

**Office of Inspector General  
ESOL and Title III**

**Report #A-1516-004**

**March 2016**

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**Executive Summary**

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In accordance with the Department of Education's (department) fiscal year (FY) 2015-16 audit plan, the Office of Inspector General conducted an audit of English for Speakers of Other Languages (ESOL) and Title III grants. The purpose of this audit was to determine if the Bureau of Student Achievement through Language Acquisition (SALA) has sufficient internal controls in place to ensure school districts provide services and expend funds in accordance with federal and state rules and regulations.

During this audit, we noted instances where SALA could make improvements to strengthen its internal controls. For example, we cited instances where districts did not achieve the department's annual measurable achievement objective (AMA) goals, SALA did not ensure the districts submitted required improvement plans, SALA did not effectively monitor the districts, and district expenditures did not meet federal requirements. The Audit Results section below provides details of the instances noted during our audit.

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**Scope, Objectives, and Methodology**

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The scope of this audit included services provided through ESOL and the Title III and Immigration grant agreements for the period of July 1, 2014, through June 30, 2015. We established the following objectives for our audit:

1. Ensure Title III funds are used to supplement ESOL program services;
2. Determine whether SALA has internal controls to effectively administer the Title III funds and ESOL program services; and
3. Determine whether SALA is effectively monitoring the districts for compliance with federal and state regulations.

To accomplish our objectives, we reviewed applicable laws, rules, and regulations; interviewed appropriate department and district personnel; reviewed policies and procedures; reviewed Title III and Immigration grants and related documents; reviewed a sample of SALA monitoring documents; and reviewed a sample of Title III and Immigration grant expenditures.

## Background

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The primary focus of SALA is to assist schools and districts to increase the English proficiency and student academic achievement of Florida's English Language Learners (ELL). SALA is responsible for ensuring that these students receive comprehensible instruction by monitoring schools and districts for compliance with state and federal rules, regulations, the 1990 League of United Latin American Citizens et al. v. the State Board of Education Consent Decree (Consent Decree), and the 2003 Modification of the Consent Decree. SALA personnel provide assistance to schools, districts, school board personnel, teachers, parents, and community organizations in all areas of education for ELLs and ESOL program services. ESOL services include appropriately identifying students with limited English proficiency, conducting assessments, providing equal access to appropriate programming, ensuring certification for personnel, and monitoring for the achievement of established goals and compliance with program requirements. Seventy-four districts participate in ESOL program services.

SALA also manages the Title III grants, which are federal funds dispersed to eligible districts for the purpose of increasing the English proficiency and student academic achievement of ELLs. This federal funding focuses on providing supplemental professional development to teachers of ELLs and on providing scientifically research-based academic programs to assist ELL academic achievement and English language acquisition. The overall goal of the Title III program is to ensure that students with limited proficiency in English learn the language and master challenging academic content standards. Title III funds must be used in pursuit of this goal and must be used to supplement the federal, state, and local funds. For FY 2014-15, the federal funds for Title III totaled \$43,667,337. The department allocated \$33,597,508.47 to 52 eligible districts and an additional \$5,185,496 to 15 districts for recently arrived immigrant children and youth. The remaining funds were used for administrative and Comprehensive English Language Learning Assessment (CELLA) costs.

The No Child Left Behind (NCLB) Act was enacted in 2002 to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.<sup>1</sup> The NCLB follows four principles, which include holding schools accountable for results, giving states and districts flexibility in how they spend federal money, using scientific research to guide classroom practice, and involving parents by giving them information and choices about their children's education.<sup>2</sup> NCLB put in place measures that exposed achievement gaps among traditionally underserved students and their peers. This focus on accountability has been critical in ensuring a quality education for all children, yet also revealed challenges in the effective implementation of this goal.<sup>3</sup>

Over time, many states found the NCLB requirements to be unrealistic, and congress has responded with a law that will focus on the clear goal of fully preparing all students for success in college and careers. On December 10, 2015, President Obama signed into law the Every Student Succeeds Act (ESSA) to replace the NCLB. The new law builds on key areas of

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<sup>1</sup> NCLB Act at <http://www2.ed.gov/policy/elsec/leg/esea02/index.html>

<sup>2</sup> NCLB information at <http://www.fl DOE.org/policy/edu-laws-legislation/no-child-left-behind/index.stml>

<sup>3</sup> ESSA information at <http://www.ed.gov/essa>

progress in recent years, and includes provisions that will help to ensure success for students and schools. The U.S. Department of Education will work with states and districts to begin implementing the new law. However, the NCLB was the controlling law during the scope of this audit and performance was therefore measured against the requirements of the NCLB.

## Audit Results

### Finding 1: Districts did not achieve the department AMAO goals

Section 3211(a)(1) of the NCLB states, “Each State educational agency or specially qualified agency receiving a grant under subpart 1 shall develop annual measurable achievement objectives for limited English proficient children served under this part that relate to such children’s development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards as required by section 1111(b)(1).” The department developed three goals for limited English proficient children. The goals for FY 2010-11 through FY 2013-14 are reflected under each AMAO result.

#### AMAO 1 Results

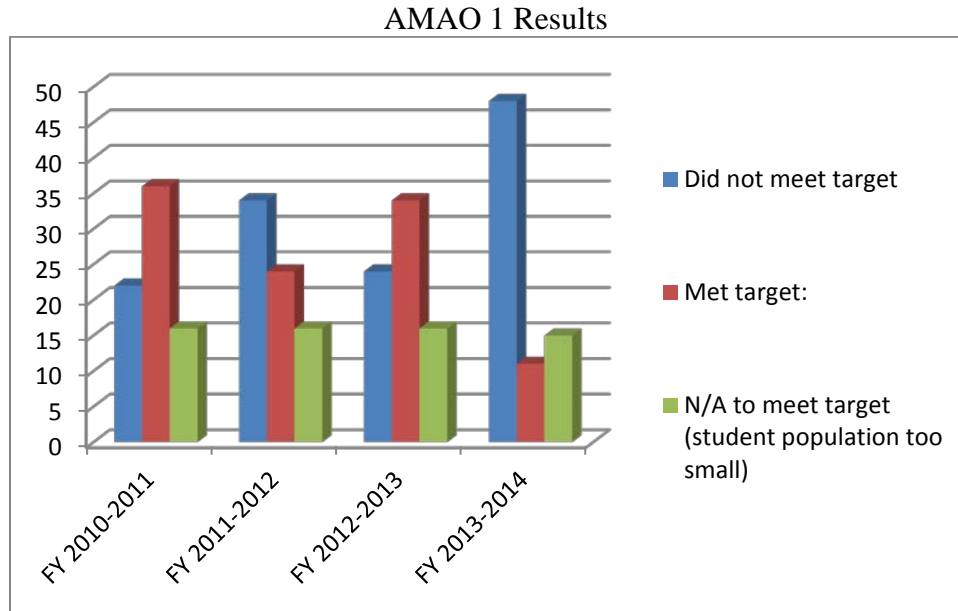
AMAO 1- Progress toward English Language Acquisition as measured by CELLA. This measure reflects the percent of K-12 students making gains (moving up proficiency levels) in each of the three CELLA domains: listening/speaking, writing, and reading. In order for a district to meet the AMAO 1 goal, the district must demonstrate that a specific percentage of their English language learners are making gains in each domain.

AMAO 1 Goals (%)

Year	Listening/Speaking (K-12)	Writing (K-12)	Reading (K-12)
2010-11	74	58	60
2011-12	75	59	61
2012-13	77	61	63
2013-14	79	63	65

The AMAO 1 results for the 74 districts indicated the following:

- For FY 2010-11, 22 (30%) did not meet the goal, 36 (49%) met the goal, and 16 (22%) did not receive results.
- For FY 2011-12, 34 (46%) did not meet the goal, 24 (32%) met the goal, and 16 (22%) did not receive results
- For FY 2012-13, 24 (32%) did not meet the goal, 34 (46%) met the goal, and 16 (22%) did not receive results.
- For FY 2013-14, 48 (65%) did not meet the goal, 11 (15%) met the goal, and 15 (20%) did not receive results.



*AMAO 2 Results*

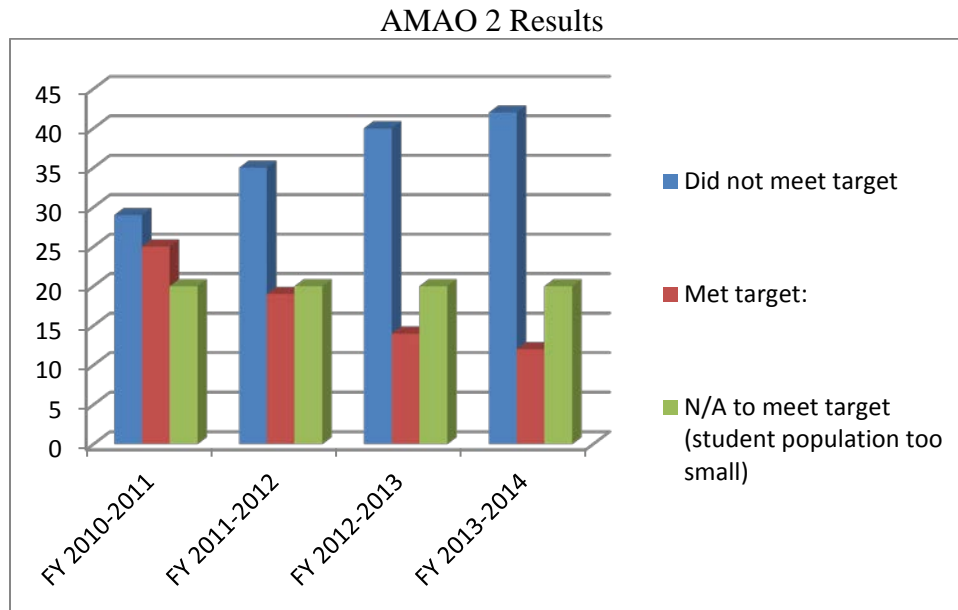
AMAO 2- English language acquisition proficiency as measured by CELLA. This measures the percent of each grade cluster of students who score proficient in each of the CELLA domains: listening/speaking, writing, and reading. In order for a district to meet the AMAO 2 goal, the district must demonstrate that a specified percentage of their English language learners are proficient in all three domains.

**AMAO 2 Goals (%)**

Year	K-2	3-5	6-8	9-12
2010-11	17	19	16	14
2011-12	18	21	16	17
2012-13	20	24	21	19
2013-14	22	26	24	21

The AMAO 2 results for the 74 districts indicated the following:

- For FY 2010-11, 29 (39%) did not meet the goal, 25 (34%) met the goal, and 20 (27%) did not receive results.
- For FY 2011-12, 35 (47%) did not meet the goal, 19 (26%) met the goal, and 20 (27%) did not receive results.
- For FY 2012-13, 40 (54%) did not meet the goal, 14 (19%) met the goal, and 20 (27%) did not receive results.
- For FY 2013-14, 42 (57%) did not meet the goal, 12 (16%) met the goal, and 20 (27%) did not receive results.



### AMAO 3 Results

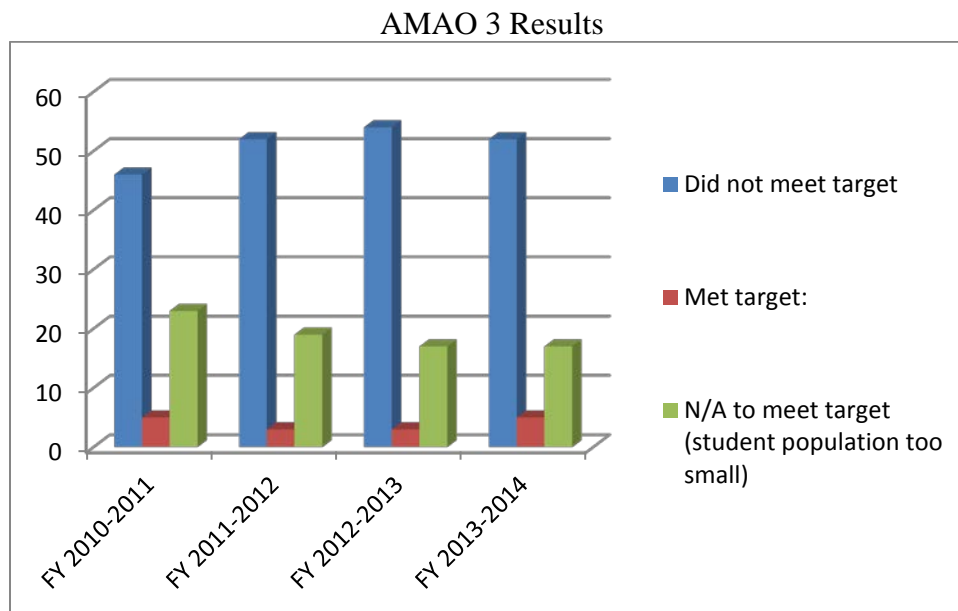
AMAO 3 – Content achievement performance indicator for reading and mathematics. The state objective for the 2016-17 school year is to reduce the number of non-proficient students by 50%, using 2010-11 as the baseline year.

The baseline and resulting expected goal for AMAO 3 varies for each district. Annual milestone percentages were developed for each district by distributing the expected percentage change across the six fiscal years that followed the baseline year. However, the districts are currently permitted to determine their own annual AMAO 3 goal on the Title III grant applications rather than adhere to the milestone percentages developed by the department. Many districts did not meet their own goals, most of which were less stringent than the annual milestone percentages.

The AMAO 3 results for the 74 districts indicated the following:

- For FY 2011-12, 52 (70%) did not meet the goal, 3 (4%) met the goal, and 19 (26%) did not receive results.
- For FY 2012-13, 54 (73%) did not meet the goal, 3 (4%) met the goal, and 17 (23%) did not receive results.
- For FY 2013-14, 52 (70%) did not meet the goal, 5 (7%) met the goal, and 17 (23%) did not receive results.

When using the annual milestone percentages, more than half of the districts (70%) did not meet the expected goal for FY 2013-14. At the conclusion of FY 2013-14, the districts should have reached the halfway mark for their FY 2016-17 goals. In reading, 31 of the 74 districts failed to make progress, 41 districts made progress ranging from 7.69% to 87.5%, one district achieved the goal, and one did not receive a proficiency score. In math, 8 of the 74 districts failed to make progress, 59 districts made progress ranging from 7.69% to 90.91%, five districts achieved the goal, and two did not receive proficiency scores.



During the audit period, SALA required the districts that failed to meet their goals to develop an improvement plan. SALA did not always ensure that the districts submitted improvement plans or implement any of the other actions set forth in the NCLB, as indicated in the next finding. However, many states have found the goals related to the NCLB to be unrealistic, and congress responded with a law that will focus on the clear goal of fully preparing all students for success in college and careers. On December 10, 2015, President Obama signed into law the Every Student Succeeds Act (ESSA) to replace the NCLB. Due to the ESSA policy change, accountability for ELLs will be required under Title I instead of Title III and accountability will no longer be referred to as AMAOs. The U.S. Department of Education will not require the states to hold districts accountable for their performance against AMAO 1, 2, and 3 goals under Title III of the ESEA for the 2014-2015 or 2015-2016 school years. With the implementation of ESSA, the state must set goals to include progress in achieving English proficiency for ELLS.

### ***Recommendation***

We recommend SALA, with input from high achieving districts and schools, review the districts' performance over the last four years in achieving the AMAO goals and identify best practices, determine potential methods for improving underperforming districts, and establish ambitious but achievable targets and accountability measures.

### ***Management Response***

Management concurred with the recommendation and provided the following corrective actions:

- Conduct conference calls with high achieving districts to receive input and assist SALA in developing best practices and determining effective methods for improving underperforming districts. Based on the input received, SALA will disseminate best practices to all districts.

- Meet with SALA support team to receive feedback and suggestions on proposed solutions.
- Meet with Accountability, Research and Measurement (ARM) and the Office of Federal Programs (OFP) to develop ambitious but achievable English Language Learner (ELL) achievement targets and accountability measures.
- Communicate expectations regularly and consistently to Local Education Agencies (LEAs).
- Update District ELL Plan template in rule to include ELL achievement focus.
- Feature ELL best practice on each monthly conference call with LEAs.

### Finding 2: SALA did not ensure the districts submitted required improvement plans

Section 3122(b)(2) of the NCLB states, “If a State educational agency determines, based on the annual measurable achievement objectives described in subsection (a), that an eligible entity has failed to make progress toward meeting such objective for 2 consecutive years, the agency shall require the entity to develop an improvement plan that will ensure that the entity meets such objectives. The improvement plan shall specifically address the factors that prevented the entity from achieving such objectives.”

The FY 2014-15 AMAO scores had not yet been released at the time of this audit; we therefore used the AMAO results for FY 2012-13 and FY 2013-14 for testing purposes. We reviewed improvement plans to determine if the districts that were required to submit improvement plans for FY 2014-15 did indeed submit the plans to SALA. Based on the FY 2012-13 and FY 2013-14 AMAO results, 18 of the 74 districts had too few students to test and 7 did not receive Title III funds; therefore, they were not required to submit improvement plans. Of the 49 remaining districts, 48 (98%) were required to submit improvement plans based on their AMAO results. The improvement plans were due to SALA by March 9, 2015. SALA was unable to provide improvement plans for 18 (38%) of the 48 districts. SALA did utilize a spreadsheet to track the receipt of the improvement plans, but did not follow up with the districts that failed to submit their plans.

Per section 3122(b)(3) of the NCLB, “During the development of the improvement plan described in paragraph (2), and throughout its implementation, the State educational agency shall

- (A) provide technical assistance to the eligible entity;
- (B) provide technical assistance, if applicable, to schools served by such entity under subpart 1 that need assistance to enable the schools to meet the annual measurable achievement objectives described in subsection (a);
- (C) develop, in consultation with the entity, professional development strategies, and activities, based on scientifically based research, that the agency will use to meet such objectives;
- (D) require such entity to utilize such strategies and activities; and
- (E) develop, in consultation with the entity, a plan to incorporate strategies and methodologies, based on scientifically based research, to improve the specific program or method of instruction provided to limited English proficient children.”

Per SALA, technical assistance was not provided to the districts based on the improvement plans and actions were not implemented, as set forth in the NCLB, in order to assist the districts in meeting the AMAO goals.

Section 3122(b)(4) of the NCLB further states, “If a State educational agency determines that an eligible entity has failed to meet the annual measurable achievement objectives described in subsection (a) for 4 consecutive years, the agency shall (A) require such entity to modify the entity’s curriculum, program, and method of instruction; or (B)(i) make a determination whether the entity shall continue to receive funds related to the entity’s failure to meet such objectives; and (ii) require such entity to replace educational personnel relevant to the entity’s failure to meet such objectives.”

From FY 2010-11 to FY 2013-14, 12 districts did not meet the AMAO 1 goal for four consecutive years, and 24 districts did not meet the AMAO 2 goal for four consecutive years. SALA did not implement the required actions set forth in NCLB, only requiring the districts to submit another improvement plan.

By failing to ensure districts submit required improvement plans and implement corrective actions set forth in the NCLB, SALA cannot effectively ensure the districts are helping ELL students make gains in the attainment of English proficiency.

### ***Recommendation***

We recommend SALA develop procedures to ensure districts not meeting their goals take appropriate corrective action, and provide technical assistance to those districts. We also recommend SALA identify and disseminate best practices used by districts that are successfully meeting the goals.

### ***Management Response***

Management concurred with the recommendation and provided the following corrective actions:

- Develop procedures for follow up, corrective action and technical assistance.
- Develop SALA Global Monitoring Matrix indicating both evidence and progress, including English for Speakers of Other Languages (ESOL) self-monitoring and required improvement plans and SALA reports.

### ***Finding 3: SALA is not effectively monitoring the districts***

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Section V.A. of the Consent Decree states, “The Florida Department of Education shall regularly monitor local school districts to ensure compliance with the provisions of this agreement pursuant to federal and state law and regulations including Section 229.565, Florida Statutes (Educational Evaluation Procedures), and Section 228.2001, Florida Statutes (Florida Educational Equity Act).” The consent decree further states, “Monitoring shall include periodic review of (1) program compliance, (2) equal access under the Florida Educational Equity Act, and (3) review of program effectiveness.”



In order to aid their monitoring efforts, SALA developed a risk assessment to identify those districts with higher risk and therefore higher need for department monitoring. The risk assessment includes several risk factors, such as the number of ELLs in the district, districts that received Title III grants, number of years since the last monitoring, and achievement of AMAOs. Based on the scored risk factors in the risk assessment and personal judgment, SALA selects districts for onsite monitoring and desktop monitoring. The districts not selected for onsite or desktop monitoring are required to submit a self-monitoring report.

Our review of the risk assessment revealed a flaw in the scoring of the AMAO risk factor. SALA's intent was to assign each district two points per AMAO goal not achieved in the previous three years, with a maximum of 18 points assigned. Instead of assigning points to those districts that **did not** achieve their AMAO goals, SALA was incorrectly assigning points to the districts that **did** meet their AMAO goals. This error allowed those districts who had not met their goals to receive a lower risk rating, resulting in districts being selected for monitoring based on inaccurate risk calculations.

SALA selected seven districts for onsite monitoring visits. SALA provided monitoring reports for six of the seven districts (86%), indicating they did not complete a report for the remaining district because it was a follow-up visit. SALA selected four districts for desktop monitoring. SALA provided reports for three of the four districts (75%). SALA did not complete the desktop review of the remaining district due to an oversight.

The remaining 63 districts were required to submit a self-monitoring report by May 1, 2015. Thirty-nine districts (62%) submitted a self-monitoring report. Six of these 39 were late, ranging from 3 to 38 days late. Upon SALA's request, another 13 districts submitted the self-monitoring reports during the audit. As of December 9, 2015, 11 districts had not yet submitted their self-monitoring reports. The districts receiving Title III grants are also required to submit Title III self-monitoring documents. Each of the 52 districts receiving a Title III grant submitted the required documents.

The monitoring conducted by SALA is inconsistent due, in part, to the lack of policies and procedures. Some SALA personnel did not find it necessary to take notes and document the site visit, as they felt the districts had been complying with regulations in previous years. SALA did not require personnel to obtain supporting documentation during the site visits. The inconsistency in monitoring limits SALA's ability to demonstrate the districts' compliance with federal and state regulations and achievement of the overall goal of the program.

### ***Recommendation***

We recommend SALA develop policies and procedures in order to ensure the quality and consistency of the monitoring process. We also recommend SALA review its risk assessment methodology and ensure it more accurately reflects the risks associated with the districts.

### ***Management Response***

Management concurred with the recommendation and provided the following corrective actions:

- Streamline Title III and ESOL monitoring processes and reports.
- Review and improve risk analysis processes.
- Develop written monitoring procedures to include protocol and rubrics to ensure consistency and fidelity in monitoring process (objective, supporting documentation and evidence-based measures).

#### Finding 4: District expenditures were not supplemental

Section 3115(c)(1) of the NCLB states, “An eligible entity receiving funds under section 3114(a) shall use the funds (1) to increase the English proficiency of limited English proficient children by providing high quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing (A) English proficiency; and (B) student academic achievement in the core academic subjects.” Section 3115(g) further states, “Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for limited English proficient children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.”

Of the 74 districts, 52 received federal Title III funds in FY 2014-15. We sampled six districts to determine if Title III fund expenditures aligned with the requirements of the NCLB. The districts selected for testing were Leon, Bay, Manatee, Sarasota, Sumter, and Desoto. We compared the grant budgets to the 399 disbursement forms and detailed expenditure reports to ensure the selected districts spent funds in accordance with grant terms and reconciled the expenditures to the disbursements. Manatee’s 399 report for the Title III grant did not reconcile with the detailed expenditure report. The 399 disbursement report totaled \$616,906.07, whereas the expenditure report totaled \$613,536.02, a difference of \$3,370.05. Per Manatee personnel, a portion of the expense belonged in the FY 2015-16 grant and was incorrectly charged to the FY 2014-15 Title III grant. Upon notice of the error, district personnel stated they were preparing to submit a revised 399 to the department.

We additionally selected a sample of expenditures from these six districts for detailed testing. We reviewed the sampled expenditures and supporting documentation to ensure the expenses were allowable and to ensure the Title III and Immigration grant funds supplemented, rather than supplanted, the state, local, and other federal funds. We noted three questionable expenditures in Manatee’s Title III expenditure report. The district purchased 56 Tampa Bay Rays tickets at a cost of \$1,410.00 and a shredder for \$95.99. The district also hosted two field trips for a group of approximately 50 immigrant students at Dayspring Episcopal Conference Center at a cost of \$1,200.00. The district provided the following justification for the expenditures:

“The shredder was purchased so that we can shred documents that have student information on them and to also dispose of documents that might have employee numbers or personal information on them. Both Day Springs Contract and Tampa Bay Rays were part of our ESOL/Immigrant summer program. This program was a continuation of the mentoring program for 50 ESOL and Immigrant middle and high schoolers. These students had access to use Lenovo tablets all school year to complete projects, research and build both acculturation and

English language proficiency. The Day Springs facility was used for these activities and the Tampa Bay Rays trip included curriculum about our local team, a tour of the facility/operation and culminated our week long summer program. The students were responsible for creating PowerPoints and presentations about what they learned and also shared them with their peers.”

Based on the response, it appears the shredder is not used solely for ELLs and the Ray’s tickets and conference were part of an ESOL/Immigrant summer program. We found that these expenditures were not supplemental in nature and did not meet the requirements of the Title III grant. The district inappropriately charged those expenses to the Title III grant.

### ***Recommendation***

We recommend SALA review a sample of Title III expenditure documentation in its future monitoring efforts in order to ensure funds are spent in accordance with applicable regulations. We further recommend SALA consider reviewing previous and current expenditures for unallowable expenses, such as those identified in our audit, and require the districts to reallocate those expenses deemed unallowable.

### ***Management Response***

Management concurred with the recommendation and provided the following corrective actions:

- Review DOE399 “Project Disbursement Report” for Title III and Immigrant recipients.
- Develop a fiscal management worksheet to check Title III expenditures are allowable, reasonable, and necessary according to state and federal law.
- Update the Title III Request for Application to reflect allowable and unallowable expenses in collaboration with the Office of Grants Management (OGM) and OFP.

### **Closing Comments**

The Office of the Inspector General would like to recognize and acknowledge the Bureau of Student Achievement thru Language Acquisition and the districts for their assistance during the course of this audit. Our fieldwork was facilitated by the cooperation and assistance extended by all personnel involved.

*To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our audit was conducted under the authority of section 20.055, F.S., and in accordance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The audit was conducted by Tiffany Hurst and supervised by Janet Snyder, CIA, CISA, CGAP, Audit Director.*

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