Enclosure C

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

June 29, 2016

Honorable Lolo M. Moliga
Governor of American Samoa
Office of the Governor
Executive Office Building
Pago Pago, AS 96799

Dear Governor Moliga:

Enclosed are the special conditions for all grant awards made by the U.S. Department of Education (Department) to the American Samoa Government (ASG) agencies, including, but not limited to, the American Samoa Department of Education (ASDOE) and the American Samoa Department of Health (ASDOH) for Federal Fiscal Year (FFY) 2016. These special conditions also apply to all grants under the following programs awarded to any ASG agencies for FFY 2017: Vocational Rehabilitation (Title I of the Rehabilitation Act of 1973, as amended (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). These special conditions apply to all grants awarded by the Department to ASG on or after the date of these special conditions. These special conditions also apply to all grant funds previously awarded by the Department to ASG that are still available for obligation or liquidation on the date of these special conditions.

The Department has determined that although ASG has made some progress in addressing its systemic internal control deficiencies over the past several years, ASG has not to date demonstrated sufficient progress in implementing corrective measures outlined in its High Risk Corrective Action Plan (HRCAP) to address its numerous deficiencies in grant management and fiscal accountability that ASG needs to address with regard to Department grants. Specifically, ASG continues to demonstrate deficiencies in internal controls in the areas of fixed assets and property management, procurement, supporting documentation, and timely reconciliations of various financial and accounting data to source documents to generate reliable financial reports for management review. Therefore, ASG has not demonstrated full implementation of comprehensive financial and accounting systems that result in fiscal accountability for, and effective administration of, Federal funds.

However, the Department is pleased to acknowledge that, with bond issuance proceeds from the American Samoa Economic Development Authority, ASG has recently initiated a two-year project to upgrade its core financial and accounting system, Integrated Financial and Accounting System (IFAS), to expand IFAS functionalities and capabilities and also to implement various core and essential modules based on business reengineering review process. Successful implementation and maintenance of a comprehensive and reliable financial and accounting system is considered one of the core elements for accomplishing successful fiscal management and administration of Federal grant programs and, therefore, the Department encourages ASG's continued efforts in this endeavor to ensure timely and successful implementation of its core financial and accounting system.

Please note that the special conditions require ASG to report semiannually to the Department on its efforts and initiatives to implement corrective actions and controls in accordance with the HRCAP, including the current status of ASG's implementation of the various measures and, if necessary, any changes in the targeted completion dates and/or person(s) responsible for ensuring that a particular corrective action is implemented. ASG is also required to submit a Payroll Corrective Action Plan (PCAP) internal control maintenance report semiannually on its efforts to ensure that the internal controls, policies and procedures it implemented regarding its payroll and human resources operations are being followed and operating as intended. ASG needs to ensure that its HRCAP reports and PCAP internal control maintenance reports are submitted timely.

Because there are still numerous deficiencies that ASG has not satisfactorily addressed, its status as a "high-risk" grantee under 2 CFR §§ 200.207 and 3474.10 remains in effect until such time as the Department determines that ASG is able to demonstrate that it has fully implemented sustainable financial and internal control systems in general accounting and program administration to satisfy the grant management and fiscal accountability requirements of the Federal education and other grants that it receives from the Department.

We are hopeful that ASG will sustain its progress towards addressing its challenges and deficiencies until all corrective actions have been taken and all deficiencies corrected. We are committed to assisting ASG in making significant improvements in its administration and management of the Department's grant funds and the delivery of Federal education services to the children in American Samoa. If you have any questions or require further assistance, please contact Insuk Chinn at 202-245-8277 or via email at insuk.chinn@ed.gov.

Sincerely,

Philip A. Maestri, Director
Risk Management Service

cc: Lemanu P. Mauga, Lieutenant Governor
Steven H. Watson, Legal Counsel to the Governor
Jerome Ierome, High Risk Coordinator

Enclosure

American Samoa Government – Special Conditions
Federal Fiscal Years (FFY) 2016 and 2017[1]

PREAMBLE: These special conditions are imposed on all program grants issued by the U.S. Department of Education (Department) to all recipient agencies of the Government of American Samoa (ASG) (including, but not limited to, the American Samoa Department of Education (ASDOE) and the American Samoa Department of Health (ASDOH)) on or after the date of these special conditions. These special conditions also apply to all grants under the following programs awarded to any ASG agencies for FFY 2017: Vocational Rehabilitation (Title I of the Rehabilitation Act of 1973, as amended (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). Additionally, the special conditions apply to grant funds previously awarded by the Department to ASG (including, but not limited to, ASDOE and ASDOH) that are still available for obligation or liquidation on the date of these special conditions. These special conditions are applied to these program grants and funds in accordance with regulations governing "high-risk" grantees and special conditions in 2 CFR §§ 200.207 and 3474.10 in the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). The special conditions are imposed to help ensure that ASG's awards are expended in accordance with applicable legal requirements and with appropriate fiscal accountability measures, management practices, and controls.

I. EXPLANATION OF HIGH-RISK STATUS

Under the authority of the Uniform Guidance at 2 CFR §§ 200.207 and 3474.10, the Department has determined that ASG continues to be a "high-risk" grantee for purposes of these grant awards because of problems in ASG's fiscal and program accountability and related areas. Our conclusion is based on the following:

A. The Department continues to be concerned with the significant internal control deficiencies and significant failures in the operation of the internal control structure related to general accounting and grants administration reported in ASG's fiscal year (FY) 2009 single audit; and material weaknesses identified in ASG's FY 2008 single audit and prior year single audits. Due to the seriousness of the deficiencies, the auditors have issued either qualified or disclaimed opinions on both ASG's audited financial statements and the report on Federal program compliance for three consecutive years – FY 2009 through FY 2011. The auditors specifically noted evidence of a failure of identified control in preventing or detecting misstatements of accounting information and a lack of appropriate management oversight, review and approval of transactions. Even though ASG has shown progress in addressing its internal control deficiencies, the fact remains that the systemic internal control failures in ASG's general accounting and program operations demonstrate an overall breakdown of fiscal and operational controls that are intended to protect Federal, as well as local, funds from misuse. Since the breakdown of controls is widespread across ASG, it emphasizes the magnitude of the underlying fiscal and management problems (such as an inadequate system of internal controls to ensure compliance with the following requirements: activities allowed or unallowed; eligibility; allowable cost/cost principles; administrative requirements; standards for financial management systems; grant payment requirements; claims for

[1] These special conditions are considered FFY 2017 special conditions only for purposes of the following programs: Vocational Rehabilitation, Supported Employment, Client Assistance, Protection and Advocacy of Individual Rights, and Independent Living Services for Older Individuals Who Are Blind. For all other programs to which they apply, they are considered FFY 2016 special conditions.

reimbursement; equipment and real property management; retention and access requirement for records; special provisions; procurement and suspension and disbarment; matching, level of effort, and earmarking; and significant failures in the operation of the internal control structure related to general accounting and grants administration). During FFY 2011, the Department determined that significant delays in the procurement process had led to failure to provide services and ensure timely evaluations during FFY 2009 under Part C of the Individuals with Disabilities Education Act (IDEA). All of the foregoing supports the Department's continued concerns about ASG's ability to properly administer and provide services with Department funds.

B. The Single Audit Act of 1984, as amended, requires single audits to be completed and the report published within nine months after the end of each fiscal year. Over a period of many years, ASG had submitted its single audits significantly late or had not submitted them at all. ASG appears to have remedied the problems causing it to submit its single audits late, as evidenced by the timely submission of its FY 2008 and 2009 single audits. However, there was still a problem with the Territory Office of Fiscal Reform providing timely information to the single auditor so that future audits could be submitted timely. This issue contributed to the late submissions of the FY 2010, FY 2011, and FY 2012 single audits to the Federal Audit Clearinghouse on July 29, 2011, August 31, 2012, and August 2, 2013, respectively. ASG's FY 2013 and FY2014 single audits were completed and the reports were published within the nine months after the end of the fiscal year, and ASG needs to consistently demonstrate its ability to have its single audits completed and issued in a timely manner.

C. Based on the outcome of the onsite visit conducted by the Risk Management Service in August 2013, and continued monitoring of ASG's progress in addressing corrective measures outlined in its High Risk Corrective Action Plan (HRCAP), the Department determined that ASG had made some progress in instituting corrective actions to address its systemic internal control deficiencies; however, there are still numerous deficiencies in grant management and fiscal accountability that ASG needs to address with respect to its administration of grants awarded by the Department. ASG continues to demonstrate deficiencies in internal controls in the areas of fixed assets and property management, procurement, supporting documentation, timely reconciliation of various financial and accounting data to generate reliable financial reports for management review, and timely submission of required reports (e.g., ASG has failed to file required reports for some Rehabilitation Act programs). Therefore, ASG has not demonstrated full implementation of comprehensive financial and accounting systems that result in fiscal accountability for, and effective administration of, Federal funds. To this end, ASG's single audits for the past several years continue to identify these as areas demonstrating significant deficiency or material weakness in internal controls. Accordingly, the Department is again imposing these special conditions for FFY 2016 and 2017, as set forth below.

II. SPECIAL CONDITIONS

A. High Risk Corrective Action Plan

1. In accordance with section II.C of the FFY2007 special conditions and section II.B of the FFY 2008 special conditions, ASG developed and obtained Department approval of a comprehensive HRCAP that outlines measures that ASG must implement to address and resolve the problems that led to its designation as a high-risk grantee and that will assist ASG and the Department in tracking ASG's progress in addressing and resolving these problems. The Department notified ASG in a letter dated October 7, 2008, that it had approved the HRCAP that ASG submitted. ASG must continue its work toward implementing all corrective

actions in the HRCAP. In the event that the Department or ASG determines that additional measures are required in the HRCAP to address the fiscal administrative deficiencies described in section I.A above, ASG must amend the HRCAP to include such measures, obtaining the Department's approval before proceeding with the additional measures.

ASG is required to provide a semiannual report to the Department on its progress in implementing measures required under the HRCAP. The semiannual reports must include the current status of ASG's implementation of the various measures, including a description of activities and progress for each task during the reporting period, documentation of measures of performance and results, and other data or documentation as specified within the action steps for each task, and, if necessary, any changes in the targeted completion dates and/or person(s) responsible for ensuring that a particular corrective action is implemented. In addition, the semiannual report must include a description of ASG's progress on the upgrade of its core financial and accounting system, Integrated Financial and Accounting System (IFAS), and provide specific examples of the manner in which expanded IFAS functionalities and capabilities are assisting ASG in implementing measures required under the HRCAP and in addressing the fiscal and management deficiencies identified in paragraph I.A above. ASG must include in each semiannual report all edits and updates from each of its departments into one consolidated HRCAP report.

2. ASG must submit the HRCAP reports to the Department no later than thirty days after the end of each semiannual period. Therefore, semiannual reports shall be submitted to the Department by April 30th for the period covering October 1st to March 31st and by October 31st for the period covering April 1st to September 30th. ASG must ensure that its HRCAP reports are submitted timely. If a report is not timely or is not considered acceptable by the Department, it may result in the Department taking one or more remedies, including the following, for any applicable program(s): the reinstatement of quarterly reporting; the imposition of further conditions; the recovery of misspent funds; or the implementation of a contract with a third party to provide services.

3. Until such time as all of the corrective actions in the HRCAP referenced in paragraphs A.1 and A.2 above have been implemented and deficiencies and material weaknesses addressed, semiannual HRCAP reports will continue to be required as stipulated in paragraph A.2 above.

B. Payroll Attestation Corrective Action Plan

1. Because of ASG's high-risk status and demonstrated risk to Federal program funds, as noted in a number of its single audits, and in conjunction with the Department's serious concerns regarding payroll inaccuracies and reporting affecting Department grant funds, the FFY 2007 special conditions required ASG to undergo an Attestation administered by an independent public accountant, covering all ASG employees paid with Department grant funds. R.C. Holsinger Associates (RCHA), P.C. Certified Public Accountants, conducted the Attestation in February/March 2008 and issued a final report to the Department that identified significant problems in the manner in which ASG accounts for Federal funds used for payroll costs and indicated that ASG is not in compliance with Federal requirements for using Federal funds for payroll costs.

2. Because of the significant problems identified in the attestation and their impact on the expenditure of Department grant funds for payroll cost, ASG was required to develop a payroll corrective action plan (PCAP) to address all deficiencies cited in RCHA's Attestation report. The Department approved the PCAP on March 16, 2009. The PCAP was used by ASG (and

monitored by the Department) to develop and implement internal controls, policies and procedures to eliminate the significant deficiencies identified by the Attestation and to bring ASG into compliance with Federal requirements for using Department grant funds for payroll costs. Because ASG demonstrated to the Department that it had addressed the internal control deficiencies and material weaknesses outlined in the PCAP, ASG was no longer required as of the FFY 2011 special conditions to report quarterly to the Department on its efforts and initiatives to implement corrective actions and controls in accordance with the PCAP. However, ASG must continue to submit semiannually a PCAP internal control maintenance report that outlines its efforts to monitor its payroll operations and internal controls to ensure that they are operating as intended. ASG's PCAP internal control maintenance reports must include the following information, at a minimum, in narrative form:

- The current status of ASG's monitoring efforts of its payroll and human resources operation, including a description of activities it has engaged in during the semiannual period;
- any internal control weaknesses identified in its policies and procedures related to the operation of its payroll and human resources operations;
- a narrative explanation of what caused the internal control weaknesses/failure;
- a description of the action(s) taken to correct the internal control deficiencies identified during its monitoring operations; and
- copies of all revised policies and procedures and any other documentation (e.g., policies, forms, evidence of training, etc.) that support ASG's monitoring efforts.

ASG must submit the PCAP internal control maintenance reports to the Department no later than thirty days after the end of each semiannual period. Therefore, semiannual PCAP internal control maintenance 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 31th

ASG must ensure that its PCAP internal control maintenance reports are submitted timely. If a report is not timely or is not considered acceptable by the Department, it may result in the Department taking one or more remedies, including the following, for any applicable program(s): the imposition of further conditions; the recovery of misspent funds; or the implementation of a contract with a third party to provide services.

C. Single Audits

ASG shall continue to ensure that single audits are conducted and reports are submitted on an annual basis in a timely and complete manner. As such, ASG must complete its FY 2015 single audit and submit it to the Federal Audit Clearinghouse by June 30, 2016, in accordance with the Single Audit Act of 1984, as amended, which requires single audits to be completed and the report published within nine months after the end of each fiscal year. The Department will continue to rely on ASG's single audits, along with monitoring conducted by the Department, to perform oversight of ASG's administration of Department grants. If, for any reason, ASG expects an audit or report to be delayed, it shall notify the Department of the reason and extent of the delay as soon as possible. Based on the information provided, the Department may take one or more remedies including, but not limited to, the imposition of further conditions, the recovery of misspent funds, or the implementation of a contract with a third party to provide services.

D. Program-Specific Conditions

Special conditions may be imposed on FFY 2016 grant awards (or FFY 2017 grant awards for Rehabilitation Act programs) made under one or more Department programs, in addition to these special conditions that are contained in this document. Each such program-specific special condition will be contained in a separate attachment to the grant award notification document provided by the Department to ASG.

E. Prompt Access

ASG shall promptly provide the Department, and/or its representatives, with access to any requested staff, locations, records, and information associated with Federal and matching funds related to programs administered by the Department.

F. Failure to Comply with Conditions

In addition to the remedies described in Sections II.A-C above, if the Department determines that ASG has not made substantial progress in meeting the objectives of the programs, or has not met program requirements or the special conditions contained in Sections II.A-E above, then the Department may consider not continuing the grant(s), taking further enforcement action steps, or applying additional conditions such as, but not limited to, the following:

1. ASG would receive no further funds under the grant award(s) or only on a reimbursement basis;
2. ASG would be required to prepare and submit a separate corrective action plan for each program in which problems have occurred or in which there is insufficient progress; and
3. ASG would contract with a third party, who must be approved by the Department, to provide services or financial management under the grant award(s). The third party would, at a minimum, assist in preparing the vouchers to be submitted to the Department for reimbursement, and would verify their accuracy and legitimacy as an appropriate expenditure under the grant award(s).

III. OTHER TERMS

A. Enforcement

If ASG fails to meet any of the above special conditions, the Department is authorized to take other appropriate enforcement action. These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement or other actions at any time.

B. Submission of Reports

All reports and plans (including with respect to the HRCAP and PCAP) that are required to be submitted by ASG to the Department under these special conditions shall be submitted to:

Insuk Chinn
Risk Management Service, Management Improvement Team
Office of the Deputy Secretary

U.S. Department of Education
550 12th Street, S.W.
Room 11057
Washington, D.C. 20202

C. Reconsideration and Modifications

At any time, ASG may request reconsideration of the above special conditions by contacting the Department and stating reasons why ASG believes particular conditions are no longer needed. Additionally, 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 ASG meets, to the Department's satisfaction, the conditions contained herein.

Dated: June 29, 2016