

Subgranting FY 2017 Title IV-A Funds to LEAs: Questions and Answers

1. How may an SEA use fiscal year (FY) 2017 funds to make subgrants to its LEAs under the SSAE program?

The Consolidated Appropriations Act, 2017 (Pub. L 115-31) (Appropriations Act)¹ provides SEAs with the option of making SSAE subgrants to LEAs through the formula in the program statute, on a competitive basis (as described in the Appropriations Act), or via a combination of the competitive and formula methods.

The competitive subgrant authority in the Appropriations Act does not amend the program statute and applies only to SEAs' use of FY 2017 funds. In addition, states must comply with all statutory requirements for any portion of Title IV, Part A funds it awards by formula, and all applicable requirements for any portion of Title IV, Part A funds it awards by competition (see question 3 below for more information).

2. How does an SEA make SSAE subgrants to its LEAs by formula?

Under section 4105(a) of the ESEA, an SEA that makes subgrants to its LEAs by formula must do so based on their relative shares of funds under Title I, Part A for the preceding fiscal year, except that no LEA may receive an allocation that is less than \$10,000. If funds are insufficient to provide the \$10,000 minimum allocation to each eligible LEA (*i.e.*, each LEA that received Title I, Part A funds for the preceding fiscal year), the SEA must provide each eligible LEA with an allocation in an amount that is ratably reduced below \$10,000, consistent with section 4105(b).

Accordingly, there are two potential allocation scenarios for an SEA, depending on whether or not it has sufficient funds to provide each LEA with the \$10,000 minimum. Below is an "Initial Test" that an SEA should apply to determine which scenario it falls into, and then a set of steps the SEA should take to make allocations under the applicable scenario.

- *Initial Test: Determine whether funds are sufficient to provide each LEA with at least the \$10,000 minimum allocation*

An SEA making subgrants by formula should first determine whether funds available for LEA allocations are sufficient to provide each eligible LEA with at least the \$10,000 minimum allocation under section 4105(a). An SEA can determine this by dividing the amount of available funds by the total number of eligible LEAs in the State. The result will determine whether the SEA falls under "Scenario 1" or Scenario 2" described below.

¹ The 2017 Consolidated Appropriations Act can be found at: <https://www.congress.gov/115/bills/hr244/BILLS-115hr244enr.pdf>

For example, if an SEA has \$500,000 in available funds and 5 eligible LEAs, the SEA would divide \$500,000 by 5. From the resulting amount of \$100,000, the SEA would determine that funds are sufficient to provide each LEA with at least the minimum allocation, and would proceed under “Scenario 1.” .

- *Scenario 1: The SEA’s allocation would be sufficient to provide each LEA with at least the \$10,000 minimum allocation if the funds were divided equally among all eligible LEAs .*

If an SEA making subgrants by formula determines that funds are sufficient to provide each eligible LEA with at least the \$10,000 minimum allocation, the SEA must allocate funds to its LEAs based on shares of Title I, Part A funds for the preceding fiscal year. An SEA should follow the steps below for making allocations consistent with these requirements in section 4105(a).

- Step 1. Determine “initial formula allocations”. An SEA determines “initial formula allocations” by multiplying, for each eligible LEA, the amount of SSAE funds reserved for formula allocations by the percentage of available Title I, Part A funds that the LEA received for the preceding fiscal year.

For example, if an SEA has reserved \$500,000 of SSAE funds for formula allocations and an LEA received 10.00 percent of available Title I, Part A funds for the preceding fiscal year, the SEA would multiply \$500,000 by 10.00 percent. The resulting amount of \$50,000 is the LEA’s initial allocation.

- Step 2. Adjust allocations for LEAs whose initial formula allocation is below the \$10,000 minimum allocation. Consistent with section 4105(a)(2), an SEA must adjust upward to \$10,000 the allocation for any LEA whose initial formula allocation is below \$10,000.
- Step 3. Adjust allocations for all other LEAs. After adjusting upward to \$10,000 the allocation for any LEA whose initial formula allocation is below \$10,000, an SEA must adjust downward, on a proportionate basis, the initial formula allocations for all other LEAs. This adjustment is needed because the upward adjustment to the allocations for LEAs whose initial allocation is below \$10,000 reduces the amount of funds available to other LEAs, and the adjustment must be proportionate to ensure that the allocations for these LEAs continue to be based on shares of Title I, Part A funds for the preceding fiscal year. To make this proportionate downward adjustment, an SEA can:
 - First determine the total amount by which the initial formula allocations for all other LEAs must be reduced, by determining the difference between the sum of the adjusted allocations for LEAs whose initial formula allocation is below \$10,000 and the sum of their initial allocations;
 - Determine the percentage by which the initial formula allocations for these LEAs must be reduced, by dividing the amount above by the sum of these

LEAs' initial formula allocations; and

- Reduce by the resulting percentage the initial formula allocation for each LEA.

For example, in the table below, LEA Delta and LEA Echo each have an initial formula allocation below \$10,000. The sum of their initial formula allocations is \$15,000. By statute, LEA Delta and LEA Echo must receive a minimum allocation of \$10,000 each. These are their adjusted allocations. The difference between the total initial and total adjusted allocations of these LEAs is \$5,000. If the sum of the initial allocations for all other LEAs (i.e., LEAs Alpha, Bravo, and Charlie) is \$485,000, the SEA would divide \$5,000 by \$485,000, resulting in a percentage of 1.03 percent. If under this example an LEA's initial formula allocation is \$50,000 (see LEA Charlie), the SEA would then multiply \$50,000 by 1.03 percent and subtract the resulting amount (\$515) from \$50,000, resulting in an adjusted allocation of \$49,485.

The table below shows results of Steps 1-3 for an example SEA with \$500,000 in available funds and five eligible LEAs:

LEA	Step 1: Initial formula allocation	Step 2: Adjusted allocation for LEAs below \$10,000	Step 3: Adjusted allocation for all other LEAs	Adjusted allocation for all LEAs
Alpha	\$300,000	--	\$296,907	\$296,907
Bravo	\$135,000	--	\$133,608	\$133,608
Charlie	\$50,000	--	\$49,485	\$49,485
Delta	\$9,000	\$10,000	--	\$10,000
Echo	\$6,000	\$10,000	--	\$10,000
Total funds	\$500,000	\$20,000	\$480,000	500,000

- Step 4. Repeat Steps 2-3 as necessary. If, as a result of Step 3, the adjusted allocation for any LEA is below the \$10,000 minimum allocation, the SEA must re-adjust the allocation upward to \$10,000, consistent with Step 2, and repeat Step 3.
- *Scenario 2: The SEA's allocation would be insufficient to provide any LEA with at least the \$10,000 minimum allocation if the funds were divided equally among all eligible LEAs.*

If an SEA making subgrants by formula determines that the amount of SSAE funds reserved for formula allocations is insufficient to provide each eligible LEA with the \$10,000 minimum allocation, the SEA must, consistent with section 4105(b), provide

each LEA with an allocation in an amount that is ratably reduced below \$10,000. Effectively, this means that each LEA's allocation is the same as the amount the SEA obtained by dividing the funds available for LEA allocations by the total number of eligible LEAs in the State under the "Initial Test" above.

For example, if an SEA has \$500,000 in funds available for formula allocations and 55 eligible LEAs, the SEA would have divided \$5,000,000 by 55. In this case, each LEA would receive the resulting amount of \$9,090.

3. How does an SEA make competitive SSAE subgrants?

Under the Appropriations Act, SEAs may award subgrants on a competitive basis to eligible LEAs (*i.e.*, those that receive Title I, Part A funds), or consortia of eligible LEAs, to support activities under one or more of ESEA sections 4107 (well-rounded educational opportunities), 4108 (safe and healthy students), or 4109 (effective use of technology). An SEA making competitive subgrants must give priority to LEAs, or consortia of LEAs, with the greatest need based on the number or percentage of children counted under section 1124(c) of the ESEA (*i.e.*, children counted for purposes of grants to LEAs under Title I, Part A of the ESEA), and must make awards in a manner that ensures geographic diversity among subgrant recipients representing rural, suburban, and urban areas. An SEA must make competitive subgrants for a term of one year and in an amount not less than \$10,000.

Under the Appropriations Act, an SEA making competitive subgrants must also ensure that, of the State's funds available for competitive subgrants, at least 20 percent is distributed for well-rounded educational opportunities, at least 20 percent for safe and healthy students, and a portion for effective use of technology. In other words, the Appropriations Act applies the minimum expenditure requirements in section 4106(e)(2) of the ESEA to the SEA for those amounts awarded competitively, even though under the SSAE statute, those requirements apply to the LEA's use of its formula funds. LEAs are not subject to the minimum expenditure requirements applicable to formula subgrants for any funds they receive as competitive subgrants.

In addition, the Appropriations Act allows an LEA receiving a competitive subgrant and using funds to carry out only activities to support the effective use of technology to use up to 25 percent of its competitive subgrant for purchasing technology infrastructure. In comparison, an LEA receiving a formula subgrant and using funds to carry out activities to support the effective use of technology, or an LEA receiving a competitive subgrant and using funds to carry out these and other allowable activities, may use only up to 15 percent of its funds for this purpose.

Except as noted above, competitive subgrants are subject to the same terms and conditions as formula subgrants.²

² The Consolidated Appropriations Act 2017 text regarding Title IV, Part A states: "Provided further, That \$400,000,000 shall be available for grants under subpart 1 of part A of title IV: Provided further, That notwithstanding subsections (a) and (b) of section 4105 of such Act, each State may use funds reserved under section 4104(a)(1) of such Act to award subgrants, on a competitive basis, to local educational agencies receiving a grant under part A of title I, or consortia of such local educational agencies, of such Act, to enable the agencies or consortia to support activities authorized

4. May an SEA make SSAE subgrants to its LEAs both by formula and competitively?

Yes, the Department has determined that the FY 2017 Department of Education Appropriations Act, which provides authority for SEAs to make subgrants to LEAs through a competitive process, does not prohibit an SEA from choosing to make both competitive and formula-based subgrants with FY 2017 SSAE funds. The competitive subgrant authority provided for FY 2017 includes multiple requirements for competitive subgrants that may be challenging to reconcile with the statutory requirements for formula-based subgrants. The Department is available to assist SEAs in addressing these challenges and strongly encourages any SEA seeking to make both formula and competitive subgrants to share its plan with the Department for awarding FY 2017 SSAE funds to ensure that the plan meets all applicable requirements prior to the implementation of the SEA’s plan. Finally, the Department encourages any SEA considering such a plan to consult with its LEAs prior to implementation. SSAE funds awarded by formula must be provided to all eligible LEAs, and an SEA may not provide a predetermined allocation to every LEA, as this would not be formula-based. If an SEA chooses to award SSAE subgrants both by formula and competitively, it may not reduce an LEA’s formula allocation if that LEA receives a competitive subgrant.

5. Does the same period of fund availability apply to SSAE funds awarded by formula or competitively?

Yes. Because SSAE is a State-administered program, the “Tydings Amendment”³ applies and all FY 2017 SSAE funds, whether awarded by formula or competitively, remain available for obligation by LEAs through September 30, 2019. For an SEA making competitive subgrants, FY 2017 funds remain available for obligation by the SEA until September 30, 2018, and by its LEAs under the Tydings Amendment until September 30, 2019.

under one or more of sections 4107, 4108, and 4109(a) of such Act: Provided further, That each such subgrant shall be subject to the same terms and conditions as an allocation provided under section 4105 of such Act, except as otherwise provided in this Act: Provided further, That each State that awards such subgrants shall award such subgrants with priority given to local educational agencies, or consortia of local educational agencies, with the greatest need based on the number or percentage of children counted under section 1124(c), in a manner that ensures geographic diversity among subgrant recipients representing rural, suburban, and urban areas, and in a manner that distributes the total amount of funds available to the State under section 4104(a)(1) consistent with the requirements described in subparagraphs (C) through (E) of section 4106(e)(2) of such Act: Provided further, That each such subgrant awarded shall be for a term of one year and in an amount not less than \$10,000, and a subgrant recipient shall not be subject to any of the distribution requirements described in subparagraphs (C) through (E) of subsections (e)(2) and (f), of section 4106 of such Act: Provided further, That notwithstanding section 4109(b) of such Act, a subgrant recipient using such subgrant funds to carry out only activities authorized under section 4109(a) of such Act may use not more than 25 percent of the subgrant funds for purchasing technology infrastructure as described in such section 4109(b): Provided further, That amounts made available under this heading to a State agency awarding such subgrants shall remain available until September 30, 2018.”

³ The statutory authority for the period for obligating and expending carryover funds is called the “Tydings Amendment,” section 412(b) of the General Education Provisions Act (GEPA), 20 U.S.C. 1225(b). Also see section 76.709 of the Education Department General Administrative Regulations (EDGAR), 34 C.F.R. § 76.709. In general, under this provision, any funds not obligated and expended during the period for which they were awarded become carryover funds and may be obligated and expended during the succeeding fiscal year.

6. May an LEA that receives a competitive SSAE (Title IV, Part A) subgrant transfer funds to or from that award consistent with section 5103(b) of the ESEA?

No. An LEA that receives a competitive SSAE subgrant may not transfer funds into or out of that award. The State and Local Transferability Act, currently codified in Title V, Part A of the ESEA, provides authority for States and LEAs to transfer funds allotted under certain ESEA formula grant programs; it does not authorize the transfer of awards made by competition. Such transfers would undermine the competitive award process by allowing a subgrantee to avoid implementing the activities in its “winning” application. In addition, an LEA may transfer funds only into a Title IV, Part A formula allocation and not into a competitive Title IV, Part A subgrant. Accordingly, if an LEA does not receive a formula Title IV, Part A allocation, it may not transfer Title II funds to Title IV, Part A, under the transferability provisions in section 5103(b).