

DEPARTMENT OF EDUCATION

ASSISTANCE LISTING 84.041 IMPACT AID (Title VII of ESEA)

I. PROGRAM OBJECTIVES

The objective of the Impact Aid Program (IAP) under Title VII of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA) (Pub. L. No. 114-95), is to provide financial assistance to local educational agencies (LEAs) whose local revenues or enrollments are adversely affected by federal activities. These activities include the federal acquisition of real property (Section 7002) (20 USC 7702) or the presence of children residing on tax-exempt federal property or residing with a parent employed on tax-exempt federal property (“federally connected” children) (Section 7003) (20 USC 7703).

II. PROGRAM PROCEDURES

Funds are provided on the basis of statutory criteria and data supplied by LEAs in applications submitted to the Department of Education (ED), with copies provided simultaneously to the state educational agency (SEA). ED makes payments directly to the LEA. Generally, payments under Section 7003 of the ESEA are based on membership and attendance counts of federally connected children, with additional funds provided for certain federally connected children with disabilities and children residing on Indian lands. Payments under Section 7002 of the ESEA are based on the estimated taxable value of eligible federal property and the applicable tax rate, and, in case of insufficient funds, upon a statutory formula that considers past year payments.

Except for the additional funds provided for federally connected children with disabilities under Section 7003(d) of the ESEA, funds provided under sections 7002 and 7003 are considered general aid and generally have no restrictions on their expenditure. Under 2 CFR 200.101(e)(2), sections 7002 and 7003(b) are **not** subject to subparts C (pre-federal award), D (post federal award), or E (cost principles) of 2 CFR Part 200; therefore, ED generally has no basis to sustain findings related to these subparts for funds provided under sections 7002 and 7003(b) of the ESEA.

Any formula funds that are provided under Section 7007(a) of the ESEA to certain LEAs that received Section 7003 payments must be used for construction, as defined in the statute. Any discretionary construction grant funds that are provided under Section 7007(b) of the ESEA to certain LEAs that received Section 7002 or 7003 payments must be used for emergency repairs or modernization, as defined in the statute and regulations.

In fiscal years where the auditee expends only Section 7002 funds from the Impact Aid program, the auditor must exclude the amount of the 7002 Impact Aid expenditures from the determination of the Type A/B program threshold. See *IV. Other Information* below for additional information on major program determination and SEFA presentation.

Source of Governing Requirements

This program is authorized by sections 7001–7014 of the ESEA, as amended, which is codified at 20 USC 7701 through 7714. Implementing regulations are 34 CFR Part 222.

Availability of Other Program Information

Additional information on this program may be found at <http://www.ed.gov/about/offices/list/oese/programs.html> and at <https://impactaid.ed.gov/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.”** See the Safe Harbor Status discussion in Part 1 for additional information.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	N	N	N	Y	N	Y

A. Activities Allowed or Unallowed

1. *Section 7003(d) – Federally Connected Children with Disabilities*

LEAs must use the payments provided under Section 7003(d) of the ESEA to conduct programs or projects for the free, appropriate public education of the federally connected children with disabilities who generated those funds. Allowable costs include expenditures reasonably related to the conduct of programs or projects for the free, appropriate public education of children with disabilities, including program planning and evaluation and acquisition costs of equipment, except when the title to that equipment would not be held by the LEA. Costs for school construction are not allowable (Section 7003 of ESEA (20 USC 7703), 34 CFR section 222.53(c)).

2. *Section 7007 – Construction*

LEAs that receive payments under Section 7003 of the ESEA and that meet certain other statutory criteria may receive formula assistance under Section 7007(a) of the ESEA in any fiscal year that Congress appropriates funds under that section. LEAs must use the payments provided under Section 7007(a) for construction, as defined in Section 7013(3) of the ESEA. Under Section 7013(3), the term “construction” includes (a) preparing drawings and specifications for school facilities; (b) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities; (c) inspecting and supervising the construction of school facilities; and (d) debt servicing for such activities (sections 7007 and 7013(3) of ESEA (20 USC 7707 and 7713)). Certain LEAs that receive payments under Section 7002 or 7003 of the ESEA and that meet other statutory and regulatory criteria may receive discretionary grant assistance under Section 7007(b) of the ESEA. Selected grantees must use these funds for emergency or modernization construction grant expenditures, as specified in their grant award documents. Emergency and modernization are defined in 34 CFR section 222.176 and the allowable and unallowable uses of these funds are detailed in 34 CFR sections 222.172 through 222.174.

3. *Section 7002 – Federal Property Payments and Section 7003(b) – Basic Support Payments*

Funds made available under sections 7002 and 7003(b) of the ESEA usually become part of the general operating fund of the LEAs. These funds are available as general aid for free public education and may be used for current operating expenditures or capital outlays in accordance with state laws. The auditor is not expected to perform any tests with respect to the expenditure of these funds.

B. Allowable Costs/Cost Principles

The cost principles described in 2 CFR Part 200, Subpart E, apply only to Section 7003(d) (federally connected children with disabilities) and Section 7007 (construction) funds.

Under 2 CFR 200.101(e)(2), sections 7002 (federal property payments) and 7003(b) (basic support payments) are not subject to the cost principles described in Subpart E of 2 CFR Part 200.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – Maintenance of Effort

Not Applicable

2.2 Level of Effort – *Supplement Not Supplant*

Section 7003(d) funds may not supplant any state funds (either general or special education state aid) that were or would have been available to the LEA for the free, appropriate public education of federally connected children with disabilities counted under Section 7003(d). A reduction in the per-pupil amount of state aid for children with disabilities, including children counted under Section 7003(d), from that received in the previous year raises a presumption that supplanting has occurred. An LEA can rebut this presumption by demonstrating that the reduction was unrelated to the receipt of Section 7003(d) funds (Section 7003(d) of ESEA (20 USC 7703(d)); 34 CFR section 222.54).

3. Earmarking

Not Applicable

L. Reporting

1. Financial Reporting

Not Applicable

2. Performance Reporting

Not Applicable

3. Special Reporting

Application for Impact Aid – Section 7003 (OMB No. 1810-0687) – Each year an LEA must submit this application, which provides the following information: counts of federally connected children in various categories, membership and average daily attendance data, and information on expenditures for children with disabilities. **Please note:** As a result of the public health emergency related to the coronavirus, the Impact Aid Coronavirus Relief Act (Pub. L. No. 116-211) provides LEAs the option for their fiscal year 2022 7003 application of using the same student count data from their fiscal year 2021 application or providing new student count data as prescribed in Section 7003. Membership and average attendance data should be tested. The auditor should use professional judgment when determining which categories to test, taking into account the relative materiality of the number of children reported in other categories. (**Note:** Eligible LEAs submit a separate application for Section 7002 or Section 7007(b) funding. The auditor is not expected to perform any tests with respect to the Section 7002 or Section 7007(b) applications.)

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirements Section 7007 construction funds, as well as any section 7002 or 7003(b) funds spent for construction or minor remodeling, are subject to Wage Rate Requirements (20 USC 1232b).

See Part 4, 20.001 Wage Rate Requirements Cross-Cutting Section.

2. Required Level of Expenditure

Compliance Requirements For each fiscal year, the amount of expenditures for special education and related services provided to federally connected children with disabilities must be at least equal to the amount of funds received or credited under Section 7003(d) of the ESEA for that fiscal year. This is demonstrated by comparing the amount of Section 7003(d) funds received or credited with the result of the following calculation:

- a. Divide total LEA expenditures for special education and related services for all children with disabilities by the average daily attendance (ADA) of all children with disabilities served during the year.
- b. Multiply the amount determined in paragraph a, above, by the ADA of the federally connected children with disabilities claimed by the LEA for the year.

If the amount of Section 7003(d) funds received or credited is greater than the amount calculated above, an overpayment equal to the excess Section 7003(d) funds exists. This overpayment may be reduced or eliminated to the extent that the LEA can demonstrate that the average per pupil expenditure for special education and related services provided to federally connected children with disabilities exceeded its average per pupil expenditure for serving non-federally connected children with disabilities (Section 7003(d) of ESEA (20 USC 7703(d)); 34 CFR section 222.53(d)).

Audit Objectives Determine whether the LEA met the required level of expenditure for providing special education and related services to federally connected children with disabilities.

Suggested Audit Procedures

- a. Review the LEA's calculation to ascertain if it shows that the required level of expenditure for federally connected children was met. Check accuracy of calculation.
- b. Trace amounts used in the calculation of supporting records.

- c. If the LEA's calculation shows that an overpayment was made, verify that the average per pupil expenditure for federally connected children with disabilities exceeded the average per pupil expenditure for non-federally connected children to the extent of the overpayment.

IV. OTHER INFORMATION

Given the nature of the Section 7002 funds, a recipient expending only Section 7002 funds would have no compliance requirements subject to testing for the Impact Aid program or would only be subject to the Wage Rate Requirements (20 USC 1232b) if 7002 funds were spent for construction or minor remodeling. Selecting the Impact Aid program as a major federal program in fiscal years where no (or only one) compliance requirements are subject to testing could result in the exclusion of other programs as major federal programs. Therefore, if a recipient had Impact Aid expenditures only from Section 7002 funds during its fiscal year, the auditor must exclude the amount of the 7002 Impact Aid expenditures from the determination of the Type A/B program threshold. If a recipient had Impact Aid expenditures from multiple sections, including Section 7002, the entire amount of Impact Aid expenditures should be considered when determining the Type A/B program threshold and the 7002 funds would only be subject to Wage Rate Requirements testing, if applicable. All Impact Aid expenditures, including Section 7002 funds excluded from the Type A/B program threshold, must be reported on the Schedule of Expenditures of Federal Awards.