United States Government Accountability Office

Report to Congressional Requesters

March 2019

GRANTS MANAGEMENT

Agency Action Required to Ensure Grantees Identify Federal Contribution Amounts

Accessible Version

GAO-19-282

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Abbreviations

ACF	Administration for Children and Families
AHRQ	Agency for Healthcare Research and Quality
ILAB	Bureau of International Labor Affairs
BLS	Bureau of Labor Statistics
CDC	Centers for Disease Control and Prevention
CMS	Centers for Medicare and Medicaid
CEO	Chief Evaluation Office
COGR	Council on Governmental Relations
USDA	U.S. Department of Agriculture
DOD	Department of Defense
Education	Department of Education
HHS	Department of Health and Human Services
DOL	Department of Labor
ETA	Employment and Training Administration
FDA	Food and Drug Administration
HRSA	Health Resources and Services Administration
IHS	Indian Health Service
MSHA	Mine Safety and Health Administration
NGMA	National Grants Management Association
NIH	National Institutes of Health
OASH	Office of the Assistant Secretary for Health
ODEP	Office of Disability Employment Policy
OGM	Office of Grants Management
ONC	Office of the National Coordinator for Health Information Technology
OSHA	Occupational Safety and Health Administration
SAMHSA	Substance Abuse and Mental Health Services Administration
VETS	Veterans Employment and Training Service
WB	Women's Bureau

March 2019

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GAO Highlights

Highlights of GAO-19-282, a report to congressional requesters

Why GAO Did This Study

Since 1989, an appropriations provision, colloquially known as the "Stevens Amendment," has reflected Congress's longstanding effort to ensure transparency and accountability in federal grant spending. GAO was asked to review agency guidance and grantee compliance related to the Stevens Amendment. This report (1) describes the guidance DOL, HHS, and Education provide to grantees regarding the Stevens Amendment; (2) examines the extent to which DOL, HHS, and Education are managing grantees' compliance with the Stevens Amendment; and (3) describes what is known about how grantees calculate the dollar amounts and percentages of their federal and nongovernmental funding disclosures. GAO asked for agency guidance documents, reviewed monitoring reports, interviewed officials on agencies' Stevens Amendment oversight efforts, and asked agencies how grantees calculate funding amounts.

What GAO Recommends

GAO recommends that DOL subagencies (other than ETA), HHS operating divisions, and Education design and implement processes to manage grantees' compliance with the Stevens Amendment. In responding to the report, DOL, one DOL subagency, and HHS agreed with GAO's recommendation. Education disagreed with GAO's recommendation, citing limited monitoring resources and other reasons. GAO believes the recommendation should be fully implemented, as discussed in the report.

View GAO-19-282. For more information, contact Michelle Sager at (202) 512-6806 or sagerm@gao.gov.

What GAO Found

The Stevens Amendment is an appropriations provision that requires grantees of the Departments of Labor (DOL), Health and Human Services (HHS), and Education (Education) to disclose for a grant program the percent of the costs financed with federal funds, the federal dollar amount, and the percentage and dollar amount financed by nongovernmental funds. The provision requires that recipients of grants funded by DOL, HHS, and Education make certain funding disclosures when issuing statements, press releases, bid solicitations, and other documents describing their grant project or program. DOL, HHS, and Education generally provide written guidance to grantees with the exact text of the Stevens Amendment or a paraphrased equivalent. In addition, a number of operating divisions within HHS referenced the HHS Grants Policy Statement, which includes language equivalent to the Stevens Amendment, as a way to instruct grantees. One HHS operating division, the Health Resources and Services Administration, provided grantees with additional guidance in the form of a web page that contained examples of funding disclosure statements and frequently asked questions intended to clarify the Stevens Amendment's requirements. One DOL subagency, the Employment and Training Administration (ETA), whose active grants represented more than 95 percent of DOL's total grant dollars, had processes for managing grantees' compliance that were able to identify instances of grantee noncompliance with Stevens Amendment requirements. ETA's operating plan for grant oversight targets 26 percent of its active grants for risk-based monitoring each fiscal year, representing approximately 2,100 grants in fiscal year 2019. The other DOL subagencies either stated that they did not monitor grantees for compliance with Stevens Amendment requirements or did not have processes in place for managing grantee compliance with the requirements of the Stevens Amendment. Most HHS operating divisions said they did not review grantees for Stevens Amendment compliance. Education also did not monitor for grantee compliance with the Stevens Amendment's requirements. Regulations governing federal agencies' management of grants require federal agencies to manage and administer the federal award in a manner that ensures that programs are implemented in full accordance with U.S. statutory and public policy requirements. Without processes for managing compliance, some DOL subagencies, HHS operating divisions, and Education are unable to ensure that grant programs are being implemented by grantees in full accordance with the statutory requirements of the Stevens Amendment.

Most of the subagencies and operating divisions monitoring compliance did not gather information from grantees about how the grantees calculate the dollar amounts and percentages in their Stevens Amendment funding disclosures. For example, DOL's ETA officials said that they do not know how the dollar amounts reported by grantees were calculated, and have not inquired about the level of detail factored into indirect costs involving the grantee organization's structure and the percentage of funds spent on salaries. Similarly, officials from HHS's National Institutes of Health operating division noted that calculations can be difficult given that a research program can have multiple funding streams that feed into a grant project and grantees' research portfolios are now more complex than they have been in the past.

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
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March 14, 2019
The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable James Lankford
Chairman
Subcommittee on Regulatory Affairs and Federal Management
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Rand Paul, M.D.
Chairman
Subcommittee on Federal Spending Oversight and Emergency Management
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Joni Ernst
United States Senate

Federal agency grants management includes ensuring grantee compliance with numerous rules and requirements. Grantees can receive guidance on these requirements in the standard terms and conditions contained in the award notices from federal agencies providing the grants. The President's Management Agenda, released in 2018, established "results-oriented accountability for grants" as a cross-agency priority goal to "maximize the value of grant funding by applying a risk-based, data-driven framework that balances compliance requirements with demonstrating successful results for the American taxpayer."[1]

Requirements for some federal grantees receiving federal funds to disclose the percentage of the total costs of the program or project which will be financed with federal money, the dollar amount of federal funds for the project or program, and the percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources have existed in some form since 1989. The 2018 appropriations

[1]President's Management Council and the Executive Office of the President, *President's Management Agenda: Modernizing the Government for the 21st Century* (Mar. 20, 2018).

law establishing these disclosures requires that recipients of grants funded by the Departments of Labor (DOL), Health and Human Services (HHS), and Education (Education) disclose the total costs of programs or projects paid for with federal funds "[w]hen issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs."[2] These requirements reflect longstanding efforts to ensure transparency and accountability in federal grant spending. The provision has been included in various appropriations acts throughout the last 30 years and is still colloquially referred to as the "Stevens Amendment" as it was first introduced by then-senator Ted Stevens as an amendment to appropriations bills, and was included in the final appropriations for those agencies.[3]

You asked us to review aspects of agency guidance and grantee compliance related to the Stevens Amendment. This report (1) describes what types of guidance, if any, DOL, HHS, and Education are providing to grantees about the requirements of the Stevens Amendment; (2) examines the extent to which DOL, HHS, and Education are managing grantees' compliance with the Stevens Amendment; and 3) describes what is known about how grantees calculate the funding percentages and dollar amounts required by the Stevens Amendment, including whether indirect costs are factored into these calculations.

To address these objectives, we researched the legislative history of these requirements to understand their evolution since the original passage in 1989. We spoke to representatives from the National Grants Management Association and the Council on Governmental Relations to obtain their insights into grantees' interpretation and implementation of the Stevens Amendment, which helped inform our discussion topics for

[2]For example, the 2018 iteration of the provision is in the Consolidated Appropriations Act of 2018, and applies to DOL, HHS, and Education. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, div. H, title V, Sec. 505, 132 Stat. 348 (Mar. 23, 2018). Previous iterations have also applied to the Departments of Defense and Agriculture and related agencies, and the agencies of and related to DOL, HHS, and Education. Hereafter, we refer to this provision as the "Stevens Amendment."

[3]See, e.g., Departments of Labor, Health, and Human Services, and Education, and Related Agencies Appropriations Act, 1989, Pub. L. No. 100-436, Sec. 516, 102 Stat. 1680, 1715 (Sept. 20, 1988), and Department of Defense Appropriations Act, 1989, Pub. L. No. 100-463, Sec. 8136 102 Stat. 2270, 2270-46, (Oct. 1, 1988), Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989, Pub. L. No. 100-460, Sec. 644, 102 Stat. 2229, 2265 (Oct. 1, 1988). There are multiple examples throughout the 30 year history of the Stevens Amendment. This footnote refers to the earliest versions.

later interviews with agency officials. In addition, we reviewed a study published in April 2017 that reviewed 100 National Institutes of Health (NIH) grant projects' press releases for Stevens Amendment compliance.[4]

For the first objective, we asked DOL, all of DOL's grant-making subagencies, HHS, all of HHS's grant-making operating divisions, and Education for copies of relevant guidance documents showing the agencies' instructions to grantees to help them comply with the Stevens Amendment's disclosure requirements.[5]

For the second objective, we asked some of DOL's grant-making subagencies, all 11 of HHS's grant-making operating divisions, and Education to provide us with responses to questions on guidance, monitoring, and enforcement. We also conducted follow-up interviews with officials from DOL's Employment and Training Administration (ETA), HHS operating divisions that initially stated they conducted monitoring, and Education to clarify their written responses and determine whether the agencies had any supporting documentation. We also asked all three agencies what their grants management efforts, including any monitoring,

[4]"Ivy League Flunkers: Schools Fail on Federal Funding Disclosure," Restore Accountability and White Coat Waste Project, April 2017. This study found that none of the 100 press releases were in compliance with all of the requirements of the Stevens Amendment, and three of the 100 complied with one of the Stevens Amendment requirements (for the dollar amount of the project financed by federal funds).

[5]HHS has 11 operating divisions that administer a wide variety of health and human services as well as conduct research. These operating divisions are: the Agency for Healthcare Research and Quality, Office of the National Coordinator for Health Information Technology, the Office of the Assistant Secretary for Health, the Substance Abuse and Mental Health Services Administration, the Food and Drug Administration, Centers for Medicare and Medicaid Services, Administration for Children and Families, Health Resources and Services Administration, National Institutes of Health, Centers for Disease Control and Prevention, and the Indian Health Service. HHS noted that the Consolidated Appropriations Act of 2018, appropriated funds for HHS in Division H of the Act, which includes the Stevens Amendment provision, and separately appropriated funds for the Indian Health Service (IHS) in Division G, under the Department of the Interior appropriation which included a subsection for related agencies under HHS. Division G does not contain the Stevens Amendment provision. Despite the appropriation under Interior, for organizational purposes, IHS is an agency within HHS, which is responsible for providing federal health services to American Indians and Alaska Natives. HHS officials stated that IHS was not subject to Division H of the Consolidated Appropriations Act of 2018. The same is true for the appropriations for 2019. For Interior's appropriation which includes IHS, see, Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, div. E, tit. III, 133 Stat. 13, (Feb. 15, 2019), and for the Stevens Amendment provision applicable to Labor, HHS, and Education see, Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019, and Continuing Appropriations Act, 2019, Pub. L. No. 115-245, div. B, tit. V, Sec. 505, 132 Stat. 2981 (Sept. 28, 2018).

showed with regard to the extent of grantee compliance with the requirements of the Stevens Amendment.

We asked each of the subagencies and operating divisions that said or indicated that they conducted monitoring for compliance with the Stevens Amendment for six examples of grantee documents showing compliance or noncompliance with the amendment. For any instances of noncompliance, we asked whether the agency determined appropriate corrective actions and whether the grantees implemented those corrective actions. We also asked the agencies that provided examples whether they tracked the number of instances of compliance or noncompliance.

For the third objective we requested any available information regarding how grantees calculated Stevens Amendment percentages and dollar amounts and whether they factored indirect costs into their calculations. We asked whether the subagencies and operating divisions that stated they conducted monitoring of the Stevens Amendment were aware of the methods grantees used to calculate percentages and dollar amounts of federal funding, and whether grantees factored indirect costs into their calculation of federal spending used in their Stevens Amendment disclosures.

We conducted this performance audit from January 2018 to March 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Originally the Stevens Amendment was part of appropriations acts for the Departments of Defense (DOD) and Agriculture (USDA), as well as DOL, HHS, and Education. The provision was dropped from the DOD appropriations act in 1990 and from the USDA appropriations act in

Stevens Amendment

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state

1. the percentage of the total costs of the program or project which will be financed with Federal money;
2. the dollar amount of Federal funds for the project or program; and
3. percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Consolidated Appropriations Act of 2018, Pub. L. No. 115-141, 132 Stat. 348, div. H, Title V, Sec. 505 (Mar. 23, 2018).

1993.[6] For the version of this requirement that applied to DOL, HHS, and Education, the Stevens Amendment has appeared in all but one of the full appropriations acts passed in Congress since 1993.[7] In proposing the amendment in 1988, Senator Ted Stevens described the role of states, local governments, and the federal government in forging a partnership to share in the costs of many projects and said that the federal contribution should be identified as a matter of taxpayer concern. Further, Senator Stevens said that taxpayers "ought to be informed how much money comes from Federal sources in any program, project, or grant activity."[8] More recently, the Consolidated Appropriations Act of 2018 and the appropriations for these agencies in 2019 renewed this requirement for DOL, HHS, and Education (see sidebar).[9]

The combined amount of grant funding that went to state and local governments from these three departments in federal fiscal year 2017 amounted to approximately $504 billion, or almost 75 percent of the $675 billion total distributed by all federal grant-making agencies to state and local governments that year. HHS had the largest amount of grant outlays to state and local governments with about $455 billion (67.4 percent of

[6]Although the provision was dropped from USDA's annual appropriations acts, a different two-part formulation of the Stevens Amendment was subsequently included in USDA's general permanent statutory authority at 7 U.S.C. § 2209d.

[7]While we have previously reported on grantee monitoring practices of DOL, HHS, and Education, we have not done so with regard to the Stevens Amendment. Our prior work on grants monitoring includes: GAO-17-266, *Discretionary Grants: Education Needs to Improve Its Oversight of Grants Monitoring*, (Washington, D.C.: Apr. 18, 2017); GAO-14-832, *International Labor Grants: DOL's Use of Financial and Performance Monitoring Tools Needs to be Strengthened* (Washington, D.C.: Sept. 24, 2014); GAO-14-800, *Health Resources and Services Administration: Action Taken to Train and Oversee Grantee Monitoring Staff, but Certain Guidance Could Be Improved* (Washington, D.C.: Sept. 23, 2014). See also GAO's Key Issues page on Federal Grants to State and Local Governments.

[8]Specifically, Senator Stevens stated that his amendment proposed "that any announcement or publication of these programs specifically and fully identify the Federal contribution. I believe that this approach respects the roles of all participants in such projects, while insuring that the beneficiaries of these activities can perceive the cooperative role of all levels of government." 134 Cong. Rec. S20831-32 (1988) (Statement of Sen. Stevens).

[9]Consolidated Appropriations Act of 2018, Pub. L. No. 115-141, 132 Stat. 348, div. H, Title V, § 505, and Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019, and Continuing Appropriations Act, 2019, Pub. L. No. 115-245, div. B, tit. V, § 505, 132 Stat. 2981 (Sept. 28, 2018).

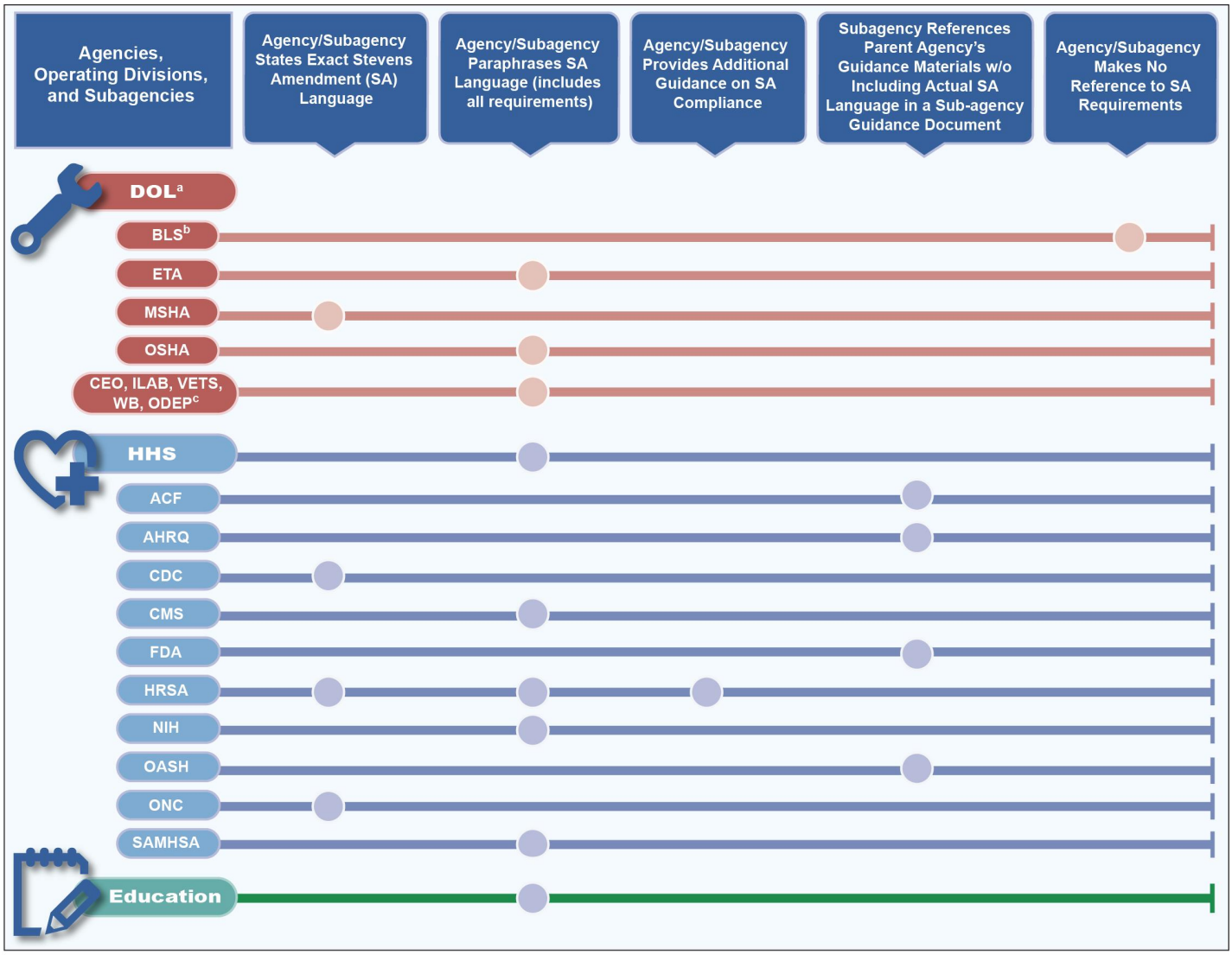
the total), Education distributed about $42 billion (6.2 percent), while Labor distributed about $7 billion (1.1 percent).[10]

DOL, HHS, and Education Generally Provide Grantees with the Exact Text of the Stevens Amendment or a Paraphrased Equivalent

Generally, agencies or their subdivisions provided grantees with the exact text of the Stevens Amendment, paraphrased its language, or in some cases referred grantees to other guidance containing the Stevens Amendment. Figure 1 summarizes what we found at each of the three agencies we reviewed with regard to the Stevens Amendment guidance they provide to grantees.

[10]Because these figures were calculated using the table of outlays and budget authority in Chapter 14 of the 2019 Analytical Perspectives, "Aid to State and Local Government," they only represent grant outlays to state and local governments and do not include grants to other entities such as universities and nonprofit institutions. Consequently, the dollar figures cited likely understate the total grant amounts distributed by these departments.

Figure 1: Written Stevens Amendment Guidance Provided By DOL, HHS, and Education to Grantees, 2018



Source: GAO analysis of DOL, HHS, and Education guidance documents and responses to questions about guidance. | GAO-19-282

Note: The Department of Labor (DOL) subagencies listed are the Employment and Training Administration (ETA), the Occupational Safety and Health Administration (OSHA), the Mine Safety and Health Administration (MSHA), the Bureau of Labor Statistics (BLS), the Chief Evaluation Office (CEO), the Bureau of International Labor Affairs (ILAB), Veterans' Employment and Training Service (VETS), the Women's Bureau (WB), and the Office of Disability Employment Policy (ODEP). The Department of Health and Human Services (HHS) operating divisions listed are the Agency for Healthcare Research and Quality (AHRQ), the Office of the National Coordinator for Health Information Technology (ONC), the Office of the Assistant Secretary for Health (OASH), the Substance Abuse and Mental Health Services Administration (SAMHSA), the Food and Drug Administration (FDA), Centers for Medicare and Medicaid Services (CMS), Administration for Children and Families (ACF), Health Resources and Services Administration (HRSA), National Institutes of Health (NIH), and the Centers for Disease Control and Prevention (CDC).

[a]DOL does not publish grantee guidance at the departmental level, and DOL's subagencies have their own guidance, as shown in this figure.

[b]According to BLS officials, documents produced by their grantees do not fall within the scope of the Stevens Amendment; therefore they do not include a reference to the Stevens Amendment in their guidance.

[c]ETA disseminates its standard terms and conditions template to grantees on behalf of these five DOL grant-making subagencies.

DOL Instructed Grantees to Follow Stevens Amendment Requirements by Providing a Template for Language in Subagencies' Grant Terms and Conditions

According to ETA officials, grants from DOL's ETA comprised more than 95 percent of DOL's $22.1 billion in active grant awards as of October 1, 2018.[11] ETA's Office of Grants Management (OGM) developed standard terms and conditions that serve as a template for written agreements for grant awards. The terms and conditions template includes language largely similar to the Stevens Amendment, with one instance of paraphrasing, which is permissible under the relevant regulations.[12] ETA's paraphrased language states that the Stevens Amendment requirements apply to "all non-federal entities receiving federal funds," whereas the actual Stevens Amendment wording is that the requirements apply to "all grantees receiving federal funds in this Act, including but not limited to state and local governments and recipients of federal research grants."[13] The Stevens Amendment has been in the agency's terms and conditions library for grant awards since fiscal year 2014. ETA officials said they added the Stevens Amendment requirements to the terms and conditions because they wanted to ensure that grantees knew about the Stevens Amendment's existence.

ETA also disseminates its standard terms and conditions template to grantees on behalf of five other DOL grant-making subagencies, including the Veterans Employment and Training Service, the Chief Evaluation Office, the Bureau of International Labor Affairs, the Women's Bureau, and the Office of Disability Employment Policy. According to ETA officials, OGM administers the front-end application processing for grants awarded

[11]ETA officials said that their active grant awards include fiscal year 2018 grants as well as multi-year grant funds.

[12]2 C.F.R. § 200.300(a).

[13]DOL/ETA *Standard Federal Award Terms & Conditions – FY2018*, at 23 (2018).

by these subagencies, while the subagencies are responsible for any post-award grantee oversight. OGM also administers the final grant closeout for these subagencies. According to DOL officials, together with ETA, these subagencies awarded more than 99.8 percent of DOL's active grant funds as of October 2018.

According to DOL officials, three other DOL grant-making subagencies, the Mine Safety and Health Administration (MSHA), the Occupational Safety and Health Administration (OSHA), and the Bureau of Labor Statistics (BLS), administer their sub-agencies' grant award processes themselves. Officials said that two of these agencies, MSHA and OSHA, disseminate their own separate grant award terms and conditions, and have their own separate guidance for grantees regarding compliance with the Stevens Amendment. For example, OSHA paraphrased the Stevens Amendment language in its terms and conditions. OSHA officials told us that instead of stating the amendment's requirements in three parts, OSHA broke them out into four requirements that reflect the full content of the Stevens Amendment's original language. MSHA also had its own terms and conditions that contain the exact language of the Stevens Amendment's requirements, according to officials. The third agency, BLS, told us that its grantees only produce narrowly focused press releases and that these documents do not fall within the Stevens Amendment description of documents "describing projects or programs funded in whole or in part with Federal money." BLS officials said that since none of the other qualifying public statements mentioned in the Stevens Amendment are part of BLS grantee operations, BLS cooperative agreements do not produce public statements that qualify for Stevens Amendment compliance.

Most HHS Grant Guidance Restated, Paraphrased, or Referenced the Stevens Amendment

At the department level, HHS publishes a Grants Policy Statement that contains language equivalent to the Stevens Amendment, but it does not

quote the amendment verbatim.[14] Consistent with the Stevens Amendment, the Grants Policy Statement provision directs grantees to disclose information on the percentage and dollar amount of federal contributions to grantees' programs or projects in addition to the same information for nongovernmental sources, but collapses the three Stevens Amendment requirements into two requirements with slight wording changes. Officials told us that HHS expects its operating divisions to follow the Grants Policy Statement together with the relevant HHS regulations, but does not instruct operating divisions on what to include in their grant award terms and conditions.[15]

A number of HHS operating divisions provide grantees with grant award terms and conditions that contain the exact language of the Stevens Amendment. Examples include:

- Centers for Disease Control and Prevention (CDC) - Provides grantees with general terms and conditions for both research and non-research grants and cooperative agreements that include a requirement for an "Acknowledgement of Federal Support" that is an exact re-statement of the Stevens Amendment.
- Health Resources and Services Administration (HRSA) - Provides grantees with the Standard Form 424 Application Guide (grants application guide), which includes a section that quotes the exact language of the Stevens Amendment.
- Office of the National Coordinator for Health Information Technology (ONC) - Added a section in 2018 to the terms and conditions section

[14]HHS Grants Policy Statement, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Resources and Technology, Office of Grants, Jan. 1, 2007. The HHS Grants Policy Statement states in part, "Acknowledgment of Federal Funding: As required by HHS appropriations acts, all HHS recipients must acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds. Recipients are required to state (1) the percentage and dollar amounts of the total program or project costs financed with Federal funds and (2) the percentage and dollar amount of the total costs financed by nongovernmental sources."

[15]The regulations which are specific to HHS are found at, 45 C.F.R. Pt. 75.

for every Funding Opportunity Announcement that specifically references the Stevens Amendment verbatim.[16]

One operating division, the Centers for Medicare and Medicaid Services (CMS) provides grantees with a section of its terms and conditions titled "Public Reporting" that shows the language of the Stevens Amendment, but with the addition of tribal governments to the list of applicable grant recipients. Another operating division, the National Institutes of Health (NIH), publishes its own grants policy statement separate from the one published by HHS. The NIH grants policy statement contains the standard terms and conditions for all NIH grant awards. It uses the same Stevens Amendment guidance language HHS uses, with the same paraphrasing of the language that collapses the three Stevens Amendment requirements into two requirements.

Four relevant HHS operating divisions told us that they relied solely on a reference to the HHS Grants Policy Statement to instruct grantees with regard to the Stevens Amendment requirements. This reference made no specific mention of the Stevens Amendment and did not include either the exact or paraphrased Stevens Amendment language in the agencies' grant agreement terms and conditions or funding opportunity announcement.[17]

HHS's HRSA Provided Additional Guidance to Help Grantees Comply with the Stevens Amendment

HRSA's "Acknowledgement of Federal Funding" provision in its grants application guide contains the exact language of the Stevens Amendment and its requirements. Further, HRSA's application guide provides grantees with what HRSA officials stated was a sample acknowledgement and disclaimer paragraph written in "plain language" that the operating division developed to assist HRSA grantees in complying with the Stevens Amendment. HRSA officials said that they

[16]Before ONC added a section in its terms and conditions in 2018 that specifically referenced and restated the Stevens Amendment, it incorporated the Stevens Amendment by reference to the HHS Grants Policy Statement in its Notice of Funding Opportunity Announcements.

[17]These HHS operating divisions include the Administration for Children and Families, Agency for Healthcare Research and Quality, the Food and Drug Administration, and the Office of the Assistant Secretary for Health.

consulted with HHS's Office of General Counsel to simplify the language, while ensuring that it met the requirements of the Stevens Amendment. HRSA's sample acknowledgement and disclaimer paragraph reads,

> "This [project/publication/program/website] [is/was] supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) as part of an award totaling $XX with xx percentage financed with nongovernmental sources. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by HRSA, HHS or the U.S. Government."

Later in the section, HRSA further defines the Stevens Amendment's "other documents describing projects or programs" as including, among other things, HRSA-supported documents such as manuals, toolkits, resource guides, case studies, and issues briefs.

In addition to HRSA's efforts to interpret the Stevens Amendment, HRSA posted a web page in October 2018 that provided grantees with additional written guidance and a list of "frequently asked questions" about communicating and acknowledging federal funding.[18] The HRSA web page provided examples of HRSA disclosure statements to show grantees how disclosure language should be drafted to comply with the Stevens Amendment. The web page also featured frequently asked questions, one of which clarified that the disclosure should reflect the overall amount of the grant rather than the cost of developing the publication where the acknowledgement appears. The other frequently asked question directed grantees to consult with HRSA officials if they intend to use language that differs from the examples provided to ensure that their alternative wording complies with the Stevens Amendment requirements.

HRSA officials also instructed their grantees on compliance with grant award terms and conditions, including the Stevens Amendment, through informal discussions during workshops and conference calls. HRSA officials provided examples of Stevens Amendment discussions such as a May 2018 Healthy Grants Workshop presentation to grantees, as well as a July 2018 question and answer period during an HRSA conference call

[18]For HRSA's webpage on Communicating and Acknowledging Federal Funding see, https://www.hrsa.gov/grants/manage/acknowledge-hrsa-funding, accessed October 24, 2018.

with grantees. The grantee conference call featured several HRSA presenters, including one representing the Division of Grants Policy. Officials said that during these technical assistance calls, HRSA wanted to ensure that grantees were made aware of legislative mandates, but the calls were not tailored to focus on a specific mandate.

Education's Grant Awards Terms and Conditions Contain Paraphrased Stevens Amendment Language

Education grantees that receive discretionary and formula grants are provided with information on the Stevens Amendment through a Grant Award Notification attachment. The attachment is included with the terms and conditions of the grant award and has the exact language of the Stevens Amendment's requirements, but paraphrases with regard to the types of entities to which the Stevens Amendment applies. Instead of applying the requirements to "all grantees receiving federal funds included in this act including but not limited to state and local governments and recipients of federal research grants" as noted in the Stevens Amendment, Education's phrasing applies the requirements specifically to "U.S. Department of Education grantees." According to Education officials, the grant notification process involves providing guidance to grantees and ensuring that they are made aware of various statutory requirements, including the Stevens Amendment. Education officials told us that another way that their agency communicates information about the Stevens Amendment to grantees is through Education's required post-award conference call, during which the program offices reinforce grant recipients' need to be aware of the requirements.

DOL's ETA Managed Compliance with the Stevens Amendment through Its Grantee Monitoring Processes, Though Most HHS Operating Divisions and Education Did Not

The regulations that govern DOL, HHS, and Education's management of grant awards state that "the Federal awarding agency must manage and administer the federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full

accordance with U.S. statutory and public policy requirements."[19] The Stevens Amendment is a statutory requirement that these federal agencies must ensure is implemented by their grantees. Agencies' management of the grant award so as to ensure implementation of the Stevens Amendment can be accomplished by various means, including the monitoring of grantees, through processes such as reviews of grantee reports and correspondence, desk audits, and grantee site visits. In our review of Stevens Amendment grants management practices at DOL, HHS, and Education, we found that DOL's ETA had processes in place that were able to identify instances of grantee noncompliance with the Stevens Amendment and demonstrate that noncompliance was being remedied.[20] ETA's grants management processes took the form of grantee monitoring. Figure 2 below summarizes the Stevens Amendment monitoring practices of DOL, HHS, and Education.

[19]45 C.F.R. § 75.300(a); 2 C.F.R. § 200.300(a)

[20]As of October 2018, according to DOL officials, active grant awards for their agency totaled approximately $22.1 billion. The remaining DOL grant dollars, almost 5 percent, were divided between DOL's eight other subagencies. These grant making subagencies are Bureau of Labor Statistics, Chief Evaluation Office, Bureau of International Labor Affairs, Mine Safety and Health Administration (MSHA), Occupational Safety and Health Administration (OSHA), Office of Disability Employment Policy, Veterans' Employment and Training Service, and Women's Bureau.

Figure 2: Stevens Amendment Monitoring Practices at DOL, HHS, and Education

Source: GAO analysis of DOL, HHS, and Education information and responses to questions about monitoring practices, and photos from GAO image library collections Eyewire, Digital Visions, and Creatas. | GAO-19-282

ETA Had Processes for Managing Grantee Compliance with the Stevens Amendment

ETA officials told us that their subagency's active grants represented more than 95 percent of DOL's total active grant dollars, or approximately $21.1 billion. According to ETA officials, their operating plan for grant oversight targets 26 percent of the active ETA grants universe for monitoring each fiscal year, representing approximately 2,100 grants in fiscal year 2019. The regional office staff in each of ETA's six regional offices conduct a risk analysis of the grants within their regions and assign a risk rating to each grant indicating its risk level. The grant's risk level, which includes factors such as the dollar amount of the grant award and whether the grantee is on track to meet the grant's performance goals, determines which grants ETA selects for monitoring and inclusion in its regional monitoring plans for that fiscal year.

Each annual regional monitoring plan consists of a list of grants and schedule of ETA staff monitoring reviews. According to ETA, monitoring reviews are used to measure grantee progress toward achieving project goals, identify areas of grantee compliance, offer opportunities for technical assistance to help resolve compliance issues, and ensure that federal funds are used responsibly. ETA conducts these reviews either

through an on-site monitoring visit or an “Enhanced Desk Monitoring Review” that is conducted remotely. ETA officials stated the regional monitoring plans are designed to be flexible management tools, and are updated throughout each fiscal year to ensure that ETA meets its operating plan’s goal to monitor 26 percent of its grants annually.

According to ETA’s Grantee Handbook, upon completion of the monitoring review, ETA drafts a monitoring report to each of the grantees reviewed. The monitoring report includes, among other things, compliance findings and the required grantee corrective action for any noncompliance with the findings, along with the due date for the corrective action. In response to our request for examples of grantee noncompliance with the Stevens Amendment requirements, ETA officials from each of the agency’s six regional offices conducted a manual search of monitoring reports from fiscal years 2016 and 2017.

ETA officials in four of the six ETA regional offices located monitoring reports with a finding stating that grantees’ public materials did not include the Stevens Amendment’s required language or information to properly identify the project’s federal funding dollar amount and the project’s percentage of federal and nongovernmental funding. Three of the four monitoring reports provided the grantee with the exact language of the Stevens Amendment and instructed the grantee to ensure that statements, such as brochures, promotional materials, and other public announcements, contain a statement that identifies the project’s funding sources in accordance with the three requirements of the Stevens Amendment.

In the fourth monitoring report, while finding that the grantee did not include the required funding source statement in its documents, ETA’s comments in the monitoring report did not provide the grantee with the full language of the Stevens Amendment and had omitted the requirement to provide the percentage and dollar amount of costs financed by nongovernmental sources. For each of these examples, ETA officials showed that the grantees subsequently corrected their documents to bring them into compliance with the Stevens Amendment requirements. In the fourth example, the grantee’s subsequent inclusion of the required funding source statement in its documents showed that the program was 100 percent funded by federal dollars.

In August 2018, ETA also created a “Core Monitoring Guide” that references the Stevens Amendment requirements as an element to be monitored by ETA officials when speaking with grantees. ETA intended

this guide to be used as a tool in the on-site review of a grantee's activities, and it provides officials with a series of checklists as well as the steps to take when conducting monitoring. For Stevens Amendment compliance, the guide includes a "Question for Review and Discussion" that uses the exact language of the Stevens Amendment. However, the Stevens Amendment is only one issue among many addressed in the guide, and ETA officials said they do not have the resources to audit all of the elements included in the guide. ETA officials said that their grant reviewers select from one to four sections of the guide to use when conducting monitoring, depending on the nature of the grant, and that the choice of which items to monitor is based on a risk analysis of the grantee and the grant projects' quarterly financial reports. ETA officials acknowledged that the scope of their monitoring overall is limited to 26 percent of their grant universe for a given fiscal year, therefore the extent of noncompliance among ETA grantees cannot be determined.

Of the eight DOL subagencies we spoke to other than ETA, two, OSHA and BLS, stated that they did not monitor grantees for compliance with Stevens Amendment requirements. These subagencies' officials said they did not monitor for Stevens Amendment compliance because monitoring is not explicitly required under the statute and, in the case of BLS, because it believes that the type of press releases generated by their grantees do not fall within the scope of the Stevens Amendment. Six of the eight DOL subagencies told us that they conducted grantee compliance monitoring. However, based on the information and documents provided by officials from these six subagencies, they have not demonstrated that they have processes to manage grantees' compliance with the Stevens Amendment. For example, the Chief Evaluation Office, the Bureau of International Labor Affairs (ILAB), and the Veterans' Employment and Training Service stated that they do not track the extent of grantee compliance; and the Mine Safety and Health Administration said that it does not maintain records of grantee compliance with the Stevens Amendment. In addition, both ILAB and the Women's Bureau, while stating that they conducted monitoring of grantee compliance with the Stevens Amendment, provided examples of grantee disclosures that did not meet all of its requirements. Further, the Office of Disability and Employment Policy (ODEP) said that all of its grantees were fully compliant with the Stevens Amendment, but produced no examples of grantee disclosures.

The Uniform Administrative Requirements that govern certain federal agencies, including DOL, state with regard to the management of grants that "the Federal awarding agency must manage and administer the

Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements."[21] Other than ETA, DOL's subagencies have not developed the processes needed to manage and administer grantees' compliance with the Stevens Amendment. Without these processes, these DOL subagencies are not able to ensure that grant programs are being implemented by grantees in full accordance with the statutory requirements of the Stevens Amendment.

Most HHS Operating Divisions Said They Did Not Review Grantees for Compliance with Stevens Amendment Requirements

At the department level, HHS officials said that they have no knowledge about whether their operating divisions conduct monitoring and enforcement of the Stevens Amendment, and they did not collect information from their operating divisions on grantee compliance with the Stevens Amendment's requirements. According to HHS officials, any efforts to manage grant awards for adherence to Stevens Amendment requirements would be carried out by staff at the agency's 10 relevant operating divisions. HHS officials said that operating divisions have an obligation to monitor their grantees for compliance with all of the agency's standard grant award terms and conditions, which includes the Stevens Amendment.

Of the 10 relevant HHS operating divisions we spoke with in our review, officials from eight of them—the Administration for Children and Families (ACF), the Agency for Healthcare Research and Quality (AHRQ), the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration, the Health Resources and Services Administration (HRSA), the National Institutes of Health (NIH), the Office of the Assistant Secretary for Health (OASH), and the Substance Abuse and Mental Health Services Administration—told us that they did not monitor grantees' compliance with Stevens Amendment requirements. Two of these operating divisions, ACF and AHRQ, further stated that the Stevens Amendment did not require them to monitor for grantee compliance. These operating divisions maintained the position that they are not required to monitor for grantee compliance despite HHS policy regarding

[21] 2 C.F.R. § 200.300(a).

operating division monitoring of grants that states "…to fulfill their role in regard to the stewardship of Federal funds, OPDIVs monitor their grants to identify potential problems and areas where technical assistance might be necessary. This active monitoring is accomplished through review of reports and correspondence from the recipient, audit reports, site visits, and other information available to the OPDIV."[22] As mentioned earlier in this report, agencies are required to manage grant awards and have a number of possible means available to do so—including grant monitoring. However, grant monitoring is not explicitly required by the Stevens Amendment.

NIH officials stated that they do not specifically monitor for Stevens Amendment compliance and that NIH officials have not received any reports of noncompliance with the Stevens Amendment. They said they would address any non-compliance issues if they were raised. Similar to NIH, HRSA officials told us that they conduct grantee monitoring, but do not specifically review grantee documents for compliance with Stevens Amendment requirements unless there is a cause for concern regarding noncompliance. Similarly, CDC officials said that their grantee monitoring practices do not specifically target Stevens Amendment compliance. CDC officials further explained that while grant program officers may find instances of noncompliance during a grant review, it would be tangential to other issues more central to the focus of the grant review, such as grantee financial performance and goal accomplishment.

Officials from OASH stated that while they do not specifically review grantees' written statements for Stevens Amendment compliance, they provide grantees with guidance regarding how to comply with its requirements. For example, a grantee asked whether a Stevens Amendment acknowledgement statement had to be included on billboards the recipient rented to promote their program's services. OASH determined that the grantee did not need to include the statement on the billboards.

ONC officials told us that all of their grantees were in compliance with the Stevens Amendment. ONC officials stated that while they do not specifically look for Stevens Amendment compliance, it was their belief that ONC monitoring practices would identify instances of noncompliance

[22]HHS Grants Policy Statement, U.S. Department of Health and Human Services, Office of the Assistant Secretary for Resources and Technology, Office of Grants, Jan. 1, 2007. The term "OPDIV" is an abbreviation used by HHS to refer to its operating divisions.

for their small number of grantees.[23] ONC officials told us their belief is based on interactions with a wide range of grantees' employees during monitoring visits that seek to ensure that all compliance issues among their grantees are addressed.

The remaining HHS operating division in our review, CMS, told us that its monitoring processes include reviews for Stevens Amendment requirements and that CMS had a process for reviewing grantee documents. According to HHS policy, the results and accomplishments of the activities CMS funds should be made public and CMS requires grantees to make the results and accomplishments of their activities available to the research community and to the public at large. The grantee must submit any materials to CMS in advance of publication, including brochures, recruitment materials, informational materials, advertisements, website copy, website pages, videos, and op-ed articles that report results from or describe information obtained through the grant award. CMS officials told us they reviewed for Stevens Amendment compliance, and provided us with examples of materials they said were from grantees that were in compliance. However, in our analysis of the sample grantee materials from CMS, we found that the grantees were not in compliance with the cost requirements of the Stevens Amendment.

Despite the claims and efforts of some HHS operating divisions with regard to monitoring for Stevens Amendment compliance, none of HHS's operating divisions could demonstrate that they had a process to manage and administer grantees' compliance with the Stevens Amendment requirements. In addition to the previously-mentioned Uniform Administrative Requirements applicable to all grant awards, HHS regulations that govern the agency's grant making state that, "The Federal awarding agency must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements."[24] Further, these regulations also state, "The Federal awarding agency must communicate to the non-Federal entity all relevant public policy requirements, including those in

[23]ONC had 13 active grants as of April 2018.

[24]45 C.F.R. § 75.300(a).

general appropriations provisions, and incorporate them either directly or by reference in the terms and conditions of the Federal award."[25]

Neither HHS, nor its operating divisions, had developed processes to manage and administer grantees' Stevens Amendment compliance. Without having processes to manage and administer their grantees' compliance with the Stevens Amendment, which is included in HHS's appropriations provisions, there is no way for HHS or its operating divisions to ensure that grantees are in full accordance with the statutory requirements of the Stevens Amendment appropriations provision and the agency-communicated conditions of the federal award.[26] Further, without monitoring grants in accordance with their Grants Policy Statement, HHS and its operating divisions are not able to identify potential problems related to grantees' Stevens Amendment compliance.

Education Does Not Monitor for Grantee Compliance with the Stevens Amendment

Education officials stated that its program offices do not explicitly track individual grantees for Stevens Amendment compliance. Education officials told us that their grant review process does not collect Stevens Amendment documentation nor do they gather information regarding the extent of grantee compliance with the appropriations provision. As a consequence, Education cannot determine the extent of their grantees' compliance with the requirements of the Stevens Amendment.[27]

Representatives from Education's Office of General Counsel stated that Education has an "obligation to correct" instances of Stevens Amendment noncompliance, but does not have an "obligation to monitor" its grantees to determine whether they are in compliance. Education officials told us that due to limited resources, they use risk assessment results to identify and prioritize which items among their standard terms and conditions they

[25]45 C.F.R. § 75.300(a).

[26]For example, Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, div. H, title V, Sec. 505, 132 Stat. 348 (Mar. 23, 2018).

[27]In our prior work we found that Education grant staff did not consistently document key required monitoring activities in the agency's official grant files. GAO-17-266, *Discretionary Grants: Education Needs to Improve Its Oversight of Grants Monitoring*, (Washington, D.C.: Apr. 18, 2017).

will monitor during the course of a grant review. Officials told us they had not received any complaints related to the Stevens Amendment.

The uniform regulations that govern federal agencies, including Education's management of grants, state that "the Federal awarding agency must manage and administer the federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements."[28] Education has not developed the processes it needs to manage and administer grantees' compliance with the Stevens Amendment which is included in Education's appropriations provisions. Without these processes, Education is not able to ensure that grant programs are being implemented by grantees in full accordance with the statutory requirements of the Stevens Amendment appropriations provision and the agency-communicated conditions of the federal award.

Most Subagencies and Operating Divisions Monitoring Stevens Amendment Compliance Did Not Gather Information about Grantees' Cost Calculations

With two exceptions, the subagencies and operating divisions we reviewed that stated they conducted monitoring had no information on the methods used by grantees to calculate the federal funding dollar amounts or funding percentage figures required by the Stevens Amendment. As an example, DOL's ETA officials told us that they do not know how the dollar amounts reported by grantees were calculated, and they have not inquired about the level of detail factored into indirect costs involving the grantee organization's structure and the percentage of funds spent on salaries. In addition, officials at DOL's ILAB said that it is not always clear how grantees calculate these costs, and the Stevens Amendment does not provide specific guidance on how costs should be determined. Officials also noted that some grantees expressed confusion regarding the requirements and how to calculate the total federal funds, including in cases where there may be collaboration across federally-funded programs. Similarly, officials from HHS's NIH operating division noted that calculations can be difficult given that research programs can have

[28] 2 C.F.R. § 200.300(a).

multiple funding streams that feed into a grant project and grantees' research portfolios are now more complex than they have been in the past.

Officials at one DOL subagency, ODEP, said that grantees calculate the total funds received in the grant awarding document and that these funds include negotiated indirect cost rates. The remainder of the DOL subagencies and HHS operating divisions that produced examples of either compliance or noncompliance with the amendment did not have information on how grantees made their disclosure calculations. In addition, officials at one HHS operating division, HRSA, said the HRSA Notice of Award lists the total federal and non-federal amounts for the grant project or program. Grantees can use this information to calculate the percentage of federal funding and nongovernmental funding. However, in the Stevens Amendment compliance examples that HRSA provided to us, this calculation was not necessary because these projects were 100 percent funded by the HRSA grant award. In addition, HRSA officials told us that they are not aware of any other methods that grantees would need to use to arrive at the percentage. With regard to indirect costs, HRSA officials said that these costs are already included in the federal award amount and, therefore, any calculation of funding percentage should already account for the inclusion of both direct and indirect costs.

Conclusions

Congress has repeatedly taken action to include the Stevens Amendment requirements with agencies' appropriations. Ensuring grantee compliance with accountability requirements is achieved through investment of federal agency resources that reflect decisions regarding how best to ensure efficient and effective use of grant funds while reinforcing statutory requirements.

DOL's largest grant making subagency, ETA, showed that its grantee review processes were, to some extent, actively monitoring for Stevens Amendment compliance and that when ETA found compliance issues, it was able to provide grantees with the technical assistance needed to correct them. While a couple of HHS operating divisions showed some evidence that they were enhancing their guidance to grantees with regard to the Stevens Amendment, none of the operating divisions could demonstrate that they had a process to manage and administer grantees' compliance with the Stevens Amendment requirements. Education

officials stated that while their agency does not have an "obligation to monitor" its grantees to determine whether they are in compliance with the Stevens Amendment, they do have an "obligation to correct" instances of noncompliance if brought to their attention. While none of the agencies in this review can determine the extent of their grantees' compliance with the Stevens Amendment, DOL's ETA has monitored grantee compliance with the provision, and when noncompliance is found, has taken steps to bring their grantees into compliance. However, with no such processes in place, the remaining DOL subagencies, HHS's operating divisions, and Education are not able to manage or administer grantee compliance with the Stevens Amendment appropriation provision so as to ensure that grant funds are being expended in full accordance with these statutory and regulatory requirements.

Recommendations for Executive Action

We are making a total of three recommendations, one to each of the three agencies in our review, to take steps to manage grantees' compliance with the Stevens Amendment. Specifically:

The Secretary of Labor should direct its subagencies, other than ETA, to design and implement a process to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations. (Recommendation 1)

The Secretary of Health and Human Services should direct its operating divisions to design and implement processes to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations. (Recommendation 2)

The Secretary of Education should design and implement a process to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations. (Recommendation 3)

Agency Comments and Our Evaluation

We provided a draft of this report to DOL, HHS, and Education for review and comment. We received written concurrence from DOL, and written

comment letters from DOL's OSHA, HHS, and Education. The comment letters are reprinted in appendixes I, II, and III, respectively and are summarized below.

DOL

DOL stated that it concurs with our recommendation. OSHA provided written comments and stated that it generally agreed with GAO's recommendation. OSHA said it will take steps to establish processes to monitor grantee compliance with Stevens Amendment requirements, to include reviewing what assistance the agency can provide to grantees on how to calculate funding percentages. OSHA further stated that it has begun updating its grant and cooperative agreement instructions to include the Stevens Amendment language verbatim, rather than paraphrasing the language, and is adding guidance to grant monitoring guidelines to assist OSHA's Regional Offices in reviewing compliance with the Stevens Amendment.

DOL subagencies ILAB, BLS, ETA, and ODEP also provided technical comments, which we incorporated into the report where appropriate.

HHS

In its written comments, HHS stated that it concurs with our recommendation and would implement the recommendation to the fullest extent feasible. HHS officials said they would direct all operating divisions to design a process for implementing and monitoring the Stevens Amendment and would update HHS grants policy to reflect this new process.

HHS also provided technical comments, which we incorporated into the report where appropriate.

Education

Education provided written comments stating that it did not concur with our recommendation, but would consider enhancing its existing approach to compliance with the Stevens Amendment. We reiterate our recommendation that Education should design and implement a process to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations.

Education had three concerns regarding the recommendation. First, Education said that our recommendation is not based on any evidence of noncompliance with the Stevens Amendment by Education grantees. As noted in our report, we found that Education lacks information regarding whether its grantees are, or are not, complying with the requirements of the Stevens Amendment. As indicated in this report, Education officials told us that they do not collect documentation from grantees to monitor their compliance with the Stevens Amendment, nor do they analyze information regarding the extent of grantee compliance with the Stevens Amendment. As a consequence, Education does not know the extent to which its grantees are or are not complying with the statutory requirements of the Stevens Amendment. Without this knowledge, Education does not have assurance that its grant awards are managed and administered in accordance with federal regulations.

Second, Education referred to its tiered risk-based approach to grantee monitoring that balances compliance requirements with limited monitoring resources in alignment with the President's Management Agenda. According to Education, implementation of the recommendation would require them to devote limited resources to managing and administering grantee compliance with the Stevens Amendment when there is no evidence of grantee noncompliance. We acknowledge that the cross-agency priority goal in the President's Management Agenda refers to maximizing the value of grant funding by applying a risk-based, data-driven framework that balances compliance requirements with demonstrating successful results. However, because Education does not collect information or documentation on this aspect of grantee compliance, it lacks the data needed to make an informed risk-based assessment with regard to monitoring for Stevens Amendment compliance. The recommendation could be implemented within the context of Education's risk-based approach to grantee monitoring as long as Education gathers the grantee compliance information needed to apply their risk-based, data-driven framework.

Third, Education said that it has already taken numerous steps to make its process for awarding and overseeing grant funds transparent to the public. However, these steps do not eliminate the legal requirements that grantees must comply with the Stevens Amendment, and that federal agencies, including Education, must manage and administer the federal award in a manner that is fully in accordance with statutory requirements. Education did state that it would consider enhancing its existing approach to Stevens Amendment compliance with actions that further explain the requirements to grant recipients. While such efforts could enhance

grantees' understanding of the Stevens Amendment, they would not give Education the grantee compliance information it needs to apply to a risk-based, data-driven framework or to manage and administer its grant awards in accordance with federal regulations. For all of these reasons we continue to believe that our recommendation to Education is valid and that Education should fully implement it.

We are sending copies of this report to the Secretaries of Labor, Health and Human Services, and Education, as well as interested congressional committees and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-6806 or sagerm@gao.gov. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Michelle Sager
Director, Strategic Issues

Appendix I: Comments from the Department of Labor's Occupational Safety and Health Administration

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210

Ms. Michelle Sager
Director, Strategic Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Sager:

Thank you for the opportunity to comment on the Government Accountability Office's (GAO) draft report, *Grants Management: Agency Action Required to Ensure Grantees Identify Federal Contribution Amounts.* The following comments are submitted on behalf of the Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA) and relate only to those sections of the report that address OSHA directly.

The report notes that most DOL subagencies provide either verbatim or paraphrased Stevens Amendment language to grantees, but do not have processes in place to monitor grantee compliance with those requirements, which is not statutorily required. The report also notes that DOL subagencies do not gather information from grantees about how grantees calculate the dollar amounts and percentages in their Stevens Amendment funding disclosures. GAO recommends that DOL subagencies, other than ETA, should design and implement a process to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations.

OSHA generally agrees with GAO's recommendation and will take steps to establish processes to monitor grantee compliance with Stevens Amendment requirements, to include reviewing what assistance the agency can provide to grantees on how to calculate funding percentages.

OSHA has begun updating grant and cooperative agreement instructions to include the Stevens Amendment language verbatim, rather than paraphrasing the language, and is adding guidance to monitoring guidelines for State Plans, Consultation, and Harwood programs to assist OSHA's Regional Offices in reviewing compliance with the Stevens Amendment. The agency will continue to take additional steps to ensure that all OSHA grant programs are managed in accordance with legal requirements, including those of the Stevens Amendment.

OSHA welcomes this process review, and appreciates the opportunity to respond to GAO's draft report.

Sincerely,

Loren Sweatt
Acting Assistant Secretary

Text of Appendix I: Comments from the Department of Labor's Occupational Safety and Health Administration

Ms. Michelle Sager Director, Strategic Issues
U.S. Government Accountability Office 441 G Street, NW
Washington, DC 20548 Dear Ms. Sager:

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The report notes that most DOL subagencies provide either verbatim or paraphrased Stevens Amendment language to grantees, but do not have processes in place to monitor grantee compliance with those requirements, which is not statutorily required. The report also notes that DOL subagencies do not gather information from grantees about how grantees calculate the dollar amounts and percentages in their Stevens Amendment funding disclosures. GAO recommends that DOL subagencies, other than ETA, should design and implement a process to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations.

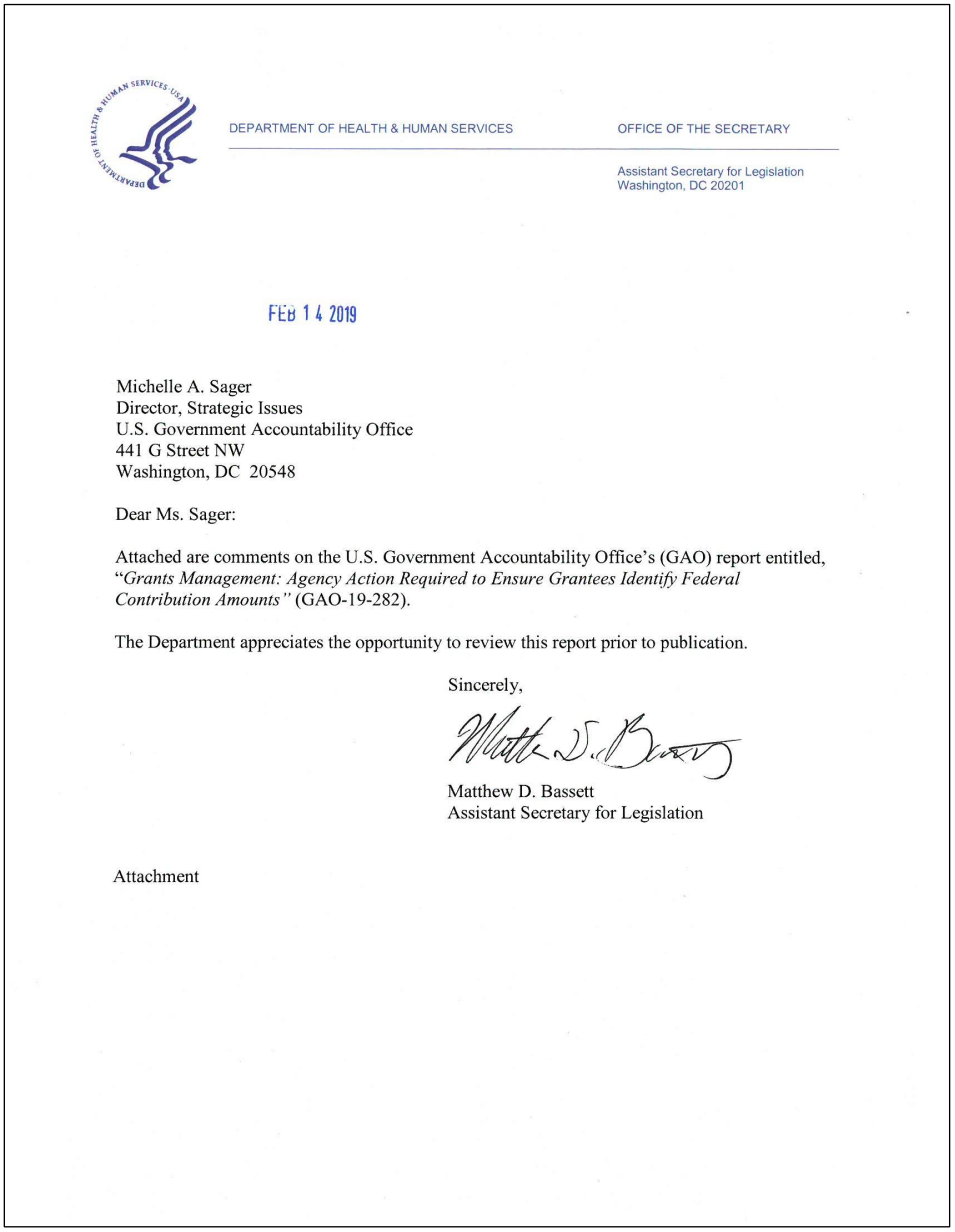
OSHA generally agrees with GAO's recommendation and will take steps to establish processes to monitor grantee compliance with Stevens Amendment requirements, to include reviewing what assistance the agency can provide to grantees on how to calculate funding percentages.

OSHA has begun updating grant and cooperative agreement instructions to include the Stevens Amendment language verbatim, rather than paraphrasing the language, and is adding guidance to monitoring guidelines for State Plans, Consultation, and Harwood programs to assist OSHA's Regional Offices in reviewing compliance with the Stevens Amendment. The agency will continue to take additional steps to ensure that all OSHA grant programs are managed in accordance with legal requirements, including those of the Stevens Amendment.

OSHA welcomes this process review, and appreciates the opportunity to respond to GAO's draft report.

Loren Sweat
Acting Assistant Secretary

Appendix II: Comments from the Department of Health & Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation
Washington, DC 20201

FEB 14 2019

Michelle A. Sager
Director, Strategic Issues
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Ms. Sager:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled, "*Grants Management: Agency Action Required to Ensure Grantees Identify Federal Contribution Amounts"* (GAO-19-282).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

Matthew D. Bassett
Assistant Secretary for Legislation

Attachment

GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED - GRANTS MANAGEMENT: AGENCY ACTION REQUIRED TO ENSURE GRANTEES IDENTIFY FEDERAL CONTRIBUTION AMOUNTS (GAO-19-282)

The U.S. Department of Health & Human Services (HHS) appreciates the opportunity from the Government Accountability Office (GAO) to review and comment on this draft report.

Recommendation 2
The Secretary of HHS should direct its operating divisions to design and implement processes to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations.

HHS Response
HHS concurs with the above recommendation and will implement it to the fullest extent feasible. In the short term, the Assistant Secretary for Financial Resources' Office of Grants and Acquisition Policy and Accountability, Division of Grants (OGAPA/DG), will utilize a Policy Action Transmittal to direct all operating divisions to design processes for implementing and monitoring the Stevens Amendment, and will update HHS grants policy to reflect the contents of the same Action Transmittal. This proposed action will be communicated to all HHS Chief Grants Management Officers at the next Executive Committee for Grants Policy Administration meeting.

Page 1 of 1

Text of Appendix II: Comments from the Department of Health & Human Services

Page 1

Michelle A. Sager Director, Strategic Issues

U.S. Government Accountability Office 441 G Street NW

Washington, DC 20548 Dear Ms. Sager:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled, "Grants Management: Agency Action Required to Ensure Grantees Identify Federal Contribution Amounts" (GAO-19-282).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

Matthew D. Bassett

Assistant Secretary for Legislation

Page 2

Attachment

GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN SERVICES ON THE GOVERNMEN T ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED - GRANTS MANAGEMENT: AGENCY ACTION REQUIRED TO ENSURE GRANTEES IDENTIFY FEDERAL CONTRIBUTION AMOUNTS (GA0-19-282)

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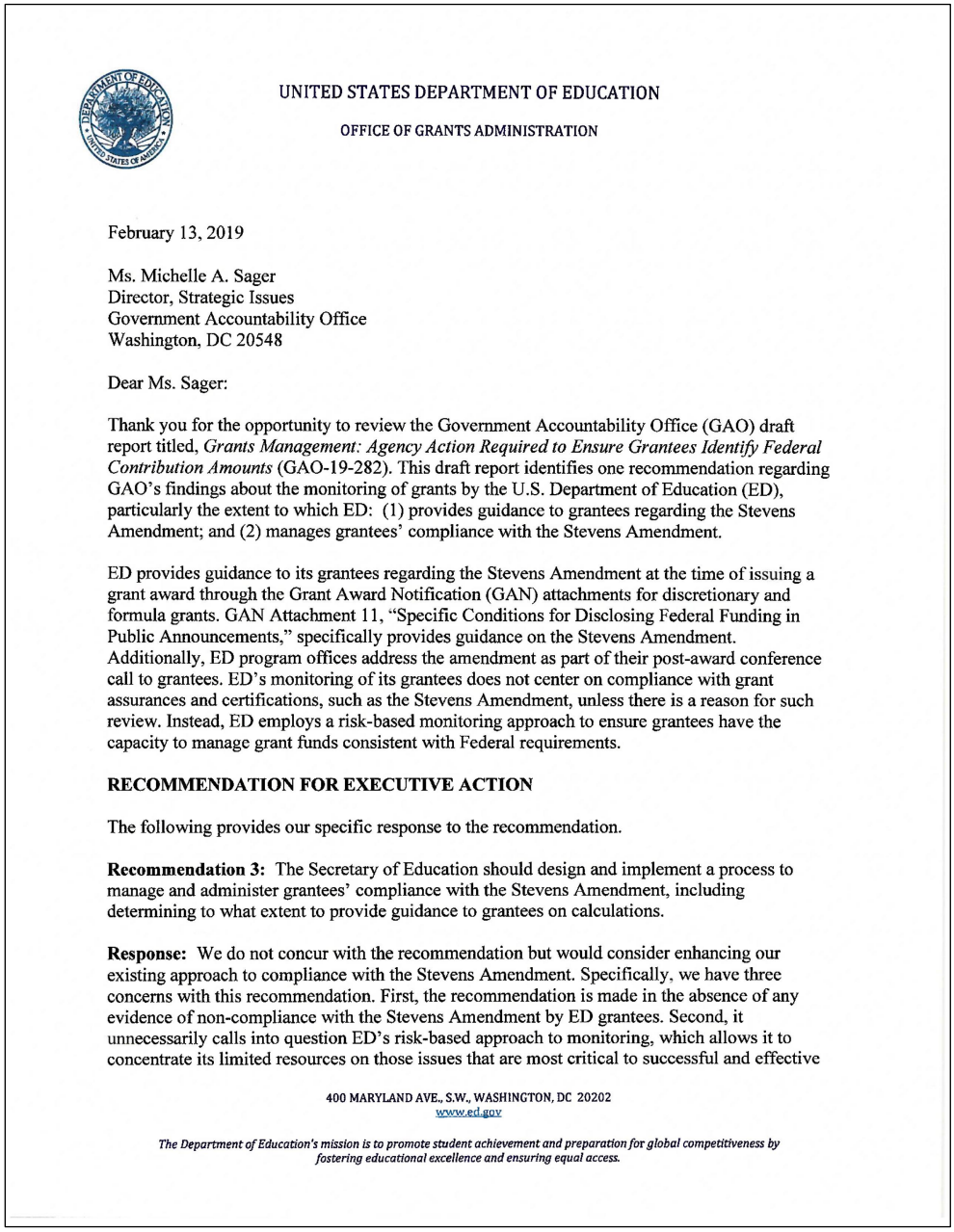
Appendix III: Comments from the Department of Education



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF GRANTS ADMINISTRATION

February 13, 2019

Ms. Michelle A. Sager
Director, Strategic Issues
Government Accountability Office
Washington, DC 20548

Dear Ms. Sager:

Thank you for the opportunity to review the Government Accountability Office (GAO) draft report titled, *Grants Management: Agency Action Required to Ensure Grantees Identify Federal Contribution Amounts* (GAO-19-282). This draft report identifies one recommendation regarding GAO's findings about the monitoring of grants by the U.S. Department of Education (ED), particularly the extent to which ED: (1) provides guidance to grantees regarding the Stevens Amendment; and (2) manages grantees' compliance with the Stevens Amendment.

ED provides guidance to its grantees regarding the Stevens Amendment at the time of issuing a grant award through the Grant Award Notification (GAN) attachments for discretionary and formula grants. GAN Attachment 11, "Specific Conditions for Disclosing Federal Funding in Public Announcements," specifically provides guidance on the Stevens Amendment. Additionally, ED program offices address the amendment as part of their post-award conference call to grantees. ED's monitoring of its grantees does not center on compliance with grant assurances and certifications, such as the Stevens Amendment, unless there is a reason for such review. Instead, ED employs a risk-based monitoring approach to ensure grantees have the capacity to manage grant funds consistent with Federal requirements.

RECOMMENDATION FOR EXECUTIVE ACTION

The following provides our specific response to the recommendation.

Recommendation 3: The Secretary of Education should design and implement a process to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations.

Response: We do not concur with the recommendation but would consider enhancing our existing approach to compliance with the Stevens Amendment. Specifically, we have three concerns with this recommendation. First, the recommendation is made in the absence of any evidence of non-compliance with the Stevens Amendment by ED grantees. Second, it unnecessarily calls into question ED's risk-based approach to monitoring, which allows it to concentrate its limited resources on those issues that are most critical to successful and effective

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

implementation of ED grants. Third, ED's decision reflects its commitment to transparency on how ED grant funds are used in ways beyond the limited scope of this recommendation.

First, the only information referenced in the draft report concerning non-compliance by grantees with the Stevens Amendment is a study titled, *Ivy League Flunkers: Schools Fail on Federal Funding Disclosure*, conducted by Restore Accountability and White Coat Waste Project.[2] (See page 2, footnote 4, of the draft report.)
As the draft report indicates, none of the 100 press releases issued by various Ivy League institutions that concerned studies funded by the National Institutes of Health and the National Science Foundation complied with the Stevens Amendment. This study and the draft report do not identify any instance where a violation of the Stevens Amendment involved an ED grantee. In light of these circumstances, it does not seem appropriate to recommend that ED alter its approach to implementation of the Stevens Amendment.

Second, a significant part of ED's approach to implementing the Stevens Amendment, which the draft report notes, involves providing grantees with notice of the requirement through an attachment to their GANs and discussing the requirement during post-award conference calls. (See page 11 of the draft report.) As we explained during the exit conference, ED uses a tiered risk-based approach to monitoring that aligns with the President's Management Agenda, released in 2018 and quoted on page 1 of the draft report. Specifically, on page 1, the draft report notes that the President's Management Agenda "established 'results-oriented accountability for grants' as a cross-agency priority goal to 'maximize the value of grant funding by applying a risk-based, data-driven framework that balances compliance requirements with demonstrating successful results for the American taxpayer.'" ED's tiered risk-based approach to monitoring is in line with this directive.

In identifying grantees and issues to monitor, we at ED focus our limited resources on those issues and situations where there is a higher risk of non-compliance with requirements that will have a significant impact on fiscal accountability and programmatic outcomes. For that reason, issues such as the effectiveness of grantee internal controls, possible waste, fraud, and abuse, and compliance with key programmatic requirements (such as serving eligible beneficiaries and providing them with key services) take precedence over other issues in allocating ED's monitoring resources. The time and effort expended in monitoring one requirement is necessarily time and effort not spent on monitoring another requirement. For that reason, recommending that ED devote limited resources to managing and administering grantee compliance with the Stevens Amendment, when there is no evidence that our current approach of informing grantees of the requirement is not working, is contrary to both our tiered risk-based approach and the results-oriented compliance of the President's Management Agenda.

Third, ED appreciates the importance of transparency and the role the Stevens Amendment plays in making more transparent the way in which Federal grant funds are used. ED has taken numerous proactive steps to make its process for awarding and overseeing State-administered and discretionary grant funds, as well as the recipients of those funds, transparent to the public. External stakeholders can obtain information on all recipients of ED grants and subgrants through www.spendingusa.gov. For discretionary grant programs, ED also typically identifies the recipients of grants under those programs each year and provides information on the grant application. We also post on our website Elementary and Secondary Education Act (ESEA) State

[2] https://www.restoreaccountability.com/sites/restoreacc/uploads/images/Ivy_League_Flunkers_WCW-RA.pdf

plan submissions[3] and Individuals with Disabilities Education Act (IDEA) Part B and C grant award letters and determination letters responding to annual performance reports.[4]

Thus, while we do not concur with the specific recommendation to "manage and administer grantees' compliance with the Stevens Amendment," we would consider enhancing our existing approach to Stevens Amendment compliance. We could give this requirement additional emphasis in post-award conferences and include a page on ed.gov that explains the requirement and provides information on commonly asked questions (such as calculating the percentage of Federal funding in a project) and a point of contact for questions. This approach would foster enhanced understanding and grantee compliance with this requirement without diverting limited ED monitoring resources from more critical compliance activities.

Thank you for the opportunity to respond to the draft report. We are available to discuss these comments with you and encourage GAO to consider the information provided in this response when preparing its final report. As indicated, we will use the information in this report to enhance our existing approach to Stevens Amendment compliance.

Sincerely,

Jim Stader, P.E.
Director
Office of Grants Administration
Office of Finance and Operations

[3] https://www2.ed.gov/admins/lead/account/stateplan17/statesubmission.html
[4] https://www2.ed.gov/fund/data/award/idea/ptballyears.html, https://www2.ed.gov/fund/data/award/idea/ptcallyears.html, and https://www2.ed.gov/programs/oseppsg/performance.html.

Text of Appendix III: Comments from the Department of Education

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February 13, 2019

Ms. Michelle A. Sager Director, Strategic Issues

Government Accountability Office Washington, DC 20548

Dear Ms. Sager:

Thank you for the opportunity to review the Government Accountability Office (GAO) draft report titled, Grants Management: Agency Action Required to Ensure Grantees Identify Federal Contribution Amounts (GAO-19-282). This draft report identifies one recommendation regarding GAO's findings about the monitoring of grants by the U.S. Department of Education (ED), particularly the extent to which ED: (1) provides guidance to grantees regarding the Stevens Amendment; and (2) manages grantees' compliance with the Stevens Amendment.

ED provides guidance to its grantees regarding the Stevens Amendment at the time of issuing a grant award through the Grant Award Notification (GAN) attachments for discretionary and formula grants. GAN Attachment 11, "Specific Conditions for Disclosing Federal Funding in Public Announcements," specifically provides guidance on the Stevens Amendment.

Additionally, ED program offices address the amendment as part of their post-award conference call to grantees. ED's monitoring of its grantees does not center on compliance with grant assurances and certifications, such as the Stevens Amendment, unless there is a reason for such review. Instead, ED employs a risk-based monitoring approach to ensure grantees have the capacity to manage grant funds consistent with Federal requirements.

RECOMMENDATION FOR EXECUTIVE ACTION

The following provides our specific response to the recommendation.

Recommendation 3:

The Secretary of Education should design and implement a process to manage and administer grantees' compliance with the Stevens Amendment, including determining to what extent to provide guidance to grantees on calculations.

Response:

We do not concur with the recommendation but would consider enhancing our existing approach to compliance with the Stevens Amendment. Specifically, we have three concerns with this recommendation. First, the recommendation is made in the absence of any evidence of non-compliance with the Stevens Amendment by ED grantees. Second, it unnecessarily calls into question ED's risk-based approach to monitoring, which allows it to

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implementation of ED grants. Third, ED's decision reflects its commitment to transparency on how ED grant funds are used in ways beyond the limited scope of this recommendation.

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plan submissions[2] and Individuals with Disabilities Education Act (IDEA) Part B and C grant award letters and determination letters responding to annual performance reports.[3]

[2] https://www2.ed.gov/admins /le ad/account/statepaln17/statesubmission.html

[3] https://www2.ed.gov/fund/ data/award/idea/ptballye ars.html, https://www2.ed.gov/fund/data/award/idea/ptcallyears.html, and https://www2.ed.gov/programs/oseppsg/performance.html.

Thus, while we do not concur with the specific recommendation to "manage and administer grantees' compliance with the Stevens Amendment," we would consider enhancing our existing approach to Stevens Amendment compliance. We could give this requirement additional emphasis in post-award conferences and include a page on ed.gov that explains the requirement and provides information on commonly asked questions (such as calculating the percentage of Federal funding in a project) and a point of contact for questions. This approach would foster enhanced understanding and grantee compliance with this requirement without diverting limited ED monitoring resources from more critical compliance activities.

Thank you for the opportunity to respond to the draft report. We are available to discuss these comments with you and encourage GAO to consider the information provided in this response when preparing its final report. As indicated, we will use the information in this report to enhance our existing approach to Stevens Amendment compliance.

Sincerely

Jim Stader, P.E.

Director

Office of Grants Administration Office of Finance and Operations

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Michelle Sager, (202) 512-6806 or sagerm@gao.gov

Staff Acknowledgments

In addition to the contact named above, Tom James (Assistant Director), Anthony Bova (Analyst-in-Charge), Jacqueline Chapin, Jehan Chase, Robert Robinson, Wesley Sholtes, and Walter Vance made key contributions to this report.

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