



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

July 1, 2019

Honorable Raquel Berry-Benjamin
Commissioner of Education
Virgin Islands Department of Education
1834 Kongens Gade
St. Thomas, Virgin Islands 00802

Dear Commissioner Berry-Benjamin:

We have approved Virgin Island's application for Federal Fiscal Year (FFY) 2019 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our approval is based on our review of the IDEA Part B application submitted by the Virgin Islands Department of Education (VIDE) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on May 10, 2019, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A.

VIDE's FFY 2019 IDEA Part B grant award is also being released subject to the Department-wide Specific Conditions placed on all Departmental grants awarded to VIDE in order to ensure that the VIDE is managing and administering Department funds in accordance with applicable Federal requirements and the appropriate fiscal accountability measures and management practices and controls. The specific reasons for doing so and the specific conditions are detailed in Enclosure C. 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 the FFY 2019 Specific Conditions, is continuing to require VIDE to use a third-party fiduciary agent to perform the financial management duties required under 34 CFR parts 75 and 76, and the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), 2 CFR Part 200, for all Department grant awards.

Please note that as part of your application for FFY 2019, VIDE has provided a certification, pursuant to 34 CFR §76.104, that its application meets the requirements of IDEA Part B and that VIDE will operate its Part B program in accordance with all of the required assurances and certifications. Any changes made by VIDE, after OSEP approval, to information that is a part of VIDE's Part B application, must meet the public participation requirements in 34 CFR §300.165.

Enclosed is VIDE's FFY 2019 grant award for funds currently available under the Department of Education Appropriations Act, 2019 (Title III of Division B, Public Law 115-245) for the IDEA Part B Section 611 (Grants to States) program. These funds are available for obligation by States and entities from July 1, 2019, through September 30, 2021, in accordance with 34 CFR §76.709.

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

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The amount shown in your award for the Section 611 program is only part of the total funds that will be awarded to you for FFY 2019. Of the \$12,364,392,000 appropriated for Section 611 in FFY 2019, \$3,081,009,000 is available for awards on July 1, 2019, and \$9,283,383,000 will be available for awards on October 1, 2019.

Enclosure B provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure B shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations.

Under Section 608(a)(2) of the IDEA, each State that receives funds under IDEA Part B is required to inform in writing local educational agencies located in the State of any State-imposed rule, regulation, or policy that is not required by IDEA or Federal regulations. A State may use the same list of State-imposed rules, regulations, and policies that it was required to submit to the Department in Section IV of its IDEA Part B application for this purpose.

In Section V of its IDEA Part B application, pursuant to the authority in IDEA Section 618(a)(3), the VIDE was required to submit data on the total amount of the VIDE financial support made available for special education and related services for children with disabilities in VIDE's State fiscal year (SFY) 2017 and SFY 2018. If OSEP receives information through audits, fiscal monitoring or other means that raises questions about the data VIDE has provided in Section V, OSEP will follow-up with VIDE.

Section 604 of the IDEA provides that "[a] State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this [Act]." Section 606 provides that each recipient of assistance under the IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant, VIDE is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

The enclosed grant award of FFY 2019 funds is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part B.

As a reminder, all prime recipients of IDEA Part B funds must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <https://www.ftrs.gov/>. Please contact your State's Fiscal Accountability Facilitator if you have further questions.

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We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,

/S/

Laurie VanderPloeg
Director
Office of Special Education Programs

Enclosures

Enclosure A

Enclosure B

Enclosure C - Specific Conditions

cc: State Director of Special Education

State Name: Virgin Islands

Enclosure A

Section II

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<p>Yes <i>(Assurance is given.)</i></p>	<p>No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i></p>	<p>Assurances Related to Policies and Procedures</p>
<p>X</p>		<p>1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.</p>
<p>X</p>		<p>2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)</p>
<p>X</p>		<p>3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.</p>
<p>X</p>		<p>4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)</p>
<p>X</p>		<p>5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes,</p>

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
X		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C); 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility

Yes <i>(Assurance is given.)</i>	No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i>	Assurances Related to Policies and Procedures
		Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. <i>(Note: Check either "23b.1" or "23b.2" whichever applies.</i>
X		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: <ul style="list-style-type: none"> • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State is providing the following certifications:

Yes	
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i>, the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

Enclosure C



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF FINANCE AND OPERATIONS
OFFICE OF GRANTS ADMINISTRATION

June 28, 2019

The Honorable Albert Bryan Jr., Governor
Office of the Governor
No. 21 Kongens Gade
Charlotte Amalie
St. Thomas, Virgin Islands 00802

Dear Governor Bryan,

The purpose of this letter is to convey to you the enclosed specific 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) 2019. These specific conditions also apply to all Department grants under the following programs awarded to any Virgin Islands agencies for FFY 2020: 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 specific conditions will apply to all grants awarded by the Department to the Virgin Islands on or after the date of these specific conditions. These specific 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 specific conditions.

These grant awards are made in accordance with applicable regulations governing specific conditions and "high-risk" grantees in 2 CFR §§ 200.207 and 3474.10, and these specific conditions are imposed because the Virgin Islands has not been able to demonstrate that it has the capacity to ensure fiscal management of Department grant funds in order to ensure compliance with Federal grant requirements and fiscal accountability without the use of a third-party fiduciary agent.

Since August 25, 2006, in accordance with specific conditions each year, the Virgin Islands has contracted with a third-party fiduciary agent (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), 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). This contract ended on June 30, 2016, but the Virgin Islands and BCA have extended the contract, and it remains in effect as of the date of these specific conditions. The services of an Agent, acceptable to the Department, 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 specific conditions, will continue to require the Virgin Islands to use an Agent to perform the financial management duties required under 34 CFR Parts 75 and 76 and 2 CFR Part 200 for all Department grant awards.

These specific conditions describe the responsibilities of the Virgin Islands and its agencies to work with the Agent, and Attachment A to these specific conditions prescribes the responsibilities of the Agent in administering Department funds. In particular, these specific conditions explain that the failure of the Virgin Islands and/or its agencies to comply with any of the specific conditions – including working cooperatively and in a timely manner with the Agent to implement the activities described in these specific 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.

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), the Virgin Islands Department of Property and Procurement (VIDPP) and the Virgin Islands Office of Management and Budget (VIOMB) work cooperatively with the Agent and fully comply with these specific conditions to ensure fiscal accountability. These Department-wide specific conditions on all grants by the Department to the Virgin Islands are in addition to, and separate from, any programmatic specific conditions imposed by the Department under a specific grant.

These specific 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 ongoing updates to the Corrective Action Plan (CAP) designed to address tasks not completed under previous versions of the CAP, as well as any ongoing tasks, and issues identified by the Agent as part of its assessment of the Virgin Islands' readiness to reassume management of the Federal funds awarded by the Department.

In July 2015, the Virgin Islands Post Compliance Agreement Task Force (PCAT) implemented the Federal Grants Specialized Processing Unit (FGSPU)/Self Contained Model (SCM) as the approach for coordinating financial management across GVI agencies. Further, in May 2019, the

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VIOMB and the TPFA, Bazilio, Cobb and Associates developed the SCM Transition Implementation Plan (Plan) which was presented to ED as the proposed multi-phased strategy for reassuming financial oversight of Department grant funds.

The Plan proposes six (6) phases and the subsequent activities and timelines are as follows:

1. Phase 1: Build out infrastructure and hire staff for the SCM (5/1/19 – 7/31/19)
2. Phase 2: Train and build capacity (6/1/19 – 9/30/19)
3. Phase 3: Operate with joint leadership (10/1/19 – 12/31/19)
4. Phase 4: Oversight and report (1/1/20 – 4/30/20)
5. Phase 5: Validate and monitor (8/1/19 – 4/30/20)
6. Phase 6: ED phase review and validation (7/31/19 – 7/31/20)

The Department will monitor the progress of the Plan to determine if the proposed activities and timelines are being met. At such time as when the Plan is fully implemented, the Department will make a final determination as to whether the Virgin Islands, VIDE and VIDHS have demonstrated the capacity to ensure fiscal management of these funds without the services of an Agent.

Under these specific conditions, the Virgin Islands, VIDE, VIDHS and VIOMB must revise the CAP framework and subsequent quarterly CAP report submissions to fully and clearly reflect the role and responsibilities of the FGSPU/SCM and the current status of each phase and activity as referenced in the Plan, that they are undertaking to build and maintain this capacity within the Virgin Islands and VIDE and VIDHS. More specifically, the Virgin Islands, VIDE, VIDHS and VIOMB must update the CAP to include, among other things, the tasks and actions to be completed as part of the Virgin Islands' implementation of the FGSPU/SCM and any other initiatives that they are undertaking to build fiscal management capabilities and capacity within the Virgin Islands and VIDE. The specific conditions also require the Virgin Islands to submit detailed quarterly reports on its progress under the CAP in fully implementing the Plan and any other initiatives, tasks, and actions, resolving any issues and findings from A-133 single audits, as well as any other outstanding ED Office of Inspector General (OIG) audits and/or alert memoranda, and continuing to implement improved fiscal management procedures and controls, including those previously required by the 2002 Compliance Agreement. The responsibilities undertaken by the Agent as prescribed under the specific conditions may not be carried out by, or transferred to, the FGSPU/SCM or any other Virgin Islands entity or unit until such time as the Department has given approval after determining that the Virgin Islands and VIDE have demonstrated the capacity to ensure fiscal management of Department funds without the services of an Agent.

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

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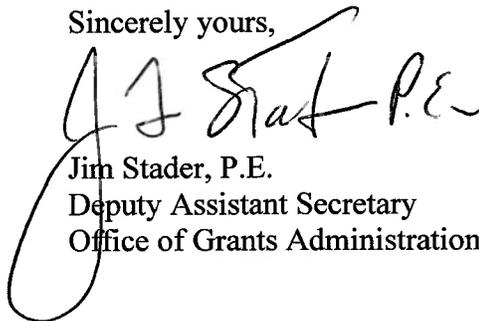
As noted under Section II.I of the conditions, before the Virgin Islands may expend Department grant funds under the grant awards to which these specific conditions are attached, the Virgin Islands must incorporate these specific conditions as an addendum to the now-extended contract signed on June 12, 2019 between the Virgin Islands and BCA and, if subsequently appropriate, a contract with any new Agent.

Please be aware that, in addition to these enclosed specific conditions, the Department may impose additional programmatic specific conditions on specific grants from the Department, as necessary. Moreover, the Department is prepared to take further enforcement actions beyond these enclosed specific conditions and any additional programmatic specific 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 and maintain 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 providing essential funding as well as to working closely with you to improve the delivery of Federally supported education programs and other services and will continue to provide technical assistance as needed and/or requested.

If you have any questions, please feel free to contact me at (202) 245-6036 or at jim.stader@ed.gov.

Sincerely yours,



Jim Stader, P.E.
Deputy Assistant Secretary
Office of Grants Administration

Enclosures

Electronic cc:

Honorable Albert Bryan Jr., Governor

Mrs. Racquel Berry-Benjamin, Commissioner, Department of Education

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Ms. Jenifer O'Neal, Director, Office of Management and Budget

Mr. Anthony Thomas, Commissioner, Department of Property and Procurement

Mr. Kirk Callwood, Sr., Commissioner, Department of Finance

Ms. Justa Encarnacion, Commissioner, Department of Health

Mrs. Kimberly Causey-Gomez, Commissioner, Department of Human Services

U.S. Virgin Islands
Virgin Islands Department of Education
Virgin Islands Department of Health
Virgin Islands Department of Human Services
Federal Fiscal Year (FFY) 2019 and 2020¹ Specific Conditions

PREAMBLE: These specific conditions are imposed on all program grants made available by the U.S. Department of Education (Department or ED) to the U.S. Virgin Islands (Virgin Islands), the Virgin Islands Department of Education (VIDE), the Virgin Islands Department of Health (VIDH), and the Virgin Islands Department of Human Services (VIDHS) on or after the date of these specific conditions. Additionally, these specific conditions apply to all grant funds previously awarded by the Department to the Virgin Islands, VIDE, VIDH and VIDHS that are still available for obligation or liquidation on the date of these specific conditions, including the Project School Emergency Response to Violence (Project SERV) grant awarded under section 4631 of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (ESEA), and the Immediate Aid to Restart School Operations (Restart) program as authorized by the Bipartisan Budget Act of 2018.

These grant awards are made in accordance with regulations governing specific conditions and “high-risk” grantees 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). These specific conditions are imposed because, as explained further below, the Virgin Islands has not been able to demonstrate that it has the capacity to ensure fiscal management of Department grant funds in order to ensure compliance with Federal grant requirements and fiscal accountability without the use of a third-party fiduciary agent. Therefore, these specific conditions are imposed to help ensure that grant funds awarded by the Department to the Virgin Islands, VIDE, VIDH, and VIDHS are expended in accordance with applicable legal requirements and the appropriate fiscal accountability measures and management practices and controls.

I. BACKGROUND

As a result of serious, systemic and recurring deficiencies in the administration of ED programs by the Virgin Islands, in 2002 the Department entered into a three-year Compliance Agreement (Agreement) with the Virgin Islands. Under the terms of the Agreement, the Virgin Islands

¹ These specific conditions are considered FFY 2020 specific conditions only for purposes of the following programs: 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 Independent Living Services for Older Individuals Who Are Blind (Title VII, Chapter 2 of the Rehabilitation Act) (collectively, Rehabilitation Act programs). For all other programs to which they apply, they are considered FFY 2019 specific conditions.

agreed to develop integrated and systemic solutions to address problems identified in the management of ED funds and programs, so that the Virgin Islands would be fiscally accountable in managing these programs, and would administer and implement the programs in a manner that would benefit people in the Virgin Islands, in accordance with Federal requirements.

In a letter dated March 31, 2005 from former Department Under Secretary Edward R. McPherson to former Virgin Islands Governor Charles W. Turnbull, the Department notified the Virgin Islands of its concerns regarding the limited progress that the Virgin Islands had made in meeting the goals of the 2002 Compliance Agreement, and required the Virgin Islands to demonstrate why the Department should not begin to take immediate remedial action under the terms of the Agreement. Based on the response from former Governor Turnbull submitted by the Virgin Islands in a letter dated April 15, 2005, the Department concluded, in a June 17, 2005 letter from former Under Secretary McPherson, that the Virgin Islands had failed to meet, on a timely basis, key terms and conditions of the Agreement that were critical to successful compliance and would not be able to meet all of the terms and conditions by the time the Agreement ended on September 23, 2005. In particular, there was a significant lack of progress on the part of the Virgin Islands in developing and implementing a credible financial management system (CFMS) – the cornerstone of the Virgin Islands’ financial management improvements that are critical to its ability to manage ED funds consistent with applicable Federal regulations concerning fiscal accountability and funds management. Under Section II.A of the Agreement concerning the application of additional special conditions, in September 2005, the Department imposed special conditions upon the Virgin Islands’ grant awards, requiring the Virgin Islands to procure the services of a third-party fiduciary agent, acceptable to and approved by the Department, to perform the financial management duties required under Federal regulations for all Department grant awards made to the Virgin Islands.

In 2006 through 2018, with the required third-party fiduciary agent in place, the Department again imposed specific conditions upon all Department grant awards to the Virgin Islands, requiring the third-party fiduciary to perform the financial management responsibilities for all Department grant funds awarded to the Virgin Islands and available for obligation and liquidation. Because the Virgin Islands has not yet demonstrated that it has implemented effectively its own procedures for resolving the serious and deeply systemic fiscal deficiencies that led the Department to require a third-party fiduciary agent, the Department is continuing these specific conditions on all Department grant awards made to the Virgin Islands, except as expressly otherwise noted in this document. These conditions are set forth in further detail below. In addition, because the Virgin Islands has not met the requirements in former Part 80 of the Education Department General Administrative Regulations (EDGAR), and now the Uniform Guidance in 2 CFR Part 200, regarding the management of Department funds by States, these specific conditions require the Virgin Islands to comply with the provisions of the Uniform Guidance in 2 CFR Part 200 that apply to grantees other than States.

II. SPECIFIC CONDITIONS

A. Requirement for the Virgin Islands, VIDE, VIDH, and VIDHS to Use a Third-Party Fiduciary Agent and Responsibilities for Administration of Grant Funds

In order to continue to receive Department funds, the Virgin Islands must have a third-party fiduciary agent (Agent) in place (i.e., under contract and capable of performing all duties and responsibilities thereunder), and acceptable to the Department, to administer all Department grant funds that are available to the Virgin Islands for obligation or liquidation. As required by the special conditions imposed on ED grants awarded to the Virgin Islands in September 2005, on August 25, 2006, the Virgin Islands entered into a contract with Alvarez & Marsal (A&M), an Agent approved by the Department. The contract with A&M had a termination date of April 25, 2009.

On June 24, 2010, the Virgin Islands entered into a contract with Thompson, Cobb, Bazilio, and Associates, now known as Bazilio, Cobb, and Associates (BCA) to serve as the new Agent. BCA officially assumed the duties of the third-party fiduciary on September 2, 2010 after a formal transition meeting between representatives from ED (Risk Management Service and Office of the Inspector General), the Virgin Islands, VIDE, VIDH, VIDHS, and the Virgin Islands Departments of Finance (VIDF) and Property and Procurement (VIDPP). The Virgin Islands, and all of its agencies, including VIDE, VIDHS, VIDH, VIDF, VIDPP, and the Virgin Islands Office of Management and Budget (VIOMB) must adhere to the specific conditions described in this Section II.A under the contract with BCA.

The contract with BCA ended on June 30, 2016, and the Virgin Islands and BCA extended the contract first through October 30, 2018 and more recently, through October 31, 2019. The Department does not and will not authorize the obligation, liquidation and/or expenditure of Department funds unless an Agent is in place, and operating under a fully executed contract, for the full period of these specific conditions.

In working with the Agent, the Virgin Islands must do the following:

1. The Virgin Islands and all of its agencies including VIDF, VIDPP, VIOMB, VIDE, VIDH, and VIDHS must work cooperatively and in a timely manner with the Agent to implement the activities and responsibilities described in these specific conditions. The Virgin Islands and its agencies, including VIDF, VIDPP, VIOMB, VIDE, VIDH, and VIDHS, acknowledge that regular communication among the Virgin Islands, the Department, and the Agent is necessary to ensure proper financial management of grant funds, consistent with approved grant applications, budgets, and applicable program statutes, regulations and the cost principles in 2 CFR Part 200, Subpart E. Therefore, the Virgin Islands and its agencies, including VIDF, VIDPP, VIOMB, VIDE, VIDH, and VIDHS, agree that, as the Department deems necessary and appropriate, the Department shall include the Agent in communications, both written and oral, between the Virgin Islands and the Department. VIDE also agrees that, with respect to the Consolidated Grant to

Insular Areas (Consolidated Grant), VIDE must consult with, and obtain assistance from, the Agent in preparing the budgets that accompany the annual Consolidated Grant application.

2. The Virgin Islands and its agencies, including VIDF, VIDPP, VIOMB, VIDE, VIDH, and VIDHS, must permit, in a timely manner, the Agent's personnel to have access to all financial books, records, and reports related to funds made available to the Virgin Islands, VIDF, VIDPP, VIDE, VIDH and VIDHS by the Department, or used to meet matching requirements, and access to Virgin Islands, VIDF, VIDPP, VIDE, VIDH, and VIDHS personnel for discussion regarding the services the Agent must perform under these specific conditions, as provided for in the contract between the Virgin Islands and the Agent.
3. The Virgin Islands, VIDE, VIDH and VIDHS must notify the Department when any dispute arises and remains unresolved between the Agent and the Virgin Islands, VIDE, VIDH, VIDHS or VIOMB concerning the implementation or continuation of the contract with the Agent, or the implementation of activities supported by Department grants, including the financial management of grant funds. The Virgin Islands, VIDE, VIDH, VIDHS and the VIOMB agree to the Department's assistance in the resolution of any such unresolved dispute and agree that this assistance may require compliance with the Department's requests for additional information from the Virgin Islands, VIDE, VIDH, VIDHS, VIDF, VIDPP and/or VIOMB and from the Agent, conference calls among representatives from these entities, and decisions or advice from the Department in resolution of the unresolved dispute. This does not preclude the Virgin Islands and the Agent from exercising formal dispute resolution mechanisms in their contract.
4. The Virgin Islands, VIDE, VIDH, and VIDHS must comply with all Federal laws and regulations that apply to the receipt and use of funds awarded under Department grants, including requirements that apply under the Uniform Guidance at 2 CFR Part 200, Parts 75 and 76 of EDGAR, and applicable Federal program statutes and regulations.
5. The Virgin Islands, VIDE, VIDH, and VIDHS remain responsible for the provision of program services under the respective grants, including the review and approval (where applicable) of local educational agency (LEA) applications for subgrants under State formula grant programs, determination of LEA allocations, and notification to the LEAs regarding their allocations under the grants.
6. The Department's grant awards to VIDH under Part C of the Individuals with Disabilities Education Act (IDEA) for FFYs 2002 through 2018 include special conditions, which are attached to, and specified in, the respective IDEA Part C grant award letters (Part C Special Conditions) for those years. These Part C Special

Conditions require VIDH to continue to use a separate third party fiduciary agent, Lutheran Social Services (LSS), to ensure the fiscal accountability of IDEA Part C funds and the timely payment of early intervention services providers for the timely provision of IDEA Part C services to infants and toddlers with disabilities and their families in the Virgin Islands. Under these Department-wide specific conditions, VIDH's IDEA Part C grant funds may be used to pay for the services of LSS, but may not be used to pay any costs charged by the Agent.

7. The Virgin Islands, VIDE, or VIDHS, prior to any drawdowns or disbursements, in a timely manner, must provide the Agent with a line item budget for the total amount of each grant and subgrant, if applicable, that has been approved and verified by the Department. The line item budget must include amounts for State administration, State-level program activities, and LEA program activities. For purposes of the Consolidated Grant to Insular Areas (Consolidated Grant), the Virgin Islands and VIDE must provide the Agent with line item budgets for each of the programs under which the Virgin Islands and VIDE will use Consolidated Grant funds. The line item budget for each of these programs must be based on the total amount of Consolidated Grant funds to be used for each program and include amounts for State administration, State-level program activities, and LEA program activities. The Virgin Islands, VIDE and VIDHS acknowledge that the Department will provide the Agent with the applications, budgets, and budget narratives that the Department has approved for their grant awards to ensure that the Agent has these documents for purposes of executing its financial management responsibilities on behalf of the Virgin Islands under these grants.
8. The Virgin Islands, VIDE, and VIDHS are responsible for: (i) executing their respective drawdowns of funds under the grants from the Department's Grants Management System (G5) so that funds are deposited into the separate bank account established and maintained by the Agent; and (ii) providing to the Agent, for deposit into the separate bank account established by the Agent, any matching funds required for the grants. The Virgin Islands, VIDE, and VIDHS understand and agree that they must draw down funds and provide any applicable matching funds to the Agent within 24 hours of receipt of the written notice from the Agent. Further, the Virgin Islands, VIDE and VIDHS must develop and implement a standard operating procedure that documents and delineates the policy, processes and procedures for drawdowns of Department funds, thus providing reasonable assurance of appropriate internal controls. Failure by the Virgin Islands, VIDE, or VIDHS to comply with this condition concerning the time within which they must draw down funds and the development and implementation of a drawdown standard operating procedure, may result in the Department requiring the transfer of drawdown authority for that entity (i.e., VIDE or VIDHS) to the Agent for that entity. In the event of the Virgin Islands', VIDE's, or VIDHS' failure to draw down funds in accordance with this condition, the Agent must notify the Department immediately, and the Department

will determine whether drawdown authority must be transferred to the Agent. If so, then immediately upon written notice of this decision from the Department, the Virgin Islands, VIDE or VIDHS, as appropriate, must take all steps necessary to provide the Agent with full authority to perform drawdowns, including providing any information and authorization that the Department needs to recognize the Agent as the entity with drawdown authority.

9. The Virgin Islands, VIDE, and VIDHS must coordinate with the Agent the timing of drawdowns and disbursements to ensure that payments to staff, vendors and providers are prompt and timely. To the greatest extent feasible, the Virgin Islands, VIDE, and VIDHS must draw down funds in a timely manner so that funds under the grants are deposited to the separate bank account(s) maintained by the Agent on the same day that funds are drawn from the account(s) to liquidate obligations under the grants. The Virgin Islands, VIDE, or VIDHS, as appropriate and at the Agent's direction, must draw down sufficient funds under a grant to cover each approved request for payment.
10. The Virgin Islands, VIDE and VIDHS must develop and implement a standard operating procedure that documents the use and application of fiscal controls and accounting procedures that ensure proper disbursement of, and accounting for, Federal funds, in accordance with 34 CFR § 75.702 (discretionary grants) and § 76.702 (formula grants), and that meet the requirements imposed on non-Federal entity grantees in 2 CFR §§ 200.302, 200.303, and 200.305(b). The Virgin Islands, VIDE, and VIDHS must use fiscal controls and accounting procedures that ensure proper disbursement of, and accounting for, Federal funds, in accordance with 34 CFR § 75.702 (discretionary grants) and § 76.702 (formula grants), and that meet the requirements imposed on non-Federal entity grantees in 2 CFR §§ 200.302, 200.303, and 200.305(b).
11. The Virgin Islands, VIDE and VIDHS must expend Federal and matching funds only for costs that are allowable under the respective grant programs, in accordance with the regulations and cost principles in 2 CFR Part 200, Subpart E. Additionally, for purposes of the Consolidated Grant, the Virgin Islands, VIDE and VIDHS must expend Federal and matching funds only for allowable costs under, and included in, each Department-approved Consolidated Grant plan from FFYs 2012 through 2018. The Virgin Islands, VIDE, and VIDHS acknowledge that the Agent also has the duty to ensure that Department funds are used only for allowable costs, including costs that are necessary, reasonable, and allocable to the respective grants as required by 2 CFR Part 200, Subpart E, and that are procured in accordance with applicable procurement requirements in 2 CFR §§ 200.318-200.326. Where there is a question as to whether a cost is allowable, the Agent must raise this question with the appropriate entity, Virgin Islands, VIDE, or VIDHS and, if the Agent deems it necessary, may also

request assistance from the Department in determining the allowability of any expenditure.

12. The Virgin Islands, VIDE, and VIDHS must charge their grants only for costs resulting from obligations that were properly made during the period of availability for the funds, including any carryover period. To ensure against the lapsing of Department funds, the Virgin Islands, VIDE, and VIDHS must provide the Agent with the amount and nature of all obligations in a timely manner to ensure that the obligations are liquidated no later than 90 days after the end of the funding period or during any extension of that period authorized by the Department, in accordance with 2 CFR § 200.343(b).
13. The Virgin Islands, VIDE, and VIDHS must develop and implement a standard operating procedure for payroll functions involving salaries paid with ED grant funds and establish and maintain an effective and accurate process for tracking and reporting time and effort spent by all employees whose salaries are paid under ED grants, including, but not limited to, maintaining accurate and up-to-date employee staffing lists and notices of personnel actions; distributing time among different funding sources for split-time employees; and properly allocating salary costs among ED grants, based on records that accurately and properly record the distribution of each employee's work on multiple cost objectives, the time the employee attends work, and, for those employees who work on a single cost objective, semiannual certifications. The Virgin Islands, VIDE, and VIDHS must carry out these responsibilities consistent with Federal requirements in 2 CFR Part 200, Subpart E, and more specifically, 2 CFR §§ 200.430 and 200.431.
14. The Virgin Islands, VIDE, and VIDHS must work with the Agent to ensure that the charging of direct and indirect costs against the respective Department grants is consistent with the applicable restricted and unrestricted indirect cost rates negotiated with, and approved by, the U.S. Department of Interior (the Virgin Islands' cognizant Federal agency), and that copies of any indirect cost rate proposals or agreements are provided to the Agent and comply with the applicable requirements of 2 CFR Part 200, Subpart E, and 34 CFR §§ 75.560-564 (discretionary grants) and 34 CFR §§ 76.560-569 (formula grants).
15. When necessary, the Virgin Islands, including VIDF and VIDPP, VIDE, and VIDHS, must grant the Agent authority to enter into contracts with vendors on behalf of the Virgin Islands, VIDE, VIDHS, and, as appropriate, VIDH, and in doing so, the Virgin Islands and its Agent must comply with the provisions for procurement set forth in 2 CFR §§ 200.318-200.326.
16. The Virgin Islands, VIDE, and VIDHS must develop and implement a standard operating procedure for procurement functions involving ED grant funds and provide

effective oversight for proposed procurements, including, but not limited to, training all staff (SEA and LEA) on, and reviewing all requisitions against, local and ED requirements for procuring goods and services, to facilitate the review and approval by the Agent in a timely manner of purchase orders and to reduce the number of requisitions that are disallowed by the Agent for not meeting these requirements.

17. The Virgin Islands, VIDE, or VIDHS, as appropriate, must ensure that within 24 hours of receipt of a vendor's invoice from the Agent, staff must (i) accept or reject the goods or services, and, if accepted, (ii) draw down funds for the vendor payment for deposit into the separate bank account(s) maintained by the Agent.
18. The Virgin Islands, VIDE, and VIDHS must develop and implement a standard operating procedure for fixed asset functions involving assets acquired with ED grant funds and work with the Agent to ensure that all tangible personal property procured under all ED grants is managed in accordance with the requirements of 2 CFR §§ 200.313(a) and (c)-(e) to ensure that such property with a purchase price of \$500 or greater is properly inventoried, maintained, and stored to prevent loss, damage, or theft of such property. The standard operating procedure must include specific provisions for the safeguarding and handling of fixed assets acquired with ED grant funds in the event of a natural disaster. The Virgin Islands (through VIDPP or another agency designated by the Governor) must conduct a physical inventory of its equipment (as defined in 2 CFR § 200.33) with a purchase price of \$500 or greater that was acquired with ED grant funds at any time, and provide a copy of the inventory to the Agent upon completion. A copy of the inventory report shall be provided to the Department upon request.
19. All transactions under the contract between the Virgin Islands and the Agent must be consistent with all applicable Federal requirements, including those in the Uniform Guidance at 2 CFR Part 200 and EDGAR at 34 CFR Part 75 or 76, as appropriate.
20. The Virgin Islands, including VIDF, VIDPP, VIOMB, VIDE, and VIDHS, must work with the Agent to assist in training the appropriate Virgin Islands employees and providing transition assistance (including, but not limited to, transferring all necessary data from the Agent to the new CFMS, and communicating information from the Agent to the contractor implementing the new CFMS), when the Virgin Islands implements a new CFMS. The Virgin Islands, VIDE, VIDHS, VIDH and VIOMB acknowledge that the Agent maintains responsibility for managing and administering Department grant funds awarded to the Virgin Islands, VIDE, VIDHS, and, as appropriate, VIDH, in accordance with these specific conditions. The Virgin Islands, VIDE, VIDH, VIDHS and VIOMB shall avoid any actions that may impact the Agent's role and responsibilities under these specific conditions, which do not include oversight of any current and/or proposed fiscal initiatives of the Virgin Islands, including, but not limited to, the Federal Grants Specialized Processing Unit/Self

Contained Model (FGSPU/SCM) and the proposed SCM Transition Implementation Plan. The Agent may assist the Virgin Islands' FGSPU/SCM and/or other similar financial management capacity building efforts, to the extent that this assistance does not compromise or interfere with the autonomous execution of its responsibilities under these specific conditions

21. Except as noted herein, the Virgin Islands, VIDE, VIDH, and VIDHS shall comply with all applicable provisions of EDGAR.
22. The Virgin Islands, VIDE, and VIDHS may include any other terms in the contract with the Agent, consistent with those above, as are necessary to ensure timely liquidation of all Department funds, timely payment to staff, providers and vendors, and general financial management consistent with applicable Federal regulations, under the Department's grants.

B. Corrective Action Plan (CAP)

The Virgin Islands, VIOMB and VIDE shall submit quarterly updates to the CAP addressing the status of tasks not completed under previously submitted versions of the CAP, as well as any newly proposed or ongoing tasks, and issues identified by the Agent as part of its assessment of the Virgin Islands' and VIDE's readiness to reassume management of Federal education funds. In particular, the Department is aware that the FGSPU/SCM has been identified as the proposed approach for reassuming management of the Department grant funds, once the Department has made the determination that the Virgin Islands and VIDE have demonstrated the capacity to ensure fiscal management of these funds without the services of an Agent. VI must provide detailed quarterly updates on the status of the SCM Transition Implementation Plan, including all six phases (activities and timelines) proposed in the plan implementation.

As a part of the quarterly CAP submission, the Virgin Islands and VIOMB shall submit a draft organizational chart for the FGSPU/SCM that fully describes the roles and responsibilities of the SCM Project Manager and the oversight of the three units that the Virgin Islands has indicated will be part of the SCM, which include: the Federal Grants Administration, the Federal Grants Accounting and the Federal Fixed Assets and Inventory Management divisions. Position descriptions and job requirements for all proposed FGSPU/SCM staff positions must also be provided.

The Virgin Islands and VIOMB must incorporate into the CAP the FGSPU/SCM and any other initiatives that they are undertaking to build this capacity within the Virgin Islands, including, more specifically, the tasks and actions to be completed as part of the Virgin Islands' and VIOMB's operations and structure of the FGSPU/SCM and any other initiatives that they are undertaking to build fiscal management capabilities and capacity

within the Virgin Islands and VIDE. The CAP quarterly reports must include a report on the progress made towards the completion of the SCM Transition Implementation Plan. All updates to the CAP reflecting newly proposed initiatives, activities, tasks or strategies must be approved by the Department.

The Virgin Islands, VIDE, VIDHS, VIDH and VIOMB shall provide a quarterly report to the Department on their progress in implementing the various measures required under the CAP, including a description of activities and progress for each task during the reporting period, documentation of measures of performance and results, evidentiary information (emails, memorandums, Standard Operating Procedures (SOPs), etc.) that supports the completion status of tasks and other data or documentation as specified within the action steps for each task. Any changes in the task completion dates included in the new CAP must first be approved by the Department. The Virgin Islands and VIDE should make every effort to avoid the need to change task completion dates.

The due dates for the quarterly reports are as follows:

- Quarter 1 CAP Report: Date of FFY 2019 Departmental Specific Conditions to December 31, 2019 - Due on or before January 14, 2020.
- Quarter 2 CAP Report: January 1, 2020 to March 31, 2020 – Due on or before April 15, 2020.
- Quarter 3 CAP Report: April 1, 2020 to June 30, 2020 – Due on or before July 15, 2020.
- Quarter 4 CAP Report: July 1, 2020 to September 30, 2020 – Due on or before October 14, 2020.

CAP reports are expected to be submitted on time. In the event of an extraordinary circumstance that may prevent the timely submission of quarterly CAP reports, the Virgin Islands must formally request approval for an extension; see Section I. below for correspondence contact information.

C. Additional Conditions

1. Internal Audit Division

The Virgin Islands and VIDE must develop and implement a fully staffed, autonomous and independent internal audit division with a staff of sufficient size and relevant audit experience, with relevant certifications and training, to ensure proper use and accounting of ED grant funds. This unit shall be responsible for auditing and monitoring VIDE internal operations and activities with respect to ED grant programs and funds; further, the internal audit division shall develop and implement standard operating procedures, an audit charter and an audit plan, all of which should be

updated and revised annually. The Virgin Islands and VIDE must incorporate action steps and measures for this work into the CAP.

2. Program Monitoring

The Virgin Islands, VIDE and VIDHS must conduct programmatic monitoring, in accordance with the Uniform Guidance at 2 CFR §§ 200.328 and 200.331, which require grantees to monitor activities under Federal awards to assure compliance with applicable Federal requirements and that performance expectations are being achieved, and to evaluate the risk of noncompliance. The Virgin Islands, VIDE and VIDHS must develop and implement standard operating procedures for monitoring, that includes a risk assessment process designed to effectively prevent, detect and respond to program mismanagement and potential fraud associated with ED grant programs and funds. The Virgin Islands, VIDE and VIDHS must incorporate action steps and measures for this work into the CAP.

3. Availability of ED Office of Inspector General Hotline Contact Information

The Virgin Islands and VIDE must develop and post flyers providing the U.S. Department of Education Office of Inspector General hotline contact information in all VIDE administrative offices in St. Thomas, St. John and St. Croix (and online) so that individuals who encounter, observe, detect or suspect improper use of ED grant funds may easily report such alleged improper use.

D. Program-Specific Conditions

In accordance with 34 CFR § 76.132(a)(5), the Virgin Islands and VIDE must submit an annual performance report to the Department, as required under 2 CFR § 200.328, for each of the programs for which they are using funds received under the Consolidated Grant. Each report must contain a comparison of actual accomplishments to the objectives established in the approved Consolidated Grant plans and the reasons why established goals were not met, if appropriate.

Additional program-specific conditions may be imposed on grant awards made under one or more programs, in addition to the specific conditions that are contained herein, because in certain program areas, the Virgin Islands may be a high-risk grantee and require significant improvements in the administration of program requirements. Each such program-specific condition will be incorporated into the appropriate notification of grant award from the Department to the Virgin Islands, VIDE, VIDH or VIDHS.

E. Cooperation with the Department's Office for Civil Rights and Compliance with Civil

Rights Regulations

VIDE must ensure that it complies with the regulations enforced by the Department's Office for Civil Rights (OCR) and cooperates with OCR's investigations including: responding to requests for data in a timely manner; addressing compliance concerns cited by OCR in a timely manner; and submitting complete and timely monitoring reports. Specifically, VIDE will respond to data requests, including scheduling staff interviews, within 15 days of receiving OCR's request. VIDE will also take the appropriate actions specified by OCR to address all compliance concerns cited by OCR and resulting from a complaint or compliance review investigation, within the timeframes specified by OCR. VIDE will also provide documentation in its monitoring reports demonstrating that actions have been taken within the timeframes specified by OCR.

F. Notification and Approval of Amendments to Contract Between Virgin Islands and Agent

The Virgin Islands must notify the Department of any proposed amendment to the contract between the Virgin Islands and the Agent and must submit the proposed amendment to the Department for approval prior to execution of the amendment by the parties.

G. Failure to Comply with Conditions

Failure of the Virgin Islands, including VIDF, VIDPP, VIOMB, VIDE, VIDH, or VIDHS to comply with any of these specific conditions as to any Department grant award will negatively impact the ability of the Virgin Islands, VIDE, VIDH, or VIDHS to continue to receive grant funds from the Department. These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement actions at any time.

H. Reconsideration and Modifications

At any time, the Virgin Islands, VIDE, VIDH, VIDHS or VIOMB may request reconsideration of the above specific conditions by contacting the Department and stating in writing the reasons why they believe the conditions should be modified or are no longer needed. Further, the Department may impose additional specific conditions or modify these specific conditions as appropriate. The Department will remove the specific conditions at such time as the Virgin Islands fully demonstrates, to the Department's satisfaction, the ability to manage the Department's funds and property purchased for use under the grants in a manner that complies with applicable Federal requirements concerning accountability and funds management.

I. Incorporation of Specific Conditions as Addendum to Contract

Page 18, Letter to Honorable Albert Bryan, Jr.

Upon receipt of these specific conditions, and before the Virgin Islands may expend funds under grants subject to these conditions, the Virgin Islands and the Agent must incorporate these specific conditions as a further addendum to the contract between the Virgin Islands and the Agent, and must provide written notice to the Department that the conditions have been so incorporated. The terms of these specific conditions supersede the terms of the specific conditions issued on June 26, 2018, to the extent that any provisions in these specific conditions have been modified and are now inconsistent with those prior conditions.

J. U.S. Department of Education Contact

All communications with the Department regarding these specific conditions, including submission of notices, requests, or reports shall be directed to:

Iyauta I. Green
U.S. Department of Education
Office of Finance and Operations/Office of Grants Administration
Risk Management Services Division
550 12th Street, S.W.
Washington, D.C. 20024

Dated: June 28, 2019

Attachment A

Responsibilities and Requirements for the Third Party Fiduciary Agent
(to be incorporated into any contract for services with the Agent)

The responsibilities and requirements for the Agent under these specific conditions are as follows:

1. The Agent must work cooperatively and in a timely manner with the Virgin Islands, VIDE, VIDH, and VIDHS to implement the activities and responsibilities described in these specific conditions. The Agent acknowledges that regular communication among the Virgin Islands, the Department, and the Agent is necessary to ensure proper financial management of grant funds, consistent with approved grant applications, budgets, and applicable program statutes, regulations and the cost principles in 2 CFR Part 200, Subpart E. Therefore, the Agent understands and agrees that, as the Department deems necessary and appropriate, the Department shall include the Agent in communications, both written and oral, between the Virgin Islands and the Department.
2. The Agent's role encompasses financial management responsibilities concerning the grants, including, but not limited to, processing payments and disbursements, maintaining financial records, financial reporting, instituting and applying procurement, inventory, and payroll procedures that comply with applicable Federal requirements, and other duties as more fully described below. In addition, with respect to the Consolidated Grant, the Agent agrees to provide assistance to VIDE as it prepares the budgets that accompany the annual Consolidated Grant application.
3. For purposes of the IDEA Part C FFYs 2002 through 2019 grants, the Agent is responsible only for the property procurement and management functions that are required to be performed under the Uniform Guidance at 2 CFR Part 200 (including 2 CFR §§ 200.311, 200.313, 200.314, and 200.318-200.326) by VIDPP, and any financial management functions needed to be performed by VIDF for the IDEA Part C grants, and which are not being performed already under the contract between VIDH and LSS. Because VIDH's IDEA Part C grants for FFYs 2002 through 2018 include specific conditions requiring the use of a third party fiduciary agent (LSS) that carries out VIDH's financial management and recordkeeping responsibilities in accordance with the applicable provisions of IDEA Part C and EDGAR, the Agent (BCA) performing services under these Department-wide specific conditions is not required to assume responsibilities other than the responsibilities described above in this subsection. The Department's grant awards to VIDH under IDEA Part C for FFYs 2002 through 2019 include specific conditions requiring VIDH to use LSS to ensure the continued fiscal accountability of IDEA Part C funds and the timely payment of early intervention service providers for the timely provision of IDEA Part C services to infants and toddlers with

disabilities and their families. In addition, VIDH's IDEA Part C grant funds may not be used to pay any costs charged by the Agent (BCA) to the Virgin Islands or VIDH under the contract between the Virgin Islands and the Agent.

4. The Virgin Islands, VIDE, or VIDHS, prior to any drawdowns or disbursements, in a timely manner, must provide the Agent with a line item budget for the total amount of each grant and subgrant, if applicable, that has been approved and verified by the Department. The line item budget must include amounts for State administration, State-level program activities, and LEA program activities. For purposes of the Consolidated Grant, the Virgin Islands and VIDE must provide the Agent with line item budgets for each of the programs under which the Virgin Islands and VIDE will use Consolidated Grant funds. The line item budget for each of these programs must be based on the total amount of Consolidated Grant funds to be used for each program and include amounts for State administration, State-level program activities, and LEA program activities. The Agent must use these line item budgets to track projected and actual expenditures for the programs under the grants. The Agent must ensure that the expenditures proposed are only for allowable costs under each grant. The Agent will also receive from the Department copies of the applications, budgets, and budget narratives that the Department has approved for the Virgin Islands' grant awards to ensure that the Agent has these documents for purposes of executing its financial management responsibilities on behalf of the Virgin Islands under these grants.
5. The Agent must establish, maintain, and manage a separate bank account for all of the funds under the grants from the Department. The Agent must provide the Virgin Islands, VIDE, and VIDHS, as appropriate, with written notice (e.g., copy of invoice) of when funds are needed for a disbursement under a particular grant.
6. The Agent must acknowledge that the Virgin Islands, VIDE, and VIDHS have drawdown authority and that they understand and agree that they must draw down funds and provide any applicable matching funds to the Agent within 24 hours of receipt of the written notice from the Agent. Failure by the Virgin Islands, VIDE, or VIDHS to comply with this condition concerning the time within which they must draw down funds may result in the Department requiring the transfer of drawdown authority to the Agent for that entity. In the event of the Virgin Islands', VIDE's, or VIDHS' failure to draw down funds in accordance with this condition, the Agent must notify the Department, and the Department will determine whether drawdown authority must be transferred to the Agent. If so, then immediately upon written notice of this decision from the Department, the Virgin Islands, VIDE or VIDHS, as appropriate, must take all steps necessary to provide the Agent with full authority to perform drawdowns, including providing any information and authorization that the Department needs to recognize the Agent as the entity with drawdown authority.

7. The Agent must use fiscal control and accounting procedures that meet the requirements imposed on non-Federal entity grantees in accordance with 2 CFR §§ 200.302, 200.303, and 200.305(b).
8. The Agent must expend funds only for costs that are allowable under the respective grant programs, in accordance with 2 CFR Part 200, Subpart E. Additionally, for purposes of the Consolidated Grant, the Agent must expend funds only for allowable costs under, and included in, each Department-approved Consolidated Grant plan from FFYs 2008 through 2017. If the Agent questions whether an expenditure is allowable, the Agent must raise this question with the appropriate entity, the Virgin Islands, VIDE, or VIDHS. If the Agent deems it necessary, the Agent may also request assistance from the Department in determining the allowability of any expenditure.
9. The Agent must determine the value of any in-kind property or services donated to or provided by the Virgin Islands, VIDE, and VIDHS that are used to meet cost sharing or matching requirements as required by 2 CFR § 200.306 and must maintain records sufficient to document the bases for those valuations.
10. The Agent must take steps to prevent the lapsing of funds available under the grants, including ensuring timely disbursement of funds through the use of methods and procedures for payment that minimize the time elapsing between the transfer of funds and disbursement of those funds as specified in the Virgin Islands' Treasury-State agreement, as required under the Cash Management Improvement Act and Treasury regulations at 31 CFR Part 205. For grant funds not included in the Virgin Islands' Treasury-State agreement, the Agent must meet the requirements in 2 CFR § 200.305(b). The Virgin Islands, VIDE, VIDHS, and the Agent must coordinate the timing of drawdowns and disbursements to ensure that payments to staff, vendors and providers are prompt and timely. To the greatest extent feasible, the Virgin Islands, VIDE, VIDHS, or the Agent, if it has undertaken drawdown responsibility, must draw down funds in a timely manner so that funds under the grants are deposited to the separate bank account maintained by the Agent on the same day that funds are drawn from the account to liquidate obligations under the grants. The Agent must ensure that any interest earned on grant funds not subject to the Treasury-State agreement is repaid annually, as required by 2 CFR § 200.305(b)(9).
11. The Agent must charge Department grants only for costs resulting from obligations that were properly made during the period of availability for the funds, including any carryover period. To ensure against the lapsing of Department funds, the Agent must liquidate obligations no later than 90 days after the end of the funding period or during any extension of that period authorized by the Department, in accordance with 2 CFR § 200.343(b).

12. The Agent may seek approval from the Department to charge allowable pre-award costs incurred by the Virgin Islands, VIDE, or VIDHS against any grant award from FFY 2003 through 2018 to which these specific conditions apply. The Agent must submit any request for pre-award costs to the Department in writing and may not reimburse any pre-award costs unless it receives written approval from the Department.
13. The Agent must establish and maintain a process for tracking and reporting time and effort spent by all employees whose salaries are paid under ED grants, including distribution of time among different funding sources for split-time employees, and for properly allocating salary costs among ED grants, based on records that accurately and properly record the distribution of each employee's work on multiple cost objectives, the time the employee attends work, and, for those employees who work on a single cost objective, semiannual certifications. The Agent must carry out these responsibilities consistent with Federal requirements in 2 CFR Part 200, Subpart E, and more specifically, 2 CFR §§ 200.430 and 200.431.
14. In disbursing funds for allowable costs under the grants, the Agent must distinguish between direct and indirect costs and use accurate methods to allocate funds correctly between these two cost categories. The Agent must ensure that the charging of direct and indirect costs against the respective Department grants is consistent with the applicable restricted and unrestricted indirect cost rates negotiated with, and approved by, the U.S. Department of Interior (the Virgin Islands' cognizant Federal agency), and that copies of any indirect cost rate proposals or agreements comply with the applicable requirements of 2 CFR Part 200, Subpart E, and 34 CFR §§ 75.560-564 (discretionary grants) and 34 CFR §§ 76.560-569 (formula grants).
15. The Agent must establish contacts and working relationships with prospective vendors that can provide goods and services that the Virgin Islands, VIDE, and VIDHS need under the grants. The Virgin Islands, VIDE, and VIDHS must give the Agent authority to enter into contracts with vendors on behalf of the Virgin Islands, VIDE, VIDHS, and, as appropriate, VIDH, and in doing so, must comply with the provisions for procurement set forth in 2 CFR §§ 200.318-200.326.
16. Within 24 hours of the Agent's receipt of a vendor invoice, the Agent must provide a copy of the invoice to the Virgin Islands, VIDE, VIDHS, or, as appropriate, VIDH, and ensure that the goods or services delivered are available for inspection and acceptance or rejection by the appropriate Virgin Islands, VIDE, VIDHS, or, as appropriate, VIDH, staff requesting the goods or services. The Agent must pay vendors for the delivered goods or services and must, to the extent reasonably possible, disburse funds to the vendors on the same day that funds are deposited into the separate bank account(s) maintained by the Agent. The Agent must make payments by electronic funds transfer (EFT) or by paper draft only if EFT is not available or possible for a particular vendor.

17. The Agent must manage all tangible personal property procured under the grants, with a purchase price of \$500 or greater, in accordance with the requirements of 2 CFR §§ 200.313(a) and (c)-(e). In particular, the Agent must establish and maintain a process for managing such property consistent with the requirements of 2 CFR § 200.313(d), including reconciling the inventory conducted by the Virgin Islands under Section II.A.18 of these specific conditions with existing property records; developing a system for maintaining property records and for identifying property acquired with ED grant funds; and establishing a control system to prevent loss, damage, or theft of the property.
18. The Agent must maintain records that fully show the amount of funds made available under each of the grants; how the Virgin Islands, VIDE, or VIDHS uses the funds; the total cost of each project; the share of that cost provided from other sources; and other records to facilitate an effective audit, in accordance with 34 CFR § 75.730 (discretionary grants) and § 76.730 (formula grants). The Agent, acting on behalf of the Virgin Islands, VIDE and VIDHS, must retain records in accordance with the provisions of 2 CFR § 200.333.
19. In general, the Agent must use fiscal control and fund accounting procedures that ensure proper disbursement of, and accounting for, Federal funds, in accordance with 34 CFR § 75.702 (discretionary grants), § 76.702 (formula grants), and 2 CFR §§ 200.302, 200.303, and 200.305(b).
20. The Agent must maintain insurance as required under the terms of the contract.
21. All transactions under the contract between the Virgin Islands and the Agent must be consistent with all applicable Federal requirements, including the Uniform Guidance at 2 CFR Part 200 and EDGAR at 34 CFR Part 75 or 76, as appropriate.
22. The Agent must comply generally with the requirements of 2 CFR § 200.327. More specifically, the Agent should produce quarterly reports concerning financial transactions of the Virgin Islands, VIDE, VIDHS and VIOMB for submission to those entities and the Department, detailing for each grant awarded to the Virgin Islands, VIDE, and VIDHS, including for each individual program for which the Virgin Islands and VIDE are using Consolidated Grant funds: a) the date of receipt, and the amount, of each approved payment request; b) the date and amount of each draw down deposit; c) the date and amount of each payment or disbursement by the Agent; 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 budgets described above in Section II.A.7 and must be reconciled with the Department's G5 system. This reconciliation must include drawdown dates, drawdown amounts and available balances, by award. These reports shall be due within 10 working days after the end of each quarter.

23. The Agent must work with the Virgin Islands, VIDE, VIDHS, VIDF, VIDPP, and VIOMB to assist in the training of employees and to provide transition assistance (including, but not limited to, transferring all necessary data from the Agent to the new CFMS, communicating information from the Agent to the contractor implementing the new CFMS, and providing feedback to the Virgin Islands, VIDE, and the Department on the Virgin Islands' implementation of the new CFMS), as the Virgin Islands implements and fully transitions staff to the new CFMS.

24. The Agent is responsible for managing and administering Department grant funds awarded to the Virgin Islands, VIDE, VIDHS, and, as appropriate, VIDH, in accordance with these specific conditions. The Agent's role and responsibilities under these specific conditions do not include oversight of any current and/or proposed fiscal initiatives of the Virgin Islands, including, but not limited to, the FGSPU/SCM and the SCM Transition Implementation Plan. The Agent may assist the Virgin Islands with the full implementation of the FGSPU/SCM and the SCM Transition Implementation Plan, as the proposed strategy for the management and oversight of Department grant funds and/or other similar financial management capacity building efforts (including training, mentoring and/or shadowing), to the extent that this assistance does not compromise the execution and autonomy of its responsibilities under these specific conditions.

25. The Agent recognizes that, except as noted herein, the Virgin Islands, VIDE, VIDH, VIDHS and VIOMB must comply with all applicable provisions of EDGAR, and all actions that the Agent takes on their behalf in accordance with services provided under these specific conditions, must be in compliance with all applicable provisions of EDGAR.