

Enclosure D



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

June 19, 2014

Honorable Abigail Smith  
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 Smith:

The purpose of this letter is to inform you of the U.S. Department of Education's (Department) decision to remove the "high-risk grantee" designation from the grants issued by this Department to the District of Columbia, Office of the State Superintendent of Education (DC OSSE). As of the date of this letter, and subject to its terms, DC OSSE is no longer considered a "high-risk grantee."

**Background**

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 Federal fiscal year (FFY) 2006.

Under the FFY 2006 revised special conditions, DCPS was required to 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. The HRCAP included actions to address weaknesses in financial management, procurement, and property management, as well as 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).

On June 1, 2007, the President signed H.R. 2080 (P.L. 110-33), effectively permitting the Mayor and City Council of DC to assume responsibility for DC 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. These statutes transferred authority to the Mayor's Office for the purpose of administering Federal grants, the functions of the state educational agency (SEA), the local educational

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agency (LEA), and the state agencies responsible for Adult Education and Literacy and the IDEA Part C Early Intervention Program for Infants and Toddlers with Disabilities. The transfer became effective October 1, 2007. The DC 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 for Federal grants from this Department.

In June of each of the last six Federal fiscal years (FFY 2008 through FFY 2013), the Department imposed revised special conditions on all grants awarded to DC OSSE for each year, respectively. The core elements of the special conditions required DC OSSE to continue to maintain a current, comprehensive high-risk corrective action plan (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. In each set of special conditions, the Department acknowledged the progress that DC OSSE had made in completing the action steps related to implementing systemic reforms and resolving and closing individual corrective actions as detailed in HRCAP quarterly reports that DC OSSE was required to submit.

#### **Removal of "High-Risk Grantee" Designation**

The decision to remove the Department-wide "high-risk grantee" designation is based on DC OSSE's demonstrated progress in making the improvements necessary to address longstanding financial and grants management and programmatic compliance issues that confronted DC OSSE in its administration of Federal education grants. While DC OSSE has made progress in financial and grants management issues, due to continuing noncompliance with programmatic requirements under Part B of the IDEA, the Department will continue to designate DC OSSE as a "high-risk grantee" under Part B of the IDEA.

The improvements that DC OSSE has implemented include an inventory management policy and process, a revised time and effort distribution policy that includes semi-annual certification and personnel activity reporting requirements, a central records management system for payroll certifications, new cash management procedures, updated procurement policies, a new training material for time and effort reporting requirements, training sessions for new and updated policies, and submission of formal indirect cost rate proposals. Further, DC OSSE has made a number of systemic improvements that have resulted in the decline in overall Single Audit findings. DC OSSE has also reported on activities to demonstrate how it is continuing to build on the capacities established under the HRCAP. The Department has concluded that DC OSSE's ongoing implementation of the corrective actions made to its financial, record-keeping, and internal control systems and procedures is sufficient to address the longstanding financial and grants management and programmatic compliance issues that led to the "high-risk grantee" designation.

#### **Corrective Action Still Outstanding**

Although we conclude that DC OSSE has substantially completed the action steps in the HRCAP, demonstrating significant progress and a genuine commitment to resolve the problems that led to the "high-risk grantee" designation, we note that DC OSSE still has critical action steps to complete in the areas of indirect costs, time and effort distribution, and subrecipient monitoring. The status of each area and the work that DC OSSE must still complete are described below.

##### *Indirect Costs*

DC OSSE has not yet fully implemented corrective action to address audit findings related to indirect cost calculation and reimbursement. DC OSSE recognized the inconsistent application of indirect cost rates when it assumed SEA responsibilities in October 2007. DC OSSE committed in the HRCAP to address this audit deficiency through a reassessment of agency policy and procedures for indirect cost calculation and reimbursement, and to implement a process for calculating and charging indirect costs to Federal education programs that demonstrates accurate accounting and record-keeping. DC OSSE informed the Department that, as of FY 2008, it had suspended charging indirect costs to Federal grants and that it

would resume claiming indirect costs after the Department determined that DC OSSE's indirect cost claiming process was complete and adequate. The Department approved an FY 2013 indirect cost rate agreement for DC OSSE on February 1, 2013. DC OSSE is in the process of revising the LEA indirect cost rate plan proposal and negotiating indirect cost rates with all DC LEAs, including DCPS, using a temporary indirect cost rate authorized by the Department. The Department awaits submission of DC OSSE's final indirect cost policy and procedures, which must ensure that the methodology for calculating and charging indirect costs is based solely on allowable expenditures. The policy and procedures must also ensure that DC OSSE will maintain supporting documentation for indirect costs charged to Federal grants and charge indirect costs consistent with its approved Indirect Cost Rate Agreements.

#### *Time and Effort Distribution*

The Department has provided technical assistance to DC OSSE in revising its time and effort distribution policy and training documents, electronic templates for semi-annual certification, and personnel activity reports. Under the HRCAP, DC OSSE was required to revise its policy and documents in a manner that demonstrates effective internal controls to accomplish after-the-fact allocation of time and effort, meets record-keeping and reporting requirements, satisfies the cost principles governing salaries charged to Federal programs as set forth in OMB Circular A-87, and supports improvements in grant management and fiscal accountability. The Department awaits submission of a final edited version of DC OSSE's time and effort distribution policy and training documents.

#### *Subrecipient Monitoring*

The Department is concerned about the adequacy of DC OSSE's subrecipient monitoring. This concern is based on the increased number of audit findings reported in the FY 2012 single audit report for DCPS, including: (1) allowable cost/cost principles concerning payroll procedures and lack of time and effort certification; (2) no evidence of the review of maintenance of effort requirements; (3) procurement practice regarding suspension and debarment; and (4) noncompliance with specific programmatic requirements. DC OSSE shall develop and submit to the Department its detailed subrecipient monitoring plan that includes a description of detailed monitoring activities, timeline, and disposition of monitoring results. The monitoring plan must ensure that DC OSSE can accomplish effective monitoring of its subrecipients' activities and also provide DC OSSE with the tools to determine whether subrecipients are administering Department awards in compliance with applicable Federal requirements.

#### **Continuation of Special Conditions**

Although DC OSSE's Department-wide "high-risk grantee" designation is being removed, please note that all FY 2014 Department grant awards made to DC OSSE will still be subject to special conditions that, at a minimum, impose requirements on DC OSSE with respect to indirect costs, time and effort distribution and subrecipient monitoring, as outlined above. These special conditions will be incorporated into grant award notices for all grants awarded by the Department to DC OSSE on or after the date of these special conditions, and will also apply to grant funds previously awarded by the Department to DC OSSE that are still available for obligation or liquidation as of the date of the special conditions. The special conditions will not affect the Department's authority to impose programmatic special conditions, and DC OSSE must also comply with any additional special conditions imposed on its grant awards for any program administered by the Department to address noncompliance with programmatic requirements.

We are encouraged by the significant progress that DC OSSE has made and appreciate your commitment in addressing the changes and improvements necessary to markedly address the fiscal and programmatic accountability issues in DC OSSE. To assist DC OSSE with further improvements in grant management and fiscal accountability, we are prepared to continue to provide technical assistance and support. Should deficiencies, noncompliance, or fiscal and programmatic accountability problems recur in the future, the Department reserves the right to take appropriate action, such as reinstating the Department-wide "high-risk grantee" designation and imposing new or modified special conditions.

If you have any questions or require further assistance, please contact Insuk Chinn, the primary contact for DC OSSE within the Risk Management Service, at 202-245-8277.

The Department is very hopeful that DC OSSE will continue to make progress, as it improves the use of, and accountability for, Department funds to support the delivery of appropriate educational services to the students in DC.

Sincerely,

A handwritten signature in blue ink, appearing to read 'P. Maestri', written in a cursive style.

Philip A. Maestri, Director  
Risk Management Service

Enclosure: FFY 2014 Special Conditions  
cc: Honorable Jesús Aguirre, DC OSSE State Superintendent

District of Columbia Office of the State Superintendent of Education  
Special Conditions  
Federal Fiscal Year (FFY) 2014

PREAMBLE: These special conditions are imposed on all Federal fiscal year (FFY) 2014 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 that are still available for obligation or liquidation on the date of these special conditions. The special conditions are imposed to help ensure that 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 continue to improve its implementation of financial and internal control systems and procedures sufficient to satisfy the applicable grant accountability requirements.

I. BACKGROUND:

In April 2006, DC OSSE's predecessor, the District of Columbia Public Schools (DCPS), was designated by the Department as 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, and since then, the Department has imposed special conditions on grants awarded to DCPS, and then its successor, DC OSSE, requiring the maintenance of a comprehensive high-risk corrective action plan (HRCAP) to be used as the basis for guiding and tracking progress in resolving fiscal management deficiencies, grants management deficiencies, and program non-compliance.

In June 2014, the Department made a decision to remove the Department-wide "high-risk grantee" designation from DC OSSE based on the substantial completion of action steps in its HRCAP and its demonstrated progress in making the improvements necessary to address the longstanding financial and grants management and program compliance issues that confronted it in administering Federal education grants. However, there are critical action steps that DC OSSE still must complete, and the Department also needs to monitor DC OSSE's continued implementation of the improvements that it has made to its administration of Federal education grants. Therefore, the Department is imposing these special conditions on DC OSSE's grant awards, requiring DC OSSE to submit a final indirect cost claiming policy and procedure document and templates, and a final time and effort distribution policy and training documents; develop and implement a subrecipient monitoring plan; and provide the Department with a quarterly report on the progress and full implementation of these special conditions.

## II. SPECIAL CONDITIONS

### A. Indirect Cost Claiming Policy and Procedure

DC OSSE shall submit to the Department for approval its final indirect cost claiming policy and procedure document along with templates that will ensure that (1) its methodology for calculating and charging indirect costs is based solely on allowable expenditures and (2) DC OSSE maintains supporting documentation for indirect costs charged to Federal grants consistent with its applicable approved Indirect Cost Rate Agreements. DC OSSE shall submit its final indirect cost claiming policy and procedure along with templates within 60 days of the issuance of these special conditions.

### B. Time and Effort Distribution Policy

DC OSSE shall submit to the Department for approval, within 60 days of the issuance of these special conditions, its final time and effort distribution policy and training document along with electronic templates for semi-annual certification and personnel activity reports that satisfy the cost principles and allowability requirements governing salaries charged to Federal grants in accordance with OMB Circular A-87, Attachment B, Section 8(h). DC OSSE shall also submit to the Department, within 60 days of the issuance of these special conditions, a report on its progress in fully implementing the time and effort distribution policy, including the roll-out of the new templates for semi-annual certification and personnel activity reports and the extent to which staff have been trained regarding the new policy and templates.

### C. Subrecipient Monitoring

DC OSSE shall develop and submit to the Department for review its detailed subrecipient monitoring plan that includes a description of detailed monitoring activities, timeline and disposition of monitoring results that will ensure that DC OSSE can accomplish effective monitoring of its subrecipients' activities to evaluate subrecipients' success in meeting performance standards and compliance with applicable Federal requirements. The monitoring plan should provide DC OSSE with the tools to determine whether subrecipients are administering Department awards in compliance with applicable Federal requirements. DC OSSE shall submit the monitoring plan within 60 days of the issuance of these special conditions.

### D. Reporting Requirements

DC OSSE must continue to provide to the Department a detailed report on a quarterly basis that describes activities and progress for each special condition item during the reporting period, documentation of the actions that are completed during the reporting period, expected completion dates for unimplemented items, and any other data or documentation as specified or requested by the Department in order to verify full implementation and assess the sustainability of the improvements and controls established as a result of these special conditions.

The quarterly reports shall be certified by the DC OSSE State Superintendent as to the completeness and accuracy of the reports and submitted to the Department no later than thirty days after the end of each quarter.

E. Prompt Access to Records and Records Retention

DC OSSE shall promptly provide the Department or its representative access to any requested staff, locations, records, and information associated with the affected grant funds.

F. Program-Specific Conditions

Special conditions have been, and may be, imposed on FFY 2014 grant awards made under one or more Department programs to address areas in which DC OSSE is out of compliance with program requirements, and DC OSSE will continue to be designated a “high-risk grantee” under Part B of the Individuals with Disabilities Education Act (IDEA). Each program-specific special condition will be contained in an attachment to the grant award notification document in question that is provided by the Department to DC OSSE.

III. OTHER TERMS

A. 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 a failure to comply with the special conditions.

Failure to comply with any of the special conditions above or any other applicable legal requirements will negatively impact DC OSSE’s ability to continue to receive grant funds from the Department. These terms and conditions do not preclude the Department from taking any authorized enforcement or other actions at any time, including reinstating DC OSSE’s status as a “high-risk grantee” under 34 CFR § 80.12.

B. Submission of Reports

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

Insuk Chinn  
Senior Financial Risk Analyst  
Risk Management Service  
Office of the Deputy Secretary  
U.S. Department of Education  
550 12<sup>th</sup> Street, S.W., Room 11057  
Washington, D.C. 20202  
[insuk.chinn@ed.gov](mailto:insuk.chinn@ed.gov)

C. 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 one or more specific conditions are no longer needed.

The Department may impose additional special conditions or modify these special conditions, as the Department determines to be 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. The special conditions will remain in effect until removed or modified by the Department.

Dated: June 19, 2014