Could ED’s Audit Focus Be Shifting From Compliance to Success?

by Jerry Ashworth

While compliance with grant requirements should continue to be the main focus for Department of Education auditees, at least one ED office is putting greater emphasis on program results.

“If you have a grant program that is successful, does that trump relying on compliance?” Michael Brustein, Esq., partner with the Washington D.C. law firm Brustein and Manasevit recently asked attendees at the Brustein & Manasevit 2012 National Spring Forum. “We’re in a state of flux, and we’re seeing an emerging focus by programmatic offices on success. The debate [between program results vs. compliance] has evolved.”

In April, ED’s Office of Special Education announced that it was considering shifting from a compliance focus to “results-driven accountability,” adding that it would not conduct verification visits this year and next while it assessed “the critical components of OSEP’s accountability work to focus on student outcomes and support state improvement efforts.”

“To me this was a rather dramatic change,” Brustein said. “This is significant. My question is will [the other ED programmatic offices] follow suit in moving away from compliance focus when they go on site to perform their reviews? Only time will tell, but we know for sure that at least one department is moving in that direction.”

While the programmatic offices may be putting more emphasis on results, ED’s Office of Inspector General and the Office of Management and Budget still require grantee compliance. “Audit reports question serious amounts of federal spending and it’s all based on compliance,” Brustein explained. “We have a movement on one hand in a programmatic office towards success but on the other hand, the OIG has its focus on compliance.”

For example, a recent ED OIG audit found numerous compliance concerns at the Camden N.J. Public School District. As a result, the OIG recommended ED designate Camden as a high-risk grantee, impose special conditions, appoint a third party to maintain Camden’s funds and rescind Camden’s flexibilities to operate on a schoolwide plan until it can implement internal controls to comply with federal regulations. “Nowhere is there any notion of program success,” Brustein added.

So what should ED grantees focus on — results or compliance? “Our recommendation is that until you see a redraft of the OMB Circular A-133 Compliance Supplement where it is prefaced with language saying that there is a shift in focus from compliance to success and results, be very cautious in adopting this new position,” Brustein said.

Promoting CAROI

One of the key concerns mentioned by several respondents to the OMB’s recent notice of proposed guidance on grant management and single audit reforms (see related story, p. 1) was that raising the audit threshold to

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$1 million in federal funds spent annually would require federal agencies and pass-through entities to use more of their own oversight resources rather than relying on single audits.

Brustein said he was encouraged that the proposed guidance did support ED’s cooperative audit resolution and oversight initiative (see ¶730 in the Single Audit Information Service). Using CAROI, ED identifies audit findings in Circular A-133 single audit and ED OIG audit reports, then staff from ED’s program, audit, legal and other offices meet with their counterparts from state and local educational agencies to resolve the findings and prevent them reoccurring while trying to develop and improve the system of program administration.

“It puts the focus not on ‘gotcha,’ but how can we work together to develop a manageable approach,” Brustein said, adding that that OMB notice recommends that all agencies use an approach similar to CAROI.

For More Information

The ED OSEP announcement is available at http://www2.ed.gov/about/offices/list/osers/osep/rda-qa.doc