PART B SUBRECIPIENT MONITORING

BACKGROUND INFORMATION:

As grantees and pass-through entities, State educational agencies (SEAs) have general supervisory responsibility, which includes subrecipient monitoring to ensure compliance with both fiscal and programmatic requirements. Among the requirements are those in Part B of the Individuals with Disabilities Education Act (IDEA 34 C.F.R. §§ 300.149 and 300.600), Part 76 of the Education Department General Administrative Regulations (EDGAR), and in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (the Uniform Guidance) at 2 C.F.R. § 200. In the area of subrecipient monitoring, the Uniform Guidance provides both requirements and opportunities for exploring new or different ways for SEAs to carry out their monitoring responsibilities in the most effective and efficient manner.

In addition to IDEA, EDGAR Part 76, and the Uniform Guidance, there are other regulations and requirements applicable to administering a Federal grant and many of the requirements apply to subgrants and subrecipients. Some are mentioned here but are beyond the scope of the specifics of this monitoring protocol; however, during monitoring if noncompliance with any of the regulations and requirements applicable to administering a Federal grant is identified, appropriate follow-up will occur.

1. The System for Award Management (SAM.gov);
2. Federal Funding Accountability and Transparency Act (FFATA);
3. Foundations for Evidence-Based Policymaking Act (Evidence Act);
4. USAspending.gov;
5. Federal Funding Accountability and Transparency Subaward Reporting System (FSRS);
6. Nonprocurement Debarment & Suspension, Part 3485[1]

Under IDEA, EDGAR, and the Uniform Guidance, SEAs are responsible for oversight of the operations of IDEA-supported activities. Each SEA must monitor its own activities, and those of its local educational agencies (LEAs), to assure compliance with applicable Federal requirements and performance expectations is being achieved. Monitoring by the SEA must cover each program, function, or activity. 2 C.F.R. § 200.329(a). Additional requirements and guidance that apply to SEAs, which are pass-through entities as defined at 2 C.F.R. § 200.1, are found in 2 C.F.R. § 200.332. More details on the specifics of these requirements are provided below.

MONITORING SCOPE:

Monitoring will focus on fiscal monitoring policies and procedures, and their implementation, for the Federal fiscal year (FFY) identified in OSEP's notification of monitoring. As appropriate, fiscal monitoring activities for the two prior years may also be reviewed and/or considered.

[1] Part 3485 is ED's adoption of subparts A through I of the Office of Management and Budget guidance in 2 C.F.R. Part 180. ED conducts a review for grant organizations, grant key personnel, grant authorized officials, and grant applicants (before making a grant award) in the SAM Exclusions list that is available in SAM.gov. SEAs, before making a subaward, are required to do the same.

IMPLEMENTATION:

This activity is part of the U.S. Department of Education's Office of Special Education Programs (OSEP's) system of Differentiated Monitoring and Support (DMS) to States with a focus on both compliance with Federal requirements that ensure the financial integrity of taxpayer dollars and on improving results for children with disabilities. Although the emphasis is on fiscal monitoring of subrecipients, OSEP recognizes that fiscal monitoring is sometimes conducted in conjunction with programmatic monitoring, and we are interested in discussing with States how these two aspects of subrecipient monitoring may be combined or related. The statutory and regulatory requirements only present what is minimally required. While the Uniform Guidance includes several specific requirements for subrecipient monitoring, it gives much discretion to States to design their own systems and optional suggestions for areas that could, but are not required to, be included. While a primary focus of this monitoring activity is to provide technical assistance, OSEP has a responsibility under section 616(a)(1) of the IDEA to monitor implementation of Part B of the IDEA through oversight of the exercise of general supervision by States and to enforce Part B of the IDEA. Therefore, if, during these monitoring activities, OSEP identifies any noncompliance, and the State does not demonstrate correction of the noncompliance before OSEP issues a finding, OSEP will notify the State in writing of the noncompliance and ensure the noncompliance is corrected as soon as possible, and in no case later than one year after OSEP's identification of the noncompliance.

DMS encompasses multiple phases. During the phased monitoring activity, OSEP will engage with SEA staff around foundational questions about current fiscal monitoring procedures such as a general description of monitoring activities, drivers of specific monitoring activities, any joint monitoring with other offices responsible for Federal programs, how monitoring areas/topics are determined, and any planned revisions to subrecipient monitoring procedures. The questions included in this protocol will primarily be addressed during the Engagement phase of DMS.

SUBRECIPIENT MONITORING REQUIREMENTS UNDER THE UNIFORM GUIDANCE:

SEAs must:

a. Ensure that every subaward includes certain detailed information as described in 2 C.F.R. § 200.332(a);
b. Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring (2 C.F.R. § 200.332(b));
c. Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in 2 C.F.R. §§ 200.208 and 3474.10 (2 C.F.R. § 200.332(c));
d. Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved (2 C.F.R. § 200.332(d));
e. Depending upon the assessment of risk posed by the subrecipient, consider monitoring activities ranging from technical assistance to on-site monitoring or conducting agreed-upon-procedures engagements (audits) (2 C.F.R. § 200.332(e));
f. Verify that every subrecipient is audited as required (2 C.F.R. § 200.332(f));
g. Conduct fiscal monitoring as part of the SEA's general supervision responsibilities (34 C.F.R. § 300.149);

h. Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records (2 C.F.R. § 200.332(g)); and
i. Consider taking enforcement action against noncompliant subrecipients as described in 2 C.F.R. § 200.339 (2 C.F.R. § 200.332 (h)); and in program regulations at 34 C.F.R. § 300.604.

Questions about SEA's Current Fiscal Monitoring Procedures:

a. Describe any recent changes in monitoring procedures.
b. Describe your risk assessment process and instrument and how its use has informed monitoring activities.
c. Which offices/positions are responsible for different aspects of monitoring?
d. What mechanisms do you use to conduct your monitoring (on-site, desk, virtual, self-assessment, combination)? How do you determine which mechanism to use for a particular LEA/topic?
e. Do you consider performance as part of your monitoring? If so, how?
f. What role does technical assistance have in your subrecipient monitoring?
g. How are the results of Single Audits considered as part of your monitoring process?
h. Describe the range of enforcement actions considered/taken in response to noncompliance and/or low performance, and how you select the appropriate action(s).

Questions about Single Audit Responsibilities:

a. How do you verify that every subrecipient is audited as required? What offices have a role?
b. How do you fulfill the requirement to issue a management decision for IDEA-related audit findings?
c. What office issues management decisions? If it is an office other than special education, how is your office informed of the audit findings and decisions?
d. Who is responsible for ensuring timely correction of the audit finding? How are corrections tracked and closed out?
e. Do you track repeat audit findings (i.e., repeat for the same LEA, and repeat across multiple LEAs)?
f. Have there been other audits or investigations of LEAs (e.g., State inspector general audits, public inquiries) related to allowable uses of special education funding?

Questions about Improved Outcomes for Students with Disabilities:

a. What are examples of how IDEA funds are used to support the State-identified Measurable Result (SiMR) from the State Systemic Improvement Plan, or improved results for children with disabilities more broadly?
    i. -at SEA level
    ii. -at LEA level
b. Has any guidance been issued to LEAs regarding the use of IDEA funds in this way?
c. What kinds of questions have you received from LEAs, families, or other stakeholders about the use of IDEA funds to improve results for children with disabilities? Has the SEA sought input or discussed options with LEAs and stakeholders on this topic?

d. What are examples of how State funds are used to support the SiMR/improved results? Have there been special appropriations since adoption of the SiMR? Increases, decreases targeted to results/SiMR?
e. Have there been any single audit findings or fiscal monitoring findings related (directly or indirectly) to the use of IDEA funds in support of improved results for children with disabilities?

DOCUMENTS NEEDED:

a. Current monitoring procedures and protocols.
b. Proposed monitoring procedures and protocols.
c. Monitoring cycle, if applicable.
d. Risk rubric/assessment/factors.
e. Summary of IDEA-related fiscal monitoring findings for LEAs for prior two years.
f. Policies and procedures for resolving IDEA-related Single Audit findings for LEAs.
g. Summary of IDEA-related Single Audit findings for LEAs for prior two years.
h. Copies of subaward notifications sent to LEAs.