

Action/Information Item

California Student Aid Commission Workshop

Consideration and Possible Action to Clarify the Commission’s Process for Approving EDFUND’s Detailed Operating Budget

The Bureau of State Audits (BSA) recommended that the Commission “rescind its delegation of the approval authority of EDFUND’s detailed operating budget to the EDFUND Board.” Chair Sandoval’s response indicated that the Commission’s action was not intended to delegate this authority and at the April 21, 2006 Commission meeting, the Commission approved a process to clarify its original intent at its June meeting. The Commission’s decision to maintain the established budget process, but simply clarify it, does not address the fact that the Commission delegated its approval authority of EDFUND’s detailed operating budget to the EDFUND Board.

The following excerpt is from the minutes of the November 21, 2003 Commission meeting and describes the Commission’s action:

“On MOTION by the Joint Committee and CARRIED, the Commission APPROVED the proposed process for financial planning, whereby the Commission and EDFUND Board will approve the Capital Utilization Plan (CUP) and any modifications; the Commission will approve the detailed Operating Budget of CSAC and the outreach campaign; **the EDFUND Board will approve the detailed budget of EDFUND for the operation of the FFEL Program**; and the organization will develop a new CUP and allocation methodology following the reauthorization of the Higher Education Act.”

As noted in the BSA report, the above action is inconsistent with both state law and the Operating Agreement (OA). The OA states that EDFUND is responsible for submitting a summary business plan and annual operating budget, as approved by the EDFUND Board, to the Commission for review and approval. State law requires that the operations of EDFUND be conducted in conformity with an OA approved by the Commission. State law in effect at the time the Commission took the above action also required that the proposed OA be provided to the Department of Finance for review and comment. The Commission had delegated its approval authority without amending the OA. The State Auditor concluded that the Commission is in violation of state law until it rescinds its delegation of the approval authority of EDFUND’s detailed operating budget to the EDFUND Board. An excerpt of the BSA report is enclosed for your review.

Recommendation: Rescind the Commission’s delegation of the approval authority of EDFUND’s detailed operating budget to the EDFUND Board.

Responsible Staff: Janet McDuffie
Chief, Management Services and
Acting Chief, Federal Policy and Programs

the requisition, and contracts that exceed \$100,000 require prior approval from the board. Yet the president did not approve the requisition for five contracts. In addition, our review of the files for four contracts that were bid competitively found that they did not contain the necessary back-up documentation such as a request for proposal, bid/cost analysis, or a justification memo that EDFUND requires staff to use under its competitive bid process.

The operating agreement between Student Aid and EDFUND does not specifically require purchases of goods and services incurred by EDFUND to be reimbursed pursuant to a procurement and contracts policy approved by the executive director of Student Aid. Without such a provision, the State cannot ensure that EDFUND's purchases result in costs that are appropriate and reasonable.

STUDENT AID NEEDS TO IMPROVE ITS OVERSIGHT OF EDFUND

Student Aid has not provided sufficient oversight over EDFUND to ensure the future success of Student Aid's participation in the FFEL Program. Specifically, Student Aid circumvented state law by delegating its authority related to the approval of EDFUND's budget without amending the operating agreement. Student Aid also dismissed several policy and fiscal concerns raised by its staff responsible for analyzing these issues. Moreover, Student Aid does not always independently verify reports that it receives from EDFUND. Rather, it relies on EDFUND staff to ensure their accuracy. Finally, Student Aid has not completed several key tasks identified within its mandated performance review of EDFUND, despite its staffs' recommendations to pursue them actively. For example, neither Student Aid nor EDFUND has performed an adequate assessment of the financial risks associated with EDFUND's student loan guaranty portfolio, a critical piece of information that Student Aid should have considered before approving EDFUND's annual budgets and business plans.

Student Aid Circumvented State Law by Erroneously Relinquishing a Key Oversight Responsibility to the EDFUND Board

In November 2003, Student Aid delegated the authority of approving EDFUND's detailed budget for the operation of the FFEL Program to the EDFUND board. Our review of the

Student Aid delegated the authority of approving EDFUND's FFEL Program budget to the EDFUND board. This action is inconsistent with both state law and the operating agreement.

minutes for this meeting did not find any discussion by the commissioners or Student Aid staff regarding the legal ramifications of this decision. However, this action is inconsistent with both state law and the operating agreement between the two entities. The operating agreement between EDFUND and Student Aid states that EDFUND is responsible for submitting a summary business plan and annual operating budget, as approved by the EDFUND board, to Student Aid for review and approval. The business plan is to include a description of business objectives EDFUND plans to pursue, its information technology strategies, description of proposed new products or services, and descriptions of proposed material changes in EDFUND's operations. The budget is to include all projected revenues and expenses that will be incurred in operations connected with the business plan. Once approved by Student Aid, EDFUND must conduct its business operations only in conformity with the business plan and budget approved by Student Aid. In order to facilitate the annual budget and business plan negotiation process between EDFUND and Student Aid, EDFUND is required to submit a draft of these documents to Student Aid's executive director and contract manager pursuant to a mutually agreed upon schedule for submission to and review by Student Aid.

State law requires that the operations of EDFUND be conducted in conformity with an operating agreement approved by Student Aid. State law in effect at the time Student Aid made its delegation also required that prior to approval, Student Aid must provide the proposed operating agreement to the Department of Finance for its review and comment. However, Student Aid circumvented these provisions of state law when it delegated the approval authority of EDFUND's detailed operating budget to the EDFUND board without amending the operating agreement. Specifically, in its November 21, 2003 meeting, the commission approved a motion made by a joint committee that included, among other things, the delegation of the approval of EDFUND's detailed budget for the FFEL Program to the EDFUND board. According to the chair of Student Aid, the motion was intended to prescribe the process for developing a capital utilization plan. Further, he stated that Student Aid staff have conducted detailed reviews of EDFUND's budget proposals for federal fiscal years 2005 and 2006. Nevertheless, Student Aid continues to violate state law until it rescinds its delegation of the approval authority of EDFUND's detailed operating budget to the EDFUND board.