

UTAH STATE BOARD OF EDUCATION Dual Language Immersion Program – Federal Grant Management

Findings and Recommendations
For July 2013 through January 2017

Report No. OOE-17-SP2



**OFFICE OF THE
STATE AUDITOR**

AUDIT LEADERSHIP:

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UTAH STATE BOARD OF EDUCATION
Dual Language Immersion Program
FOR THE PERIOD JULY 2013 THROUGH JANUARY 2017

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OFFICE OF THE
STATE AUDITOR

April 24, 2017

Terryl Warner, Audit Committee Chair
Utah State Board of Education
250 East 500 South
P.O. Box 144200
SLC, Utah 84114-42001

Dear Ms. Warner:

We have performed the procedures described below to certain aspects of USBE's internal control and compliance over the DLI Program for July 2013 through January 2017, unless otherwise stated. The purpose of these procedures is to assist USBE in evaluating its internal control over the management of the DLI Program. We performed the following procedures at USBE:

1. We obtained a listing of all funding sources for the DLI Program and determined if funding from the various sources is separately tracked and accounted for. We determined that this listing included all funding sources within the responsibility of the program manager.
2. We identified all LEAs that have received DLI Program funding by funding sources.
3. We interviewed/contacted knowledgeable financial staff about concerns they may have regarding the DLI Program and, more specifically, program manager involvements.
4. We evaluated the scope and methodology of work performed by USBE School Finance.
5. We obtained a listing of the reimbursement requests from Provo School District for the Flagship grant (from Brigham Young University) that were reviewed by USBE. We reviewed a selection of transactions from this USBE listing to determine the propriety of the conclusions made by USBE.
6. We reviewed all (100%) expenditure transactions related to STARTALK grants from state fiscal year 2014 through January 2017.
7. We interviewed the DLI Program Manager regarding his involvement with the Program and the processes he followed in managing it.
8. We reviewed the separation of duties within the DLI Program, taking into consideration:
 - Undue influence of the DLI program manager regarding LEA expenditures and reimbursements in the DLI program.

- Separation of duties related to supervision of the program and finances at both the state and local level.
9. We reviewed the program for conflicts of interest at the state and local levels, including:
- Individuals showing they are both state and LEA employees.
 - Stipends to individuals for work performed that may or may not be outside of the scope of their job duties with either USBE or the LEA.
10. We reviewed the Program for possible fraud, waste, and abuse, including:
- Potential purchases of items (e.g., computer) for the program manager purchased at the LEA level but received at the state level.
 - Potential collusion (See conflicts of interest concern)

Our procedures were more limited than would be necessary to express an audit opinion on compliance or on the effectiveness of USBE's internal control or any part thereof. Accordingly, we do not express such opinions. Alternatively, we have identified the procedures we performed and the findings resulting from those procedures. Had we performed additional procedures or had we made an audit of the effectiveness of USBE's internal control, other matters might have come to our attention that would have been reported to you.

Our findings resulting from the above procedures are included in the attached findings and recommendations section of this report.

By its nature, this report focuses on exceptions, weaknesses, and problems. This focus should not be understood to mean there are not also various strengths and accomplishments. We appreciate the courtesy and assistance extended to us by the personnel of USBE and the LEAs during the course of the engagement, and we look forward to a continuing professional relationship. If you have any questions, please contact Hollie Andrus, Audit Director, at 801-808-0467 or handrus@utah.gov.

Office of the State Auditor

Office of the State Auditor

cc: Sydnee Dickson, Superintendent of Public Instruction
Debbie Davis, Internal Audit Director

BACKGROUND

In 2009, the Utah State Legislature established the Dual Language Immersion (DLI) Program to help students learn academic content while acquiring another language. Students receive math, science, and social studies instruction in a target language, such as Spanish, English, Chinese, French, Portuguese, German, or Russian. The Legislature annually allocates state funds to the Utah State Board of Education (USBE) for the DLI Program using a formula based on the number of qualifying schools. Local schools desiring to participate in the program are required to submit an application to USBE, who then awards funding to the individual schools. USBE passes through funding to local school districts, or local education agencies (LEA), to fund the individual school's DLI program.

In addition to state appropriations, USBE receives federal grants to subsidize and expand the program to offer more languages. USBE received two Department of Defense Flagship grants (2012 and 2015 grants) sub-awarded by Brigham Young University (BYU) and a number of STARTALK grants awarded from the National Security Agency (NSA) for several languages, defined as "critical". Funding for these grants is provided on a reimbursement basis.

The DLI Program Manager, an employee of USBE, is responsible for: 1) distributing state funds to LEAs, 2) ensuring DLI Program objectives are met, and 3) providing fiscal accountability for federal grant monies spent. He works with the six DLI Directors, each of whom manages language programs within five districts. A portion of each director's time is spent within his own district, while the director's remaining time is spent coordinating the program for his assigned language at other schools.

Our review focused on USBE's fiscal accountability for the Flagship and STARTALK federal grant monies spent. It did not include any review of state formula-based funding or of program objectives.

FINDINGS AND RECOMMENDATIONS

1. USBE MISMANAGED FEDERAL FUNDS

a. Lack of Proper Oversight

USBE does not exercise proper management and oversight of the federal funds received for the DLI Program. As the primary recipient of these funds, USBE is ultimately responsible for proper management of the grant funds. However, rather than maintaining the grant funding necessary to enable proper administration of the DLI Program, USBE sends all funds to LEAs without clearly defining the USBE's roles and responsibilities or the LEAs' roles and responsibilities. USBE should establish policies and procedures to ensure compliance with all applicable grant requirements and should define program roles and responsibilities at both the USBE level and the LEA level.

b. Lack of Accountability

As stated above, USBE should maintain control and oversight of the DLI Program money. If USBE sub-awards the funds to an LEA, the LEA should then have control over how the money is spent and should maintain appropriate supporting documentation for expenditures. Our inquiry with LEA personnel determined that LEAs do not have control over how the funds are spent. Rather, the LEAs are instructed to pay for expenditures by either the USBE's DLI Program Manager or the DLI directors, whom many LEAs consider to be state employees (see Finding No 4). As such, the LEAs do not deem control and oversight of program funding to be their responsibility—indeed, our inquiries noted that the LEAs consider themselves to be only a fiscal agent of the funds. Since the LEAs know they will receive reimbursement from the state for any payments they are directed to pay, they do not question the payments. Fiscal accountability and proper oversight were lost under such circumstances.

As a result, we noted both expenditures made without adequate supporting documentation and expenditures made for an unallowable language or outside the grant period. In addition, funds from different grant awards for different languages were not clearly and properly separated. These issues all resulted in improper expenditures. For more specific instances identified, see Findings 3 through 6.

Recommendation:

We recommend that USBE: 1) re-evaluate the funding structure of the DLI Program, and 2) define the roles and responsibilities of USBE and the LEAs to ensure accountability and proper oversight of the funds.

2. USBE FAILED TO PROVIDE ADEQUATE MONITORING OF DLI PROGRAM ACTIVITIES

USBE did not provide adequate monitoring of the DLI Program expenditures. From July 2013 through January 2017 (the dates of our review), the Program Manager worked with multiple direct supervisors; all of whom emphasized to him the need to follow USBE-established policies and procedures. Despite this emphasis on adherence to policies and procedures, we identified the following weaknesses during our review of the DLI Program:

- State or LEA procurement policies were not properly followed
- State or LEA hiring policies were not properly followed
- Expenditures were made without supporting documentation
- Expenditures were made for unallowable activities and unallowable costs
- Improper compensation was paid to the DLI Program Manager and DLI Directors
- Non-supplanting requirements of the STARTALK grants were interpreted incorrectly

The Program Manager indicated he did not receive adequate training or guidance regarding fiscal management of the program. However, we interviewed additional USBE staff, with job descriptions similar to those of the Program Manager. These staff acknowledged that USBE established policies and procedures and provided accounting assistance. They also noted that their direct supervisors approve all program expenditures after review of supporting documentation. Such reviews and approvals of DLI Program expenditures by the program manager's direct supervisors did not occur. Direct Supervisors should review and approve all program expenditures, especially those made to program managers. These errors occurred because the program's initial set-up was flawed and continued through the various supervisors. See also Finding No. 1 regarding USBE's lack of oversight and accountability. Also see Findings No. 3 – 6 for more details about issues noted.

Recommendation:

We recommend USBE's DLI Program Manager follow USBE-established policies and procedures. We also recommend USBE's DLI Program Manager's direct supervisor review and approve all program expenditures.

3. IMPROPER COMPENSATION TO DLI PROGRAM MANAGER

The DLI Program Manager received improper compensation from LEAs, as described below:

a. Compensation for Work Performed

The DLI Program Manager received a total of \$18,000 (\$14,000 from Provo School District and \$4,000 from Tooele School District) in stipends from STARTALK funds for fiscal year 2013 through fiscal year 2016. He indicated to us that his understanding was that he could not run the STARTALK program as part of his normal job duties and that these payments were for work he performed outside his normal working hours. However, he did not keep supporting documentation for this extra work performed.

Since the DLI Program Manager is a USBE employee, USBE should evaluate, approve, and document:

- his compensation,
- any extra work required of him, and
- how his compensation will be funded (e.g., either with state monies or with federal grant monies).

LEAs, subrecipients of the federal grant monies, should not directly compensate a program manager for programs he oversees.

b. Reimbursement for Purchases

The DLI Program Manager received a \$1,839 reimbursement of Flagship grant funds from an LEA for the purchase of a MacBook Pro computer. This computer was sent to the DLI Program Manager's home, although USBE financial personnel have seen the Program Manager use the computer in his USBE office. The computer was one of two computers allowable by the applicable grant. However, this practice of purchasing the computer, receiving it at a home address, and obtaining reimbursement circumvents both state and school district purchasing policies and is considered improper.

Errors such as these may have been avoided had the Program Manager exercised reasonable behavior when fulfilling his fiscal responsibilities.

Recommendation:

We recommend that USBE:

- **Establish proper policies and procedures to evaluate, approve, and document the Program Manager's compensation, the extra work required of him, and the funding of his compensation.**
- **Ensure the DLI Program Manager follow state purchasing policies for all program expenditures.**
- **Take appropriate action to recoup any improper compensation.**
- **Consider other corrective action.**

We also recommend the DLI Program Manager return all improper compensation to USBE and follow state purchasing policies for all program expenditures. Also, see recommendations for Findings No. 1 and 2.

4. **WEAKNESSES RELATED TO DLI DIRECTORS**

a. Circumvention of Hiring Policies

The DLI Program Manager circumvented both school district and state policies in hiring the DLI directors. The DLI Program Manager set up the DLI Program to house and hire DLI directors at the LEA level. The DLI Program Manager explained this was done for two reasons: 1) to create a bond between the USBE level and the LEA level and 2) because USBE was not allowed to hire any more full-time employees (FTE) at its level. However, we noted that 3 of the 6 DLI director positions were interviewed for and filled by the state DLI Program Manager. He also determined their compensation and how the compensation was funded. In general, 75% -100% of each DLI director's salary is reimbursed by DLI Program funds, with only a small portion, if any, of the salary being funded by the LEA. As such, the LEAs consider the DLI directors to be USBE employees even though their employment contracts are with the LEAs. The LEAs were aware of the impropriety;

however, they did not question the practice since they knew they would be reimbursed for the position costs. This hiring practice is considered improper.

b. Confusion Regarding Whether DLI Directors are State or LEA Employees

The hiring practice identified above creates confusion regarding whether the DLI directors are state or LEA employees and which entity's policies should apply. This practice also leads to unclear reporting structures and inadequate oversight, resulting in improper payments based on inadequate supporting documentation.

c. Questionable Compensation for DLI Directors

We noted a total of \$63,744 in improper STARTALK grant payments made to two DLI directors in addition to their regular salaries. These payments were made directly to the DLI directors from the LEA rather than being recorded as payroll and subject to taxes, thus creating a questionable compensation arrangement. These DLI directors claimed these payments were for extra work performed outside their normal working hours; however, they did not maintain adequate supporting documentation, such as a time log or description of the work performed.

The STARTALK grant award agreement - Attachment No. 3 General Provisions for NSA Grants, section 21.d, states "The Performing Organization shall establish policies and procedures to prohibit employees from using their positions for a purpose that gives the appearance of being motivated by a desire for private gain. . ." Earning additional compensation gives the appearance that these DLI directors used their position for personal gain; therefore, this compensation is not in compliance with the terms of the grant agreement. This problem occurred because the DLI Program setup does not clearly define employees' responsibilities and reporting structure.

Recommendation:

We recommend USBE evaluate and determine whether the DLI directors should be state or LEA employees and follow that decision to determine the proper hiring procedures and compensation for DLI directors.

5. UNALLOWABLE COSTS AND INADEQUATE DOCUMENTATION

a. Office of the State Auditor Review of STARTALK Grant Expenditures

We reviewed all STARTALK Grant expenditures from July 2013 through January 2017 and noted unallowable federal grant expenditures totaling \$364,930. This amount accounts for 57% of the \$635,550 in total expenditures for the period. Grant award agreements, sub-award contracts, and federal compliance requirements noted in Uniform Guidance (2 CFR part 200) were used to determine activities allowed for the grant. The expenditures reviewed

were then categorized as either 1) known questioned costs, 2) potential questioned costs, or 3) appropriate costs. Questioned costs may need to be repaid to the federal entity.

- Known Questioned Costs: \$50,648 was determined to be for known questioned costs. \$18,133 of this amount was for expenditures made outside the respective grant periods, which clearly were not allowable. \$32,515 of this amount consisted of expenditures for a language other than the language specified by the grant, as well as alcohol, parking fines, lift tickets, office decorations, and other unnecessary expenditures.
- Potential Questioned Costs: \$314,282 are potential questioned costs due mainly to inadequate documentation, such as invoices without dates, documentation that had unclear or unstated activities/descriptions, and expenditures that stated only a vendor name and amounts owed with no other supporting details besides a W-9 and emails from the DLI directors or DLI Program Manager to accounting personnel at the districts.

USBE only requested reimbursement for \$335,004 of the total \$364,930 questioned costs.

b. USBE's Review of Flagship Grant Expenditures

In addition to our review of the STARTALK Grant, USBE reviewed all Flagship Grant expenditures following a similar process and using the same federal guidelines. USBE noted \$995,276 in questioned costs. \$155,812 was for known questioned costs, while the remaining \$839,464 was for potentially questioned costs. USBE noted similar problems with inadequate documentation, costs for languages other than those specified in the grant contracts, and costs outside the grant period. USBE only requested reimbursement for \$942,245 of the total \$995,276 questioned costs.

In total, the Office of the State Auditor and USBE identified questioned costs for unallowable expenditures of \$1,360,206 of which USBE requested reimbursement for \$1,277,249.

Recommendation:

We recommend:

- **USBE require LEAs maintain and provide to USBE appropriate supporting documentation for all grant expenditures and reimbursement requests, and**
- **The DLI Program Manager/USBE only reimburse grant expenditures after thorough review of supporting documentation.**

See also recommendations in Findings No. 1 and 2.

6. SCHOOL STAFF IMPROPERLY PAID WITH FEDERAL PROGRAM FUNDS

STARTALK grant funds were improperly used to directly compensate elementary principals and secretaries over the period of July 2013 through January 2017. Seven principals across six LEAs received extra compensation totaling \$3,500 and eight secretaries across five LEAs received extra compensation totaling \$3,900. All of these payments were made directly to the principals and secretaries from the LEA, potentially circumventing proper payroll accounting procedures and payroll taxes.

According to the applicable DLI director, the payments were for STARTALK summer programs held at these LEA employees' schools, at which the employees opened the buildings, attended the closing ceremonies, and helped as needed. The DLI director interpreted the summer camps as being outside the normal work duties of these school staff. This interpretation appears to be carried down from or influenced by the state DLI Program Manager's interpretation of the STARTALK grant non-supplanting requirements. Also see Finding No. 3.

Because these school staff are LEA employees, their compensation should be determined and paid by the LEAs through the standard LEA payroll system for the hours they worked. The DLI Program should then reimburse the LEAs for personnel costs as well as applicable rental fees for buildings.

These errors occurred because DLI directors did not exercise proper care in administering the grant and in understanding LEA payroll policies. See also Finding No. 4.

Recommendation:

We recommend that the DLI directors receive proper guidance and training on LEA policies related to employee compensation and building usage.



UTAH STATE BOARD OF EDUCATION

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April 21, 2017

Hollie Andrus, CPA
Office of the Utah State Auditor
Utah State Capitol Complex
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P.O. Box 143210
Salt Lake City, UT 84114-2310

Dear Mrs. Andrus:

The Utah State Board of Education (USBE) audit committee requested the assistance of the Office of the State Auditor (OSA) to review the methodology and conclusions of an internal review of the Flagship grant and complete a similar review of the Startalk grant. We appreciate the time and prioritization of this review by the OSA to further assist the Board and USBE staff with corrective action to resolve the issues noted below. The Board concurs with the findings noted in the Dual Language Immersion Program – Federal Grant Management Report OOE-17-SP2 and appreciates the opportunity to provide responses and the status of implemented and planned corrective actions.

Finding 1 USBE Mismanaged Federal Funds

The USBE agrees that organizational set up of this program is not ideal and does not promote a clear delineation between responsibilities of the State and those of the Local Education Agencies (LEAs). Similar state and federal grant programs currently managed by the USBE are not organized or managed in the same fashion as the Dual Language Immersion Program.

At the time of the organization of this program with state dollars it was a pilot, and it does not appear that when federal funds were added to program that they were classified as such. Additional funds increased the size of the program and adequate funds were not retained at the State level to properly administer the program.

In 2016, USBE staff identified the same concerns when completing internal reconciliations and reviews of program records. Staff have already engaged with management and awaited the outcome of this review to engage with program personnel and the purchasing director of the USBE to begin developing a contract or MOU with each LEA involved with the Dual Immersion Program. This contract or MOU will properly outline responsibilities of the State, the DLI directors, and LEAs. Further consultation will occur with the Department of Human Resources to ensure employment and contractor rules are followed. Allowable costs and activities will be clearly outlined for all participating LEAs.

The USBE intends to have these activities completed and in place prior to awarding any state funds for FY2018. All federal grants are in the process of being closed and the USBE has elected to not complete renewal applications until proper policies and an organizational structure is in place to facilitate proper management of federal funds in this program.

Finding 2 USBE Failed to Provide Adequate Monitoring of DLI Program Activities

The USBE concurs with the recommendations made and will ensure additional training to the program manager takes place. Additionally, the Teaching and Learning section director will ensure that the program manager has a detailed performance plan in place that quantifies objectives and ensures understanding of compliance to all policies and procedures related to 1) Procurement, 2) Hiring, 3) Expenditures.

USBE staff, under the direction of the Board, continues to identify and correct weaknesses in our financial operations. As part of on-going efforts to ensure accuracy, reliability, and responsibility for our financial management of both state and federal funds the Board has created a Financial Operations section. This section is comprised of fiscal and operational staff representing all program and grants managed by the USBE. Additional staff have been hired representing expertise in budgeting, grant management, policy creation, and procurement. The Board assigned an Assistant Attorney General to the Financial Operations staff to help mitigate and manage operational issues. This section was officially organized in September of 2016 and was implemented in January of 2017.

Major initiatives of the first year include formalizing and documenting budgeting, accounting and grants management policies and practices, organizing and implementing expertise in procurement, and transitioning budgeting and accounting into FINET. The USBE participated in and is working with State Finance to design and implement a statewide grants management system. Internal controls over budgeting, accounting, reimbursement, and submission of supporting documentation for reimbursements are being designed into this system. The USBE is hopeful the system will be complete and running by July of 2018.

In the meantime, program staff will ensure that accounting records including invoices and payroll records accompany invoices from LEAs. Reimbursements will not be made to LEAs without adequate documentation that passes staff review. USBE staff will ensure that state level activities and LEA activities are clearly outlined and separated.

The supervisor of the program manager will ensure that policies and procedures are being followed regarding procurement, LEA reimbursements, and compliance with organization contracts and awards to LEAs is occurring.

Finding 3 Improper Compensation to DLI Program Manager

The program manager did not obtain approval from his supervisor to request additional compensation from the subawards made to LEAs. The USBE will establish proper policies and procedures regarding additional compensation for staff from outside parties and the requirements under the public officer and employees' ethics act and ensure all staff receive training on this policy prior the beginning of FY2018.

The Teaching and Learning section director will ensure that the Program Manager attends all available trainings and that following all state laws and agency policies is an integral part of the individual's performance plan. USBE management will determine the best course of action for determining improper compensation and how to recoup the compensation.

Finding 4 Weaknesses Related to DLI Directors and Finding 6 School Staff Improperly paid with Federal Program Funds

The USBE concurs that the organizational structure of this program needs to be reviewed and restructured. As indicated above, USBE staff awaited the results of this review to begin engaging with program staff, the purchasing director, and legal staff to outline the responsibilities of state and LEA staff and to formalize the relationships between the DLI directors and their employers.

Beginning in January of 2017, the USBE has ceased making payments to LEA employees outside the payroll process of their LEA employers. Some circumstances exist where stipend or contractor payments may be made to teachers during the summer when they are not functioning under an employment contract or when they are hired as a contractor legitimately outside their regular work responsibilities, but these circumstances are few. USBE staff are working on a policy that outlines the legal and ethical requirements of compensation of LEA employee's vs contractors. This policy will be effective for FY2018.

Allowable costs and activities will be outlined in grant award documents, a contract, or an MOU for all future state and federal grants. Documentation for reimbursements will be required, and payments will not be made to LEAs without supporting documentation. This standard is currently being enforced for all reimbursement requests for this program after March of 2017.

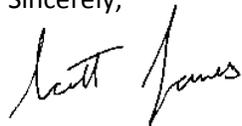
Finding 5 Unallowable Costs and Inadequate Documentation

The Board concurs with the questioned costs reported for the Flagship grant, the amount agrees to the Board's internal review.

We would also like to perform a reconciliation between questioned costs identified by this report for the Startalk grant to the amount actually drawn from the grant to determine if we concur with the amount reported. We look forward to the continued collaboration with the OSA to utilize expenditure testwork to complete this process.

Thank you for the opportunity to respond to these findings. We genuinely appreciate the collaborative and professional effort of the OSA staff. We look forward to implementing effective controls and measures to ensure that we meet all requirements of federal grants management using the recommendations provided to us in this audit report.

Sincerely,



Scott Jones
Utah State Board of Education
Deputy Superintendent of Operations

cc: Mark Huntsman, Utah State Board of Education, Board Chair
Sydnee Dickson, State Superintendent of Public Instruction
Rich Nye, Deputy Superintendent of Student Achievement
Diana Suddreth, Director Teaching and Learning
Natalie Grange, Assistant Superintendent of Financial Operations
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