



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

June 15, 2010

The Honorable Victor Reinoso
Deputy Mayor for Education
Office of the Deputy Mayor for Education
District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 303
Washington, DC 20004

Dear Deputy Mayor Reinoso:

Enclosed are special conditions that the U.S. Department of Education (Department) is imposing on all grants awarded to the District of Columbia, Office of the State Superintendent of Education (DC OSSE) for Federal Fiscal Year (FFY) 2010, including all grants awarded under the American Recovery and Reinvestment Act of 2009 (ARRA). Certain FFY 2010 grant awards will contain additional special conditions that are specific to the programmatic requirements of those grants, and the ARRA grant awards will also contain additional special conditions specific to those grants.

The Department and DC OSSE continue to work cooperatively to address the longstanding financial and grants management and program compliance issues that confronted the DC Public Schools (DCPS), and now DC OSSE, with regard to the administration of Federal education grants. The Department appreciates the challenges DC OSSE has faced since October 2007 to build a high performing state education agency for administering Federal education grant programs, and the efforts it has made over the past year to articulate a strategy and plan for reform that would eliminate long-standing inefficiencies and build and support compliant and sustainable systems. To that end, DC OSSE has reported some progress toward implementing these reforms and in correcting several program compliance deficiencies identified in the comprehensive high-risk corrective action plan (HRCAP).

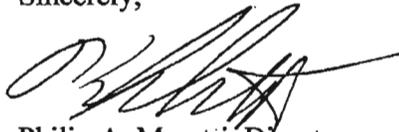
However, significant progress in achieving the action steps identified in the HRCAP is needed to enable DC OSSE to fully implement sustainable financial, record-keeping, and internal control systems and procedures sufficient to satisfy the accountability requirements for administering Federal education grants. Accordingly, the designation of DCPS as a "high-risk" grantee in April 2006 under 34 CFR § 80.12 (transferred to DC OSSE effective October 1, 2007) remains in effect until such time as the Department is able to determine that DC OSSE has shown significant progress toward meeting this objective.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.

The Department looks forward to the continued work with DC OSSE and the DC Government to improve the delivery of Federally-supported education services. We encourage you and other DC officials to continue to seek the advice and assistance of the Department in your continued work under the HRCAP and administration of Department grant programs.

Sincerely,

A handwritten signature in black ink, appearing to read 'Philip A. Maestri', with a long horizontal flourish extending to the right.

Philip A. Maestri, Director
Risk Management Service

Enclosure

cc: Catherine Freeman, DC OSSE

District of Columbia Office of the State Superintendent of Education
Special Conditions
Federal Fiscal Year (FFY) 2010

PREAMBLE: These special conditions are imposed on all Federal fiscal year (FFY) 2010 grants made available by the U.S. Department of Education (Department) to the District of Columbia Office of the State Superintendent of Education (DC OSSE) on or after the date of these special conditions and on all grants previously awarded by the Department to DC OSSE (or to its predecessor District of Columbia Public Schools (DCPS)) that are still available for obligation or liquidation on the date of these special conditions, including grants awarded under the American Recovery and Reinvestment Act of 2009 (ARRA). These special conditions are applied in accordance with the Department's regulations governing "high-risk" grantees. *See* 34 CFR § 80.12. The special conditions are imposed to help ensure that Department funds granted to DC OSSE are expended in accordance with applicable legal requirements and the appropriate fiscal accountability measures and management practices and controls. They are also intended to help DC OSSE improve its implementation of financial, record-keeping, and internal control systems and procedures sufficiently to satisfy the applicable grant accountability requirements.

I. BACKGROUND:

- A. In April 2006, the Department designated DCPS a "high-risk" grantee under the authority in 34 CFR § 80.12 based on systemic problems identified through repeat findings of audits performed under the Single Audit Act for fiscal years 2003 through 2005, the fiscal year 2006 DC Government Consolidated Annual Financial Report audit, and unresolved findings of non-compliance from program reviews conducted in 2006. At that time, special conditions were placed on all Department grants awarded to DCPS. The Department concluded that DCPS had significant problems meeting some of the most fundamental program accountability requirements, including implementing appropriate financial, record-keeping, and internal control systems and procedures. The special conditions were intended to result in important improvements to Federal grants administration by DCPS so that the systemic problems identified by audits and reviews would not recur. On July 1, 2006, the Department imposed revised special conditions on all grants it awarded to DCPS for FFY 2006.
- B. The core requirements of the FFY 2006 special conditions were that DCPS was required to (1) develop a comprehensive high-risk corrective action plan (HRCAP) to resolve applicable audit findings on all matters affecting funds under Department grant programs and unresolved program review findings, and (2) report every six months on the progress of the corrective actions in the HRCAP. Since the initial high-risk designation, the Department has worked with the District of Columbia's (D.C.'s) State educational agency (SEA), DCPS (now DC OSSE), to support its development and refinement of the HRCAP. DCPS produced an HRCAP and made progress on some of the actions included therein. The HRCAP included actions to address weaknesses in financial management,

procurement, and property management; and areas of non-compliance with the requirements of the Elementary and Secondary Education Act of 1965, as amended (ESEA), the Individuals with Disabilities Education Act (IDEA), and the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act). The initial version of the HRCAP had a moderate likelihood of resolving most of the internal control weaknesses and incidences of non-compliance with applicable legal requirements. However, (1) DCPS had made changes to the plan and the revised version was delayed in reaching final form; (2) the timelines for action extended beyond one year; and (3) DCPS had not maintained sufficient progress on the planned actions to correct within one year the major deficiencies in its Federal programs.

- C. On June 1, 2007, the President signed H.R. 2080 (P.L. 110-33) effectively permitting the Mayor and City Council of the District of Columbia to assume responsibility for D.C. schools in accordance with the D.C. Public Education Reform Act of 2007 (DC Act 17-0038), approved by the City Council and signed into law by the Mayor on April 23, 2007. The legislation transferred authority to the Mayor's Office for purposes including establishment and oversight of an SEA with responsibilities for managing and administering Department grants, and a Local Educational Agency (LEA), which would perform the responsibilities applicable to LEAs for Department grant programs. The legislation also transferred to the SEA responsibility for adult education and literacy (previously the responsibility of the University of the District of Columbia) and the IDEA Part C Early Intervention Program (previously the responsibility of the D.C. Department of Human Services' Early Care and Education Administration). The transfer became effective October 1, 2007. The D.C. Government established DC OSSE as the SEA with an appropriate structure and sufficient grant and fiscal management capacity to carry out the State agency responsibilities of Department grants.
- D. On July 1, 2007, the Department imposed revised special conditions on all of its grants awarded to DCPS for FFY 2007. The core elements of the special conditions required DCPS (the functions of which were transferred to DC OSSE, effective October 1, 2007) to maintain a current, comprehensive HRCAP, which would be the basis for tracking DCPS's progress in resolving its fiscal management deficiencies, grants management deficiencies, and program non-compliance. The HRCAP was to be sufficiently detailed to demonstrate that the corrective actions would adequately address the problems and would have a high likelihood of preventing further lapses in internal controls, expenditures for unallowable costs, or failure to maintain proper documentation of expenditures. The HRCAP needed to include, at a minimum, corrective actions to correct the problems specified in all Single Audit program determination letters, program monitoring reports, and notifications of non-compliance with other provisions of law that are issued by the Department. If major changes to DCPS's financial management, procurement, payroll, human resources, or record-keeping systems or procedures were in progress or were necessary to achieve this, DCPS was

required to incorporate these actions in the HRCAP. If any other audits, such as those conducted by the D.C. Inspector General or by independent auditors at the request of city agencies, contained findings regarding the administration of Department programs, DCPS was required to incorporate actions to address such findings in the HRCAP. The HRCAP was to be revised to address any new findings from audits and program and management reviews within 60 days of the issuance of such findings. DCPS was required to conduct an annual, comprehensive review and update of the HRCAP and submit a revised HRCAP to the Department by May 30, 2008. If at any time during the review or implementation of the HRCAP, DCPS determined that implementation of the corrective actions necessary to come into compliance with applicable legal requirements would extend past July 1, 2008, DCPS was required to notify the Department that DCPS needed to enter into a compliance agreement, as authorized by section 457 of the General Education Provisions Act, 20 U.S.C. § 1234f.

- E. On June 16, 2008, the Department imposed revised special conditions on all grants awarded for FFY 2008. The core elements of the special conditions required DC OSSE to continue to maintain a current, comprehensive HRCAP, to be used as the basis for tracking DC OSSE's progress in resolving its fiscal management deficiencies, grants management deficiencies, and program non-compliance. The Department acknowledged the progress that DC OSSE had made in some areas of the HRCAP. However, DC OSSE had failed to provide sufficient evidence that it had taken all of the corrective actions necessary to demonstrate that it had successfully implemented financial, record-keeping, and internal control systems and procedures sufficient to satisfy the accountability requirements in administering grants issued by the Department. These accountability requirements included those relating to Office of Management and Budget (OMB) Circulars A-102 and A-110 governing procurement, and the cost principles in OMB Circular A-87, including those governing payroll costs charged to Federal programs. The Department further concluded that DC OSSE had not demonstrated full compliance with some major provisions of Department ESEA and IDEA programs.

- F. On June 15, 2009, the Department imposed revised special conditions on all grants awarded for FFY 2009. The core elements of the special conditions required DC OSSE to continue to maintain a current, comprehensive HRCAP, to be used as the basis for tracking DC OSSE's progress in resolving its fiscal management deficiencies, grants management deficiencies, and program non-compliance. The Department acknowledged the progress that DC OSSE had made in some areas of the HRCAP. However, DC OSSE had yet to provide sufficient evidence that it had taken all of the corrective actions necessary to demonstrate that it had successfully implemented financial, record-keeping, and internal control systems and procedures sufficient to satisfy the accountability requirements in administering grants issued by the Department. These accountability requirements included those relating to Office of Management and Budget (OMB) Circulars A-102 and A-110 governing procurement, and the cost

principles in OMB Circular A-87, including those governing payroll costs charged to Federal programs. The Department further concluded that DC OSSE had not demonstrated full compliance with some major provisions of Department ESEA, IDEA, and Perkins Act programs.

II. SPECIAL CONDITIONS

DC OSSE continues to make progress on the implementation of systemic reforms and in resolving and closing individual corrective actions, as detailed in the HRCAP quarterly reports, and as acknowledged by correspondence from program and other offices of the Department during this past year. However, DC OSSE still has not completed the reform efforts and corrective actions needed to demonstrate that it has fully implemented sustainable financial, record-keeping, and internal control systems and procedures sufficient to satisfy the accountability requirements in administering grants issued by the Department. These accountability requirements include those relating to Office of Management and Budget (OMB) Circulars A-102 and A-110 governing procurement and property management, the cost principles in OMB Circular A-87, including those governing payroll costs charged to Federal programs, and other financial accountability requirements, including those relating to indirect costs and cash management. The Department further concludes that DC OSSE has not demonstrated full compliance with some major provisions of Department ESEA, IDEA, and Perkins Act programs.

A. Corrective Action Plan

OSSE shall continue to maintain a current, comprehensive HRCAP, to be used as the basis for tracking DC OSSE's progress in resolving its fiscal management deficiencies, grants management deficiencies, and program non-compliance, as well as ARRA-specific implementation and oversight requirements. The HRCAP shall be sufficiently detailed to demonstrate that the corrective actions will adequately address the identified deficiencies and instances of non-compliance and have a high likelihood of preventing further lapses in internal controls, expenditures for unallowable costs, or failure to maintain proper documentation of expenditures.

The HRCAP must continue to include, at a minimum, corrective actions needed to correct the problems specified in all Single Audit program determination letters, program monitoring reports and program-specific special conditions (if specified by the program office), and notifications of non-compliance with other provisions of law that are issued by the Department to date and during FFY 2010. If major changes to DC OSSE's financial management, procurement, payroll, human resources, or record-keeping systems or procedures are in progress or are necessary to correct these issues, DC OSSE shall incorporate these actions in the HRCAP. If any other audits, such as those conducted by the D.C. Inspector General or by independent auditors at the request of city agencies,

contain findings regarding the administration of Department programs, DC OSSE shall incorporate actions to address such findings in the HRCAP.

DC OSSE shall revise the HRCAP to address any new findings from audits and program and management reviews within 60 days of the issuance of such findings, and shall submit these updates beginning with the next scheduled reporting period. DC OSSE shall conduct a quarterly, comprehensive review and update of the HRCAP. Each revised HRCAP shall include an analysis and justification of each change made from the previous version, and shall be submitted to the Department with each quarterly report beginning with the next scheduled reporting period.

The District of Columbia's Chief State School Officer (DC CSSO) is the individual responsible for the development and implementation of the HRCAP. In the event that a new DC CSSO is appointed or elected, DC shall provide timely notification to the Department of the identity of the authorized official. The new DC CSSO or other authorized official shall review the HRCAP and certify to the Secretary of Education that the plan is still valid or shall submit a revised plan for review by the Department. A revised plan or certification of the validity of the existing plan must be received by the Department within 60 days of a change in DC CSSO.

B. Required Adequate Progress in Implementing Corrective Action Plans and Related Reporting Requirements

It is essential that DC OSSE maintain steady progress in implementing its HRCAP in order for DC OSSE to build the capacity to responsibly manage its Federal grants. To ensure progress, and to enable the Department to assess progress, DC OSSE must continue to provide the Department with quarterly reports that include the HRCAP and any revisions thereto as required by section II.A above, beginning with the next quarterly report due within 30 days after the period ending September 30, 2010 (FFY 2010 1st quarterly report – due by no later than October 30, 2010). The quarterly reporting schedule shall continue as follows:

FFY 2010 2nd Quarterly Report – period ending December 31, 2010. Due by no later than January 30, 2011.

FFY 2010 3rd Quarterly Report – period ending March 31, 2011. Due by no later than April 30, 2011.

FFY 2009 4th Quarterly Report – period ending June 30, 2011. Due by no later than July 30, 2011.

The parties may modify the schedule for the reports by mutual, written agreement.

In general, each quarterly report shall include (1) a complete and accurate description of the finding or deficiency that requires correction, including any new findings as described in section II.A above (2) a description of activities and progress for each action during the reporting period, (3) the status of each action that is scheduled to be completed during the reporting period, (4) documentation of completion for those actions that are completed during the reporting period (including explanation of delays for all actions not completed that were scheduled to be completed during the period, and expected completion dates for all unimplemented actions), (5) documentation of measures of performance and results, and (6) other data or documentation as specified for each action, or as requested by the Department in order to verify action or assess the impact of the action.

The DC CSSO or other authorized official of DC OSSE shall certify to the completeness and accuracy of the reports.

In addition, DC OSSE shall ensure that it timely and fully meets all Department program reporting requirements, including the reports required herein, the ESEA Consolidated State Performance Report, the Perkins Act Consolidated Annual Report (CAR), the IDEA Part B and Part C Annual Performance Reports, the IDEA Part B and Part C Special Conditions Progress Reports (which require additional separate reporting on the programmatic requirements under Parts B and

C of the IDEA), and the Section 1512 reporting requirements of ARRA. The program-specific Special Conditions imposed on DC OSSE's FFY 2010 grant awards under Parts B and C of the IDEA are in addition to the enforcement actions taken by the Department based on the Department's 2010 Determinations under IDEA sections 616(d) and 642.

C. Prompt Access to Records and Records Retention

DC OSSE shall promptly provide the Department or its representatives access to any requested staff, locations, records, and information associated with the affected grant funds. In addition to other applicable records retention requirements, DC OSSE must retain and maintain all records and information associated with all Department grants for the duration of the period of implementation of the HRCAP (including any revised version thereof).

D. Compliance With Program Requirements

In addition to the special conditions contained in this document, special conditions to address areas in which DC OSSE is out of compliance with program requirements, including those of ESEA, Title I and Title II; IDEA, Part B and Part C; and the Perkins Acts, will be specified in grant notification documents accompanying those awards for FFY 2010. DC OSSE must continue to separately and directly report to the program office in the Department on its progress in meeting the program-specific Special Conditions in accordance with the reporting periods and timelines specified in the grant notification documents accompanying those awards for FFY 2010.

E. ARRA-Specific Conditions

ARRA-specific special conditions were and will be contained in the attachments to the final ARRA grant notification documents provided by the Department to DC OSSE. They remain in effect for DC OSSE's ARRA grant awards, and the special conditions contained in this document are in addition to the ARRA-specific special conditions.

III. FAILURE TO COMPLY WITH SPECIAL CONDITIONS

If a plan, report or documentation required under Section II above is not provided by DC OSSE on a timely basis or is not considered acceptable to the Department (for example, does not show substantial promise of correcting the problems identified in audit and program review findings), it may be considered as a failure to comply with the special conditions.

If the Department determines that DC OSSE has not made substantial progress in meeting the objectives of a grant program, or has not met program requirements or the special conditions contained in paragraphs A-E of Section II above, then the Department may take further action, such as the following:

1. The Department would not continue one or more grants (and DC OSSE would receive no further funds under those grants).
2. The Department would delay award of or withhold all or part of one or more grant awards.
3. The Department would only award further funds to DC OSSE under one or more grant awards on a reimbursement basis.
4. The Department would recover misspent funds from DC OSSE.
5. The Department would require DC OSSE to contract with a third party, who must be approved by the Department, to assist in financial management and other administrative responsibilities for one or more grant awards. The third party would, at a minimum, assist in preparing the documents to be submitted to the Department for reimbursement, and would verify the accuracy and legitimacy of the expenditures as appropriate under one or more grant awards.

If DC OSSE fails to meet any of the special conditions above or any other applicable legal requirements, the Department is authorized to take any other appropriate enforcement action at any time.

IV. OTHER TERMS

A. Submission of Reports

All reports required to be submitted to the Department under these Department-wide special conditions should be sent electronically or hand-delivered to:

Cynthia Bond-Butler, Senior Analyst
Risk Management Service, Management Improvement Team
Office of the Secretary
U.S. Department of Education
400 Maryland Avenue, SW, Room 7E226
Washington, DC 20202
cynthia.bond@ed.gov

B. Reconsideration and Modifications

At any time, DC OSSE may request reconsideration of the above special conditions by contacting the Department and providing in writing the basis for DC OSSE's belief that particular conditions are no longer needed.

The Department may impose additional special conditions or modify these special conditions as appropriate. The Department will remove the special conditions at such time as DC OSSE meets, to the Department's satisfaction, the conditions set forth above.

Dated: June 15, 2010