

June 29, 2007

Honorable Felix P. P. Camacho
Governor of Guam
Office of the Governor
Executive Chamber
Agana, GU 96932

Mr. Luis S. N. Reyes
Superintendent
Guam Public School System
P. O. Box DE
Hagatna, GU 96932

Dear Governor Camacho and Superintendent Reyes:

We appreciate the efforts and actions taken by the Guam government to address the concerns identified last year concerning management instability within the Guam Public School System (GPSS), which affected the management of certain Federal education grant funds provided by the Department to GPSS. During the past several months, we have been in regular contact with the GPSS leadership to monitor the efforts and progress that GPSS has made to increase stability within the organization and to address other problems of fiscal accountability and grants administration that led to GPSS's initial and continuing "high-risk" grantee designation under 34 C.F.R. § 80.12. We acknowledge that GPSS has made progress in some areas, but note that it still needs to make further improvements in a number of areas to increase the level of fiscal accountability in a manner that ensures that Federal funds are used in accordance with applicable Federal requirements. Therefore, the Department will continue GPSS's high-risk designation in awarding FY 2007 grant funds to GPSS.

In conjunction with GPSS' continuing "high-risk" designation under 34 C.F.R. § 80.12, special conditions will continue to apply to FY 2007 program grants and funds awarded by the Department to GPSS. Enclosed are the special conditions that will be included with the grant award documents accompanying the grant awards made by the Department to GPSS for all of the Federal education programs it administers. The special conditions again require certain reporting on GPSS's progress in improving fiscal accountability and financial management concerning Department grants and also emphasize the importance of GPSS's compliance with program requirements. Based on GPSS' demonstration of progress, as mentioned above, the Department is removing the 25% draw down restriction that was imposed on all FY 2006 grants. In addition, the FY 2007 special conditions include a new requirement for GPSS to develop a new, comprehensive corrective action plan (CAP) in collaboration with the Department and to report periodically on its progress toward completing actions described in the CAP. The CAP will outline measures that GPSS must implement to address and resolve the underlying problems that have led to its designation as a high-risk grantee and will assist both GPSS and the Department in monitoring GPSS' progress in resolving these issues.

If you have any questions or require further assistance, please have your staff contact Christine Jackson, the primary contact for the Management Improvement Team within the Office of the Secretary, at (202) 260-2516. We are hopeful that GPSS will continue to gain momentum toward achieving a solid management structure that will help ensure proper and effective administration of Department grant awards. We look forward to continuing the partnership established with the GPSS staff to improve the delivery of services under Federal education grant programs so that no child in Guam is left behind.

Sincerely,

Hudson La Force, III
Senior Counselor to the Secretary

cc: Peter Alexis Ada, Chairman, Guam Education Policy Board
Enclosure

Guam Public School System – Special Conditions
Federal Fiscal Year 2007

PREAMBLE: These special conditions are imposed on the Guam Public School System (GPSS) program grants issued by the U.S. Department of Education (Department) on or after the date of these special conditions. Additionally, the special conditions apply to grant funds previously awarded by the Department to GPSS that are still available for obligation or liquidation on the date of these special conditions. These special conditions are applied to these program grants and funds in accordance with the Department's regulations governing "high-risk" grantees in 34 CFR § 80.12. The special conditions are imposed to help ensure that GPSS expends Department grant awards in accordance with applicable legal requirements and with appropriate fiscal accountability measures and management practices and controls.

I. EXPLANATION OF HIGH-RISK STATUS

In September 2003, the Department designated GPSS (then the Guam Department of Education or GDOE) a "high-risk" grantee under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR § 80.12. This was based on the Department's concern about the lack of fiscal and programmatic accountability in the administration of Federal education programs by GPSS, as evidenced by GPSS's failure to provide the Department with timely and complete single audits, as required by the Single Audit Act, and by the auditors' declaration that GPSS's records for fiscal years (FYs) 1998-2000 were unauditible.

GPSS has since submitted single audits for FYs 2001-2006, but they have been qualified for major program compliance with reportable conditions that are material with questioned costs. The single audit findings indicate that GPSS has continued to have problems in the areas of adequate internal controls, including accounting and reconciling its financial records for Department grant funds in accordance with Federal requirements; implementing subrecipient monitoring to ensure that grant and subgrant-supported activities are carried out in accordance with Federal program statutes, regulations, and other requirements; procurement and property management processes that comply with Federal requirements; and appropriate cash management procedures. GPSS is still in the process of correcting a number of findings from these past audits.

Finally, the Department conducted site visits to GPSS in December 2006 and June 2007. During these site visits, the Department concluded that GPSS needs to:

1. Expedite the submission of a restricted indirect cost rate proposal to the Department of the Interior (DOI) for approval, as GPSS has been without an approved indirect cost rate since 2002.
2. Develop and implement interim strategies for strengthening its fiscal and accounting operations to ensure continuity of fiscal accountability, specifically to address any material weaknesses identified in the FY 2006 single audit related to reconciling the general ledger and maintaining its accounting records.

3. Develop a comprehensive corrective action plan (CAP) with input from the Department that will address the underlying problems associated with GPSS's high-risk designation. This includes revisiting the goals and objectives of GPSS's current Financial Management Improvement Plan as a mechanism for instituting a Financial Management Improvement System that will enable GPSS to significantly improve the financial management of Department grant awards.
4. Revisit established policies and procedures on the frequency of time and effort certification of staff that work solely on one Federal program.
5. Ensure that staff training is provided at the central office and school level regarding the policies and procedures that GPSS establishes via Standard Operating Procedures (SOPs) to correct problems in GPSS's management and administration of Department grant funds.
6. Continue to strengthen the subrecipient monitoring process within its Federal Programs Administration to ensure consistency and accuracy among program monitors responsible for oversight of programs implemented with Department grant funds and for ensuring compliance with applicable Federal requirements.
7. Work in collaboration with various Guam government stakeholders, including the Governor, Guam Legislature, Guam Education Policy Board, and Office of the Public Auditor to pursue the implementation of an independent management audit of GPSS's current operations as a mechanism to further enhance efforts to increase efficiencies throughout its central office and public schools.

The Department acknowledges that GPSS has been working to implement standard procedures and other corrective actions designed to address the single audit findings, as well as other fiscal accountability problems identified prior to and during the Department's recent site visit. In addition, the Department and GPSS are working jointly to develop a comprehensive CAP that will outline measures that GPSS must implement to address and resolve the problems that have led to its designation as a high-risk grantee. GPSS needs time to finalize the CAP and to then implement its action steps in order to improve its management and administration of Department grant funds.

II. SPECIAL CONDITIONS

A. Reporting Requirements

GPSS will provide the following to the Department:

1. A report on the administration by GPSS of each program funded by the Department, which includes the expenditures made by GPSS in Department programs that will satisfy the accountability needs of the Department. For each affected program and each obligation made on or after the date of these special conditions, the reports must show that the funds are being spent for allowable purposes and that the funds drawn down are being recorded and spent in a timely manner with appropriate certifications. Expenditures (or liquidations) may be grouped by category (e.g., purchase of computers, professional development, etc.), but they must be in sufficient detail for the Department to match against the program application or spending plan, if applicable, and allow the Department to

determine the allowability of the expenditures (or liquidations). These expenditures may also be subject to further monitoring, auditing, and review.

2. An update on the status of management issues affecting the administration of Department-funded programs, including programs that are not part of the Consolidated Grant. At a minimum, GPSS must report on:
 - a. Compliance with its Fixed Assets Action Plan;
 - b. Compliance with its procurement standard operating procedures;
 - c. Status of adequately staffing its Business Office with certified accountants and/or evidence that assistance is provided by qualified entities or individuals with expertise in the area of financial management;
 - d. Implementation of a Financial Management Improvement System, which includes progress toward implementing its Financial Management Improvement Plan;
 - e. Implementation of internal controls to ensure that programs are carried out in accordance with applications or plans submitted to, and approved by, the Department and with all other applicable Federal requirements, and that any changes in program implementation are made in accordance with Federal program requirements (including application amendments or other necessary actions);
 - f. Implementation of subrecipient monitoring procedures for the Consolidated Grant program, which should include a monitoring plan consisting of the following: a monitoring timeline, identification of sites to be monitored, criteria used to select monitoring sites, and the date by which GPSS will provide to each subgrantee or project a copy of the monitoring report, and;
 - g. Progress in resolving applicable audit findings on all matters affecting funds under these grant programs. This will include the resolution of all pending findings resulting from single audits, other audits or reviews, and from findings made by the Guam Office of Public Auditor (GOPA), including material weaknesses identified. If any audits by other Federal agencies or other single or other audits or reviews of any other part of the Government of Guam contain findings on cross-cutting issues (e.g., procurement, property, financial management) affecting the administration of these program funds, or that cover funds under any of these grant programs, the GPSS shall also report such findings to the Department and to the GOPA, and outline the corrective actions to be taken.
3. GPSS's Superintendent of Education, in the capacity as the "certifying officer of GPSS" or another authorized official of GPSS, shall certify, under penalty of Federal law, to the accuracy and completeness of the reports required under Sections II.A.1 and II.A.2 above, including verification that all of the expenditures are being made for authorized purposes under each of the programs.

4. GPSS must continue to post on its Internet web site (available to the general public) the budget, application, and reports mentioned above, and the information in the reports on the Internet must be updated on the site on a monthly basis.

GPSS shall submit these reports, and certification thereof, for the period covering July 1, 2007 through September 30, 2007 to the Department no later than October 31, 2007.

B. Corrective Action Plan (CAP)

1. As of the drafting of these special conditions, GPSS and the Department are in the process of developing a CAP (as described in Section I above) that will outline measures that GPSS must implement to address and resolve the problems that have led to its designation as a “high-risk” grantee and that will assist GPSS and the Department in tracking GPSS’s progress in addressing and resolving these problems. GPSS will submit its draft of the CAP to the Department by July 31, 2007 for review. GPSS and the Department will then work together to reach agreement on the contents of the final version of the CAP, and GPSS will submit to the Department the final version of the CAP, as approved by the Department, no later than September 30, 2007. The CAP shall become effective as of October 1, 2007.
2. Until such time as the CAP has been finalized and becomes effective, high-risk reporting will continue to be required as outlined in Section II.A above. Thus, GPSS must submit reports in accordance with Section II.A above no later than October 31, 2007 for the period covering July 1, 2007 through September 30, 2007. However, once the CAP has been finalized, the high-risk reporting required under Section II.A above will be replaced by semiannual reporting required under the CAP as outlined in paragraph 3 below.
3. As of the period beginning October 1, 2007, when the CAP referenced in paragraphs 1 and 2 above has been finalized and become effective, GPSS will no longer be required to report under Section II.A. above. Instead, GPSS will be required to provide a semiannual report to the Department on its progress in implementing measures required under the CAP, including the current status of GPSS’s implementation of the various measures and, if necessary, any changes in the targeted completion dates included in the CAP. GPSS must submit the CAP reports to the Department no later than thirty days after the end of each semiannual period. Therefore, GPSS shall submit semiannual CAP reports to the Department by April 30, 2008 for the period covering October 1, 2007 through March 31, 2008, and by October 31, 2008 for the period covering April 1, 2008 through September 30, 2008.
4. Although the first semiannual report under the CAP will be due on April 30, 2008 for the period covering October 1, 2007 through March 31, 2008, if the CAP has not been finalized and does not become effective by October 1, 2007, then GPSS must again report in accordance with Section II.A above for the quarterly period

covering September 1, 2007 through December 31, 2007. This report would be due on January 31, 2008. Thereafter, GPSS would submit semiannual CAP reports, with the first covering a period of January 1, 2008 through June 30, 2008 and due on July 31, 2008, and the next covering a period of July 1, 2008 through December 31, 2008 and due on January 31, 2009. This paragraph applies only if the CAP has not been finalized and become effective by October 1, 2007.

C. Single Audits

GPSS shall continue to ensure that its single audits are conducted, and audit reports submitted, on an annual basis in a timely and complete manner. All single audits shall be completed and the reports published within nine months after the end of each fiscal year, as required by the Single Audit Act, as amended. If, for any reason, GPSS expects an audit or report to be delayed and late, it shall notify the Department's contact person of the reason and extent of the delay as soon as possible.

D. Prompt Access

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

E. Program-Specific Conditions

In addition to the special conditions that are contained in this document, special conditions may be imposed on FY 2007 grant awards made under one or more Department programs to address areas in which GPSS is out of compliance with program requirements. Each such program-specific special condition will be contained in an attachment to the grant award notification document in question that is provided by the Department to GPSS.

F. Compliance with Program Requirements

In addition to complying with any program-specific special conditions imposed on its Department grant awards, GPSS must timely and fully comply with all programmatic requirements under the statutes and regulations governing the programs under which it receives grant awards. In addition to the reporting required under Sections II.A and B of these special conditions, GPSS must timely and fully meet all specific program reporting requirements, including, but not limited to, submission of the Individuals with Disabilities Education Act (IDEA) Parts B and C Annual Performance Reports and the annual performance report required for the Consolidated Grant under section 76.132(a)(5) of EDGAR. GPSS must also work cooperatively with, and respond to requests for information from, the Department's program offices responsible for administering the various grant programs under which GPSS receives funds. These requests for information are part of the technical assistance that the program offices provide to GPSS and are designed to assist GPSS in properly implementing programs, projects, and activities under the grant awards that it receives from the Department.

G. Failure to Comply with Conditions

If a report required under Section II.A, B, or C above is not timely or is not considered acceptable by the Department, or if GPSS has not complied with Sections II.E or F of these special conditions concerning program-specific requirements, or if the Department determines that GPSS has not made substantial progress in meeting the objectives of one or more grant programs, the Department may implement one or more remedies for the affected programs, including, but not limited to, the following:

1. The Department would impose additional special conditions on one or more of GPSS's grant awards;
2. GPSS would receive no further funds under the grant award or would receive funds only on a reimbursement basis;
3. The Department would delay awarding of, or withhold, all or part of one or more grant awards to GPSS;
4. The Department would recover misspent funds from GPSS; and
5. The Department would require GPSS to contract with a third party, who must be approved by the Department, to provide financial management and other administrative responsibilities for one or more grant awards. The third party would, at a minimum, assist in preparing vouchers or other documentation to be submitted to the Department for reimbursement, and would verify their accuracy and legitimacy of expenditures as appropriate under applicable grant awards.

III. OTHER TERMS

A. Enforcement

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

B. Submission of Reports

All required reports submitted by GPSS to the Department under these special conditions must be submitted to:

Christine Jackson
400 Maryland Avenue, S.W.
LBJ, Room 7E230
Washington, DC 20202

C. Reconsideration and Modifications

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

Dated: _____