



Enclosure B

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

RISK MANAGEMENT SERVICE

June 30, 2015

The Honorable Kenneth E. Mapp, Governor
Office of the Governor
No. 21 Kongens Gade
Charlotte Amalie
St. Thomas, Virgin Islands 00802

Dear Governor Mapp:

The purpose of this letter is to convey to you the enclosed special conditions, which the U.S. Department of Education (Department or ED) is imposing on all grants awarded to the Virgin Islands and/or its agencies (Virgin Islands) for Federal fiscal year (FFY) 2015. These special conditions also apply to all grants under the following programs awarded to any Virgin Islands agencies for FFY 2016: Vocational Rehabilitation (Title I of the Rehabilitation Act of 1973, as amended (Rehabilitation Act)), Supported Employment (Title VI of the Rehabilitation Act), Client Assistance Program (section 112 of the Rehabilitation Act), Protection and Advocacy of Individual Rights (section 509 of the Rehabilitation Act), and the Independent Living Services for Older Individuals Who Are Blind (Title VII, Chapter 2 of the Rehabilitation Act) (collectively, Rehabilitation Act programs). The special conditions will apply to all grants awarded by the Department to the Virgin Islands on or after the date of these special conditions. These special conditions are also applicable to grant funds previously awarded by the Department to the Virgin Islands that are still available for obligation or liquidation as of the date of these special conditions.

Since August 25, 2006, the Virgin Islands has contracted with a third-party fiduciary agent, because the Virgin Islands has yet to implement all of the requirements under the 2002 Compliance Agreement with the Department that ended on September 23, 2005. On June 24, 2010, the Virgin Islands entered into a contract with Thompson, Cobb, Bazilio, and Associates (TCBA or Agent), which has since been renamed Bazilio, Cobb, and Associates (BCA), to perform the third-party fiduciary duties previously performed by Alvarez and Marsal, LLC (A&M). Because the services of a third-party fiduciary agent continue to be necessary to ensure that the Virgin Islands is managing and administering Department funds in accordance with applicable Federal requirements, the Department, through these special conditions, will continue to require the Virgin Islands to use the Agent to perform the financial management duties required under 34 CFR Parts 75 and 76, and the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), 2 CFR Part 200², for all Department grant awards.

² The Uniform Guidance was published on December 19, 2014 at 79 FR 75872 and replaces prior 34 CFR Part 80 regarding administrative requirements and prior OMB Circular A-87 regarding the cost principles applicable to the grants that the Virgin Islands receives from the Department. The Uniform Guidance provisions referenced in these special conditions are effective July 1, 2015 for the Virgin Islands' FFY 2015 grant awards (and for the Virgin Islands' FFY 2016 grant awards under the following programs: Vocational Rehabilitation (Title I of the Rehabilitation Act), Supported Employment (Title VI of the Rehabilitation Act), Client Assistance (section 112 of the Rehabilitation Act), Protection and Advocacy of Individual Rights (section 509 of the Rehabilitation Act), and Independent Living Services for Older Individuals Who Are Blind (Title VII, Chapter 2 of the Rehabilitation Act) (collectively, Rehabilitation Act programs). The Uniform Guidance provisions also apply to any grant funds previously awarded by the Department to the Virgin Islands that are still available for obligation on the date of these special conditions.

400 MARYLAND AVE., S.W., WASHINGTON, DC 20202
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

These special conditions describe the responsibilities of the Virgin Islands and its agencies to work with the Agent; Attachment A to these special conditions prescribes the responsibilities of the Agent in administering Department funds. In particular, these special conditions explain that the failure of the Virgin Islands and/or its agencies to comply with any of the special conditions – including working cooperatively and in a timely manner with the Agent to implement the activities described in these special conditions, and notifying the Department if a dispute arises and remains unresolved between the Agent and the Virgin Islands and/or its agencies concerning implementation of the contract or the administration of grant funds – will negatively impact the ability of the Virgin Islands and/or its agencies to continue to receive Department grants.

The Department continues to monitor the working relationship between the Virgin Islands, in particular the Virgin Islands Department of Education (VIDE), and the Agent. It is essential that all agencies in the Virgin Islands, including VIDE, the Virgin Islands Department of Finance (VIDF), the Virgin Islands Department of Health (VIDH), the Virgin Islands Department of Human Services (VIDHS), and the Virgin Islands Department of Property and Procurement (VIDPP) work cooperatively with the Agent and fully comply with these special conditions to ensure fiscal accountability. These Department-wide special conditions on all grants by the Department to the Virgin Islands are in addition to and separate from any programmatic special conditions imposed by the Department under a specific grant.

The special conditions also prescribe requirements for the Virgin Islands to continue to make significant improvements in all aspects of its fiscal management of Department grant funds, including the ongoing development of a Corrective Action Plan (CAP) designed to address tasks not completed previously, as well as any ongoing tasks, and issues identified by the third-party fiduciary as part of its assessment of the Virgin Islands' readiness to reassume management of its Department grant funds. Specifically, the special conditions require VIDE to submit detailed quarterly reports on its progress under the CAP in resolving issues and findings from A-133 single audits and other outstanding ED audits and alert memoranda, and continuing to implement improved fiscal management procedures and controls, including those previously required by the 2002 Compliance Agreement. The special conditions also require the Government of the Virgin Islands (GVI) to provide to the Department, by September 1, 2015, a detailed plan describing the processes and steps that GVI, VIDE, VIDH, and VIDHS must complete in order to provide the necessary evidence and information required for the Department to determine if it can approve the transfer of the fiscal management of Department funds from BCA back to GVI.

Additionally, these special conditions require VIDE's compliance with regulations enforced by the Department's Office for Civil Rights (OCR) and cooperation with OCR on all complaint investigations involving VIDE.

As noted under Section II.H of the conditions, before the Virgin Islands may expend Department grant funds under the grant awards to which these special conditions are attached, the Virgin Islands must incorporate these special conditions as an addendum to the contract signed on June 24, 2010 between the Virgin Islands and BCA.

Please be aware that, in addition to these enclosed special conditions, the Department may impose additional programmatic special conditions on specific grants from the Department, as necessary. Moreover, the Department is prepared to take further steps, beyond these enclosed special conditions and any additional programmatic special conditions, to address any problems of noncompliance, as necessary.

This approach enables us to provide funds to the Virgin Islands, while the Virgin Islands continues its efforts to complete the implementation of systemic improvements. The result we continue to seek is that, with the assistance of the Agent, the Virgin Islands will be able to regain fiscal management responsibilities for, and effectively manage, Department grant programs in the future. The Department continues its commitment to provide essential funding as well as to work closely with you to improve the delivery of Federally supported education and other services, and will continue to provide technical assistance as necessary.

Page 3, Letter to Honorable Kenneth E. Mapp

If you have any questions, please contact me at (202) 245-8278.

Sincerely yours,

Philip A. Maestri
Director, Risk Management Service

Enclosures

Electronic cc:

Honorable Kenneth E. Mapp, Governor
Dr. Sharon McCollum, Commissioner-Designee, Department of Education
Mr. Nellon L. Bowry, Director-Designee, Office of Management and Budget
Ms. Cecilia Milliner-Emanuel, Commissioner-Designee, Department of Property and Procurement
Mr. Valdamier O. Collens, Commissioner-Designee, Department of Finance