



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF VOCATIONAL AND ADULT EDUCATION

APR - 7 2006

Mr. Mike Rush
State Administrator
Idaho Division of Professional-Technical Education
650 West State Street
P.O. Box 83720
Boise, Idaho 83720-0095

Dear Mr. Rush:

This letter is in response to your request on behalf of the Idaho Division of Professional-Technical Education (IDPTE) for: (1) a reduction in the fiscal effort required for the fiscal year (FY) 2004 computation under the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III), and (2) a waiver of the maintenance of effort (MOE) requirement for FY 2004 under Perkins III. I have carefully considered the information that you submitted in your June 20, 2005 letter as well as other submissions, in response to this office's requests, from Idaho on March 24, 2006, February 16, 2006, and December 9, 2005. I appreciate your submission of this additional information, which allowed me to complete the review and processing of your request for a waiver. I also took into account other relevant information, including the documents discussed in the Enclosures to this letter. I am pleased to inform you that I am granting both your requests – for a reduction in the required fiscal effort and for a waiver.

Section 311(b)(1)(A) requires that a State must maintain its fiscal effort in the preceding year from State sources for vocational and technical education on either an aggregate or per-student basis when compared with such effort in the second preceding year unless the Secretary of Education specifically waives this requirement. For example, to receive its Federal fiscal year grants dated July 1, 2004, the year at issue in your request, Idaho was required to maintain its level of fiscal effort in FY 2003 (July 1, 2002 – June 30, 2003) at or above the level of its fiscal effort in FY 2002 (July 1, 2001 – June 30, 2002). In computing fiscal effort, a State must exclude capital expenditures, special one-time project costs, and the cost of pilot programs under section 311(b)(1)(B) of Perkins III. Further, in any year in which a State's Federal grants under Perkins III are decreased compared to its grants in the preceding fiscal year, a State may decrease by the same percentage its fiscal effort for the fiscal year compared to its effort in its preceding fiscal year.

Request for a Reduction Based on Decreased Federal Support in FY 2003. Your first request was for a reduction in the fiscal effort that otherwise would be required during FY 2003 under Section 311(b)(1)(C) of Perkins III. You specifically requested that, since the IDPTE received a decreased amount in its Federal grant funds, dated July 1, 2003, compared to the amount it received in the grants for the preceding year, dated

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202
www.ed.gov

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

July 1, 2002, we permit the IDPTE to decrease by the same percentage the level of its expenditures in FY 2003 compared FY 2002. We agree with the IDPTE that there was a 3.4 percent reduction, based on our review of the IDPTE's Federal grants under Perkins III, dated July 1, 2003, compared to the Federal grants, dated July 1, 2002, and that the IDPTE could reduce the level of its fiscal effort for FY 2003 by that same percent compared to its actual fiscal effort in FY 2002. See Enclosure 1 for our computation. Nevertheless, the IDPTE failed to meet the MOE requirement for its July 1, 2004 grants because its FY 2003 expenditures were 2.4 percent lower than its expenditure level for FY 2002 even after a reduction in its FY 2002 expenditures as permitted under Section 311(b)(1)(C) of Perkins III. See Enclosure 1 for our computation.

Request for a Waiver. Consequently, you also requested a waiver of the MOE requirement for your July 1, 2004 grants. Section 311(b)(2) permits the Secretary to grant a waiver, with respect to not more than 5 percent of a State's expenditures, only "upon making a determination that such a waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources."

Your June 20 letter indicated that the IDPTE qualified for a waiver, as the "State experienced an unforeseen decline in financial resources due to a national recession and subsequent decline in state revenue collections." While your June 20 letter indicated that Idaho experienced a shortfall in revenue compared to its projections for FY 2003, Attachment I to your June 20 letter indicates that in fact Idaho had a 3.7 percent increase in revenue for FY 2003 compared to FY 2002. Further, your February 16 letter acknowledged that the Idaho legislature enacted tax cuts in its 2001 session.

Generally, a decline in projected revenue is not an allowable basis for a waiver under section 311(b)(2), nor is a decline in revenue resulting from a tax cut, which is foreseeable. Nevertheless, Attachment I to your June 20 letter also indicated that Idaho experienced a 14.3 percent decrease in revenue in FY 2002, that its revenue in FY 2003 was 11.2 percent below its FY 2001 revenue, and that its revenue did not return to the FY 2001 level until FY 2004. See Enclosure 2. We analyzed the impact of the tax cut versus the recession, which was unforeseeable, and determined that, of this 11.2 percent, 6.16 percent (55 percent) could be attributed to the tax cut compared with 5.04 percent to the recession (45 percent). See Enclosure 2. In view of our computation that Idaho's FY 2003 expenditures were only 2.4 percent below its required level compared with the 5.04 percent lower revenue in FY 2003 attributable to the recession, we are granting your request for a waiver of the MOE requirement for FY 2004.

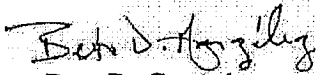
Terms of Waiver. This waiver applies for only one year, as section 311(b)(2) specifically requires that the "fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required." Thus, to comply with the MOE requirement for your grants made July 1, 2005, the IDPTE's expenditures during FY 2004 must equal or exceed the FY 2002

Page 3 – Letter to Mr. Mike Rush

expenditures after considering the reduction permitted under Section 311(b)(1)(C) of Perkins III. See Enclosure 1.

Please do not hesitate to contact Jana Toner, my Chief of Staff, at (202) 260-6468 with any question that you may have regarding this letter. We appreciate your cooperation in this matter.

Sincerely,



Beto D. Gonzalez
Acting Assistant Secretary
Office of Vocational and Adult Education

Enclosures

1. Idaho State Revenue: Analysis of FY 2003 Compared to FY 2001
2. Idaho's State Expenditures for Vocational Education: Analysis of FY 2003 Compared to FY 2002

cc Honorable Margaret Spellings
Governor Dirk Kempthorne

Idaho State Revenue: Analysis of FY 2003 Compared to FY 2001

FY 2001 Actual State Revenue <u>1/</u>	\$1984.64 million
FY 2003 Actual State Revenue <u>1/</u>	\$1763.95 million
Amount State Revenue for FY 2003 Below State Revenue for FY 2001	- \$ 220.69 million
Percentage State Revenue for FY 2003 Below State Revenue for FY 2001	- 11.2 % total
<ul style="list-style-type: none"> • Percentage Attributable to Tax Cut (55%) <u>2/</u> 	- 6.16 % tax cut
<ul style="list-style-type: none"> • Percentage Attributable to Recession (45%) <u>2/</u> 	- 5.04% recession

1/ June 20, 2005 letter from Mike Rush, State Administrator, Idaho Division of Professional-Technical Education, to Dr. Susan Scalfani, former Assistant Secretary for Vocational and Adult Education, Attachment I. According to the June 20 letter, the IDPTE determined maintenance of effort by comparing aggregate expenditures instead of per-student expenditures. Because Idaho experienced significant shortfalls in projected revenues while professional-technical student enrollments were increasing at both the secondary and postsecondary levels, the per-student expenditures would not resolve the maintenance of effort issue. Thus, we also based the above computations on the IDPTE's aggregate expenditures.

2/ Idaho Center on Budget and Tax Policy, "Idaho's Structural Deficits: A Problem That Won't Go Away," March 2005. In a March 20, 2006 e-mail from Jana Toner, Chief of Staff, Office of Vocational and Adult Education (OVAE), OVAE indicated that, according to the Idaho Center on Budget and Tax Policy, in FY 2003, 55% of the total deficit was due to structural factors (the tax cuts) and 45% was due to cyclical factors (the recession) and asked the State whether it agreed with, or had any reason to disagree with, this estimate. In Idaho's March 24 response, the State did not disagree with this estimate for FY 2003, nor did it not provide any conflicting information. It did, however, estimate the impact for the preceding year (FY 2002) to be 22% tax cuts and 78% recession. In determining how much of the lower FY 2003 revenue is attributable to the recession, OVAE relied primarily on the after-the-fact information, which is the above estimate from the Center on Budget and Tax Policy.

**Idaho's State Expenditures for Vocational Education:
Analysis of FY 2003 Compared to FY 2002**

FY 2002 Actual State Expenditures for Vocational Education 1/	\$43,686,975
FY 2002 "Adjusted" State Expenditures for Vocational Education (reflects a reduction of 3.4 percent for decrease in Federal support) 2/	\$42,201,617
FY 2003 Actual State Expenditures for Vocational Education 1/	\$41,178,965
Shortfall in FY 2003 Actual State Expenditures for Vocational Education compared to FY 2002 "Adjusted" State Expenditures for Vocational Education	\$ 1,022,652
Percentage of Shortfall in FY 2003 Actual State Expenditures for Vocational Education Compared to FY 2002 "Adjusted" State Expenditures for Vocational Education	- 2.4 %
<p>1/ December 9, 2005 email from Josie Chancey, Idaho Division of Professional-Technical Education (IDPTE), to Andrew Johnson and Len Lintner, Office of Vocational and Adult Education, which provided revised expenditure information for IDPTE, from which "capital outlays for all programs (as one-time expenditures)" were removed in accordance with section 311(b)(1)(B) of Perkins III.</p> <p>2/ Computation based on Federal grant documents dated, July 1, 2002, October 1, 2002, July 1, 2003, and October 2, 2003.</p>	