

**Virgin Islands Department of Health – Special Conditions for
FFY 2010 IDEA Part C Grant
Enclosure C**

I. Basis for Requiring Special Conditions

Pursuant to IDEA sections 616(g) and 642 and 34 CFR §80.12, the U.S. Department of Education's (the Department's) Office of Special Education Programs (OSEP) is designating the Virgin Islands Department of Health (VIDH) as a "high risk" grantee and imposing Special Conditions on VIDH's Federal Fiscal Year (FFY) 2010 grant award under Part C of the Individuals with Disabilities Education Act (Part C) to ensure that VIDH continues to use its third party agent, Lutheran Social Services (LSS), and to ensure prompt payment of vendors that provide Part C services to infants and toddlers with disabilities and their families in the Virgin Islands. These Special Conditions are imposed because the Virgin Islands' (VI's) Government and VIDH have not demonstrated that they have instituted procedures for ensuring that vendors that provide Part C services are paid in a timely manner (to ensure uninterrupted provision of early intervention services to infants and toddlers with disabilities and their families) without using a third party financial management contractor.

Although these Special Conditions are attached to VIDH's FFY 2010 Part C grant award, the Department recognizes the importance of VIDH's coordination with, and cooperation from, the VI Office of Management and Budget, the VI Office of Personnel, the VI Office of Finance, and the third party agent under contract with the VI Government¹ in order for VIDH to ensure the timely provision of early intervention services to infants and toddlers with disabilities and their families as required under Part C of IDEA. By accepting its FFY 2010 Part C grant and ARRA IDEA Part C funds, VIDH agrees to comply with the following special conditions.

II. Nature of the Special Conditions

A. Contract to Ensure Timely Liquidations and Disbursements

1. Requirement to Maintain Contract/Approval Before Modification. VIDH must continue its contract with the financial management contractor, LSS, with the contract terms approved by the Department on July 31, 2002. If VIDH wishes to amend its contract with LSS, VIDH must submit a written request with draft contract language and a new contract may not be implemented by VIDH until the Department has provided written approval.
2. Contract Provisions. The contract must include the following provisions.
 - a. The contractor's role is limited to processing payments and disbursements and maintaining financial records and reporting as required under the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 76 and 80. VIDH, and not the contractor, is responsible for approving the reasonableness and necessity of any proposed payments and for any recruiting, hiring, evaluating, licensing, and Part C general supervision responsibilities, including monitoring of Part C vendors or providers of goods and services for the Part C program.

¹ A separate enclosure to this Part C FFY 2010 grant award requires the VI Government to obtain a separate third party agent (not LSS) for its fiscal management responsibilities due to other fiscal management problems of the VI Government not specific to VIDH.

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- b. During the duration of the contract, the contractor must maintain adequate liability insurance to cover all potential liability and loss from misfeasance and/or malfeasance by the contractor and/or its employees. Such insurance must be consistent with the requirements of Virgin Islands' law.
- c. At the beginning of the contract period, and prior to any liquidations by VIDH from the Department of FFY 2010 Part C funds, including ARRA IDEA Part C funds, or disbursements of any such funds by the contractor, VIDH must provide the contractor with a line item budget for the total amount of the Part C grant to be used by the contractor to track projected and actual expenditures for the Part C program.
- d. Prior to any liquidations or disbursements, the contractor must establish, maintain and utilize a separate bank account for Part C program funds. Any and all Part C funds that VIDH liquidates must be deposited directly into this account. The contractor will be responsible for disbursing any and all Part C funds from that account pursuant to approved payment requests submitted by VIDH. Any interest earned by, or unclaimed funds remaining in such account must be returned to the Department at least quarterly (see 34 CFR §80.21(i)).

However, as long as VIDH continues to expend its IDEA Part C (including ARRA) funds within three business days from the time that VIDH liquidates the funds from the Department (i.e., the funds are obligated and liquidated by VIDH), the Department will not require that an interest-bearing bank account be maintained. Any interest liability for delayed payments for expenditures by VIDH shall be determined under EDGAR Part 80 and the Cash Management Improvement Act.

- e. Prior to any liquidations or disbursements, VIDH and the contractor must follow established procedures and timelines for prompt and timely liquidations by VIDH and disbursements by the contractor consistent with Federal requirements that disbursements occur within 3 business days of draw downs or liquidations and the requirements below.
- f. VIDH will continue to present approved requests to the contractor for processing and payment no later than 14 business days from the date of the receipt by VIDH of a notice of an account payable that is an allowable expense under Part C, or earlier if needed to ensure timely payment to one or more Part C vendors or providers.
- g. VIDH and the contractor will continue to coordinate the timing of liquidations and disbursements to ensure that payments to Part C staff, vendors and providers are prompt and timely. VIDH will draw down sufficient Part C funds to cover each approved request for payment into the separate account.
- h. Disbursements must occur no later than 28 business days from the date of the receipt of an account payable that is an allowable expense under Part C, which includes the above-referenced 14 business days for VIDH to present requests for payment to the contractor and 14 business days for VIDH and the contractor to coordinate draw downs and disburse funds, or earlier than 28

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business days if needed to ensure timely payment to one or more vendors or providers.

- i. All transactions under the contract are consistent with all applicable Federal grant management requirements, including Office of Management and Budget (OMB) Circular A-87 and EDGAR at 34 CFR Parts 76 and 80.
- j. The contractor will continue to maintain financial records in accordance with Federal requirements and produce quarterly reports for VIDH detailing: a) the date of its receipt of, and the amount of, each approved payment request; b) the date and amount of each liquidation deposit; c) the date and amount of each payment or disbursement by the contractor; and d) any interest or other funds remaining in the account at the end of the quarter. These amounts must also be grouped by and comparable with the projections in the line item budget listed above.
- k. Any other such terms, consistent with items a-j above, as the parties believe are necessary to ensure timely drawdowns and payments to staff, providers and vendors under the Part C program.

B. Financial Reports

VIDH must provide two reports due on February 1, 2011 (with VIDH's FFY 2009 APR submission) and May 1, 2011, and provide in each report:

- 1) The total number of disbursements made through the reporting date;
- 2) For all disbursements included in number 1, the number of business days between the receipt of each account payable and the date of disbursement to the vendor for that account;
- 3) The average number of business days for all disbursements during the reporting period (the total number of business days listed in number 2 divided by the total number of disbursements listed in number 1);
- 4) An analysis of the causes for, and plan to reduce the number of, any disbursements made more than 30 business days after receipt of an account payable; and
- 5) The amount of any interest or other funds remaining in the Part C account at the end of the reporting period (grouped by, and comparable to, the projections in the line item budget for the Part C program).

III. Evidence Necessary for Conditions To Be Removed

The Department will remove the Special Conditions during FFY 2010 if VIDH provides documentation, satisfactory to the U.S. Department of Education (the Department), that it has in place its own procedures to ensure the timely payment of Part C vendors and early intervention service providers as set forth above.

IV. Method of Requesting Reconsideration

VIDH may write to OSEP's Acting Director, Dr. Alexa Posny, at the address below, if it wishes the Department to reconsider any aspect of these FFY 2010 Part C Special

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Conditions. The request must describe in detail the changes to the Special Conditions sought by the Virgin Islands and the reasons for those requested changes.

V. Submission of Reports

VIDH must submit all reports required under these Special Conditions to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn.: Sheryl Parkhurst
400 Maryland Avenue, SW
Washington, D.C. 20202-2550
By email: Sheryl.Parkhurst@ed.gov