



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

AUG 4 2008

Honorable Utoofili Aso Maga
Director
American Samoa Department of Health
Government of American Samoa
Pago Pago, American Samoa 96799

Dear Director Aso Maga:

This is to inform you that we have conditionally approved American Samoa's Application for Federal Fiscal Year (FFY) 2008 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the Department of Health to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 6, 2008, and as amended on June 17, 2008 including policies, procedures, methods, descriptions, assurances, certifications, and submission statement provided in Section II, and incorporated by reference to this letter as noted in Enclosure A. In addition, the State provided the following specific assurances that it will:

1. Operate consistent with the Part C requirements in 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303;
2. Ensure that the statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2008 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, the State's policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of Part C of the IDEA, as amended, as soon as possible, and not later than the earlier of the date indicated by the State in Section II of its application or June 30, 2009. Section II of the State's application identifies the IDEA statutory sections for which the State needs to amend any policies, procedures, methods and descriptions and the timelines by which the State will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies, procedures, methods and descriptions that are not yet in compliance with the requirements of Part C of the IDEA, as amended.

American Samoa's FFY 2008 IDEA Part C grant award is also being released subject to fiscal special conditions regarding the Single Audit Act that are identified in the enclosed U.S. Department of Education's July 21, 2008 letter to American Samoa (which is Enclosure B and incorporated in this grant letter by this reference), regarding the Single Audit Act and that are being imposed pursuant to the Department's authority in 34 CFR §80.12. By accepting this grant award, American Samoa agrees to accept the special conditions identified in the Department's enclosed July 21, 2008 letter.

Enclosed is the State's grant award for funds currently available under the Department of Education Appropriations Act, 2008 for the Part C program. These funds are available for obligation by States from July 1, 2008 through September 30, 2010.

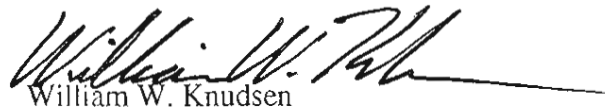
The enclosed grant award for FFY 2008 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

Please note that as part of your State's application for FFY 2008, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2008 grant period. Any changes made by the State to its FFY 2008 application or Part C policies or procedures that are application requirements, after issuance of this grant award, must meet the applicable public participation requirements under Part C of the IDEA in 34 CFR §§303.110 through 303.113 and if they are requirements under Section II.A must be submitted to, and approved by, OSEP prior to the State's implementation of its new or revised application, policies and procedures. Section IV.B of the FFY 2008 application for Part C funds requested updated information about each State's restricted indirect cost rate. Our records indicate that: your agency is not charging indirect costs to the Part C program. By accepting Part C grant funds, your agency (as the lead agency designated under Part C) is agreeing not to charge indirect costs to the Part C program for FFY 2008 Part C grant funds.

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh 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 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 a State 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.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,



William W. Knudsen

Acting Director

Office of Special Education Programs

Enclosures

Enclosure A

Enclosure B

cc: Part C Coordinator

Section II

A. State Policies, Procedures, Methods, and Descriptions

As checked below, the State hereby declares that it has or has not filed the following policies, procedures, methods, and descriptions with the U.S. Department of Education, and, as of the date of the signature below, affirms and incorporates by reference those policies, procedures, methods, and descriptions with respect to Part C of PL 108-446.

Check and enter date(s) as applicable. Enclose relevant documents.			N = 'New' Policy and/or Procedure R = 'Revised' Policy and/or Procedure OF = Policy and/or Procedure is already 'On File' with the USDE
Yes (If New or Revised is checked, the State is submitting policies, procedures, methods, and descriptions with this application. If already 'On File' with OSEP, check OF.)	No (Policies, procedures, methods, and descriptions have not been provided. Provide date by which State will submit to OSEP required documentation, which date shall be no later than June 30, 2008.)		
N	R	OF	State Policies, Procedures, Methods, and Descriptions
			State Policies and Procedures
		X	1. As required in 20 U.S.C. 1432(5)(A) and 1435(a)(1), the State has provided its policies and/or procedures regarding the State's definition of 'developmental delay' to ensure that a rigorous definition of the term 'developmental delay' will be used by the State in carrying out programs under this Part in order to appropriately identify infants and toddlers with disabilities that are in need of services under this Part.
		X	2. As required in 20 U.S.C. 1437(a)(9)(B), the State has provided its policies and/or procedures to ensure review of the child's program options for the period from the child's third birthday through the remainder of the school year.
			06/30/2009 3. As required in 20 U.S.C. 1437(a)(9)(C), the State has provided its policies and/or procedures to ensure the establishment of a transition plan, including, as appropriate, steps to exit from the program.
			06/30/2009 4. As required in 20 U.S.C. 1437(a)(6), the State has provided its policies and procedures that require the referral for early intervention services under this part of a child under the age of 3 who - (A) is involved in a substantiated case of abuse or neglect; or (B) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure.
			06/30/2009 5. As required in 20 U.S.C. 1437(a)(9)(A), the State has provided

<p><i>Check and enter date(s) as applicable. Enclose relevant documents.</i></p>			<p><i>N = 'New' Policy and/or Procedure R = 'Revised' Policy and/or Procedure OF = Policy and/or Procedure is already 'On File' with the USDE</i></p>	
<p>Yes (If New or Revised is checked, the State is submitting policies, procedures, methods, and descriptions with this application. If already 'On File with OSEP', check OF.)</p>		<p>No (Policies, procedures, methods, and descriptions have not been provided. Provide date by which State will submit to OSEP required documentation, which date shall be no later than June 30, 2008.)</p>		
N	R	OF	<p>State Policies, Procedures, Methods, and Descriptions</p>	
			<p>its policies and procedures that ensures a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under by 20 U.S.C 1435(c)) to preschool, school, other appropriate services, or exiting the program, including a description of how: (i) the families of such toddlers and children will be included in the transition plans required 20 U.S.C. 1437(a)(9)(C); and (ii) the lead agency designated or established under 20 U.S.C. 1435(a)(10) will (I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under Part B, as determined in accordance with State law; (II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and (III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B, to discuss the appropriate services that the child may receive.</p>	
			<p>Optional Policies/Methods Type in 'NA' for not applicable under 'No' in the cells to the left if the State has not exercised this option.</p>	
		X	<p>6. As required in 20 U.S.C. 1437(a)(4), if the State provides services to at-risk infants and toddlers through the statewide system, the State has provided its: 1) description of services to at-risk infants and toddlers, and 2) definition of 'at-risk' under 20 U.S.C. 1432(5)(B)(i).</p>	

Check and enter date(s) as applicable. Enclose relevant documents.				<i>N = 'New' Policy and/or Procedure</i> <i>R = 'Revised' Policy and/or Procedure</i> <i>OF = Policy and/or Procedure is already 'On File' with the USDE</i>
Yes (If New or Revised is checked, the State is submitting policies, procedures, methods, and descriptions with this application. If already 'On File with OSEP', check OF.)	No (Policies, procedures, methods, and descriptions have not been provided. Provide date by which State will submit to OSEP required documentation, which date shall be no later than June 30, 2008.)			
N	R	OF		State Policies, Procedures, Methods, and Descriptions
N/A	N/A	N/A	N/A	<p><i>Enter 'NA' in the cells to the left if the State does not have a system of payment. (See Section IV.A)</i></p> <p>7. As required in 20 U.S.C. 1432(4)(B) and 1437(a)(3)(A), the State has provided its policies and/or procedures that identify the State's system of payments for Part C services.</p>
N/A	N/A	N/A	N/A	<p><i>Enter 'NA' in the cells to the left if this statement is not applicable; otherwise check the 'N' cell under the 'Yes' column and attach all policies.</i></p> <p>8. As described in 20 U.S.C. 1435(c) the State has provided its policy, developed and implemented jointly by the lead agency and the State educational agency, under which parents of children with disabilities who are eligible for services under 20 U.S.C. 1419 and previously received services under this part, may choose the continuation of early intervention services (which includes an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) for such children under this part until such children enter, or are eligible under State law to enter, kindergarten.</p> <p>The statewide system ensures that--</p> <p>(A) parents of children with disabilities served pursuant to 20 U.S.C. 1435(c) are provided annual notice that contains--</p> <ul style="list-style-type: none"> (i) a description of the rights of such parents to elect to receive services pursuant to 20 U.S.C. 1435(c) or under Part B; and (ii) an explanation of the differences between services provided pursuant to 20 U.S.C. 1435(c) and services provided under Part B, including-- <ul style="list-style-type: none"> (I) types of services and the locations at which the services are provided; (II) applicable procedural safeguards; and (III) possible costs (including any fees to be charged to families as described in 20 U.S.C. 1432(4)(B)), if

Check and enter date(s) as applicable. Enclose relevant documents.			<i>N = 'New' Policy and/or Procedure</i> <i>R = 'Revised' Policy and/or Procedure</i> <i>OF = Policy and/or Procedure is already 'On File' with the USDE</i>
Yes (If New or Revised is checked, the State is submitting policies, procedures, methods, and descriptions with this application. If already 'On File with OSEP', check OF.)	No (Policies, procedures, methods, and descriptions have not been provided. Provide date by which State will submit to OSEP required documentation, which date shall be no later than June 30, 2008.)		
N	R	OF	State Policies, Procedures, Methods, and Descriptions
			<p>any, to parents of infants or toddlers with disabilities;</p> <p>(B) services provided pursuant to 20 U.S.C. 1435(c) include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills;</p> <p>(C) the State policy will not affect the right of any child served pursuant to 20 U.S.C. 1435(c) to instead receive a free appropriate public education under Part B;</p> <p>(D) all early intervention services outlined in the child's individualized family service plan under 20 U.S.C. 1436 are continued while any eligibility determination is being made for services under 20 U.S.C. 1435(c);</p> <p>(E) the parents of infants or toddlers with disabilities (as defined in 20 U.S.C. 1432(5)(A)) provide informed written consent to the State, before such infants or toddlers reach 3 years of age, as to whether such parents intend to choose the continuation of early intervention services pursuant to 20 U.S.C. 1435(c) for such infants or toddlers;</p> <p>(F) the requirements under 20 U.S.C. 1437(a)(9) shall not apply with respect to a child who is receiving services in accordance with 20 U.S.C. 1435(c) until not less than 90 days (and at the discretion of the parties to the conference, not more than 9 months) before the time the child will no longer receive those services; and</p> <p>(G) there will be a referral for evaluation for early intervention services of a child who experiences a substantiated case of trauma due to exposure to family violence (as defined in section 320 of the Family Violence Prevention and Services Act).</p> <p>The State shall submit to the Secretary, in the State's report under 20 U.S.C. 1437(b)(4)(A), a report on the number and percentage of children with disabilities who are eligible for services under 20 U.S.C. 1419 but whose parents choose for such children to continue to receive early intervention services</p>

<p><i>Check and enter date(s) as applicable. Enclose relevant documents.</i></p>			<p><i>N = 'New' Policy and/or Procedure R = 'Revised' Policy and/or Procedure OF = Policy and/or Procedure is already 'On File' with the USDE</i></p>	
<p align="center">Yes</p> <p>(If New or Revised is checked, the State is submitting policies, procedures, methods, and descriptions with this application. If already 'On File with OSEP', check OF.)</p>		<p align="center">No</p> <p>(Policies, procedures, methods, and descriptions have not been provided. Provide date by which State will submit to OSEP required documentation, which date shall be no later than June 30, 2008.)</p>		
N	R	OF	<p align="center">State Policies, Procedures, Methods, and Descriptions</p>	
				<p>under this part.</p> <p>The policy shall include a description of the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described 20 U.S.C. 1435(c)(1) is available to eligible children and families who provide the consent described in 20 U.S.C. 1435(c)(2)(E), including fees (if any) to be charged to families as described in 20 U.S.C. 1432(4)(B).</p> <p>In accordance with 20 U.S.C. 1435(c)(5)(A), when providing services to a child with a disability who is eligible for services under 20 U.S.C. 1419 the State is not required to provide the child with a free appropriate public education under Part B for the period of time in which the child is receiving services under Part C.</p>
N/A	N/A	N/A	N/A	<p><i>Enter 'NA' in the cells to the left if this statement is not applicable; otherwise check either the 'N' or 'R' cell under the 'Yes' column and attach appropriate written methods. See the Optional Technical Assistance Checklist for the full provisions of 20 U.S.C. 1440.</i></p> <p>9. The State has chosen to meet the requirement to establish financial responsibility for early intervention services under 20 U.S.C. 1440(b)(1) through 'appropriate written methods' under 20 U.S.C. 1440(b)(3)(C) other than State statute or regulation or signed interagency agreements.</p>
				Descriptions
			06/30/2009	<p>10. As required by Section 427 of the General Education Provisions Act (GEPA), the State has identified barriers and developed strategies to address the barriers and has provided a description of the steps the State is taking to ensure equitable access to, and participation in Part C.</p>
		X		<p>11. As required in 20 U.S.C. 1437(a)(3)(B), the State has provided a description of early intervention services to be provided to infants and toddlers with disabilities and their families through</p>

Check and enter date(s) as applicable. Enclose relevant documents.			<i>N = 'New' Policy and/or Procedure</i> <i>R = 'Revised' Policy and/or Procedure</i> <i>OF = Policy and/or Procedure is already 'On File' with the USDE</i>
Yes (If New or Revised is checked, the State is submitting policies, procedures methods, and descriptions with this application. If already 'On File with OSEP', check OF.)	No (Policies, procedures, methods, and descriptions have not been provided. Provide date by which State will submit to OSEP required documentation, which date shall be no later than June 30, 2008.)		
N	R	OF	State Policies, Procedures, Methods, and Descriptions
			the statewide system.
X			12. As required in 20 U.S.C. 1437(a)(5), the State has provided a description of the uses for which funds will be expended in accordance with this part. (See Section III. If the State is submitting a completed Section III, check 'N' under the 'Yes' column to the left.)
		X	13. As required in 20 U.S.C. 1437(a)(7) the State has provided a description of the procedures used to ensure that resources are made available under this part for all geographic areas within the State.
		X	14. As required in 20 U.S.C. 1437(a)(8) the State has provided a description of the policies and procedures used to ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, 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 infants and toddlers with disabilities.
			06/30/2009 15. As required in 20 U.S.C. 1437(a)(10) the State has provided a description of State efforts to promote collaboration among Early Head Start programs under section 645A of the Head Start Act, early education and child care programs, and services under Part C.

B. Assurances and Optional Assurance

The State makes the following assurances and provisions as required by Part C of the Individuals with Disabilities Education Act. (20 U.S.C. 1431 et.seq.)

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1434;1435; and 1437(b))
Yes <i>(Assurance is hereby provided.)</i>	No <i>(Assurance cannot be ensured. Provide date on which State will complete changes in order to provide assurance.)</i>	
X		1. As applicable, the assurance found in OMB Standard Form 424(B) (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 is in place.
	06/30/2009	2. The State has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and infants and toddlers with disabilities who are wards of the State; and has in effect a statewide comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services, for infants and toddlers with disabilities and their families, that meet the requirements of 20 U.S.C 1401, and 1431-1443. <i>See the Optional Technical Assistance Checklist for the full provisions of 1401 and 1432.</i>
	06/30/2009	3. The State has in effect a policy that ensures that appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State and infants and toddlers with disabilities who are homeless children and their families in accordance with 20 U.S.C. 1435(a)(2).
X		4. The State has in effect a timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1434;1435; and 1437(b))
Yes <i>(Assurance is hereby provided.)</i>	No <i>(Assurance cannot be ensured. Provide date on which State will complete changes in order to provide assurance.)</i>	
		family of such an infant or toddler, to assist appropriately in the development of the infant or toddler in accordance with 20 U.S.C. 1435(a)(3).
X		5. For each infant or toddler with a disability in the State, the State has an individualized family service plan in accordance with 20 U.S.C. 1436, including service coordination services in accordance with such service plan. (20 U.S.C. 1435(a)(4)) <i>See Optional Technical Assistance Checklist for the full provisions of 20 U.S.C. 1436.</i>
X		6. The State has a comprehensive child find system, consistent with Part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources and that ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under this part that will reduce the need for future services. (20 U.S.C. 1435(a)(5))
	06/30/2009	7. The State has a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under 20 U.S.C. 1435(a)(10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this part and of services under 20 U.S.C. 1419, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities. (20 U.S.C. 1435(a)(6))
X		8. The State has a central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State. (20 U.S.C. 1435(a)(7))
	06/30/2009	9. The State has a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State that

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1434;1435; and 1437(b))
Yes <i>(Assurance is hereby provided.)</i>	No <i>(Assurance cannot be ensured. Provide date on which State will complete changes in order to provide assurance.)</i>	
		<p>(A) includes--</p> <ul style="list-style-type: none"> (i) implementing innovative strategies and activities for the recruitment and retention of early education service providers; (ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and (iii) training personnel to coordinate transition services for infants and toddlers served under this part from a program providing early intervention services under this part and under Part B (other than 20 U.S.C. 1419), to a preschool program receiving funds under 20 U.S.C. 1419, or another appropriate program; and <p>(B) may include--</p> <ul style="list-style-type: none"> (i) training personnel to work in rural and inner-city areas; and (ii) training personnel in the emotional and social development of young children. <p>(20 U.S.C. 1435(a)(8)(A) and (B))</p>
	06/30/2009	<p>10. The State has policies and procedures relating to the establishment and maintenance of qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of qualifications that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services, except that nothing in this part (including this paragraph) shall be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under this part to infants and toddlers with disabilities. (20 U.S.C. 1432 and 1435(a)(9))</p>
X		<p>11. The State has a single line of responsibility in a lead agency designated or established by the Governor for carrying out -</p> <p>(A) the general administration and supervision of programs and activities receiving assistance under 20 U.S.C. 1433, and the monitoring of programs and activities used by the State to carry</p>

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1434;1435; and 1437(b))
Yes <i>(Assurance is hereby provided.)</i>	No <i>(Assurance cannot be ensured. Provide date on which State will complete changes in order to provide assurance.)</i>	
		<p>out this part, whether or not such programs or activities are receiving assistance made available under 20 U.S.C. 1433, to ensure that the State complies with this part;</p> <p>(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;</p> <p>(C) the assignment of financial responsibility in accordance with 20 U.S.C. 1437(a)(2) to the appropriate agencies;</p> <p>(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;</p> <p>(E) the resolution of intra- and interagency disputes; and</p> <p>(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination. <i>See Optional Technical Assistance Checklist for the full provisions of 20 U.S.C. 1440.</i></p> <p>(20 U.S.C. 1435(a)(10)(A)-(F) and 1440)</p>
	06/30/2009	12. The State has a policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of Part C, including the contents of the application used and the conditions of the contract or other arrangements. (20 U.S.C. 1435(a)(11))
	06/30/2009	13. The State has a procedure for securing timely reimbursements of funds used under this part in accordance with 20 U.S.C. 1440(a). <i>See Optional Technical Assistance Checklist for the full provisions of 20 U.S.C. 1440.</i> (20 U.S.C. 1435(a)(12) and 1440)
	06/30/2009	14. The State has procedural safeguards with respect to programs under this part, as required by 20 U.S.C. 1439. (20 U.S.C. 1435(a)(13)) <i>See Optional Technical Assistance Checklist for applicable provisions of 20 U.S.C. 1415 and 1439.</i>

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1434;1435; and 1437(b))
Yes <i>(Assurance is hereby provided.)</i>	No <i>(Assurance cannot be ensured. Provide date on which State will complete changes in order to provide assurance.)</i>	
X		15. The State has a system for compiling data requested by the Secretary under section 618 that relates to this part. (20 U.S.C. 1418, 1435(a)(14) and 1442)
X		16. The State has a State interagency coordinating council that meets the requirements of 20 U.S.C. 1441. (20 U.S.C. 1435(a)(15)) See <i>Optional Technical Assistance Checklist for the full provisions of 20 U.S.C. 1441.</i>
	06/30/2009	17. The State has policies and procedures to ensure that, consistent with 20 U.S.C 1436(d)(5): A) to the maximum extent appropriate, early intervention services are provided in natural environments; and B) the provision of early intervention services for any infant or toddler with a disability occurs in a setting other than a natural environment that is most appropriate, as determined by the parent and the individualized family service plan team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment. (20 U.S.C. 1435(a)(16))
X		18. The State ensures that Federal funds made available under 20 U.S.C. 1443 will be expended in accordance with this part. (20 U.S.C. 1437(b)(1) and 1438)
X		19. The State ensures that it has methods in place to comply with the requirements of 20 U.S.C. 1440. (20 U.S.C. 1437(b)(2)) <i>State's response should be consistent with Certification #3 below.</i>
X		20. The State ensures that the control of funds provided under 20 U.S.C. 1443, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property. (20 U.S.C. 1437(b)(3))
X		21. The State ensures that provisions shall be made for-- (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and (B) keeping such reports and affording such access to the reports as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal

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Yes <i>(Assurance is hereby provided.)</i>	No <i>(Assurance cannot be ensured. Provide date on which State will complete changes in order to provide assurance.)</i>	
		funds under this part. (20 U.S.C. 1437(b)(4))
X		22. The State ensures that the Federal funds made available under 20 U.S.C. 1443 to the State-- (A) will not be commingled with State funds; and (B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds. (20 U.S.C. 1437(b)(5))
X		23. The State ensures that fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under 20 U.S.C. 1443 to the State. (20 U.S.C. 1437(b)(6))
	06/30/2009	24. The State ensures that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, in the planning and implementation of all the requirements of Part C. (20 U.S.C. 1437(b)(7))
X		25. The State assures that it shall provide other information and assurances as the Secretary may reasonably require by regulation. (20 U.S.C. 1437(b)(8).
		Optional Assurance
	06/30/2009	<i>Enter 'NA' in the cells to the left if this assurance is not applicable.</i> 26. The State has adopted a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in 20 U.S.C. 1435(a)(9). (20 U.S.C. 1435(b))

C. Certifications

The State Lead Agency 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	<p>2. The State certifies that it has met the certifications in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §80.11 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.</p>
X	<p>3. The State certifies that the methods or arrangements to establish financial responsibility for early intervention services provided under Part C pursuant to 20 U.S.C. 1440(b) are current as of the date of this Application certification. (20 U.S.C. 1437(a)(2) and 1440). <i>See Item 9 in Section II.A above regarding including, with this Application for the Secretary's review, 'other appropriate written methods' to meet the requirements of 20 U.S.C. 1440(b). State's response under Assurance #19 above should be consistent with its response to this Certification.</i></p>



**U.S. Department of Education
Washington, D.C. 20202**

GRANT AWARD NOTIFICATION

1	RECIPIENT NAME: AM SAMOA DEPARTMENT OF HEALTH GOVT. OF AMERICAN SAMOA Pago Pago, AS 96799	5	AWARD INFORMATION PR/AWARD NUMBER H181A080041 ACTION NUMBER 01 ACTION TYPE New AWARD TYPE Formula																				
2	PROJECT DESCRIPTION 84.181A INFANTS AND TODDLERS WITH DISABILITIES	6	AWARD PERIODS BUDGET PERIOD 07/21/2008 - 09/30/2009 FEDERAL FUNDING PERIOD 07/21/2008 - 09/30/2009																				
3	EDUCATION STAFF RECIPIENT STATE DIRECTOR JEAN ASUEGA (684) 633 - 4929 EDUCATION PROGRAM CONTACT Ruth E. Ryder (202) 245 - 7629 EDUCATION PAYMENT CONTACT GAPS PAYEE HOTLINE (888) 336 - 8930	7	AUTHORIZED FUNDING CURRENT AWARD AMOUNT \$582,117.00 PREVIOUS CUMULATIVE AMOUNT \$0.00 CUMULATIVE AMOUNT \$582,117.00																				
4	KEY PERSONNEL N/A	8	ADMINISTRATIVE INFORMATION DUNS/SSN 854993177 REGULATIONS CFR PART 34CFR 303 EDGAR AS APPLICABLE ATTACHMENTS F																				
9	LEGISLATIVE AND FISCAL DATA AUTHORITY: PL 105-17 INDIVIDUALS WITH DISABILITIES EDUCATION ACT PROGRAM TITLE: SPECIAL. EUDCATION - GRANTS FOR INFANTS AND FAMILIES WITH DISABILITIES CFDA/SUBPROGRAM NO: 84.181A <table border="1"> <thead> <tr> <th>FUND CODE</th> <th>FUNDING YEAR</th> <th>AWARD YEAR</th> <th>ORG. CODE</th> <th>CATEGORY</th> <th>LIMITATION</th> <th>ACTIVITY</th> <th>CFDA</th> <th>OBJECT CLASS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>0300M</td> <td>2008</td> <td>2008</td> <td>EH000000</td> <td>B</td> <td>K94</td> <td>000</td> <td>181</td> <td>4101A</td> <td>\$582,117.00</td> </tr> </tbody> </table>			FUND CODE	FUNDING YEAR	AWARD YEAR	ORG. CODE	CATEGORY	LIMITATION	ACTIVITY	CFDA	OBJECT CLASS	AMOUNT	0300M	2008	2008	EH000000	B	K94	000	181	4101A	\$582,117.00
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U.S. Department of Education
Washington, D.C. 20202

GRANT AWARD NOTIFICATION

10

PR/AWARD NUMBER: H181A080041

RECIPIENT NAME: AM SAMOA DEPARTMENT OF HEALTH
GOVT. OF AMERICAN SAMOA

TERMS AND CONDITIONS

- (1) UNDER THE "TYDINGS AMENDMENT," SECTION 421(b) OF THE GENERAL EDUCATION PROVISIONS ACT, 20 U.S.C. 1225(b), ANY FUNDS THAT ARE NOT OBLIGATED AT THE END OF THE FEDERAL FUNDING PERIOD SPECIFIED IN BLOCK 6 SHALL REMAIN AVAILABLE FOR OBLIGATION FOR AN ADDITIONAL PERIOD OF 12 MONTHS.
- (2) WHEN ISSUING STATEMENTS, PRESS RELEASES, REQUESTS FOR PROPOSALS, BID SOLICITATIONS, AND OTHER DOCUMENTS DESCRIBING THIS PROJECT OR PROGRAMS FUNDED IN WHOLE OR IN PART WITH FEDERAL MONEY, ALL GRANTEEES RECEIVING FEDERAL FUNDS, INCLUDING BUT NOT LIMITED TO STATE AND LOCAL GOVERNMENTS, SHALL STATE CLEARLY:

- 1) THE DOLLAR AMOUNT OF FEDERAL FUNDS FOR THE PROJECT,
- 2) THE PERCENTAGE OF THE TOTAL COST OF THE PROJECT THAT WILL BE FINANCED WITH FEDERAL FUNDS, AND
- 3) THE PERCENTAGE AND DOLLAR AMOUNT OF THE TOTAL COST OF THE PROJECT THAT WILL BE FINANCED BY NON-GOVERNMENTAL SOURCES.

AS OF 07/01/97, FEDERAL FISCAL YEAR (FFY) WILL REFER TO THE YEAR THE FUNDS WERE APPROPRIATED.

AUTHORIZING OFFICIAL

DATE

EXPLANATION OF BLOCKS ON THE GRANT AWARD NOTIFICATION

For Discretionary, Formula, and Block Grants

(See Block 5 of the Notification)

1. **RECIPIENT NAME** - The legal name of the recipient, name of the primary organizational unit that will undertake the funded activity, and the complete address of the recipient. The recipient is commonly known as the "grantee."
2. **PROJECT TITLE AND CFDA NUMBER** - Identifies the Catalog of Federal Domestic Assistance (CFDA) subprogram title and the associated subprogram number.
3. **PROJECT STAFF** - This block contains the names and telephone numbers of the U.S. Department of Education and recipient staff who are responsible for project direction and oversight.
 - *RECIPIENT PROJECT DIRECTOR** - The recipient staff person responsible for administering the project. This person represents the recipient to the U.S. Department of Education.
 - EDUCATION PROGRAM CONTACT** - The U.S. Department of Education staff person responsible for the programmatic, administrative and business-management concerns of the Department.
 - EDUCATION PAYMENT CONTACT** - The U.S. Department of Education staff person responsible for payments or questions concerning electronic drawdown and financial expenditure reporting.
4. *** KEY PERSONNEL** - Name, title and percentage (%) of effort the key personnel identified devotes to the project.
5. **AWARD INFORMATION** - Unique items of information that identify this notification.
 - PR/AWARD NUMBER** - A unique, identifying number assigned by the Department to each application. On funded applications, this is commonly known as the "grant number" or "document number."
 - ACTION NUMBER** - A numeral that represents the cumulative number of steps taken by the Department to date to establish or modify the award through fiscal or administrative means. Action number "01" will always be "NEW AWARD"
 - ACTION TYPE** - The nature of this notification (e.g., NEW AWARD, CONTINUATION, REVISION, ADMINISTRATIVE)
 - AWARD TYPE** - The particular assistance category in which funding for this award is provided, i.e., DISCRETIONARY, FORMULA, or BLOCK.
6. **AWARD PERIODS** - Project activities and funding are approved with respect to three different time periods, described below:
 - BUDGET PERIOD** - A specific interval of time for which Federal funds are being provided from a particular fiscal year to fund a recipient's approved activities and budget. The start and end dates of the budget period are shown.
 - PERFORMANCE PERIOD** - The complete length of time the recipient is proposed to be funded to complete approved activities. A performance period may contain one or more budget periods.
 - *FUTURE BUDGET PERIODS** - The estimated remaining budget periods for multi-year projects and estimated funds the Department proposes it will award the recipient provided substantial progress is made by the recipient in completing approved activities, the Department determines that continuing the project would be in the best interest of the Government, Congress appropriates sufficient funds under the program, and the recipient has submitted a performance report that provides the most current performance information and the status of budget expenditures.
7. **AUTHORIZED FUNDING** - The dollar figures in this block refer to the *Federal* funds provided to a recipient during the award periods.
 - *THIS ACTION** - The amount of funds obligated (added) or de-obligated (subtracted) by this notification.
 - *BUDGET PERIOD** - The total amount of funds available for use by the grantee during the stated budget period to this date.
 - *PERFORMANCE PERIOD** - The amount of funds obligated from the start date of the first budget period to this date.
 - RECIPIENT COST-SHARE** - The funds, expressed as a percentage, that the recipient is required to contribute to the project, as defined by the program legislation or regulations and/or terms and conditions of the award.
 - RECIPIENT NON-FEDERAL AMOUNT** - The amount of non-federal funds the recipient must contribute to the project as identified in the recipient's application. When non-federal funds are identified by the recipient where a cost share is not a legislation requirement, the recipient will be **required** to provide the non-federal funds.
8. **ADMINISTRATIVE INFORMATION** - This information is provided to assist the recipient in completing the approved activities and managing the project in accordance with U.S. Department of Education procedures and regulations.
 - DUNS/SSN** - A unique, identifying number assigned to each recipient for payment purposes. The number is based on either the recipient's assigned number from Dun and Bradstreet or the individual's social security number.
 - *REGULATIONS** - The parts of the Education Department General Administrative Regulations (EDGAR) and specific program regulations that govern the award and administration of this grant.
 - *ATTACHMENTS** - Additional sections of the Grant Award Notification that discuss payment and reporting requirements, explain Department procedures, and add special terms and conditions in addition to those established, and shown as clauses, in Block 10 of the award. Any attachments provided with a notification continue in effect through the project period until modified or rescinded by the Authorizing Official.
9. **LEGISLATIVE AND FISCAL DATA** - The name of the authorizing legislation for this grant, the CFDA title of the program through which funding is provided, and U.S. Department of Education fiscal information.
 - FUND CODE, FUNDING YEAR, AWARD YEAR, ORG. CODE, PROJECT CODE, OBJECT CLASS** - The fiscal information recorded by the U.S. Department of Education's Grant Administration and Payment System to track obligations by award.
 - AMOUNT** - The amount of funds provided from a particular appropriation and project code. Some notifications authorize more than one amount from separate appropriations and/or project codes. The total of all amounts in this block equals the amount shown on the line, "THIS ACTION" (See "AUTHORIZED FUNDING" above (Block 7)).
10. **TERMS AND CONDITIONS OF AWARD** - Requirements of the award that are binding on the recipient.
 - *AUTHORIZING OFFICIAL** - The U.S. Department of Education official authorized to award Federal funds to the recipient, establish or change the terms and conditions of the award, and authorize modifications to the award.

FOR FORMULA AND BLOCK GRANTS ONLY:

(See also Blocks 1, 2, 5, 6, 8, 9 and 10 above)

5. **EDUCATION STAFF** - The U.S. Department of Education staff persons to be contacted for programmatic and payment questions.
7. **AUTHORIZED FUNDING**
 - CURRENT AWARD AMOUNT** - The amount of funds that are obligated (added) or de-obligated (subtracted) by this action.
 - PREVIOUS CUMULATIVE AMOUNT** - The total amount of funds awarded under the grant before this action.
 - CUMULATIVE AMOUNT** - The total amount of funds awarded under the grant, this action included.

* This item differs or does not appear on formula and block grants.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

July 21, 2008

Honorable Togiola Talalelei Tulafona
Governor of American Samoa
Office of the Governor
Executive Office Building
Pago Pago, AS 96799

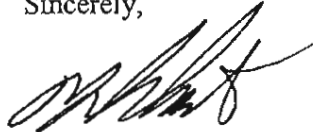
Dear Governor Tulafona:

We are pleased with the effort and cooperation demonstrated by representatives of the Government of American Samoa (ASG), including the American Samoa Department of Education, to address the challenging grant management and fiscal accountability issues that ASG is facing regarding the administration of Federal education grants awarded to it by the U.S. Department of Education (Department). However, there are still very serious deficiencies in ASG's administration of Federal education funds that it must address, particularly with respect to payroll, procurement, property management, and generally, the development and implementation of effective internal controls to ensure accountability for Federal funds. ASG's failure to implement proper policies and procedures in these areas is having a substantial negative effect on its ability to administer and account properly for the use of Department grant funds. The Department's concerns are underscored by a recent Examination Level Payroll Attestation conducted by R.C. Holsinger & Associates, P.C. (in accordance with the special conditions imposed on ASG's Federal Fiscal Year (FFY) 2007 grants), whose initial report based on the Attestation reveals major compliance issues related to ASG's use of funds for payroll costs.

As a result, ASG's status as a "high-risk" grantee will continue under 34 C.F.R. § 80.12, and the Department is imposing special conditions on all Department program funds awarded to ASG agencies. Enclosed are the special conditions that will be incorporated in the FFY 2008 grant awards made by the Department to ASG for all of the Federal education programs it administers and that also apply to grant funds previously awarded by the Department to ASG that are still available for obligation or liquidation on the date of these special conditions. Please note that the special conditions include ASG's agreement that it may not draw down any of the remainder of its FFY 2007 grant funds or any FFY 2008 grant funds until after ASG has met the following two conditions: (1) completed and submitted the comprehensive corrective action plan that was required under the FFY 2007 special conditions and the Department has approved the plan; and (2) obtained and provided to the Department a final report based on the Examination Level Payroll Attestation required under the FFY 2007 special conditions and performed by public accountant R.C. Holsinger & Associates, P.C. (RCHA) in February/March 2008. After ASG has met these two conditions, all FFY 2007 grant funds remaining available for obligation or liquidation will be available for drawdown by ASG, but there will be a restriction on the amount of FFY 2008 grant funds that ASG may draw down until after it has met the following additional conditions: (1) submitted the Fiscal Year 2007 single audit to the Federal Audit Clearinghouse; and (2) developed a Payroll Attestation Corrective Action Plan approved by the Department to address the deficiencies identified in the final report based on the Attestation performed by RCHA.

We appreciate your willingness to take actions necessary to address internal and operational control deficiencies that have affected ASG's management of Department grant funds and encourage you to continue to work diligently to address the challenges facing ASG in the areas of financial management and accountability and to meet the requirements of these special conditions. We know that we take seriously our mutual responsibilities to ensure that Federal program funds are being spent properly to assist students, and we look forward to continuing to work with you to improve the delivery of Federal education services so that no child in American Samoa is left behind.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Maestri', written in a cursive style.

Philip A. Maestri, Director
Risk Management Service

Cc: Dr. Claire Poumele, Director of Education
Manupo Turituri, High-Risk Status Task Force

Enclosure

American Samoa Government – Special Conditions
Federal Fiscal Year (FFY) 2008

PREAMBLE: These special conditions are imposed on all program grants issued by the U.S. Department of Education (the Department) to all recipient agencies of the Government of American Samoa (ASG) on or after the date of these special conditions. Additionally, the special conditions apply to grant funds previously awarded by the Department to ASG 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 ASG's awards are expended in accordance with applicable legal requirements and with appropriate fiscal accountability measures, management practices, and controls.

I. EXPLANATION OF HIGH-RISK STATUS

Under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR § 80.12, the Department has determined that ASG continues to be a "high-risk" grantee for purposes of these grant awards because of problems in ASG's fiscal and program accountability and related areas. Our conclusion is based on the following:

- A. The Department is extremely concerned with the internal control deficiencies and material weaknesses identified in ASG's fiscal year (FY) 2006 single audit and prior year single audits. Due to the seriousness of the deficiencies, the auditors have once again qualified their opinion on ASG's FY 2006 audited financial statements and issued a disclaimed opinion on the FY 2006 report on Federal program compliance. The systemic internal control failures in ASG's general accounting and program operations demonstrate an overall breakdown of fiscal and operational controls that are intended to protect Federal as well as local funds from misuse. Since the breakdown of controls is widespread across ASG, it emphasizes the magnitude of the underlying fiscal and management problems (such as an inadequate system of internal controls to ensure compliance with the following requirements: cash management, allowable costs and cost principles, administrative requirements, fixed asset accounting/management, physical inventory and reconciliations, recordkeeping, reporting, and claims for reimbursements; significant failures in the operation of the internal control structure related to general accounting and grants administration; budget overruns; and inadequate payroll documentation), which raise grave concerns about ASG's ability to properly administer and provide services with Department funds.
- B. ASG is currently not in compliance with the Single Audit Act of 1984 as amended, which requires single audits to be completed and the report published within nine months after the end of each fiscal year. Over a period of many years, ASG had submitted its single audits significantly late or had not submitted them at all. Although ASG has made significant progress by submitting its delinquent single audits through FY 2006, ASG has requested and received an extension from the U.S. Department of Interior until September 30, 2008 to file its FY 2007 single audit because it will not be able to meet the nine-month filing requirement in the Single Audit Act.
- C. ASG is making an effort toward instituting corrective actions (as demonstrated by its willingness to work constructively with the Department) to address its systemic internal control deficiencies and material weaknesses in its fiscal accountability and operations identified in the FY 2006 single audit and prior year single audits. However, as ASG has yet to implement these corrective actions, significant fiscal and programmatic weaknesses still remain, which draw into question ASG's ability to properly administer and account for Federal program funds as prescribed by Federal laws and program rules. Specifically, because of the material breakdown of fiscal and operational controls across much of ASG's operations, the Department remains very concerned that significant risk still exists to Department funds, particularly in the areas of procurement, property management, fiscal operations and payroll.

II. SPECIAL CONDITIONS

A. Drawdown Authority

1. ASG agrees that by accepting grant awards in accordance with the terms of these special conditions, it may not draw down funds under the grants (including FFY 2007 funds remaining available for obligation or liquidation and any FFY 2008 funds), and the Department will not permit it to draw down funds under these grants, until such time as ASG has (1) completed and submitted the comprehensive corrective action plan that was required under the FFY 2007 special conditions and the Department has approved the plan (see Section II.B.1 below) and (2) obtained and provided to the Department a final report based on the Examination Level Payroll Attestation (Attestation) required under the FFY 2007 special conditions and performed by public accountant R.C. Holsinger & Associates, P.C. (RCHA) in February/March 2008 (see section II.D.1 below).
2. ASG agrees that once the Department has advised ASG that it has satisfied the two conditions described above in section II.A.1, it may draw down funds as follows:
 - a. All FFY 2007 grant funds remaining available for obligation or liquidation will be available for drawdown by ASG; and
 - b. With respect to FFY 2008 grant funds, the Department will allow ASG to draw down only up to fifty percent of the funds available in each FFY 2008 grant award issued on or after the date of these special conditions until such time as ASG has (1) submitted the FY 2007 single audit to the Federal Audit Clearinghouse (see Section II.C below) and (2) developed a Payroll Attestation Corrective Action Plan approved by the Department (see Section II.D.2 below) to address the deficiencies identified in the final report based on the Attestation performed by RCHA (see Section II.D.1 below).

B. Corrective Action Plan

1. As of the drafting of these special conditions, ASG has not complied with section II.C of the FFY 2007 special conditions, which required ASG to complete the development of a comprehensive Corrective Action Plan (CAP), approvable by the Department, that outlines measures that ASG must implement to address and resolve the problems that led to its designation as a high-risk grantee and that will assist ASG and the Department in tracking ASG's progress in addressing and resolving these problems. ASG must complete and submit its CAP to the Department and obtain final approval thereof by September 30, 2008. As noted in section II.A.1 above, ASG agrees that it may not draw down any of the remainder of its FFY 2007 grant funds or any of its FFY 2008 grant funds available in each of the grants issued on or after the date of these special conditions until such time as ASG has provided the Department with a final, approvable CAP and has also met the condition in section II.D.1 below.
2. Once the CAP has been finalized and approved by the Department, ASG is required to provide a semiannual report to the Department on its progress in implementing measures required under the CAP, including the current status of ASG's implementation of the various measures and, if necessary, any changes in the targeted completion dates and/or person(s) responsible for ensuring that a particular corrective action is implemented. ASG must submit the CAP reports to the Department no later than thirty days after the end of each semiannual period. Therefore, semiannual reports shall be submitted to the Department by April 30th for the period covering October 1st to March 31st and by October 31st for the period covering April 1st to September 30th. If a report is not timely or is not considered acceptable by the Department, it may result in the Department taking one or more remedies including the following for any applicable program(s): the reinstatement of quarterly reporting; the imposition of further conditions; the recovery of misspent funds; or the implementation of a contract with a third party to provide services.

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

C. Single Audits

ASG shall conduct single audits and submit reports on an annual basis in a timely and complete manner. ASG must complete its FY 2007 single audit and submit it to the Federal Audit Clearinghouse by September 30, 2008, in accordance with the extension that it received from the U.S. Department of Interior. Thereafter, all of ASG's required single audits shall be completed and the report published within nine months after the end of each fiscal year as required by the Single Audit Act of 1984 as amended. The Department will continue to rely on ASG's single audits, along with monitoring conducted by the Department, to perform oversight of ASG's administration of Department grants. If, for any reason, ASG expects an audit or report to be delayed, it shall notify the Department of the reason and extent of the delay as soon as possible. Based on the information provided, the Department may take one or more remedies including, but not limited to, the imposition of further conditions, the recovery of misspent funds, or the implementation of a contract with a third party to provide services. As noted in Section II.A.2.b above, once ASG has satisfied the conditions in section II.A.1 above, ASG may draw down only up to fifty percent of the funds available in each FFY 2008 grant award issued on or after the date of these special conditions until such time as ASG has submitted the FY 2007 single audit to the Federal Audit Clearinghouse and has also met the condition in section II.D.2 below.

D. Payroll Attestation Corrective Action Plan

1. Because of ASG's high-risk status and demonstrated risk to Federal program funds, as noted in a number of its most recent single audits, and in conjunction with the Department's serious concerns regarding payroll inaccuracies and reporting affecting Federal education funds, the FFY 2007 special conditions required ASG to undergo an Attestation administered by an independent public accountant, covering all ASG employees paid with Federal education funds. RCHA conducted the Attestation in February/March 2008 and has issued a draft report to the Department. The draft report identifies significant problems in the manner in which ASG accounts for Federal funds used for payroll costs and indicates that ASG is not in compliance with Federal requirements for using Federal funds for payroll costs. As of the date of these special conditions, RCHA expects to issue a final Attestation report, which it anticipates will remain largely unchanged, in August 2008. ASG must provide a copy of the final Attestation report to the Department by September 30, 2008. As noted in section II.A.1 above, ASG agrees that it may not draw down any of the remainder of its FFY 2007 grant funds, or any of its FFY 2008 grant funds available in each of the grants issued on or after the date of these special conditions, until such time as it has provided to the Department a copy of the final Attestation report and has also met the condition in section II.B.1 above.
2. Because of the significant problems identified in the Attestation and their impact on the expenditure of Department grant funds for payroll costs, ASG must develop a payroll corrective action plan (PCAP) to address all deficiencies that are cited in the final version of RCHA's Attestation report. The PCAP, which must be approved by the Department, will be used by ASG (and monitored by the Department) to develop and implement internal controls, policies and procedures to eliminate the significant deficiencies identified by the Attestation and to bring ASG into compliance with Federal requirements for using Department grant funds for payroll costs. ASG will be required to provide the Department with quarterly reports on its efforts and initiatives to develop and implement corrective actions and controls in accordance with the PCAP. The Department will provide the due dates for these quarterly reports to ASG upon approval of the PCAP. As noted in Section II.A.2.b above, once ASG has satisfied the conditions in section II.A.1 above, ASG may draw down only up to fifty percent of the funds available in each FFY 2008 grant award issued on or after the date of these special conditions until such time as ASG has completed and obtained approval from the Department of the PCAP and has also met the condition in section II.C above.

E. Prompt Access

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

F. Program-Specific Conditions

Special conditions may be imposed on FFY 2008 grant awards made under one or more Department programs, in addition to the special conditions that are contained in this document. 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 ASG.

G. Failure to Comply with Conditions

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

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

III. OTHER TERMS

A. Enforcement

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

B. Submission of Reports

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

Keith Kistler
Office of the Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Room 7E232
Washington, DC 20202

C. Reconsideration and Modifications

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

Dated: _____