



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

March 13, 2001

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Honorable J. Duke Albanese  
Commissioner of Education  
Maine Department of Education  
23 State House Station  
Augusta, Maine 04333-0023

Reference: Audit Control Number 01-99-08498

Title of Audit: Single Audit Report

Dear Commissioner Albanese:

This letter presents the program determination by the Assistant Secretary for Special Education and Rehabilitative Services, United States Department of Education, for the above entitled audit of the Maine Department of Education (MDE) for the Fiscal Year 1999. The audit was prepared by the State of Maine Department of Audit, 66 State House Station, Augusta, Maine 04333, and was assigned the Audit Control Number ACN 01-99-08498 by the Office of the Inspector General, United States Department of Education.

This program determination letter (PDL) presents the Auditor's findings and recommendations, followed by the response from MDE and the Determination of the Assistant Secretary. The determinations regarding these findings are contained in the enclosure to this PDL. In future correspondence with the Department concerning these determinations, please refer to ACN 01-99-08498 and the finding number.

Sincerely,

  
Andrew Pepin  
Executive Administrator

Enclosure

Determination by the Office of Special Education and  
Rehabilitative Services

Finding No. 99-14 (ACN 01-99-0898) – Federal Compliance not Ensured.

In accordance with the Single Audit Act Amendments of 1996 and the implementing provisions of OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations* non-federal entities that expend \$300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year. The Maine Department of Education (MDE) did not require the Child Development Services System (CDSS) to obtain an entity-wide audit in accordance with OMB Circular A-133. CDSS received \$4.1 m of federal grant finds in fiscal year 1999.

CDSS was established by the Maine Legislature as a body corporate and politic.<sup>1</sup> The system is defined by statute as consisting of: “regional sites organized as intermediate education units or as private nonprofit corporations, one state-level intermediate education unit and the Interdepartmental Coordinating Council for Early Intervention advisory board. (20 A MRSA §7724). Although the regional sites receive audits in compliance with OMB Circular A-133, as appropriate to their respective size, the state-level intermediate unit does not.

The state-level unit has an independent accounting system and a separate bank account from those of the State. The unit is not subject to the usual MDE monitoring and administrative controls. MDE does not receive monitoring reports on the unit. Compliance with cash management and period of availability requirements is not ensured. Of ten allotments of Federal funds to the unit, five were held on account for a week or more. Its account is not subject to MDE’s federal Grant Administration and Payment System. That system ensures the period of availability requirements are met. The unit’s independent accounting system precludes reliance on financial, administrative, and compliance controls of the State and of MDE.

Audit Recommendations

The Auditors recommended that the MDE determine whether the unit [CDSS] is a part of the State government or a subrecipient and implement accounting control and compliance policies appropriate to its determination.

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<sup>1</sup> 20 A MRSA §7724(2) provides: The Child Development Services System is established as a body corporate and politic and as a public instrumentality of the State, and the exercise of power conferred by this section is deemed to be the performance of essential governmental functions.

## Auditees Response

As an entity functioning under the Commissioner of Education, the CDSS State Office has as its single audit requirement as a part of the Department [of Education]. CDSS engages a separate auditor for fiscal review. Due to our management reporting structure and the fact that the CDSS regional site contracts are with the Department of Education, not CDSS, the state level office does not qualify as a true subrecipient. Rather, it is a component of the Department. A memo from the Commissioner of the Department of Education to the Commissioner of the Department of Finance, written on September 25, 1989, details the fiscal structure and operating procedures for the CDSS System. The Commissioner of Finance on April 6, 1990 approved this structure. These documents were provided during the audit of the Department in the past several weeks. An additional memo, dated June 26, 1996, indicates that the Maine Department of Audits believes that the CDSS State Office is covered under the State Single Audit. Therefore, as these documents reflect, we have sought and received guidance from the State controller regarding our status.

## Assistant Secretary's Determination

The Assistant Secretary for Special Education and Rehabilitation Services sustains the auditor's findings and recommendations that the State of Maine must determine whether, under State statute and regulations, CDSS functions as a separate legal entity subject the requirements of the Single Audit Act of 1996, as amended, and the implementing provisions of OMB Circular A-133. However, if CDSS is determined not to be a separate entity subject to the annual Single Audit requirements, MDE must take steps to include CDSS within MDE's Single Audit pursuant to OMB Circular A-133.

Information in this audit report and discussions with the Maine Department of Audits suggests that CDSS is, in fact, a separate legal entity that must conduct a single audit. CDSS maintains its own accounting system and operates under controls independent from the State Government, and is not covered by the Maine Statewide Audit. As noted above, CDSS is specifically established "as a body corporate and politic" by Maine Statute. See: Footnote 1. Any determination made on this issue must take this information into account.

MDE must report to the Assistant Secretary on its resolution of this matter within 60 days. Specifically, MDE must report on its determination with respect to whether CDSS is a separate legal entity and, on the basis of that decision, what steps are being taken to ensure that CDSS is being audited under the Single Audit Act. Please be aware that in subsequent audits, a review will be made of the corrective actions to ensure that they have been completed in an appropriate manner and have been implemented in a manner consistent with applicable requirements. If necessary, depending on the outcome of future audits and on the manner in which corrective actions have been implemented, further administrative action, including the recovery of funds, may need to be taken by this Department.