by coronavirus.

In the elementary and secondary schools, applications for GEER will be required to address COVID-related priorities that were not covered with their ESSER funds, including:

* Cleaning facilities and buses and/or adapting them to be safe for students and staff
* Connectivity for students and staff
* Technology and devices for remote learning
* Food service
* Benchmarking assessments (academic)
* Evaluations of well-being (physical and mental)
* Student services – SPED, EL, at-risk students
* Summer programs – academic, social/emotional, literacy, college readiness
* Educator professional development – high quality remote and hybrid learning, competency-based education, assessing student progress and implementing targeted supports, trauma-informed care, etc.
* Costs associated with school calendar innovations related to COVID mitigation

In the technical colleges, the South Dakota Board of Technical Education vetted potential certificate programs to support COVID-19 dislocated workers. At their June 25, 2020 meeting, they approved 22 online programs. The certificates will be available in a variety of career clusters, including agriculture, finance, health sciences, information technology, manufacturing, and marketing. Costs for tuition, books, supplies, and tools will be made available to learners as a partnership between GEER funds and WIOA.

GEER funds will not be used in South Dakota for SEA or IHE administrators, executives, or teachers’ unions or associations.

# System of Internal Controls

**GEER Grant Monitoring**

The South Dakota Governor’s Office (SDGO) and South Dakota Department of Education (SDDOE) will review applications, award and enter into grant agreements with Local Education Agencies (LEAs). LEAs will be reimbursed based off the approved budgets in the grant agreements. The SDDOE uses a risk analysis to evaluate and to conduct risk-based monitoring of the LEAs. These processes are used to monitor and verify that LEAs receiving funds are spending their grant awards in compliance with the rules and regulations governing the programs.

**Application Review and Internal Control Process**

Grant applications will be reviewed by the SDGO and SDDOE to ensure program and fiscal requirements are met. LEAs must provide program information and budgets. The proposed activities and budgets are reviewed to ensure compliance with applicable statutes and regulations; and to ensure the costs are reasonable, necessary, allocable and allowable under the program.

During the review process if it is determined that the application does not meet the program or fiscal requirements:

* + additional information may be requested from the LEA or,
  + the application will be returned to the LEA with written notification of the specific parts of the application that fail to meet the federal requirements. Technical assistance will be provided to the LEA as necessary. The LEA must address the specific issues and resubmit the application.

Once an application is approved, a grant award is issued.

An LEA may submit budget amendment requests to the SDDOE as needed, to change budget line items and activities, or to budget additional available program funds. The SDDOE will review and process budget amendment requests, to ensure they are appropriate and within program requirements before approving the amendment.

**Risk Analysis**

The SDDOE will evaluate each LEAs risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward as described in 2 CFR 200.331, and may in appropriate circumstances apply specific conditions under 2 CFR 3474.10.

The risk assessment process permits the SDDOE to differentiate oversight based on local needs. This has the potential to reduce burden for both the SDDOE and its LEAs and ensures LEAs get the specific supports they need to run effective and compliant programs.

Federal law gives the SDDOE discretion to pick which monitoring activities make the most sense for an individual LEA given that LEA’s compliance risks. The SDDOE has provided LEAs with training and technical assistance on program start-up and will continue to provide training on program and fiscal related matters. The SDDOE will review the reimbursement request’s expenditure reports and perform desk or on-site reviews of the LEA’s expenditures.

The SDDOE considers the following risk assessment criteria when evaluating an LEA’s risk of noncompliance:

* + The size of the grant awards,
  + Outcome of initial or prior reimbursement request analysis,
  + Recent (last 2 years) turnover of key administrative staff (superintendents and business managers),
  + Prior experience with the same or similar awards,
  + Noncompliance identified in audit or prior monitoring findings,
  + Subject to the equitable private school services requirements.
* Other factors that may be considered in the risk process at the discretion of the Program Specialists and Office Administrator:
  + High average federal funding amount per student,
  + Turnover of key federal program director or staff,
  + Single audit eligibility status,
  + Failure to submit timely reimbursement requests,
  + Lack of alignment between actual expenditures and approved budgets,
  + Failure to adhere to the terms and conditions of the awards,
  + Other risk factors that may become apparent.

**GEER Grant Payments**

LEAs submit requests for reimbursement of incurred expenses based on the grant agreement program budget. Payments are made as reimbursement requests are received.

Requests are reviewed and approved by SDDOE Finance and Management staff. After approval, payment requests are forwarded on to the State Auditors Office for issuance of payment.

**CARES GEER Fund Fiscal Monitoring Reviews**

The SDDOE will conduct fiscal reviews of LEAs after final payment is made. The fiscal reviews will primarily be conducted as desk reviews; however, the SDDOE may decide to do on-site review depending on the complexity and risk involved.

The SDDOE will use program specific monitoring protocols as part of the review process to verify that the LEA meets the fiscal and program requirements of the individual grant program.

The SDDOE will check fiscal documentation to verify that the expenditures are an appropriate and allowable charge to the program. If irregularities are discovered on the sample audited, the SDDOE may request additional information or conduct an on-site audit.

The SDDOE’s goal is to complete an LEA’s review within 18 months after final payment has been issued. This review period may be extended due to unforeseen or uncontrollable issues, such as SDDOE staff turnover, unexpectedly complicated reviews, subrecipient staff turnover, or other unforeseen events. (Note programs close out 3 months after the end of the grant period.)

As part of its review process, the SDDOE may choose to send a preliminary findings letter to the LEA giving them 30 days to provide additional supporting documentation to address areas of concern.

The SDDOE will review any additional data submitted in response to the preliminary findings letter to determine whether the data submitted demonstrates compliance before proceeding with the final letter. The SDDOE may consider other documentation to support LEA compliance; for example, if an employee paid with federal funds did not keep required “time and effort” reports, consider whether there are other ways LEAs can verify the employee worked on a federal program. The SDDOE may choose to use the cooperative audit resolution procedures to minimize fund repayments. If no response is received to the preliminary findings, the SDDOE will proceed with a finalized letter that may include enforcement actions, as necessary.

The SDDOE will provide a written response to the LEA concerning the results of the monitoring review. Any findings of non-compliance will be included on the written response to the LEA. The LEA will have 30 days after receiving SDDOE’s response to either:

* Submit to the SDDOE their plan to correct the areas of non-compliance: or
* Challenge the SDDOE’s findings by submitting material that demonstrates the inaccuracy of the finding.

**Remedies for noncompliance**

The SDDOE is responsible for taking enforcement action against LEAs that do not comply with federal requirements. The SDDOE may attempt to resolve non-compliance by designating the sub-recipient as a “high risk grantee” and impose the specific conditions established under 2 CFR 200.207(b) and (c) as “high-risk conditions.”

If noncompliance cannot be remedied by imposing additional “high risk conditions”, the SDDOE may take one or more of the following actions under 2 CFR 200.338 as appropriate in the circumstances:

* Temporarily withhold grant payments pending correction of the deficiency,
* Disallow all or part of the cost of the activity not in compliance,
* Initiate suspension or debarment proceedings,
* Withhold further Federal awards for the project or program, or
* Take other remedies that are legally available.

Depending on the enforcement action taken, an LEA may be entitled to a hearing if requested under EDGAR § 76.783.

# Process to Ensure Equitable Services

When GEER applications are announced for LEAs, the Governor’s Office and Department of Education will hold several informational, online meetings for school administrators, school boards, and business managers. Part of these meetings will focus on the equitable services requirements and considerations LEAs should make as they’re planning their GEER applications. Consultation with non-public schools will be stressed, as will the flexible options recently announced through USDE’s interim final rules for CARES Act programs and the requirement for public schools to maintain control of the grant funds.

The grant application documents will outline the expectations related to equitable services. Applicants will be required to describe their approach to calculating equitable services and the process for consulting with and providing said services to their non-public school partners. Grant award agreements will detail the expectations for equitable services. Grant reporting will require a description of the consultation process, agreements made between the public and non-public partners, and outcomes from the services provided.

Throughout the grant lifecycle, Department of Education staff from the Division of Finance and Management will be available to provide GEER recipients technical assistance, including for equitable services requirements.