

**Virgin Islands Department of Health – Special Conditions for
FFY 2016 IDEA Part C Grant
Enclosure C**

I. Basis for Requiring Special Conditions

Pursuant to IDEA sections 616(g) and 642 and 2 CFR §§ 200.207 and 3474.10, the U.S. Department of Education’s (the Department’s) Office of Special Education Programs (OSEP) is designating the Virgin Islands Department of Health (VIDH) as a “high risk” grantee and imposing Special Conditions on VIDH’s Federal Fiscal Year (FFY) 2016 grant award under Part C of the Individuals with Disabilities Education Act (IDEA Part C) to ensure that VIDH continues to use its third party agent, Lutheran Social Services (LSS), and to ensure prompt payment of early intervention service (EIS) providers that are vendors that provide IDEA Part C services to infants and toddlers with disabilities and their families in the Virgin Islands. These Special Conditions are imposed because the Virgin Islands’ (VI’s) Government and VIDH have not demonstrated that they have instituted procedures for ensuring that the EIS providers, vendors that provide IDEA Part C services, are paid in a timely manner (to ensure uninterrupted provision of early intervention services to infants and toddlers with disabilities and their families) without using a third party financial management contractor.

Although these Special Conditions are attached to VIDH’s FFY 2016 IDEA Part C grant award, the Department recognizes the importance of VIDH’s coordination with, and cooperation from, the VI Office of Management and Budget, the VI Office of Personnel, the VI Office of Finance, and the third party agent under contract with the VI Government¹ in order for VIDH to ensure the timely provision of early intervention services to infants and toddlers with disabilities and their families as required under Part C of IDEA. By accepting its FFY 2016 IDEA Part C grant, VIDH agrees to comply with the following special conditions.

II. Nature of the Special Conditions

A. Contract to Ensure Timely Liquidations and Disbursements

1. Requirement to Maintain Contract/Approval Before Modification. VIDH must continue its contract with the financial management contractor, LSS, with the contract terms approved by the Department on July 31, 2002. If VIDH wishes to amend its contract with LSS, VIDH must submit a written request with draft contract language and a new contract may not be implemented by VIDH until the Department has provided written approval.
2. Contract Provisions. The contract must include the following provisions.
 - a. The contractor’s role is limited to processing payments and disbursements and maintaining financial records and reporting as required under the Office of Management and Budget (OMB) Uniform Guidance, codified in 2 CFR Part 200 and the Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 76. VIDH, and not the contractor, is responsible for approving the reasonableness and necessity of any proposed payments and

¹ A separate enclosure to this Part C FFY 2016 grant award requires the VI Government to obtain a separate third party agent (not LSS) for all of the Virgin Islands’ grants from the U.S. Department of Education to ensure its fiscal management responsibilities due to other fiscal management problems of the VI Government not specific to VIDH’s IDEA Part C grant.

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for any recruiting, hiring, evaluating, licensing, and IDEA Part C general supervision responsibilities, including monitoring of IDEA Part C vendors or EIS providers of goods and services for the IDEA Part C program.

- b. During the duration of the contract, the contractor must maintain adequate liability insurance to cover all potential liability and loss from misfeasance and/or malfeasance by the contractor and/or its employees. Such insurance must be consistent with the requirements of Virgin Islands' law.
- c. At the beginning of the contract period, and prior to any liquidations by VIDH from the Department of FFY 2016 IDEA Part C funds, or disbursements of any such funds by the contractor, VIDH must provide the contractor with a line item budget for the total amount of the IDEA Part C grant to be used by the contractor to track projected and actual expenditures for the IDEA Part C program.
- d. Prior to any liquidations or disbursements, the contractor must establish, maintain and utilize a separate bank account for IDEA Part C program funds. Any and all Part C funds that VIDH liquidates must be deposited directly into this account. The contractor will be responsible for disbursing any and all Part C funds from that account pursuant to approved payment requests submitted by VIDH. Any interest earned by, or unclaimed funds remaining in such account must be returned to the Department at least annually. Interest amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. (See, 34 CFR § 200.305(b)(9)).

However, as long as VIDH continues to expend its IDEA Part C funds within three business days from the time that VIDH liquidates the funds from the Department (i.e., the funds are obligated and liquidated by VIDH), the Department will not require that an interest-bearing bank account be maintained. Any interest liability for delayed payments for expenditures by VIDH shall be determined under the OMB Uniform Guidance, codified in 2 CFR §§ 200.300 through 200.309 (fiscal management requirements) and the Cash Management Improvement Act.

- e. Prior to any liquidations or disbursements, VIDH and the contractor must follow established procedures and timelines for prompt and timely liquidations by VIDH and disbursements by the contractor consistent with Federal requirements that disbursements occur within 3 business days of draw downs or liquidations and the requirements below.
- f. VIDH will continue to present approved requests to the contractor for processing and payment no later than 14 business days from the date of the receipt by VIDH of a notice of an account payable that is an allowable expense under IDEA Part C, or earlier if needed to ensure timely payment to one or more Part C vendors or providers.
- g. VIDH and the contractor will continue to coordinate the timing of liquidations and disbursements to ensure that payments to IDEA Part C staff, vendors and EIS providers are prompt and timely. VIDH will draw down sufficient IDEA

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Part C funds to cover each approved request for payment into the separate account.

- h. Disbursements must occur no later than 28 business days from the date of the receipt of an account payable that is an allowable expense under IDEA Part C, which includes the above-referenced 14 business days for VIDH to present requests for payment to the contractor and 14 business days for VIDH and the contractor to coordinate draw downs and disburse funds, or earlier than 28 business days if needed to ensure timely payment to one or more vendors or providers.
- i. All transactions under the contract are consistent with all applicable Federal grant management requirements, as reflected in the OMB Uniform Guidance, codified in 2 CFR §§ 200.300 through 200.309 (fiscal management requirements) and 200.317 through 200.326 (procurement requirements) and 34 CFR Part 76.500 through 76.583.
- j. The contractor will continue to maintain financial records in accordance with Federal requirements and produce quarterly reports for VIDH detailing: a) the date of its receipt of, and the amount of, each approved payment request; b) the date and amount of each liquidation deposit; c) the date and amount of each payment or disbursement by the contractor; and d) any interest or other funds remaining in the account at the end of the quarter. These amounts must also be grouped by and comparable with the projections in the line item budget listed above.
- k. Any other such terms, consistent with items a-j above, as the parties believe are necessary to ensure timely drawdowns and payments to staff, providers and vendors under the IDEA Part C program.

B. Financial Reports

VIDH must provide two reports due on February 1, 2017 (with VIDH's FFY 2015 APR submission) and May 1, 2017, and provide in each report:

- 1) The total number of disbursements made through the reporting date;
- 2) For all disbursements included in number 1, the number of business days between the receipt of each account payable and the date of disbursement to the vendor for that account;
- 3) The average number of business days for all disbursements during the reporting period (the total number of business days listed in number 2 divided by the total number of disbursements listed in number 1);
- 4) An analysis of the causes for, and plan to reduce the number of, any disbursements made more than 30 business days after receipt of an account payable; and
- 5) The amount of any interest or other funds remaining in the Part C account at the end of the reporting period (grouped by, and comparable to, the projections in the line item budget for the Part C program).

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III. Evidence Necessary for Conditions To Be Removed

The Department will remove the Special Conditions during FFY 2016 if VIDH provides documentation, satisfactory to the U.S. Department of Education (the Department), that it has in place its own procedures to ensure the timely payment of IDEA Part C vendors and EIS providers as set forth above.

IV. Method of Requesting Reconsideration

VIDH may write to OSEP's Acting Director, Ruth E. Ryder, at the address below, if it wishes the Department to reconsider any aspect of these FFY 2016 IDEA Part C Special Conditions. The request must describe in detail the changes to the Special Conditions sought by the Virgin Islands and the reasons for those requested changes.

V. Submission of Reports

VIDH must submit all reports required under these Special Conditions to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn.: Jennifer Miley
400 Maryland Avenue, S.W.
Washington, D.C. 20202-2550
By email: jennifer.miley@ed.gov