National State
Auditors Association
*An Affiliate of NASACT*

**Headquarters Office**
449 Lewis Hargett Circle, Suite 290
Lexington, KY 40503-3590
P (859) 276-1147, F (859) 278-0507
**www.nasact.org**

**Washington Office**
The Hall of the States
444 N. Capitol Street, NW, Suite 234
Washington, DC 20001
P (202) 624-5451, F (202) 624-5473

NSAA

May 27, 2016

Gilbert Tran
Office of Federal Financial Management
U.S. Office of Management and Budget
New Executive Office Building, Room 6025
Washington, DC 20503

Phillip Juengst
Director, Office of the Chief Financial Officer
U.S. Department of Education
550 12th Street, SW
Room 6056
Washington, DC 20202-4450

Dear Mr. Tran and Mr. Juengst:

Thank you for the opportunity to meet via conference call to discuss the U.S. Department of Education's (ED) desire to have the Student Financial Assistance (SFA) Cluster be tested annually as a major program. We understand that ED recently informed one state, Texas, that if the SFA Cluster was not audited as a major program, state higher education institutions in Texas could not rely on the single audit to comply with ED's annual compliance audit requirement. Further, we understand that ED has approached the U.S. Office of Management and Budget (OMB) requesting that the SFA Cluster be tested as a major program on an annual basis. ED cites audit requirements in 20 USC 1078 and 34 CFR §668.23 as justification for its request.

We have serious concerns about ED's request. Fundamentally, we believe it is inconsistent with the underlying principles of the Single Audit Act Amendments of 1996 and the recently-issued *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* (the "UG"). Both documents encourage the effective and efficient use of scarce audit resources by focusing on a "single audit" that targets larger programs of higher risk. The UG was specifically designed to deliver on the President's directives to reduce both improper payments and **administrative burden**.

We do not believe ED's request meets the core principles of either the Single Audit Act Amendments of 1996 or the UG. In Texas, for example, the SFA Cluster represents eight percent of its total federal expenditures, and it is considered a low-risk program based on the new criteria of the UG. We are hard-pressed to understand why this program would be required for major program testing every year. This is clearly inconsistent with the UG's focus on reducing burden and emphasis on testing programs that are high-risk.

Interestingly, a review of information on the SFA Cluster from statewide single audits retrieved from the Federal Audit Clearinghouse revealed the following highlights:

- Of the 21 states that reported auditing SFA as major for 2015, only three modified their opinion for the program and reported a material weakness.
- On average, for those states that reported SFA expenditures that we were able to confirm, the SFA accounted for only eight percent of the states' total federal expenditures.
- Seven states with SFA expenditures have not audited the SFA Cluster annually.

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Among other things, this analysis shows that the SFA Cluster has not been tested as a major program every year. If this was an SFA program requirement, it has not been well known, nor has it been enforced.

We also note that references from Part 5 of the *2015 Compliance Supplement* indicate the possibility of not selecting the SFA Cluster as a major program. Wording such as, "**If** the SFA Cluster was selected as a major Federal program" or "…**if** the SFA Cluster is not selected as a major program..." [emphasis added] have always implied that there is no requirement to test the SFA Cluster as a major program.

Lastly, we recognize that ED has a compliance audit requirement in its statutes and regulations. However, the Department has accepted the single audit in the past to satisfy its specific statutory and regulatory audit requirements. We strongly encourage ED to continue to accept the single audit for these program-specific audit requirements. The single audit concept, first passed into law in 1984, has stood the test of time and represents an efficient approach to auditing the myriad of federal programs.

We strongly disagree that the SFA Cluster should join Medicaid as a higher risk program provided under §200.519(c)(2). Audit results retrieved from the FAC clearly do not justify this higher risk designation. However, if ED believes it cannot rely on the single audit, we believe at a minimum it must follow the requirements of §200.503, *Relation to other audit requirements*, of the UG. Specifically, this section requires that if a federal awarding agency wants a program to be tested as major, it must make this request 180 calendar days prior to the end of the fiscal year to be audited, and the federal awarding agency must pay for the incremental cost to audit this program as major.

Thank you for your attention to this matter. We look forward to working with ED to resolve this issue and stand ready to provide any assistance or audit data from statewide single audits that would be beneficial.

Should you have any questions or wish to discuss further, please contact Kinney Poynter, NASACT's executive director, at (859) 276-1147, or me at (804) 225-3350.

Respectfully,

Martha S. Mavredes

Martha Mavredes
Chair, NSAA Single Audit Committee
Auditor of Public Accounts, Virginia

cc: Tammie Brown, Office of Inspector General, U.S. Department of Health and Human Services
John B. King, Jr., Secretary, U.S. Department of Education
David Mader, Controller, U.S. Office of Management and Budget
Mark Reger, Deputy Controller, U.S. Office of Management and Budget