Wyoming Department of Education
Dr. Jim McBride, Superintendent of Public Instruction
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Cheyenne, WY 82002-0050
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MEMORANDUM NO. 2010-176

Best of luck for a great year!
Jim

TO: School District Superintendents

FROM: Jim McBride, Ed.D.

DATE: September 30, 2010

SUBJECT: Federal Education Jobs

ACTION REQUIRED

The United States Department of Education will provide up to $17.5 million for Wyoming school districts under the Education Jobs Fund. The Wyoming Department of Education will serve as the fiscal agent for this process.

Education Jobs funds are available exclusively for salaries and benefits for salaried personnel working in Wyoming schools. The funds will be distributed as a percentage of the state's block grant funding model. Tentative allocations for each district are attached. Each district will be required to apply to WDE for these funds, with a plan provided as to how the funds will be used by the district.

WDE has submitted the necessary application and maintenance of effort documentation to USED. We expect approval from USED in the coming days.

We ask that districts take the following actions:

1. Review the USED guidance provided regarding specific uses for these jobs funds.
2. Determine potential uses within the guidelines.
3. Notify WDE of district intent to either accept or decline these funds.

Total allocations will be determined once WDE has received application intent forms from all districts. To the extent some districts decline to apply, funds will be re-allocated to affirmative districts.

Please fill out the Education Jobs Fund Letter of Intent indicating your district's intention. District superintendents are required to sign this letter. Please return the Letter of Intent by fax (307) 777-6234 or email dbaile@educ.state.wy.us, to the attention of Dianne Bailey no later than Friday, October 15. Please also send a copy with the original signature to Dianne Bailey, Wyoming Department of Education, Hathaway Building, 2nd Floor, 2300 Capitol Avenue, Cheyenne, Wyoming 82002.

Once WDE has received final approval for USED, we will provide an application. For questions, please contact:

Dianne Bailey	dbaile@educ.state.wy.us
Mary Kay Hill	mhill@educ.state.wy.us
Tim Lockwood	tlock@educ.state.wy.us

JM/MKH/tc

Attachments: Tentative District Job Allocation Funds
USED Guidance on Education Jobs Funds
Education Jobs Fund Letter of Intent

Wyoming LEA Distribution of Education Jobs Fund Aid

District ID	District Name	FY10 Model Guarantee	Percent of Total	Ed Jobs Allocation
0101000	Albany #1	$ 47,657,630.83	3.92%	$ 673,441.81
0201000	Big Horn #1	$ 11,124,709.75	0.91%	$ 157,201.37
0202000	Big Horn #2	$ 9,397,678.52	0.77%	$ 132,796.98
0203000	Big Horn #3	$ 7,166,159.71	0.59%	$ 101,263.77
0204000	Big Horn #4	$ 6,239,892.27	0.51%	$ 88,174.85
0301000	Campbell #1	$ 106,782,774.67	8.78%	$ 1,508,929.09
0401000	Carbon #1	$ 24,040,939.90	1.98%	$ 339,718.40
0402000	Carbon #2	$ 14,103,049.19	1.16%	$ 199,287.77
0501000	Converse #1	$ 24,219,141.00	1.99%	$ 342,236.53
0502000	Converse #2	$ 10,481,159.50	0.86%	$ 148,107.47
0601000	Crook #1	$ 17,904,242.42	1.47%	$ 253,001.78
0701000	Fremont # 1	$ 25,044,638.10	2.06%	$ 353,901.49
0702000	Fremont # 2	$ 4,836,203.75	0.40%	$ 68,339.57
0706000	Fremont # 6	$ 7,217,170.26	0.59%	$ 101,984.60
0714000	Fremont #14	$ 10,587,936.28	0.87%	$ 149,616.31
0721000	Fremont #21	$ 7,747,037.38	0.64%	$ 109,472.06
0724000	Fremont #24	$ 5,951,240.75	0.49%	$ 84,095.96
0725000	Fremont #25	$ 32,604,235.29	2.68%	$ 460,724.86
0738000	Fremont #38	$ 8,240,286.81	0.68%	$ 116,442.08
0801000	Goshen #1	$ 27,126,458.54	2.23%	$ 383,319.34
0901000	Hot Springs #1	$ 10,058,149.69	0.83%	$ 142,129.99
1001000	Johnson #1	$ 18,703,796.05	1.54%	$ 264,300.14
1101000	Laramie #1	$ 167,092,639.46	13.74%	$ 2,361,157.45
1102000	Laramie #2	$ 15,016,886.93	1.23%	$ 212,201.06
1201000	Lincoln #1	$ 9,511,074.06	0.78%	$ 134,399.36
1202000	Lincoln #2	$ 35,841,099.67	2.95%	$ 506,464.44
1301000	Natrona #1	$ 152,167,107.07	12.51%	$ 2,150,247.31
1401000	Niobrara #1	$ 6,723,510.93	0.55%	$ 95,008.78
1501000	Park # 1	$ 22,163,960.45	1.82%	$ 313,195.13
1506000	Park # 6	$ 28,521,549.45	2.35%	$ 403,033.13
1516000	Park #16	$ 3,050,289.75	0.25%	$ 43,103.12
1601000	Platte #1	$ 17,256,449.67	1.42%	$ 243,847.93
1602000	Platte #2	$ 4,626,730.68	0.38%	$ 65,379.54
1701000	Sheridan #1	$ 13,734,190.24	1.13%	$ 194,075.49
1702000	Sheridan #2	$ 40,834,013.55	3.36%	$ 577,018.45
1703000	Sheridan #3	$ 3,518,362.30	0.29%	$ 49,717.37
1801000	Sublette #1	$ 14,591,056.05	1.20%	$ 206,183.71
1809000	Sublette #9	$ 10,675,675.17	0.88%	$ 150,856.14
1901000	Sweetwater #1	$ 64,584,746.09	5.31%	$ 912,635.98
1902000	Sweetwater #2	$ 36,017,440.34	2.96%	$ 508,956.28
2001000	Teton #1	$ 35,359,002.33	2.91%	$ 499,652.00
2101000	Uinta #1	$ 37,005,720.33	3.04%	$ 522,921.49
2104000	Uinta #4	$ 10,267,900.43	0.84%	$ 145,093.94
2106000	Uinta #6	$ 10,303,403.93	0.85%	$ 145,595.63
2201000	Washakie #1	$ 19,100,091.49	1.57%	$ 269,900.12
2202000	Washakie #2	$ 2,696,895.19	0.22%	$ 38,109.36
2301000	Weston #1	$ 12,715,029.84	1.05%	$ 179,673.91
2307000	Weston #7	$ 5,385,365.74	0.44%	$ 76,099.68
7700000	State Total	$ 1,215,994,721.81	100.00%	$ 17,183,013.00

Total Wyoming Allocation: $17,533,686.00 (2% admin retained by SEA)

Initial Guidance for States

on the

Education Jobs Fund Program

U.S. Department of Education
Washington, D.C. 20202

August 13, 2010

Purpose of the Guidance

The purpose of this guidance is to provide information on the Education Jobs Fund program. The guidance provides the U.S. Department of Education's interpretation of various statutory provisions and does not impose any requirements beyond those included in the statute and other applicable laws and regulations. In addition, it does not create or confer any rights for or on any person.

The Department will provide additional or updated program guidance as necessary. Please send any comments or questions to EducationJobsFund@ed.gov.

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A. Introduction

A-1. What is the Education Jobs Fund (Ed Jobs) program?

The Ed Jobs program is a new Federal program that provides $10 billion in assistance to States to save or create education jobs for the 2010-2011 school year. Jobs funded under this program include those that provide educational and related services for early childhood, elementary, and secondary education.

A-2. What is the statutory authority for the program?

The Ed Jobs program is authorized in Public Law No. 111-226 (Act), which President Obama signed on August 10, 2010.[1] A copy of that portion of the Act authorizing the Ed Jobs program is included as Appendix A.

A-3. How does the U.S. Department of Education (Department) determine the amount of funding that each State may receive under the Ed Jobs program?

The Department determines the allocation of each State by formula on the basis of (1) its relative population of individuals who are aged 5 to 24, and (2) its relative total population.[2] The amount of funding available to each State under the program is provided on the program website at http://www2.ed.gov/programs/educationjobsfund/index.html.

A-4. Are the Insular Areas and schools operated or funded by the Bureau of Indian Affairs (BIA) eligible for Ed Jobs funding?

Yes. The Department will reserve one half of one percent of the total Ed Jobs allocation for the Insular Areas (American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands) and one half of one percent for BIA schools.

A-5. What is the period of availability of Ed Jobs funds?

The Ed Jobs program supports educational and related services during the 2010-2011 school year. The funds are available for obligations that occur as of August 10, 2010 (the date of enactment of the Act). An LEA that has funds remaining after the 2010-2011 school year may use those remaining funds through September 30, 2012. This period includes the additional year of fund availability authorized under the Tydings Amendment (Section 421(b)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1225(b)(1)).

[1] The Act contains some provisions that apply only to the State of Texas. Therefore, not all sections of this guidance apply to Texas. For the convenience of that State and its local educational agencies, the Department has prepared separate program guidance for Texas, which is available on the Department's website.
[2] For purposes of this program, the District of Columbia and Puerto Rico are defined as States.

A-6. Does the Secretary have the authority to waive any requirements of the Ed Jobs program?

No. Neither the Ed Jobs statute nor any other Department statute authorizes the Secretary to waive requirements of the program.

B. Process For Awarding Funds to States

B-1. What is the Department's process for awarding Ed Jobs funds to States?

The Department will review applications submitted by Governors on a rolling basis. A Governor may request Ed Jobs funding by submitting an application no later than September 9, 2010. The Department encourages Governors to submit approvable applications as soon as possible so that local educational agencies (LEAs) may use program funds early in the 2010-2011 school year. The Department anticipates awarding a State's total Ed Jobs allocation within two weeks of the Governor's submission of an approvable application. If a Governor does not submit an approvable application by the statutory deadline, the availability of funds to LEAs in the State will be significantly delayed.

B-2. What is an approvable Ed Jobs application?

An approvable application is one in which the Governor assures, among other things, that:

- The State will comply with all applicable statutes, regulations, and its approved Ed Jobs application and will use funds under the program in accordance with those statutes and regulations and its approved application;

- The State will comply with the maintenance-of-effort (MOE) requirements in section 101(10)(A) of the Act and, within 60 days of the date of the State's grant award, submit to the Department the most current applicable MOE data available;

- The State will use fiscal control and fund accounting procedures that ensure proper disbursement of and accounting for funds under the Ed Jobs program, including procedures to ensure compliance with Federal cash management requirements;

- The State will reserve not more than 2 percent of its allocation for the administrative costs of carrying out its responsibilities with respect to Ed Jobs funds and will use all remaining funds to make awards to LEAs for the support of elementary and secondary education in accordance with section 101(5) of the Act;

- The State will make awards to LEAs on a timely basis so that funds are available for their use during the 2010-2011 school year;

- The State will not require an LEA that has previously submitted the required local application under the State Fiscal Stabilization Fund (SFSF) program to submit an application to receive funding under the Ed Jobs program;

- The State will not use funds under the Ed Jobs program, directly or indirectly, to (a) establish, restore, or supplement a rainy-day fund; (b) supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainy-day fund; (c) reduce or retire debt obligations incurred by the State; or (d) supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State;

- The State will develop and implement a monitoring plan that will enable the State to ensure that its LEAs comply with all applicable programmatic and fiscal requirements;

- The State will comply with the reporting requirements (including subrecipient reporting requirements) of section 1512 of the American Recovery and Reinvestment Act of 2009 (ARRA) and such other reporting requirements as the Secretary may establish;

- After reserving any funds for State administration, the State will distribute Ed Jobs funds to LEAs *either* –

    - Through the State's primary elementary and secondary education funding formula(e) as identified in its application for funding under the SFSF program; *or*

    - On the basis of the LEAs' relative shares of funds under Part A of Title I of the Elementary and Secondary Education Act of 1965 (ESEA) for the most recent fiscal year for which data are available.

The Ed Jobs application for Governors is available at http://www2.ed.gov/programs/educationjobsfund/index.html.

B-3. Must a State provide specific education reform assurances in order to receive funds under the Ed Jobs program?

The SFSF program education reform assurances apply to the Ed Jobs program. If a State has an approved SFSF phase two application, it is considered to be in compliance with those assurances and does not have to provide in its Ed Jobs application any additional data relative to those assurances.

B-4. What if a Governor does not submit an approvable Ed Jobs application by the statutory deadline?

While the Department anticipates that each Governor will submit a timely approvable application, the statute provides for an alternative distribution method (*see* section 101(8) of the Act). If the Department has to distribute Ed Jobs funds using an alternative method, it will be unable to distribute those funds to the State expeditiously and the receipt of funds by LEAs in the State will be substantially delayed.

C. State Uses of Funds and Local Distribution

C-1. How may a State use its Ed Jobs allocation?

Each State may reserve up to 2 percent of its allocation for the costs of administering the program. The State must award the remaining portion of the allocation (at least 98 percent) to LEAs.[3] The Governor may not award those funds not reserved for State administration to entities other than LEAs.

C-2. When must a Governor make funds available to LEAs?

A Governor must make awards to LEAs on a timely basis so that funds are available for use during the 2010-2011 school year. An LEA must be able to use all of its allocation, if it so chooses, during the 2010-2011 school year.

To facilitate local planning, the Department urges States to make publicly available as soon as possible the amount that each LEA will receive under the Ed Jobs program.

C-3. How must a State distribute funds to LEAs?

A State must distribute the funds to LEAs *either* –

- Through the State's primary elementary and secondary education funding formula(e) as identified in its application for funding under the SFSF program; *or*

- On the basis of the LEAs' relative shares of funds under Part A of Title I of the ESEA for the most recent fiscal year for which data are available.

[3] State law determines whether a charter school is an LEA or a school within an LEA. A State awards Ed Jobs funds to a charter school LEA on the same basis as it awards such funds to other LEAs in the State.

C-4. May a State distribute a portion of its funds to LEAs on the basis of the State's primary funding formula(e) and the remainder on the basis of Title I shares?

No. A State must choose one of the two methods to allocate Ed Jobs funds to its LEAs.

C-5. Which fiscal year data should a State use if it allocates Ed Jobs funds through its primary State funding formula(e)?

The State must use the same data that it uses to allocate State funds for the 2010-2011 school year.

C-6. Must an LEA submit an application to the State in order to receive funding under the Ed Jobs program?

If an LEA submitted an SFSF application to the State that included the required GEPA assurances, it does not have to submit an additional application to receive Ed Jobs funds and the Governor may not require the LEA to do so.

If an LEA has not submitted the required SFSF application, it must submit an Ed Jobs application to the State to receive funds.[4]

C-7. May a Governor direct how an LEA may use its Ed Jobs funds?

No. A Governor may not direct how an LEA may use its Ed Jobs funds. LEAs have the discretion to decide how to use program funds, consistent with the provisions in section 101(5) of the Act and all other applicable requirements.

C-8. If a State has not reduced its levels of State support for elementary and secondary education, are LEAs in the State still eligible to receive Ed Jobs funds?

Yes. Any State that meets the Ed Jobs MOE requirements, including those that have not made cuts to education, is eligible to receive program funds. If a State's LEAs do not need funds to recall or rehire former employees, they may use the funds for activities such as paying the salaries and benefits for teachers who provide instructional services in after-school and extended learning programs.

C-9. May a State retain, for any purpose, additional Ed Jobs funds beyond those authorized to be reserved for State administration?

[4] Such local Ed Jobs applications must include the assurances in section 442 of GEPA (20 U.S.C. 1232e).

No. All funds not reserved for State administration must flow to LEAs. Thus, a State may not, for example, retain a portion of LEA allocations to make payments into a teacher retirement system on behalf of its LEAs.

C-10. May a State allocate Ed Jobs funds to institutions of higher education (IHEs)?

No. A State may not allocate Ed Jobs funds to IHEs.

C-11. May a State use Ed Jobs funds to make payments into a "rainy day fund" or for debt reduction?

No. A State may not use program funds, directly or indirectly, to establish, restore, or supplement a rainy day fund, or to supplant State funds in a manner that has this effect. Furthermore, a State may not use program funds, directly or indirectly, to reduce or retire debt obligations incurred by the State or to supplant State funds in a manner that has this effect.

D. Local Uses of Funds

D-1. For what purposes may an LEA use its Ed Jobs funds?

An LEA must use its funds only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary educational and related services.

D-2. What categories of expenses may an LEA support with Ed Jobs funds?

For purposes of this program, the phrase "compensation and benefits and other expenses, such as support services" includes, among other things, salaries, performance bonuses, health insurance, retirement benefits, incentives for early retirement, pension fund contributions, tuition reimbursement, student loan repayment assistance, transportation subsidies, and reimbursement for childcare expenses.

D-3. Which employees may an LEA support with Ed Jobs funds?

An LEA may use the funds to pay the salaries of teachers and other employees who provide school-level educational and related services. In addition to teachers, employees supported with program funds may include, among others, principals, assistant principals, academic coaches, in-service teacher trainers, classroom aides, counselors, librarians, secretaries, social workers, psychologists, interpreters, physical therapists, speech therapists, occupational therapists, information technology personnel, nurses, athletic coaches, security officers, custodians, maintenance workers, bus drivers, and cafeteria workers.

D-4. What are the statutory prohibitions on an LEA's use of Ed Jobs funds?

The statute prohibits LEAs from using Ed Jobs funds for general administrative expenses as that term is defined by the National Center for Education Statistics (NCES) in its Common Core of Data. These prohibited expenses are administrative expenditures related to the operation of the superintendent's office or the LEA's board of education, including the salaries and benefits of LEA-level administrative employees.

The statute also prohibits LEAs from using Ed Jobs funds for other LEA-level support services expenditures as that term is defined in the Common Core of Data. These prohibited activities include the payment of expenditures for fiscal services, LEA program planners and researchers, and human resource services.

D-5. May an LEA use Ed Jobs funds to pay the salaries and benefits of an LEA-level administrative official who also teaches or has other school-level responsibilities?

For an individual with both LEA-level and school-level responsibilities, an LEA may use Ed Jobs funds to pay only that portion of the employee's salary and benefits associated with the time spent on allowable (i.e., school-level) activities. The LEA must maintain documentation substantiating that amount of time.

D-6. May an LEA use Ed Jobs funds to change previously established employee salary schedules or to reduce the number of furlough days?

Yes. An LEA may use Ed Jobs funds, for example, to restore reductions in salaries and benefits and to implement salary increases for the 2010-2011 school year. In addition, an LEA may use the funds for any additional salary and benefits costs associated with the elimination of furlough days that had been scheduled for the 2010-2011 school year.

An LEA may not use Ed Jobs funds to compensate employees for any period prior to August 10, 2010, the date of enactment of the Act.

D-7. May an LEA use Ed Jobs funds to pay the compensation and benefits of individuals who provide school-level services but are not employees of an LEA?

No. An LEA may not use the funds to pay for contractual school-level services by individuals who are not employees of an LEA (e.g., janitors employed by an outside firm). However, an LEA that contracts with another LEA to provide educational and related services may use Ed Jobs funds to pay that portion of the contract associated with the salaries and benefits of the employees of the LEA providing the services.

D-8. May an LEA use Ed Jobs funds to meet previously unmet pension fund liabilities?

No. An LEA may not use Ed Jobs funds to meet pension obligations incurred in prior school years. However, an LEA may use its funds for pension obligations accruing on the basis of services that an employee performs during the 2010-2011 school year.

D-9. Does the receipt of Ed Jobs funds require LEAs to comply with Federal civil rights laws?

Yes. The receipt of any Federal funds obligates recipients to comply with Federal civil rights laws that prohibit discrimination based on race, color, national origin, sex, disability, and age.

E. Maintenance of Effort

E-1. What are the MOE requirements that apply to the Ed Jobs program?

Under the Ed Jobs program, a State must maintain fiscal effort for education for fiscal year (FY) 2011 in one of the four ways identified below. Methods 3 and 4 are available only to States with State tax collections for *calendar year* 2009 that are less than State tax collections for *calendar year* 2006.

Under each method, the State must separately meet the MOE requirements for both elementary and secondary education and for public IHEs.

- **Method 1: Comparing FY 2011 Dollar Levels of Support with FY 2009 Levels**

  Elementary and Secondary Education MOE Requirement

  For State fiscal year 2011, the State will maintain State support for elementary and secondary education (*in the aggregate or on the basis of expenditures per pupil*) at not less than the level of such support for State fiscal year 2009;

  -And -

  Public IHE MOE Requirement

  For State fiscal year 2011, the State will maintain State support for public IHEs (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for State fiscal year 2009.

- **Method 2: Comparing FY 2011 Percentages of Support with FY 2010 Percentages**

  Elementary and Secondary Education MOE Requirement

  For State fiscal year 2011, the State will maintain State support for elementary and secondary education at a percentage of the total revenues available to the State that is equal to or greater than the percentage for State fiscal year 2010;

  -And -

  Public IHE MOE Requirement

  For State fiscal year 2011, the State will maintain State support for public IHEs (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage for State fiscal year 2010.

- **Method 3: Comparing FY 2011 Dollar Levels of Support with FY 2006 Levels**

  This method is available only to States with State tax collections for calendar year 2009 that are less than State tax collections for calendar year 2006.

  Elementary and Secondary Education MOE Requirement

  For State fiscal year 2011, the State will maintain State support for elementary and secondary education (*in the aggregate*) at not less than the level of such support for State fiscal year 2006;[5]

  -And -

  Public IHE MOE Requirement

  For State fiscal year 2011, the State will maintain State support for public IHEs (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for State fiscal year 2006.

[5] Under Method 3, a State may not demonstrate that it is maintaining fiscal effort for elementary and secondary education on the basis of expenditures per pupil.

- **Method 4: Comparing FY 2011 Percentages of Support with FY 2006 Percentages**

  This method is available only to States with State tax collections for calendar year 2009 that are less than State tax collections for calendar year 2006.

  Elementary and Secondary Education MOE Requirement

  For State fiscal year 2011, the State will maintain State support for elementary and secondary education at a percentage of the total revenues available to the State that is equal to or greater than the percentage for State fiscal year 2006;

  -And -

  Public IHE MOE Requirement

  For State fiscal year 2011, the State will maintain State support for public IHEs (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage for State fiscal year 2006.

E-2. Are data on "State tax collections" for calendar years 2006 and 2009 readily available?

Yes. Data on State tax collections for calendar years 2006 and 2009 can be found in the U.S. Census Bureau's *Report on State Government Tax Collections*. In using these data to determine State tax collections for a given calendar year, a State must calculate the sum of the relevant "quarterly State tax collections data" (available at http://www.census.gov/govs/qtax/table_3.php). A State may rely on data other than these data to determine calendar year State tax collections. However, a State may not use the "annual State tax collections data" in the Census Bureau report because these annual data are calculated on a State fiscal year basis, not a calendar year basis.

E-3. May a State demonstrate compliance with the Ed Jobs MOE requirements by meeting the elementary and secondary education requirement under one method and the public IHE requirement under a different method?

No. A State must use the same method to demonstrate compliance with both the elementary and secondary education and public IHE requirements. For example, a State utilizing Method 2 would provide FY 2011 and FY 2010 MOE data on the percentages of total revenues spent on elementary and secondary education and the percentages spent on public IHEs.

E-4. What MOE information must a State include in its Ed Jobs application?

In the Ed Jobs application, a Governor must assure that the State will meet the statutory MOE requirements. The Governor must also assure that, within 60 days of the date of the State's grant award, the State will submit to the Department the most current applicable MOE data available. The Department will be providing technical assistance and further instructions regarding the required MOE submission.

E-5. If a Governor does not apply on behalf of the State and its LEAs, must the State still comply with the MOE requirements to receive Ed Jobs funds?

Yes. The MOE requirements apply regardless of whether the applicant is the Governor or an alternate entity.

E-6. Do the SFSF MOE requirements continue to apply to a State receiving Ed Jobs funds?

Yes. A State that receives Ed Jobs funds must meet the MOE requirements of both the SFSF and Ed Jobs programs.

E-7. What principles govern the elementary and secondary education MOE requirements under the Ed Jobs program?

The following principles govern the Ed Jobs program elementary and secondary education MOE requirements:[6]

1. The data used to determine levels of support must include only *State* support for education. Local government contributions, such as revenues generated through local property taxes, are not considered State support. However, State appropriations to local governments to support elementary and secondary education may be included as State support. Federal funds are not considered part of State support.

2. A State may establish its level of State support solely on the basis of the amount of funds provided through its primary elementary and secondary education funding formula(e), but is not required to do so. The formula(e) must include the State's base or foundation formula(e).

3. A State may also include categorical and other support that is not provided through the primary funding formula(e).

[6] These listed principles were included as principles in the January 2010 Guidance on the Maintenance-of-Effort Requirements in the State Fiscal Stabilization Fund Program available at www2.ed.gov/programs/statestabilization/applicant.html.

4. A State may choose to quantify its level of State support on the basis of data that it provides for other purposes, such as data that it includes as "Revenue from State Sources" in the annual National Public Education Finance Survey conducted by NCES.

5. The sources of data that a State uses to make the determinations must be consistent from year to year. For example, a State may not exclude a particular funding formula in one year and include it in the next. A State may make necessary adjustments, however, to account for changes in the procedures through which it provides support for education during the applicable years.

6. A State must maintain adequate documentation that substantiates its MOE data.

E-8. What principles govern the postsecondary education MOE requirements under the Ed Jobs program?

The following principles govern the Ed Jobs program postsecondary education MOE requirements:[7]

1. The data used to determine levels of support must include only *State* support for public higher education. The data may not include any State support for private IHEs. In some States, local governments may provide support for community colleges or other public IHEs. Local government contributions are not considered State support. In addition, Federal funds are not considered part of State support.

2. The data must include the principal funding mechanisms through which a State provides assistance to public IHEs. For example, the data would include State appropriations for public higher education.

3. The data must exclude support for capital projects (such as construction or modernization activities) and research and development, and tuition and fees paid by students.

4. The data may not include support from private donors, such as charitable contributions that individuals make to public IHEs.

5. The data may not include corporate contributions for public IHEs, such as payments that a corporation makes for stadium-naming rights.

6. A State may quantify its level of State support for public higher education by providing data in addition to that provided in the appropriations enacted by the State legislature for public IHEs. For example, a State may include data such as

[7] *See id.*

funding under State auspices for non-appropriated support (e.g., tobacco settlement funds and lotteries) specifically set aside for public higher education and interest or earnings received from State-endowments pledged to public IHEs.

7. State appropriations to public IHEs for financial assistance programs to defray the costs of tuition and fees paid by students (when the appropriated funds flow directly to the IHEs) may be considered State support for such institutions. The fact that the funds represent student financial aid for other purposes does not preclude such funds from consideration as State support for public IHEs in the Ed Jobs program.

8. Unrestricted State funding for public IHEs may be considered State support for such institutions even if those institutions choose to use a portion of that funding for financial assistance to students. This financial assistance is not considered to be tuition and fees paid by students or direct State support to students.

9. If a State provides unrestricted State funding to public IHEs and does not make separate appropriations for capital expenditures or research and development, the State must estimate the amount of capital expenditures and research and development expenditures to be excluded from the unrestricted funding.

10. A State may choose to quantify its level of State support on the basis of data that it provides for other purposes, such as data on State revenues to support public higher education that the State provides to the State Higher Education Executive Officers (SHEEO) as part of that organization's annual State Higher Education Finance (SHEF) study. Alternatively, a State could use institutional finance data submitted by IHEs under the NCES Integrated Postsecondary Education Data System (IPEDS) survey.

11. The sources of data that a State uses to make the determinations must be consistent from year to year. For example, a State may not include certain data sources one year and exclude those sources in the next. A State may make necessary adjustments, however, to account for changes in the procedures through which it provides support for education during the applicable years.

12. A State must maintain adequate documentation that substantiates its MOE data.

E-9. How may a State account for "deferred payments" in its levels of State support for education?

If a State makes available, in a given fiscal year, funds that its LEAs anticipate receiving as support for obligations incurred in the prior fiscal year, the State may (for purposes of the Ed Jobs program) include these deferred payments as State support in the prior fiscal year if –

- The State has an established practice of deferring payments from one fiscal year to the next;
- The State accounts for deferred funds consistently across fiscal years;
- The deferred funds are intended to support activities in the prior fiscal year;
- The time between the end of the prior fiscal year and the date of the deferred payments is minimized; and
- The amount of funds deferred is minimized.

E-10. Does the Secretary have the authority to waive the MOE requirements of the Ed Jobs program?

No. Neither the Ed Jobs statute nor any other Department statute authorizes the Secretary to waive the MOE requirements of the program. However, the Ed Jobs statute provides multiple methods for a State to demonstrate that it is maintaining fiscal effort for FY 2011.

F. Accountability and Reporting

F-1. Are there rules that govern the amount of Ed Jobs funds that a State or its LEAs may draw down at any one time?

Yes. A State must have an effective system for ensuring that it can draw down Ed Jobs funds from the Department's G5 system, on its own behalf and on the behalf of LEAs, as needed to pay program costs. The State must minimize the time that elapses between a drawdown and the expenditure of funds by the State or its LEAs. (*See* 34 C.F.R. 80.21(b).) States and LEAs must promptly, but at least quarterly, remit to the Department interest earned on advances. (*See* 34 C.F.R. 80.21(i).) The Department will take appropriate actions against States and LEAs that fail to comply with this requirement.

The State may not draw down any Ed Jobs funds from the Department's G5 system, on its own behalf or on behalf of an LEA, unless the State or the LEA intends to spend the funds to meet immediate expenditure needs (i.e., needs within 3-5 days).

F-2. How must entities that receive Ed Jobs funds track those funds?

The State and its LEAs must maintain records that separately track and account for Ed Jobs funds. In accordance with the requirements of section 443(a) of GEPA (20 U.S.C. 1232f (a)), the State and its LEAs must maintain records that will facilitate an effective audit and demonstrate that the funds were used in compliance with applicable requirements.

F-3. Do the reporting requirements under section 1512 of ARRA apply to Ed Jobs funds?

Yes. Under section 101 of the Act, a State and its LEAs must fulfill the reporting requirements under section 1512 of ARRA. Specifically, the State will submit quarterly reports on its own behalf and on behalf of its LEAs that describe, among other things, how those funds were used. For additional information on section the 1512 reporting requirements, see www2.ed.gov/policy/gen/leg/recovery/section-1512.html.

F-4. Does the Ed Jobs program have reporting requirements in addition to the section 1512 reporting requirements?

Yes. States will submit annual reports to the Department for this program that include information on the number of education personnel impacted by the program. The Department will be providing guidance on the annual reporting requirements.

G. Resources and Information

G-1. Where may I obtain updated information about the Ed Jobs program?

The Department will post updated information about the Ed Jobs program on the Department's website at http://www2.ed.gov/programs/educationjobsfund/index.html.

G-2. Where may I obtain answers to specific questions that I may have about the Ed Jobs program?

You may submit specific questions about the Ed Jobs program by e-mail to EducationJobsFund@ed.gov or by phone at 202-453-7500. We will respond promptly to your questions.

Appendix A

Public Law No. 111-226
(August 10, 2010)

TITLE I
EDUCATION JOBS FUND

EDUCATION JOBS FUNDS

SEC. 101. There are authorized to be appropriated and there are appropriated out of any money in the Treasury not otherwise obligated for necessary expenses for an Education Jobs Fund, $10,000,000,000: *Provided*, That the amount under this heading shall be administered under the terms and conditions of sections 14001 through 14013 and title XV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) except as follows:

(1) ALLOCATION OF FUNDS.—

(A) Funds appropriated under this heading shall be available only for allocation by the Secretary of Education (in this heading referred to as the Secretary) in accordance with subsections (a), (b), (d), (e), and (f) of section 14001 of division A of Public Law 111–5 and subparagraph (B) of this paragraph, except that the amount reserved under such subsection (b) shall not exceed $1,000,000 and such subsection (f) shall be applied by substituting one year for two years.

(B) Prior to allocating funds to States under section 14001(d) of division A of Public Law 111–5, the Secretary shall allocate 0.5 percent to the Secretary of the Interior for schools operated or funded by the Bureau of Indian Affairs on the basis of the schools' respective needs for activities consistent with this heading under such terms and conditions as the Secretary of the Interior may determine.

(2) RESERVATION.—A State that receives an allocation of funds appropriated under this heading may reserve not more than 2 percent for the administrative costs of carrying out its responsibilities with respect to those funds.

(3) AWARDS TO LOCAL EDUCATIONAL AGENCIES.—

(A) Except as specified in paragraph (2), an allocation of funds to a State shall be used only for awards to local educational agencies for the support of elementary and secondary education in accordance with paragraph (5) for the 2010–2011 school year (or, in the case of reallocations made under section 14001(f) of division A of Public Law 111–5, for the 2010–2011 or the 2011–2012 school year).

(B) Funds used to support elementary and secondary education shall be distributed through a State's primary elementary and secondary funding formulae or based on local educational agencies' relative shares of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent fiscal year for which data are available.

(C) Subsections (a) and (b) of section 14002 of division A of Public Law 111–5 shall not apply to funds appropriated under this heading.

(4) COMPLIANCE WITH EDUCATION REFORM ASSURANCES.—For purposes of awarding funds appropriated under this heading, any State that has an approved application for Phase II of the State Fiscal Stabilization Fund that was submitted in accordance with the application notice published in the Federal Register on November 17, 2009 (74 Fed. Reg. 59142) shall be deemed to be in compliance with subsection (b) and paragraphs (2) through (5) of subsection (d) of section 14005 of division A of Public Law 111–5.

(5) REQUIREMENT TO USE FUNDS TO RETAIN OR CREATE EDUCATION JOBS.—Notwithstanding section 14003(a) of division A of Public Law 111–5, funds awarded to local educational agencies under paragraph (3)—

(A) may be used only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary educational and related services; and

(B) may not be used for general administrative expenses or for other support services expenditures as those terms were defined by the National Center for Education Statistics in its Common Core of Data as of the date of enactment of this Act.

(6) PROHIBITION ON USE OF FUNDS FOR RAINY-DAY FUNDS OR DEBT RETIREMENT.—A State that receives an allocation may not use such funds, directly or indirectly, to—

(A) establish, restore, or supplement a rainy-day fund;

(B) supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainyday fund;

(C) reduce or retire debt obligations incurred by the State; or

(D) supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State.

(7) DEADLINE FOR AWARD.—The Secretary shall award funds appropriated under this heading not later than 45 days after the date of the enactment of this Act to States that have submitted applications meeting the requirements applicable to funds under this heading. The Secretary shall not require information in applications beyond what is necessary to determine compliance with applicable provisions of law.

(8) ALTERNATE DISTRIBUTION OF FUNDS.—If, within 30 days after the date of the enactment of this Act, a Governor has not submitted an approvable application, the Secretary shall provide for funds allocated to that State to be distributed to another entity or other entities in the State (notwithstanding section 14001(e) of division A of Public Law 111–5) for support of elementary and secondary education, under such terms and conditions as the Secretary may establish, provided that all terms and conditions that apply to funds appropriated under this heading shall apply to such funds distributed to such entity or entities. No distribution shall be made to a State under this paragraph, however, unless the Secretary has determined (on the basis of such information as may be available) that the requirements of clauses (i), (ii), or (iii) of paragraph 10(A) are likely to be met, notwithstanding the lack of an application from the Governor of that State.

(9) LOCAL EDUCATIONAL AGENCY APPLICATION.—Section 442 of the General Education Provisions Act shall not apply to a local educational agency that has previously submitted an application to the State under title XIV of division A of Public Law 111–5. The assurances provided under that application shall continue to apply to funds awarded under this heading.

(10) MAINTENANCE OF EFFORT.—

(A) Except as provided in paragraph (8), the Secretary shall not allocate funds to a State under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that—

(i) for State fiscal year 2011, the State will maintain State support for elementary and secondary education (in the aggregate or on the basis of expenditures per pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories, respectively, for State fiscal year 2009;

(ii) for State fiscal year 2011, the State will maintain State support for elementary and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories,

respectively, for State fiscal year 2010; or

(iii) in the case of a State in which State tax collections for calendar year 2009 were less than State tax collections for calendar year 2006, for State fiscal year 2011 the State will maintain State support for elementary and secondary education (in the aggregate) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students)—

(I) at not less than the level of such support for each of the two categories, respectively, for State fiscal year 2006; or

(II) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories, respectively, for State fiscal year 2006.

(B) Section 14005(d)(1) and subsections (a) through (c) of section 14012 of division A of Public Law 111–5 shall not apply to funds appropriated under this heading.

(11) ADDITIONAL REQUIREMENTS FOR THE STATE OF TEXAS.—The following requirements shall apply to the State of Texas:

(A) Notwithstanding paragraph (3)(B), funds used to support elementary and secondary education shall be distributed based on local educational agencies' relative shares of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent fiscal year which data are available. Funds distributed pursuant to this paragraph shall be used to supplement and not supplant State formula funding that is distributed on a similar basis to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(B) The Secretary shall not allocate funds to the State of Texas under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that the State will for fiscal years 2011, 2012, and 2013 maintain State support for elementary and secondary education at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for such purpose for fiscal year 2011 prior to the enactment of this Act.

(C) Notwithstanding paragraph (8), no distribution shall be made to the State of Texas or local education agencies therein unless the Governor of Texas makes an assurance to the Secretary that the requirements in paragraphs (11)(A) and (11)(B) will be met, notwithstanding the lack of an application from the Governor of Texas.

Wyoming Department of Education
Dr. Jim McBride, Superintendent of Public Instruction
Hathaway Building, 2nd Floor, 2300 Capitol Avenue
Cheyenne, WY 82002-0050
Phone 307-777-7673 Fax 307-777-6234 Website www.k12.wy.us

Education Jobs Fund Letter of Intent

School District: _____

Superintendent: _____

(Signature and Date)

The purpose of this letter is to inform the Wyoming Department of Education that our district intends to apply for the Education Jobs Fund and will accept any additional reallocated funds.

Please return this form by FAX (307) 777-6234 or email **dbaile@educ.state.wy.us** to the attention of Dianne Bailey **on or before October 15, 2010.**

Please send copy with original signature to
Dianne Bailey, Supervisor
WDE Finance Division
Hathaway Building, 2nd Floor
2300 Capitol Avenue
Cheyenne, WY 82002-0050