



Enclosure D

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

June 28, 2006

Honorable Clifford B. Janey
Superintendent of Schools
District of Columbia Public Schools
825 North Capitol Street, NE, Suite 900
Washington, DC 20002

Dear Superintendent Janey:

We appreciate your cooperation with the U.S. Department of Education in recent months. These efforts will help to address the challenging grant management and accountability issues that the District of Columbia Public Schools (DCPS) is facing with regard to the administration of federal education grants. Because of the problems noted in the enclosure, DCPS's status as a "high-risk" grantee under 34 C.F.R. §80.12 will continue and, therefore, special conditions will be applied to program grants and funds awarded to DCPS from the U.S. Department of Education. Enclosed are the special conditions that will be incorporated in the FFY 2006 grant awards made by the Department to DCPS for all of the federal education programs it administers. Certain of the FFY 2006 grant awards also will contain additional special conditions that are specific to the programmatic requirements of those grants.

We look forward to seeing DCPS make progress as it works to address challenges in the areas of grants management and accountability and meets these special conditions. The Department continues its commitment to working closely with you and your staff to improve the delivery of federally supported education services, so that no child in the District of Columbia is left behind.

Sincerely,

Hudson La Force III
Senior Counselor to the Secretary

Cc: Henry L. Johnson, Assistant Secretary for Elementary and Secondary Education
John H. Hager, Assistant Secretary, Office of Special Education and Rehabilitative Services
Beto Gonzalez, Acting Assistant Secretary for Vocational and Adult Education
Deborah A. Price, Assistant Deputy Secretary for Safe and Drug Free Schools
Kathleen Leos, Assistant Deputy Secretary for English Language Acquisition
Chris Doherty, Acting Assistant Deputy Secretary for Innovation and Improvement

Enclosure

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Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.

District of Columbia Public Schools – Special Conditions
Federal Fiscal Year 2006

PREAMBLE: These special conditions are imposed on all existing grants issued by the U.S. Department of Education (the Department) to the District of Columbia Public Schools (DCPS) for which funds are still available for obligation, as well as all grants issued on or after the date of these special conditions. These special conditions are applied to program grants and funds granted by the Department to DCPS (in its capacity as an SEA and an LEA) in accordance with the Department's regulations governing "high-risk" grantees in 34 CFR §80.12. The special conditions are imposed to help ensure that funds granted to DCPS are expended in accordance with applicable legal requirements and the appropriate fiscal accountability measures and management practices and controls. They are also intended to help DCPS to improve its implementation of financial, record-keeping, and internal control systems and procedures sufficient to satisfy the applicable accountability requirements.

I. EXPLANATION OF HIGH-RISK STATUS

Under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR §80.12, the Department has determined that DCPS is a "high-risk" grantee because of problems in DCPS's fiscal and program accountability, management systems, and related areas. The Department concludes that DCPS is a "high-risk" grantee based on the following:

- A. For a number of years, the District of Columbia Government (DC) has not submitted its audit reports, required by the Single Audit Act, on time. The single audit for the DC fiscal year ending September 30, 2004, was due on June 30, 2005, and was submitted December 15, 2005. The single audit for the DC fiscal year ending September 30, 2005 is due June 30, 2006 and the Department is aware that the audit work will not be completed by this date. This disregard of reporting requirements in submitting this important document makes it difficult to have proper accountability.
- B. DCPS is not correcting audit findings in a timely manner. For audit findings presented in the fiscal year 2002 and 2003 DC single audits, the Department issued a program determination letter to DCPS on September 30, 2005. DCPS did not submit the requested documentation and evidence of corrective actions by the deadline of November 29, 2005. DCPS has not provided the work papers for the monetary findings of the fiscal year 2004 audit, so that the Department cannot move forward to resolve the latest audit findings. Based on the fact that many findings are repeat findings that were also found in prior years' audits, the Department concludes that DCPS has not ensured that appropriate corrective action is taken on audit findings within six months of the audit report, as required by 34 CFR §80.26(b)(3).

- C. Based on the repeat findings of single audits dating from fiscal year 1999 and program reviews conducted in February and March of 2006, the Department concludes that DCPS has systemic internal control weaknesses, such as: (1) finance and accounting systems and procedures that do not adequately allocate personnel and other costs to programs nor provide DCPS with the capacity to monitor compliance with requirements to set aside funds for required activities (i.e., earmarking); (2) inadequate processes for review and approval of grant expenditures to ensure expenditures are allowable costs; (3) inadequate processes to obtain and retain documentation in grant files to demonstrate compliance with applicable program rules and regulations; (4) inadequate processes to obtain and retain in contract files proper documentation of compliance with procurement policies; (5) inadequate documentation of the amount and disposition of federal funds disbursed; and (6) payroll and personnel systems that do not adequately document time and effort of employees who work on activities supported by federal grants. Based on findings of the fiscal year 2004 single audit and the 2006 Title I Part A program review, the Department concludes that the DCPS SEA has inadequate control over equipment purchased with federal funds and inadequate policies and inadequate procedures to ensure LEA compliance with time and effort documentation, inventory control, financial management, record-keeping, and other internal controls.
- D. Based on audit findings and program reviews, the Department finds that DCPS is not adequately monitoring its federally funded programs and services. The single audits for fiscal years 2001 through 2003 and the 2006 program reviews raised questions regarding the adequacy of DCPS's monitoring of charter schools and found insufficient documentation of the reviews and corrective actions taken. In addition, federal authorities are currently investigating possible misspending of federal grant funds by DC charter schools and/or agencies. The Department's Elementary and Secondary Education Act (ESEA) Title I program review raised questions regarding the sufficiency of DCPS's monitoring of Title I schoolwide programs. The Department found in its 2003 ESEA Title I program review that DCPS had developed local school planning guidance for schoolwide programs; however, DCPS has not demonstrated that it monitors schoolwide programs for compliance with all statutory components.
- E. Over the past several years, there have been a number of findings and concerns about whether DCPS is in compliance with the requirements of Section 1120(a)(1) and (3) of the ESEA as amended by the No Child Left Behind Act (NCLB) for equitable services to eligible private school students, their teachers, and families (equitable services). In addition, the Department received a complaint from the Archdiocese of Washington alleging that equitable services had not been provided for private school students under a number of ESEA programs, and requesting that the Department implement a bypass to provide these services. Special conditions were placed on fiscal years 2004 and 2005 grant awards regarding equitable services for private

school students and teachers. The 2006 monitoring review of DCPS's compliance with ESEA equitable services requirements resulted in eight findings of non-compliance, including that the DC SEA has not ensured that DCPS (1) administered the Title I program in accordance with the statute and the regulations; (2) exercised proper administration (control) of equitable services it is responsible for providing; and (3) exercised proper oversight in awarding contracts for the provision of equitable services.

- F. DCPS is not fully in compliance with the requirements of the Individuals with Disabilities Education Act (IDEA), as described in the Department's August 5, 2005, letter conditionally approving DCPS's eligibility for IDEA Part B, and in the Department's November 2, 2005, response to the DCPS's federal fiscal year 2003 IDEA Part B Annual Performance Report. The Department's analysis of DCPS's submission in the IDEA State Performance Plan, described in the Department's March 30, 2006 letter, found that these problems continue.
- G. DCPS has not yet fully complied with the standards and assessment requirements of ESEA as amended by the Improving America's Schools Act (IASA), which were to be implemented during the 2000-01 school year. Afforded three more years to comply under a compliance agreement, DCPS defaulted on that agreement and has still not fulfilled its IASA responsibilities. This has already resulted in the Department's having to withhold a portion of DCPS's Title I administration allocation, as required by law. The Department's peer review of the SEA's assessment system on May 10-12, 2006, indicates there is still insufficient evidence that the assessment system meets IASA requirements.
- H. In response to special conditions placed on fiscal years 2003, 2004 and 2005 grant awards, DCPS submitted a revised State Accountability Plan under ESEA, as amended by NCLB. The plan indicates several key elements of the assessment system, including recalculated starting points, annual measurable objectives and intermediate goals, cannot yet be provided. Until this information is provided, DCPS's plan is not fully approved.
- I. Based on the March, 2006 monitoring of ESEA Title I Part A and ESEA Title III, the Department finds that the DCPS SEA has not ensured a timely subgrant application review and approval and release of federal grant funds to LEAs. As a result, LEAs must utilize other funds to carry out all required activities under NCLB.

Overall, the Department concludes that DCPS has not successfully implemented financial, record-keeping, and internal control systems and procedures sufficient to satisfy the accountability requirements in administering grants issued by the Department, including the requirements relating to Office of Management and Budget (OMB) Circulars A-102 and A-110 governing procurement, and the cost principles in OMB Circular A-87, including those governing payroll costs charged to

federal programs. The Department, furthermore, concludes that DCPS is not in full compliance with some major provisions of the Elementary and Secondary Education Act of 1965, as amended, and the Individuals with Disabilities Education Act. Recent program reviews confirm that many significant problems and weaknesses remain.

II. SPECIAL CONDITIONS

A. Prompt Access to Records

DCPS shall promptly provide the Department or its representatives access to any requested staff, locations, records, and information associated with the affected grant funds.

B. Single Audit and Audit Resolution

1. DCPS shall complete its review of the findings of the fiscal year 2002 and fiscal year 2003 single audits and submit, by July 31, 2006, a comprehensive corrective action plan to resolve applicable audit findings on all matters affecting funds under Department of Education grant programs. The plan shall be sufficiently detailed to demonstrate that the corrective actions contained in the plan will adequately address the problems and have a high likelihood of preventing further lapses in internal controls, expenditures for unallowable costs, or failure to maintain proper documentation of expenditures. If major changes to DCPS financial management, procurement, payroll, human resources, or record-keeping systems or procedures are in progress or are necessary to achieve this, DCPS shall report to the Department the plans for and status of these changes. The plan must include at a minimum corrective actions needed to correct the problems specified in the Program Determination Letter dated September 30, 2005. DCPS shall work with the Department to review the fiscal year 2004 audit findings and respond to the Department's Determination in a timely manner.
2. The Department will review and discuss with DCPS the DCPS SEA's response to the 2006 program reviews. DCPS shall incorporate into the comprehensive action plan, by July 31, 2006, corrective actions to address the unresolved program review findings.
3. DCPS shall submit a report every six months, beginning six months from the date of the approval of the corrective action plan described in (1) and (2), reporting the progress on the corrective actions in this plan. These reports shall address progress on resolving applicable audit findings. This will include resolution of all pending audit findings resulting from single audits, or other audits or reviews, including program reviews conducted by the Department program offices. If any other audits, such as those conducted by other federal agencies, contain findings on cross-cutting issues (e.g., procurement, property, or financial management) or if audit findings affecting

other agencies of DC contain findings that affect the administration of Department of Education programs (e.g., findings regard DC financial systems that contain DCPS records, DC procurement procedures used by DCPS, or Medicaid reimbursement procedures), DCPS shall report such findings to the Department within thirty days from the issuance of the audit report and outline the corrective action to be taken. The semiannual reports shall also report on the status of any changes to DCPS financial management, procurement, payroll, human resources, or record-keeping systems or procedures.

4. If a report is not timely or is not considered acceptable by the Department, it may result in the Department's taking one or more remedies, including the imposition of further conditions and the recovery of misspent funds for any applicable program.
5. DCPS shall respond promptly to any requests for additional information or documentation from Department personnel as part of its preparation for on-site monitoring visits, audit resolution, including work papers from the agency's single audits, or the Department's other administrative responsibilities.

C. Compliance With Particular Program Requirements

Special conditions to address areas in which DCPS is out of compliance with program requirements, including those of ESEA Title I and Title II; IDEA Part B; and the Carl D. Perkins Vocational and Technical Education Act of 1998, are specified on the federal fiscal year 2006 grant awards.

D. Prompt Reporting

DCPS shall ensure that it fully meets all program reporting requirements including the reports required herein, the ESEA Consolidated State Performance Report, the IDEA Annual Performance Report, and other reporting requirements that are specified in the fiscal year 2006 and subsequent special conditions.

E. Possibility of Additional Conditions

Based on a review of the DCPS responses to the conditions above and any other relevant information, the Department will determine whether DCPS must take other measures to ensure compliance with all applicable requirements. Additionally, we may impose additional conditions or modify the conditions imposed above as appropriate.

F. Failure to Comply With Conditions

If the Department determines that DCPS has not made substantial progress in meeting the objectives of the program, or has not met program requirements or the Special Conditions contained in paragraphs A-D above, then the Department may consider not continuing each grant (and DCPS would receive no further funds under one or more of the grant awards), withholding all or part of one or more grant awards, or taking further enforcement action such as the following:

1. DCPS would only receive further funds under one or more grant awards on a reimbursement basis.
2. DCPS would be required to contract with a third party, who must be approved by the Department, to assist in financial management and other administrative responsibilities for one or more grant awards. The third party would, at a minimum, assist in preparing the documents to be submitted to the Department for reimbursement, and would verify the accuracy and legitimacy of the expenditures as appropriate under this grant award.

If DCPS fails to meet any of the special conditions above or any other applicable statutory or regulatory requirements, the Department is authorized to take any other appropriate enforcement action at any time.

III. OTHER TERMS

A. Submission of Reports

All reports required to be submitted by DCPS to the Department under these special conditions should be sent electronically or hand-delivered to:

Cynthia L. Brown
Senior Analyst, Management Improvement Team
Office of the Secretary
U.S. Department of Education
400 Maryland Avenue, SW, Room 7E316
Washington, DC 20202
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B. Reconsideration and Modifications

At any time, DCPS may request reconsideration of the above special conditions by contacting the Department and stating reasons why DCPS believes particular conditions are no longer needed. Further, the Department may impose additional special conditions or modify these special conditions as appropriate. The Department will remove the special conditions at such time as DCPS meets, to the Department's satisfaction, the conditions mentioned above.

Dated: June 28, 2006