

LEGAL DETAILS ABOUT FORMING CONSORTIUMS

RESPONSE FROM OFFICE OF LANGUAGE ACQUISITION: TITLE III DEPARTMENT OF EDUCATION
2024

Q: Can the SEA (State Educational Agency) serve as the fiscal agent to a consortium?

A: An SEA cannot be the fiscal agent.

Q: What is the role of the SEA for auditing a consortium?

A: In response to your question about auditing, we are assuming that you meant auditing in the general sense, like monitoring, and not as required by 2 CFR 200.501 (for non-Federal entities that expend \$750,000 or more during the non-Federal entity's fiscal year).

The 2016 [non-regulatory guidance](#), section A-15, states that an LEA (Local Education Agencies) may join with other LEAs (Local Education Agencies) to form a consortium of LEAs to receive Title III formula funds under the ESEA (Elementary and Secondary Education Act).

Section A-15:

A-15. How can LEAs form a consortium to receive a Title III EL formula subgrant?
An LEA may join with other LEAs to form a consortium of LEAs to receive Title III formula funds under the ESEA. This option is the same as under the previous version of the ESEA. Under this arrangement, one of the LEAs must serve as the fiscal agent for the consortium and is legally responsible to the Department for the grant. See generally 34 CFR § 76.303. **The option of joining a consortium may be especially relevant to a small LEA that does not, on its own, have a sufficient number of ELs to meet the requirement in ESEA Section 3114(b) that a Title III subgrant be at least \$10,000.** Such a small LEA could, for example, form a consortium with other small LEAs to receive Title III funds or enter into an agreement with a neighboring larger LEA to receive services provided by the larger LEA. Some examples of consortia models in place in various States include:

- The LEA fiscal agent provides consortium-wide services, such as professional development and supplemental instructional materials, directly to all LEAs in the consortium.
- The LEA fiscal agent enters into a contract with another entity to provide services to all of the member LEAs.
- The LEA fiscal agent distributes a portion of the consortium's allocation to each member LEA based on the number of ELs in each LEA.

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- The LEA fiscal agent enters a contract with another entity to provide services to all the member LEAs.
- The LEA fiscal agent distributes a portion of the consortium's allocation to each member LEA based on the number of ELs (English learners) in each LEA.

The state has discretion as to which LEA or LEAs to monitor and should consider, among other things, how the consortium is organized in determining what level of monitoring will comply with [2 CFR §200.332](#). For example, if a consortium is organized in the way described by the second bullet above (a fiscal agent LEA enters a contract with another entity to provide services to all member LEAs) it would be legally sufficient and more efficient to monitor only the LEA serving as fiscal agent.