UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

RISK MANAGEMENT SERVICE

June 30, 2015

Honorable Jennie Niles
Deputy Mayor for Education
Office of the Deputy Mayor for Education
District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 307
Washington, DC 20004

Dear Deputy Mayor Niles:

Attached are the 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) 2015. These 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. Certain FFY 2015 grant awards will contain additional special conditions that are specific to the programmatic requirements of those grants.

In June 2014, the Department made a decision to remove DC OSSE's Department-wide "high-risk grantee" designation 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. In removing the "high-risk grantee" designation, the Department 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. However, the Department determined that DC OSSE still had critical action steps to complete in the areas of indirect costs, time and effort distribution, and subrecipient monitoring, and imposed FFY 2014 Department-wide special conditions on all FFY 2014 Department grant awards made to DC OSSE. Further, 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 continues to designate DC OSSE as a "high-risk grantee" under Part B of the IDEA.

Based on the outcome of the onsite visit conducted by the Department's Risk Management Service (RMS) in May 2015, although the Department has concluded that DC OSSE has made further progress in addressing corrective action items described in the FFY 2014 Department-wide special conditions, the Department needs to continue to monitor closely DC OSSE's progress with respect to indirect cost calculations, time and effort distribution, and subrecipient monitoring. Therefore, all FFY 2015 Department grant awards made to DC OSSE will be subject to FFY 2015 Department-wide special conditions. These 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.

As discussed during a May 7, 2015 conference call between DC OSSE and the Department, and again during the Department's May 2015 onsite visit to DC OSSE, DC OSSE has agreed to initiate a separate engagement with its A-133 auditors, at no cost to the Department, to conduct a review of its indirect cost claiming process and the calculation of indirect costs claimed for completeness and accuracy. As also agreed during the May 7 conference call and May 2015 onsite visit, DC OSSE will submit to the Department the auditor's report based on this review, which will address whether DC OSSE's methodology for calculating indirect costs: (1) would result in an accurate and complete calculation of indirect costs; (2) is based solely on allowable expenditures; and (3) would result in claiming indirect costs that are consistent with its applicable approved indirect cost rate and within the maximum ceiling amount. The report shall also include the auditors' determination whether DC OSSE maintains adequate documentation to support the calculation and claiming of indirect costs.

With respect to DC OSSE's time and effort distribution policy, DC OSSE shall report semiannually to the Department on its continuous monthly review and monitoring of its employees to ensure full compliance with the policy, along with related evidential materials, including the extent to which DC OSSE staff have been trained regarding their compliance with the policy.

The Department continues to be 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 and FY 2013 single audit reports 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. Therefore, DC OSSE shall continue to develop and submit to the Department for review and approval its detailed subrecipient monitoring policy and implementing plan that includes a description of detailed monitoring activities using its risk-based monitoring. The monitoring policy and plan shall include a timeline for frequency of monitoring and disposition of monitoring results, and follow-up on subrecipients' A-133 audit findings to ensure timely resolution. 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.

DC OSSE shall also continue to report semiannually to the Department on: (1) its progress in developing and implementing Phase II of its Enterprise Grants Management System's subrecipient monitoring functionality for all applicable major Federal grant programs; and ( 2) its progress, along with related evidential materials, in fully implementing its subrecipient monitoring policy along with risk-based monitoring plan.

We are encouraged by the progress that DC OSSE has made and appreciate your commitment in addressing the improvements necessary to address the fiscal and programmatic accountability issues in DC OSSE. To assist DC OSSE with further improvements in grants 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 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,

Philip A. Maestri, Director
Risk Management Service

Enclosure: FFY 2015 Special Conditions

cc: Honorable Hanseul Kang, DC OSSE State Superintendent

District of Columbia Office of the State Superintendent of Education
Special Conditions
Federal Fiscal Year (FFY) 2015

PREAMBLE: These special conditions are imposed on all Federal Fiscal Year (FFY) 2015 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:

A. In April 2006, the Department designated the District of Columbia Public Schools (DCPS), DC OSSE's predecessor, a "high-risk grantee" under the authority in former 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 all 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.

B. 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 agency (LEA), and the state agencies responsible for Adult Education and Literacy and the Individuals with Disabilities Education Act (IDEA) Part C Early Intervention Program for Infants and Toddlers with Disabilities. The transfer became effective October 1, 2007.

C. 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. 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.

Although the Department concluded that DC OSSE had substantially completed the action steps in the HRCAP demonstrating significant progress and a genuine commitment to resolve

the problems that led to the Department-wide "high-risk grantee" designation, the Department determined that DC OSSE still has critical action steps to 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 imposed FFY 2014 special conditions on DC OSSE's grant awards, requiring DC OSSE to submit to the Department for approval a final indirect cost claiming policy and procedure document and templates, a final time and effort distribution policy and training documents, and a subrecipient monitoring plan. The special conditions also required DC OSSE to provide the Department with a quarterly report on the progress and full implementation of corrective action plans to address these special conditions.

D. Based on the onsite visit conducted by the Risk Management Service (RMS) on May 28, 2015, the Department acknowledges the commitment demonstrated by DC OSSE, as well as progress that it has made in addressing corrective action items identified in the FFY 2014 special conditions. DC OSSE has developed a final draft indirect cost claiming process document including a template developed for calculating indirect costs based on an automated process, eliminating manual calculation. Since FFY 2008, while focusing its resources on developing its indirect cost claiming process document, DC OSSE had not submitted any claims for indirect costs. DC OSSE resumed submitting claims for indirect cost reimbursement for the fourth quarter of FFY 2014.

Earlier, in a program determination letter issued on April 8, 2013, the Department had requested DC OSSE to ask its A-133 auditors to include a follow-up review of its indirect cost claiming procedures in their next audit. However, the A-133 auditors noted that the requested indirect cost review would not meet the threshold for materiality level for testing within the scope of the A-133 audit. Therefore, DC OSSE indicated, and then confirmed, its intent to engage the A-133 auditors separately, at its own expense, to review its indirect cost claiming procedures. The Department has expressed its acknowledgement and support of DC OSSE's intent and decision.

DC OSSE has implemented streamlining of its Federal time and effort certification procedures by migrating its time and effort certification procedures to its human resources virtual portal, PeopleSoft. As the PeopleSoft systems feeds directly into DC OSSE's payroll, no reconciliation between the actual charge and salary payments will be necessary, a standardized system of review will take place online, and there will be a reduction in paperwork through centralizing the time and effort reporting process.

During FY 2014, DC OSSE developed policy and procedures that uses a risk-based approach to subrecipient monitoring for certain Federal programs. DC OSSE began to implement subrecipient monitoring activities through its Enterprise Grants Management System for these programs, as demonstrated during the May 2015 site visit.

## II. SPECIAL CONDITIONS

The Department acknowledges the commitment and the progress demonstrated by DC OSSE in addressing corrective actions related to these special conditions. Based on this, the Department has made a determination to revise the reporting requirements from a quarterly basis to a semiannual basis for these special conditions.

A. Indirect Cost Claiming Policy and Procedure

DC OSSE shall submit to the Department a report on the review of DC OSSE's indirect cost claiming process as conducted by its A-133 auditors under a separate engagement, as described in section I.D above. The report shall include the auditors' findings and/or recommendations regarding whether DC OSSE's methodology for calculating indirect costs: (1) would result in accurate and complete calculation of indirect costs; (2) is based solely on allowable expenditures; and (3) would result in claiming indirect costs which are consistent with its applicable approved indirect cost rate and within the maximum ceiling amount. The report shall also include the auditors' determination whether DC OSSE maintains adequate documentation to support the calculation and claiming of indirect costs.

B. Time and Effort Distribution Policy

DC OSSE shall continue to submit to the Department a report on its continuous review and monitoring of employees for full compliance with its established time and effort distribution policy, along with related evidential materials, including the extent to which staff have been trained regarding the new policy.

C. Subrecipient Monitoring

The Department continues to be concerned about the adequacy of DC OSSE's subrecipient monitoring. This concern is based on the increased number of audit findings reported in the FFY 2012 and FFY 2013 single audit reports 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 continue to develop and submit to the Department for review and approval its detailed subrecipient monitoring policy and implementing plan that includes a description of detailed monitoring activities using its risk-based monitoring. The monitoring policy and plan shall include a timeline for frequency of monitoring and disposition of monitoring results and follow-up on subrecipients' A-133 audit findings to ensure timely resolution, which 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 continue to submit to the Department a report on its progress in development and implementation of Phase II of its Enterprise Grants Management System's subrecipient monitoring functionality for all applicable major Federal grant programs. DC OSSE shall also continue to submit to the Department a report on its progress, along with related evidential materials, in fully implementing its subrecipient monitoring policy along with risk-based monitoring plan.

D. Reporting Requirements

It is essential that DC OSSE maintain meaningful progress in implementing corrective action items set forth in the special conditions. To ensure progress, and to enable the Department to assess progress, DC OSSE must continue to provide to the Department a detailed report on a semiannual 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 semiannual reports shall be certified by the DC OSSE State Superintendent as to their completeness and accuracy and submitted to the Department no later than thirty days after the end of each semiannual preiod. As such, semiannual corrective action reports shall be submitted as follows:

- For the semiannual reporting period October 1st to March 31st – due April 30th
- For the semiannual reporting period April 1st to September 30th – due October 31st

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 2015 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, or semiannual reports are not certified by the State Superintendent), 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 2 CFR §§ 200.207 and 3474.10.

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 12th Street, S.W., Room 11057
Washington, D.C. 20202
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 30, 2015