



June 06, 2016

Kevin M. Modany, CEO  
ITT Educational Services, Inc.  
13000 North Meridian Street  
Indianapolis, IN 46032-1404

RE: Provisional/LOC Alternative  
OPE IDs: 00473100 – Daniel Webster College  
00732900 – ITT Technical Institute  
03071800 – ITT Technical Institute

Dear Mr. Modany:

On August 19, 2014 ITT Educational Services, Inc., (ITT) was cited by letter from the Department of Education (Department) for late submission of its annual compliance audits and financial statements. As a result of this past performance failure and the requirements of 34 C.F.R. §668.175(f), the Department required ITT to participate in the Title IV, HEA programs under a Provisional Program Participation Agreement (PPPA) for three award years.

In accordance with the Zone Alternative Reporting Requirements, ITT must notify the Department by certified mail or electronic or facsimile transmission no later than 10 days after any adverse action, including probation or similar action, taken against the Institution by its accrediting agency, state authorizing agencies or other federal agency.

On April 22, 2016 the Department received notification that ITT Technical Institutes in Indianapolis, IN and Spokane Valley, WA received a Show-Cause Directive Letter dated April 20, 2016 from the Accrediting Council for Independent Colleges and Schools (ACICS).

ACICS' letter stated that a number of actions called into question ITT's administrative capacity, organizational integrity, financial viability and ability to serve students in a manner that complies with ACICS standards. Specifically:

- Civil investigative demands from 19 State Attorney General Offices, regarding: ITT's marketing and advertising; recruitment; financial aid; academic advising; career services; admissions practices; programs; licensure exam pass rates; accreditation; student retention; graduation rates; and job placement performance are still unresolved.
- Litigation and investigations by three federal agencies, for a variety of issues related to the institution's student lending practices and misrepresentations to investors and alleged violation of the federal False Claims Act are still unresolved.

**Federal Student Aid**

An OFFICE of the U.S. DEPARTMENT of EDUCATION

Federal Student Aid, Multi-Regional and Foreign School Participation Division  
830 First Street NE, Union Center Plaza, 7<sup>th</sup> Floor, Washington, DC 20202-5340  
[www.FederalStudentAid.ed.gov](http://www.FederalStudentAid.ed.gov)

- ITT continues to participate in the Title IV, HEA programs under the Heighted Cash Monitoring conditions applied to the institutions' access to funds, with the attendant financial implications.
- ITT's response to public and widely-known allegations regarding the quality of instructional materials has been insufficient.
- ITT's has failed to comply with an ACICS directive to develop and submit a plan that provides for the continuation and completion of all students currently enrolled in the event that the institutions curtail or suspend operations.

The Department believes that the ACICS "Council" action represents an increased risk to Title IV funds that ITT administers on behalf of its students. ITT's failure to demonstrate compliance with the Accreditation Criteria, within the time period specified by the accreditor, may result in the accreditor's taking an adverse action with respect to the school's accredited status, including by Probation, a "Withholding" Action, or a "Withdrawal" Action. We note that this concern from ACICS comes at a point where the company's financial performance is also being questioned, and that discussions about a potential sale have fallen through. If any of the actions are imposed on ITT because the institution is unable to demonstrate that it consistently operates in accordance with the Accreditation Criteria, the risk of loss of accreditation may result in the institution's losing students and the loss of accreditation would result in the loss of its Title IV eligibility.

The purpose of a Letter of Credit (LOC) is to allow for meeting liabilities that would be owed should the institution precipitously close or terminate classes at other than the end of an academic period. The LOC assures the Secretary that funds would be available from which to make refunds, provide teach-out facilities, and meet institutional obligations to the Department. Due to this increased risk of the ACICS, the Department has determined the surety on file must be increased from \$79,707,879 to \$123,646,182.

ITT must also continue to comply with the zone alternative requirements currently in effect. Specifically:

**1) Method of Payment** – ITT is required to make disbursements to eligible students and parents under the cash monitoring described under 34 C.F.R. § 668.162(e).

Under the Heightened Cash Monitoring 1 (HCM1) payment method, as required by 34 C.F.R. § 668.162(e), the Institution must first make disbursements to eligible students and parents before it requests or receives funds for the amount of those disbursements from the Department. This "Records First" requirement is fully described in the 2013-2014 Funding Authorization and Disbursement Information eAnnouncement, issued March 15, 2013. The funding request may not exceed the amount of the actual disbursements that were made to the students and parents included in the funding request. Provided the student accounts are credited before the funding requests are initiated, the Institution is permitted to draw down funds through the Department's electronic system for grants management and payments, G5, for the amount of disbursements it made to eligible students and parents.

The Records First requirement also means that institutions on HCM1 that are participating in the Direct Loan (DL) program will have their Current Funding Level (CFL) reduced to the greater of Net Approved and Posted Disbursements (NAPD) or Net Draws (processed payments less all refunds, returns, offsets, and drawdown adjustments). In the event of returning to Advanced

Funded status, the institution will be expected to continue processing DL awards as Records First until the next DL global funding increase is processed.

Refer to the following eAnnouncement,

<http://ifap.ed.gov/eannouncements/attachments/031513AttachImportantReminders1314FundingAuthandDisbursInfo.pdf>, for additional information about the Records First requirement.

**2) Notification Requirements** – ITT is required to provide information to the Department by certified mail or electronic or facsimile transmission no later than 10 days after any of the oversight or financial events, as described below, occur. ITT must also include with the information it submits, written notice that details the circumstances surrounding the event(s) and, if necessary, what steps it has taken or plans to take, to resolve the issue.

- Any adverse action, including probation or similar action, taken against the Institution by its accrediting agency, State authorizing agencies or other Federal agency;
- Any event that causes the Institution, or related entity as defined in the Statement of Financial Accounting Standards (SFAS) 57, to realize any liability that was noted as a contingent liability in the Institution's or related entity's most recent audited financial statements;
- Any violation by the Institution of any loan agreement;
- Any failure of the Institution to make a payment in accordance with its debt obligations that results in a creditor filing suit to recover funds under those obligations;
- Any withdrawal of owner's equity/net assets from the Institution by any means, including by declaring a dividend; or
- Any extraordinary losses as defined in accordance with Accounting Principles Board (APB) Opinion No. 30
- Any filing of a petition by the Institution for relief in bankruptcy court.

**Additional Reporting Requirements** – Under the Zone Alternative, In order for the Department to monitor ITT's progress in improving the Institution's financial stability, ITT must continue to provide the following information about its current operations and future plans within the timeframe outlined in the Departments May 20, 2015, June 08, 2015, and October 19, 2015 letters:

- A Biweekly Report of ITT's 13 Week Projected Cash Flow Statement with financial disclosure notes;
- Cash Management and Disbursement Certification Forms regarding Title IV, HEA funds administered and drawn by ITT on behalf of its students.
- Monthly Student Roster and Disbursement Report;
- Reconciliation Report of all Title IV funds drawn as of the last day of the month proceeding the month before the submission date;
- Description of any conditions that have been established by any bank or other entity that are related to ITT's participation in the Title IV HEA programs;
- List of all individuals who have the authority to direct or otherwise control the payment of any "refund[s] of unearned institutional charges" to the Department;

Please refer to the Departments May 20, 2015, June 08, 2015, and October 19, 2015 letters, and any other modifications provided under a separate cover (ex: Emails) for detailed submission requirements (timeframe, formatting, etc.) for the above listed additional reporting documents.

Please continue to submit the additional reporting documents to the designated contact(s) outlined in the Departments May 20, 2015, June 08, 2015, and October 19, 2015.

***Documents containing Personally Identifiable Information (PII) being submitted to the Department via electronic mail must be password protected. PII is any information about a student which can be used to distinguish or trace the student's identity (some examples are name, social security number, date and place of number, special character).***

If ITT fails to continue to provide the information requested, the Department will be unable to determine if the financial responsibility standards have been met. Therefore, ITT may be referred to the Administrative Actions and Appeals Service Group for administrative action.

#### Surety Requirements

The increased surety is necessary in the event that the Institution would close or terminate classes at other than the end of an academic period. It assures the Secretary that funds would be available from which to make refunds provide teach-out facilities and meet institutional obligations to the Department.

Our records indicate that ITT already has surety on file in a Federal Holding Account with the Department for \$79,707,879 until November 04, 2019. ITT may provide the increased amount by Federal Wire Transfer, or can provide a new LOC in the amount of \$43,938,303. ITT should advise the Department within 10 days of its receipt of this letter whether it will increase the funds maintained in the Department's Federal Holding Account, or provide a letter of credit for that additional amount. The increased surety must be provided under either option within 45 days from the date of this letter.

A sample irrevocable letter of credit is enclosed for ITT to use if it chooses that option. The ITT letter of credit must be issued by a United States bank. Your lending institution must use this format on its letterhead with no deviation in the language contained therein. The letter of credit must provide coverage until November 04, 2019. Please note that if ITT fails to provide the irrevocable letter of credit within 45 calendar days the institution may be referred to the Department's Administrative Actions and Appeals Service Group (AAASG) office for termination and/or other administrative action under 34 C.F.R. § 668.86. Also, note that information regarding the financial analysis score, results, and the LOC is subject to the Freedom of Information Act (FOIA) of 1966, as amended.

Please mail the irrevocable letter of credit to the following address:

Veronica Pickett, Director  
Performance Improvement and Procedures Service Group  
U.S. Department of Education  
Federal Student Aid/Program Compliance  
830 First Street, NE, UCP3, MS 5435

Washington, DC 20002-8019

ITT is required to notify the SPD within 3 calendar days, in the event the LOC issuing institution should fail, resulting in financial transactions and operations being administered by the Federal Deposit Insurance Corporation. ITT will also be required to submit a new replacement LOC issued by a different and non-failed U.S. bank, within 75 calendar days.

If you have any questions regarding the financial responsibility determination, or disagree with the reason or methodology used for this determination, please contact Tiffany Hill, Financial Analyst, within 10 calendar days at (202) 377-4225.

Sincerely,



Michael J. Frola  
Director, Multi-Regional and Foreign Schools Participation Division

Enclosures: Sample Letter of Credit  
Federal Wire Transfer Instructions  
The Departments August 19, 2014 Letter to ITT  
The Departments August 21, 2014 Letter to ITT  
The Departments May 20, 2015 Letter to ITT  
The Departments June 08, 2015 Letter to ITT  
The Departments October 19, 2015 Letter to ITT  
The Departments December 10, 2015 Letter to ITT

cc: Kevin M. Modany, Chief Executive Officer (kmodany@ittesi.com)  
Daniel M. Fitzpatrick, Chief Financial Officer (dfitzpatrick@ittesi.com)  
Michael E. Diffily, Daniel Webster College President (diffily@dwc.edu)  
New England Association of Schools and Colleges – CHE (Higher Education)  
Accrediting Council for Independent Colleges and Schools  
WA Student Achievement  
Texas Work Force Commission  
PA Division of Private License Schools, Bureau of Postsecondary Services  
PA Division of Program Approval Bureau of Academic Programs  
AL Commission on Higher Education  
Arkansas Department of Higher Education  
Colorado Commission on Higher Education  
Commission for Independent Education – Florida Department of Education  
ID State Board of Education  
MO Coordinating Board for Higher Education  
TX Higher Education Coordinating Board  
Maryland Higher Education Commission  
WV Council for Community and Technical College Education  
State Council of Higher Education for Virginia

Minnesota Office of Higher Education  
NM Higher Education Department  
AL Department of Postsecondary Education  
AZ State Board for Private Postsecondary Education  
NE Department of Education  
SC Commission on Higher Education  
OH Board of Regents  
CA Bureau for Private Postsecondary Education  
MA Department of Higher Education (formerly MA Board of Higher Edu)  
Michigan Department of Labor & Economic Growth  
Louisiana State Board of Regents  
Iowa College Student Aid Commission  
NY The State Education Department, Office of Higher Education  
NV Commission on Postsecondary Education  
Oregon Student Assistance Commission Office of Degree Authorization  
KY Council on Postsecondary Education  
Tennessee Higher Education Commission  
GA Non-Public Postsecondary Education Commission  
The Board of Governors of the University of NC  
WI Educational Approval Board  
UT System of Higher Education  
MS Commission on Proprietary School & College Registration  
Ohio State Board of Career Colleges and Schools  
Oklahoma State Regents for Higher Education  
Illinois Board of Higher Education  
KS Board of Regents  
NJ Commission on Higher Education  
Indiana Commission for Higher Education Board for Proprietary Education  
NH Dept. of Education, Division of Higher Education

## IRREVOCABLE LETTER OF CREDIT

<Insert name, address and telephone number of issuing bank>

*To beneficiary:*

U.S. Department of Education  
ATTN: Veronica Pickett, Director  
Performance Improvement and Procedures  
Federal Student Aid/Program Compliance  
830 First Street, NE, UCP3, MS 5435  
Washington, DC 20002-8019

**Date:** <Insert Date LOC Issued>

**Amount:** \$ <Insert U.S. Dollar amount>

**Expiration Date:** <Insert Date>

Dear Sir/Madam:

We hereby establish our Irrevocable Letter of Credit Number <Insert LOC Number> in your favor for the account of:

<Insert Name and Address of Institution>

**OPE-ID #:** <Insert 8 digit Office of Postsecondary Education ID number>

Hereafter, <Insert Name of Institution> ("Institution"), presents, in the amount of \$<Insert Dollar Amount> (U.S. dollars), available by your draft (or drafts drawn on us) at sight accompanied by:

- a) the original of this letter of credit instrument (along with originals of all amendments), and
- b) a statement signed by the Secretary ("Secretary"), U.S. Department of Education ("Department"), or the Secretary's representative, certifying that the drafted funds will be used for one or more of the following purposes, as determined by the Secretary:
  - 1) to pay refunds of institutional or non-institutional charges owed to or on behalf of current or former students of the Institution, whether the Institution remains open or has closed,
  - 2) to provide for the "teach-out" of students enrolled at the time of the closure of the Institution, and
  - 3) to pay any liabilities owing to the Secretary arising from acts or omissions by the Institution, on or before the expiration



U.S. Department of Education  
Irrevocable Letter of Credit for  
<Insert Name of Institution>  
Page 2

of this letter of credit, in violation of requirements set forth in the Higher Education Act of 1965, as amended ("HEA"), including the violation of any agreement entered into by the Institution with the Secretary regarding the administration of programs under Title IV of the HEA.

Should the Institution fail to renew the letter of credit within ten (10) days prior to its expiration, as directed by the Department, the Department may call the letter of credit and place the funds in an escrow account at the Department pending a prompt determination of the extent to which those funds will be used in accordance with subparagraphs 1) through 3), above.

We hereby agree with you that partial drawings are permitted and that drafts drawn under and in compliance with the terms of this letter of credit will be duly honored upon due presentation at our offices on or before the expiration date of this letter of credit.

This letter of credit is subject to the International Standby Practices (ISP98), International Chamber of Commerce Publication Number 590.

\_\_\_\_\_  
Printed Legal Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Printed Official Title of Authorized Signer



**DEPARTMENT OF EDUCATION  
FED-WIRE EFT MESSAGE FORMAT & INSTRUCTIONS**

ABA Number 021030004	Type/Sub-Type	
Sender No.:	Sender Ref. No.	Amount <b>①</b>

Sender Name (Automatically inserted by the Federal Reserve Bank)

Treasury Department Name/CTR/  
TREAS NYC / CTR /

BNF=ED / AC - 91020001 OBI=

Name / City / State:

**②**

DUNS / TIN:

**③**

FOR:

**④**

**INSTRUCTIONS**

A. Complete circled items 1-4 above as follows:

- ①** Indicate amount including cents digits.
- ②** Indicate Name, City, and State.
- ③** Indicate DUNS Number and Taxpayer Identification Number (TIN).
- ④** Enter the reason for the remittance: Name of Institution, OPE ID Number, LOC Number (include any amendments) and LOC Amount.