



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

June 15, 2011

Honorable De'Shawn A. Wright  
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 Wright:

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) 2011. The special conditions will apply to all grants awarded by the Department to DC OSSE on or after the date of these special conditions. Additionally, the special conditions apply to all grant funds previously awarded by the Department to DC OSSE that are still available for obligation or liquidation on the date of these special conditions, including all grant funds awarded to DC OSSE under the American Recovery and Reinvestment Act of 2009 (ARRA). Certain FFY 2011 grant awards will contain additional special conditions that are specific to the programmatic requirements of those grants.

The Department and DC OSSE have worked cooperatively since 2006 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. DC OSSE faced challenges early on in its efforts to build a high performing State educational agency for administering Federal education grant programs; however in 2009, DC OSSE put forth a comprehensive high-risk corrective action plan (HRCAP) that outlined a strategy and plan for reform to eliminate long-standing inefficiencies and build and support compliant and sustainable systems.

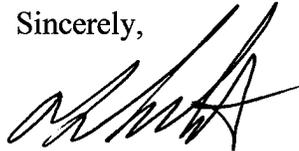
The Department is pleased to report that over the past year, DC OSSE has made significant progress in completing the action steps toward implementing these systemic reforms and in correcting several program compliance deficiencies identified in the HRCAP. Some examples of improvements reported in the HRCAP include: a finalized and fully implemented inventory management policy and process; a time distribution policy and a new single system of recording payroll expenditures and time and effort data; new cash management procedures fully implemented and in compliance with Cash Management Improvement Act requirements; a comprehensive financial policies and

procedures manual; an improved grants allocations process; a uniform policy for sub-recipient monitoring and implementation of the new policy in each of the OSSE programs; and progress in improving the timeliness and quality of grant data reporting internal and external to OSSE. The Department is in the process of assessing DC OSSE's completed implementation of these improvements.

To ensure that the longstanding financial and grants management and program compliance issues that led to the high-risk designation have been eliminated, DC OSSE must demonstrate that it has fully implemented 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 satisfied this objective.

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 'P. Maestri', written in a cursive style.

Philip A. Maestri, Director  
Risk Management Service

Enclosure

cc: Honorable Hosanna Mahaley, DC OSSE State Superintendent

District of Columbia Office of the State Superintendent of Education  
Special Conditions  
Federal Fiscal Year (FFY) 2011

**PREAMBLE:** These special conditions are imposed on all Federal fiscal year (FFY) 2011 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 D.C. Public Schools) 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 to improve its implementation of financial, record-keeping, and internal control systems and procedures sufficient to satisfy the applicable grant accountability requirements.

**I. BACKGROUND:**

- A. In April 2006, the Department designated DC Public Schools (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 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 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 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 DC 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 the purpose of administering Federal grants, the functions of the SEA, the local educational agency (LEA), and the State agencies responsible for Adult Education and Literacy and the IDEA Part C Early Intervention Program. 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 D.C. 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 that 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 to DC OSSE 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 not yet provided 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, Adult Education, and Perkins programs.

- G. On June 15, 2010, the Department imposed revised special conditions on all grants awarded for FFY 2010. 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 during FFY 2010 on the implementation of systemic reforms and in resolving and closing individual correction actions, as detailed in the HRCAP quarterly reports, and as acknowledged by correspondence from program and other offices in the Department during the year. However, DC OSSE had not completed the reform efforts and corrective actions needed to demonstrate that it had 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 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 programs.

## II. SPECIAL CONDITIONS

During this past year, DC OSSE has made significant progress in completing the action steps toward implementing systemic reforms and in resolving and closing individual corrective actions as detailed in the HRCAP quarterly reports, and as acknowledged by correspondence from program offices in the Department. However, DC OSSE has not yet demonstrated 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 and IDEA 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 implementing systemic reforms that demonstrate sustainable financial, record-keeping, and internal control systems and procedures sufficient to satisfy the accountability requirements in administering grants issued by the Department. The HRCAP shall also be used

to track DC OSSE's continued efforts in resolving individual findings pertaining to 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 problems and have a high likelihood of preventing such weaknesses as: 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, program-specific special conditions, and notifications of non-compliance with other provisions of law that are issued by the Department to date and during FFY 2011. 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 DC 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. If at any time during the review or implementation of the HRCAP, DC OSSE determines that implementation of the corrective actions necessary to come into compliance with applicable legal requirements will extend past July 1, 2012, DC OSSE shall notify the Department that DC OSSE needs to enter into a compliance agreement with the Department. An approved compliance agreement can extend the corrective action period up to three years, as necessary.

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, 2011 (FFY 2011 1<sup>st</sup> quarterly report). The quarterly reporting schedule shall continue as follows:

FFY 2011 2<sup>nd</sup> Quarterly Report – period ending December 31, 2011. Due by no later than January 30, 2012.

FFY 2011 3<sup>rd</sup> Quarterly Report – period ending March 31, 2012. Due by no later than April 30, 2012.

FFY 2011 4<sup>th</sup> Quarterly Report – period ending June 30, 2012. Due by no later than July 30, 2012.

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, (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.

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 has not demonstrated compliance with program requirements, including specific requirements under ESEA, Title I; IDEA, Part B and Part C; and the Perkins Acts, are specified in grant notification documents accompanying those awards for FFY 2011. The program-specific special conditions imposed on DC OSSE's FFY 2011 IDEA, Part B grant award are in addition to the enforcement action taken by the Department based on the Department's 2011 Determination under IDEA section 616(d). 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 2011.

#### E. ARRA-Specific Conditions

ARRA-specific special conditions were 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.

### 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  
Risk Management Service, Management Improvement Team  
Office of the Deputy Secretary  
U.S. Department of Education  
550 12<sup>th</sup> Street, S.W., Room 11057  
Washington, D.C. 20202  
[cynthia.bond@ed.gov](mailto: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, 2011