



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

July 1, 2022

Honorable Jon J.P. Fernandez
Superintendent of Education
Guam Department of Education
500 Mariner Avenue
Barrigada, Guam 96913

Dear Superintendent Fernandez:

We have approved the Guam's application for Federal fiscal year (FFY) 2022 funds, under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our approval is based on our review of the IDEA Part C application, submitted by the Guam Department of Education (GDOE) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on May 11, and June 28, 2022. The effective date of this grant award is July 1, 2022.

Our approval of Guam's FFY 2022 IDEA Part C grant includes approval of policies, procedures, methods, descriptions, assurances, and certifications identified in Section II.A, II.B, and II.C, which is incorporated by reference to this grant award letter as Enclosure A. Our approval is also based on Guam's certification in Section II.D of its FFY 2022 application (Enclosure B), that the Guam's provisions meet the requirements of IDEA Part C as found in 20 U.S.C. §§ 1431 through 1443 and the regulations in 34 C.F.R. Part 303, and that Guam will operate its Part C program in accordance with all of the IDEA Part C requirements including required policies, procedures, methods, descriptions, assurances and certifications. See 34 C.F.R. § 76.104.

Guam's FFY 2022 IDEA Part C grant award is being released subject to Specific Conditions that are identified in the Department's June 30, 2022 letter to GDOE, included as Enclosure C to this grant letter and which letter is hereby expressly incorporated into the terms of Guam's FFY 2022 IDEA Part C grant. These Specific Conditions are being imposed by OSEP pursuant to the Department's authority in IDEA sections 616(g) and 642 and 2 C.F.R. §§ 200.208 and 3474.10. By accepting this grant award, Guam expressly agrees to comply with the Specific Conditions identified in Enclosure C throughout the period that Guam uses its IDEA Part C FFY 2022 funds. The FFY 2022 Department-wide specific conditions and GDOE's designation as a high-risk grantee pursuant to the Department's authority in 2 C.F.R. §§ 200.208 and 3474.10 are continued in response to the need for GDOE to take actions that fully address the significant issues in its management of, and accountability for, Department grant funds.

Enclosed is Guam's FFY 2022 grant award for funds currently available under the Consolidated Appropriations Act, 2022 (Public Law 117-103) for the IDEA Part C program. These funds are available for obligation by IDEA grant recipients from July 1, 2022, through September 30, 2024, in accordance with 34 C.F.R. § 76.709.

Under IDEA Section 605, and 2 C.F.R. Part 200, and 34 C.F.R. § 303.104, States must obtain prior approval to charge certain expenses as direct costs. On October 29, 2019, the Office of Special Education and Rehabilitative Services (OSERS) released a Frequently Asked Questions

(2019 FAQs) document on prior approval.¹ In the event Guam identified such costs in Section III of its application for costs not covered by the 2019 FAQs, OSEP will respond to any prior approval requests under separate cover. OSEP’s approval of the FFY 2022 IDEA Part C grant application does not constitute approval for such costs. Please contact your OSEP State Lead for further assistance.

Section IV.B of the IDEA Part C FFY 2022 application requested updated information about how your lead agency implements the restricted indirect cost rate requirements in 34 CFR §303.225(c). Guam indicated in Section IV.B that GDOE is a State Educational Agency (SEA) and works directly with the Department’s Indirect Cost Division to ensure that indirect costs are only charged on a restricted basis to Guam’s IDEA Part C grant. Under 2 CFR §200.210(a)(15), by accepting this IDEA Part C grant award, GDOE is agreeing to charge indirect costs on a restricted basis for the period that the State uses any funds awarded under its FFY 2022 CAA IDEA Part C grant award and will submit any changes affecting indirect costs charged to either of these awards to its restricted indirect cost rate agreement to the Department’s Indirect Cost Division. Under 2 C.F.R. § 200.403(d), GDOE must ensure that any costs charged to the IDEA Part C grant award as a direct cost are not also allocated and charged to the IDEA Part C grant as an indirect cost.

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

The enclosed grant award of FFY 2022 funds is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part C.

If Guam revises those IDEA Part C policies or procedures that are required under Part C of the IDEA or the regulations in 34 C.F.R. Part 303, Guam must subject those policies and procedures to the public participation requirements in 34 C.F.R. § 303.208 and receive OSEP approval for those policies and procedures referenced in 34 C.F.R. § 303.101(c) prior to their implementation.

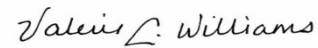
As a reminder, all prime recipients of IDEA (Part B or Part C) funds must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at

¹Prior approval must be obtained under IDEA for the following direct costs: (1) equipment (2 C.F.R. § 200.1 and 34 C.F.R. § 303.104); (2) participant support costs (2 C.F.R. § 200.1); (3) rent (2 C.F.R. § 200.465 and 34 C.F.R. § 303.225(d)); and capital improvements (IDEA Section 605 and 34 C.F.R. § 303.104). Under the 2019 FAQs, OSERS granted prior approval for participant support costs under IDEA that: are associated with State Interagency Coordinating Councils; incurred during the provision of services under IDEA; do not exceed \$5000 per individual participant per training/conference. In addition, the 2019 FAQs provide prior approval for equipment that is identified on or directly related to the implementation of the IFSP.

<https://www.fsrs.gov/>. Please contact your Fiscal Accountability Facilitator if you have further questions.

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

Sincerely,



Valerie C. Williams
Director
Office of Special Education Programs

Enclosures

- Enclosure A (Sections II.A-C. of the State's application)
- Enclosure B (Section II.D. of the State's application)
- Enclosure C (Department-wide Specific Conditions)

cc: Part C Coordinator

State Name: Guam

Enclosure A

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 the Individuals with Disabilities Education Act (IDEA or Act) in 20 U.S.C. 1431–1443 and the Part C regulations in 34 CFR Part 303 (Part C). By submission of this Section II, the State assures that throughout the period of this FFY 2021 grant award, the State will operate consistently with all requirements of Part C of the IDEA in 20 U.S.C. 1431 through 1443 and the Part C regulations in 34 CFR Part 303. The State will develop and/or make such changes to existing policies, procedures, methods, descriptions, and assurances as are necessary to bring the policies, procedures, methods, descriptions, and assurances into compliance with the requirements of the IDEA Part C Act and regulations by the date indicated below and not later than June 30, 2023.

- Check and enter date(s) as applicable.
- Enclose relevant documents.

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.)

N = 'New' Policy and/or Procedure

R = 'Revised' Policy and/or Procedure

OF = Policy and/or Procedure is already 'On File' with the USDE

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, 2023.)

Yes: N	Yes: R	Yes: OF	No	State Policies, Procedures, Methods, and Descriptions
—	—	—		Subpart C—State Policies and Procedures
		X	—	1. Each application must include the name of the State lead agency, as designated under §303.120, that will be responsible for the administration of funds provided under this part. (34 CFR §303.201)
		X		2. Each application must include a description of services to be provided under Part C to infants and toddlers with disabilities and their families through the State’s system. (34 CFR §303.203(a))
—	—	—	—	3. Each application must include the State’s policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private sources as required under subpart F of 34 CFR Part 303.

				<p><i>The State must have policies and procedures that meet the requirements listed in 3(a) and the methods identified in 3(b), and must provide responses to those entries. If the State has not adopted a system of payments, it may respond "NA" to 3(a).</i></p>
		X		<p>(a) If the State has adopted a system of payments, each application must include any policies or procedures adopted by the State as its system of payments and those policies and procedures must meet the requirements in §§303.510, 303.520 and 303.521 (regarding the use of public insurance or benefits, private insurance, or family costs or fees).</p> <p>(34 CFR §303.203(b)(1))</p> <p><i>The policies and procedures listed in 3(a) are optional. Enter 'NA' in the cells to the left if the State has elected not to adopt a system of payments (which includes a system to use public insurance or benefits or private insurance or family fees to pay for Part C services); otherwise check the appropriate response under the 'Yes' column and, if checking 'N' or 'R', attach policies and procedures. The State's response under 3(a) of Section II.A must match the State's response under Section IV.A.</i></p>
		X		<p>(b) Each application must include the methods (State law, regulation, signed interagency or intra-agency agreements or other appropriate written method(s) approved by the Secretary) used by the State to implement the payor of last resort and fiscal responsibility requirements in §303.511(b)(2) and (3).</p> <p>(34 CFR §303.203(b)(2))</p> <p><i>If the State uses signed interagency agreements or "other appropriate written method(s)" to meet the requirements in 3(b), please check 'N' or 'R' and submit with the application. If the State's method is a State statute or regulation, the State does not need to submit that method (the statute or regulation) with its application.</i></p>
		X		<p>4. Each application must include the State's rigorous definition of developmental delay as required under §§303.10 and 303.111. Each Statewide system must include the State's rigorous definition of <u>developmental delay</u>, consistent with §§303.10 and 303.203(c), that will be used by the State in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must—</p> <p>(a) Describe, for each of the areas listed in §303.21(a)(1), the evaluation and assessment</p>

				<p>procedures, consistent with §303.321, that will be used to measure a child's development; and</p> <p>(b) Specify the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified in §303.21(a)(1). (34 CFR §§303.203(c) & 303.111)</p>
		X		<p>5. If the State provides services under Part C to at-risk infants and toddlers through the statewide system, the application must include—</p> <p>(a) The State's definition of at-risk infants and toddlers with disabilities who are eligible in the State for services under Part C (consistent with §§303.5 and 303.21(b)); and</p> <p>(b) A description of the early intervention services provided under Part C to at-risk infants and toddlers with disabilities who meet the State's definition described in §303.204(a). (34 CFR §303.204).</p> <p><i>The policies and procedures listed in 5 are optional (i.e., they only apply if the State opts to serve at-risk children). Enter 'NA' in the cells to the left if the State has elected not to provide services under Part C to at-risk infants and toddlers; otherwise check the appropriate response under the 'Yes' column and, if checking 'N' or 'R', attach the definition and description.</i></p>
—	—	—	—	<p>6. Each State application must include a description of the State's use of funds under Part C for the fiscal year or years covered by the application. (34 CFR §303.205)</p> <p><i>The State must complete Section III of this application.</i></p>
		X		<p>7. Each application must include the State's policies and procedures that require the referral for early intervention services under Part C of specific children under the age of three, as described in §303.303(b) (which includes children who are the subject of a substantiated case of abuse or neglect, or directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure). (34 CFR §303.206)</p>
		X		<p>8. Each application must include a description of the procedure used by the State to ensure that resources are made available under Part C for all geographic areas within the State. (34 CFR §303.207)</p>
		X		<p>9. Each application must include a description of the policies and procedures used by the State to ensure that, before adopting any new policy or procedure (including any revision to an existing policy or procedure)</p>

			<p>needed to comply with Part C of the Act and 34 CFR Part 303, the lead agency—</p> <ul style="list-style-type: none"> (1) Holds public hearings on the new policy or procedure (including any revision to an existing policy or procedure); (2) Provides notice of the hearings held in accordance with §303.208(b)(1) at least 30 days before the hearings are conducted to enable public participation; and (3) Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the Council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and 34 CFR Part 303. <p>(34 CFR §303.208(b))</p>
		X	<p>10. (a) <u>Application Requirements</u>: Each State must include the following in its application:</p> <ul style="list-style-type: none"> (1) A description of the policies and procedures it will use to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families from receiving early intervention services under Part C to preschool or other appropriate services (for toddlers with disabilities) or exiting the program for infants and toddlers with disabilities. (2) A description of how the State will meet each requirement in §303.209(b) through (f). (3) (i) (A) If the lead agency is not the SEA, an interagency agreement between the lead agency and the SEA; or (B) If the lead agency is the SEA, an intra-agency agreement between the program within that agency that administers Part C of the Act and the program within the agency that administers section 619 of the Act (ii) To ensure a seamless transition between services under Part C and under Part B of the Act, an interagency agreement under paragraph (a)(3)(i)(A) of this section or an intra-agency agreement under paragraph (a)(3)(i)(B) of this section must address how the lead agency and the SEA will meet the requirements of paragraphs (b) through (f) of this section (including any policies adopted by the lead agency under §303.401(d) and (e)), §303.344(h), and 34 CFR 300.101(b), 300.124, 300.321(f) and 300.323(b).

				<p>(4) Any policy the lead agency has adopted under §303.401(d) and (e).</p> <p>(b) <u>Notification to the SEA and appropriate LEA.</u> The State must ensure that—</p> <p>(1) Subject to paragraph (b)(4) of this section, not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the Act, the lead agency notifies the SEA and the LEA for the area in which the toddler resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law; or</p> <p>(2) Subject to paragraph (b)(4) of this section, if the lead agency determines that the toddler is eligible for early intervention services under Part C of the Act more than 45 but less than 90 days before that toddler’s third birthday and if that toddler may be eligible for preschool services under Part B of the Act, the lead agency, as soon as possible after determining the child’s eligibility, notifies the SEA and the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law; or</p> <p>(3) Subject to paragraph (b)(4) of this section, if a toddler is referred to the lead agency fewer than 45 days before that toddler’s third birthday and that toddler may be eligible for preschool services under Part B of the Act, the lead agency, with parental consent required under §303.414, refers the toddler to the SEA and the LEA for the area in which the toddler resides; but, the lead agency is not required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances;</p> <p>(4) The notification required under paragraphs (b)(1), (2), and (3) of this section is consistent with any policy that the State has adopted, under §303.401(e), permitting a parent to object to disclosure of personally identifiable information.</p> <p>(c) <u>Conference to discuss services.</u> The State must ensure that—</p> <p>(1) If a toddler with a disability may be eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family of the toddler, convenes a conference, among the lead agency, the family, and the LEA not fewer than 90 days—and, at the discretion of all of the parties, not more than 9 months—before the toddler’s third birthday to discuss</p>
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				<p>any services the toddler may receive under Part B of the Act.</p> <p>(2) If a toddler with a disability is determined to not be potentially eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family of that toddler, makes reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive.</p> <p>(d) <u>Transition plan</u>. The State must ensure that for all toddlers with disabilities –</p> <p>(1)(i) It reviews the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year; and</p> <p>(ii) Each family of a toddler with a disability who is served under Part C is included in the development of the transition plan required under this section and §303.344(h);</p> <p>(2) It establishes a transition plan in the IFSP not fewer than 90 days—and, at the discretion of all of the parties, not more than 9 months—before the toddler's third birthday; and</p> <p>(3) The transition plan in the IFSP includes, consistent with §303.344(h), as appropriate—</p> <p>(i) Steps for the toddler with a disability and his or her family to exit from the Part C program; and</p> <p>(ii) Any transition services that the IFSP Team identifies as needed by that toddler and his or her family.</p> <p>(e) <u>Transition conference and plan meeting requirements</u>. Any conference conducted under paragraph (c) of this section or meeting to develop the transition plan under paragraph (d) of this section (which conference and meeting may be combined into one meeting) must meet the requirements in §§303.342(d) and (e) and 303.343(a).</p> <p>(f) <u>Applicability of transition requirements</u>.</p> <p>(1) The transition requirements in paragraphs (b)(1) and (2), (c)(1), and (d) of this section apply to all toddlers with disabilities receiving services under this part before those toddlers turn age three, including any toddler with a disability under the age of three who is served by a State that offers services under §303.211.</p> <p>(2) In a State that offers services under §303.211, for toddlers with disabilities identified in paragraph (b)(1) of this section, the parent must be provided at the transition conference conducted under paragraph (c)(1) of this section: (i) An explanation, consistent with §303.211(b)(1)(ii), of the toddler's</p>
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				<p>options to continue to receive early intervention services under this part or preschool services under section 619 of the Act; (ii) The initial annual notice referenced in §303.211(b)(1). (3) For children with disabilities age three and older who receive services pursuant to §303.211, the State must ensure that it satisfies the separate transition requirements in §303.211(b)(6)(ii).</p> <p>(34 CFR §303.209)</p>
		X		<p>11. Each application must contain a description of State efforts to promote collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801, <u>et seq.</u>, as amended), early education and child care programs, and services under Part C.</p> <p>(34 CFR §303.210)</p>
		X		<p>12. Each application must include, as required by Section 427 of the General Education Provisions Act (GEPA), a description of how 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> <p>(34 CFR §303.212(a))</p>
			NA	<p>13. (a) General. (1) Subject to paragraphs (a)(2) and (b) of this section, a State may elect to include in its application for a grant under Part C a State policy, developed and implemented jointly by the lead agency and the SEA, under which a parent of a child with a disability who is eligible for preschool services under section 619 of the Act and who previously received early intervention services under Part C, may choose the continuation of early intervention services under Part C for his or her child after the child turns three until the child enters, or is eligible under State law to enter, kindergarten or elementary school.</p> <p>(2) A State that adopts the policy described in paragraph (a)(1) of this section may determine whether it applies to children with disabilities—</p> <ul style="list-style-type: none"> (i) From age three until the beginning of the school year following the child’s third birthday; (ii) From age three until the beginning of the school year following the child’s fourth birthday; or (iii) From age three until the beginning of the school year following the child’s fifth birthday. <p>(3) However, in no case may a State provide services under this section beyond the age at which the child actually enrolls in, or is eligible under State law to enter, kindergarten or elementary school in the State.</p> <p>(b) <u>Requirements</u>. If a State’s application for a grant under Part C includes the State policy described in</p>

				<p>paragraph (a) of this section, the system must ensure the following:</p> <ol style="list-style-type: none"> (1) Parents of children with disabilities who are eligible for services under section 619 of the Act and who previously received early intervention services under Part C will be provided annual notice (the initial annual notice must be provided as set forth in §303.209(f)(2)(ii)) that contains— <ol style="list-style-type: none"> (i) A description of the rights of the parents to elect to receive services pursuant to §303.211 or under Part B of the Act; and (ii) An explanation of the differences between services provided pursuant to §303.211 and services provided under Part B of the Act, including— <ol style="list-style-type: none"> (A) The types of services and the locations at which the services are provided; (B) The procedural safeguards that apply; and (C) Possible costs (including the costs or fees to be charged to families as described in §§303.520 and 303.521), if any, to parents; and (2) Consistent with §303.344(d), services provided pursuant to §303.211 will include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills. (3) The State policy ensures that any child served pursuant to this section has the right, at any time, to receive FAPE (as that term is defined at §303.15) under Part B of the Act instead of early intervention services under Part C of the Act under §303.211. (4) The lead agency must continue to provide all early intervention services identified in the toddler with a disability's IFSP under §303.344 (and consented to by the parent under §303.342(e)) beyond age three until that toddler's initial eligibility determination under Part B of the Act is made under 34 CFR §300.306. This provision does not apply if the LEA has requested parental consent for the initial evaluation under §300.300(a) and the parent has not provided that consent. (5) The lead agency must obtain informed consent from the parent of any child with a disability for the continuation of early intervention services pursuant to this section for that child. Consent must be obtained before the child reaches three years of age, where practicable. (6)(i) For toddlers with disabilities under the age of three in a State that offers services under this section, the lead agency ensures that the transition
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			<p>requirements in §303.209(b)(1) and (2), (c)(1) and (d) are met.</p> <p>(ii) For toddlers with disabilities age three and older in a State that offers services under this section, the lead agency ensures a smooth transition from services under this section to preschool, kindergarten or elementary school by: (A) Providing the SEA and LEA where the child resides, consistent with any State policy adopted under §303.401(e), the information listed in §303.401(d)(1) not fewer than 90 days before the child will no longer be eligible under subsection (a)(2) of this section to receive early intervention services under this section; (B) With the approval of the parents of the child, convening a transition conference, among the lead agency, the parents, and the LEA, not fewer than 90 days—and, at the discretion of all parties, not more than 9 months—before the child will no longer be eligible under subsection (a)(2) of this section to receive, or will no longer receive, early intervention services under this section, to discuss any services that the child may receive under Part B of the Act; and (C) Establishing a transition plan in the IFSP not fewer than 90 days—and, at the discretion of all parties, not more than 9 months—before the child will no longer be eligible under subsection (a)(2) of this section to receive, or no longer receives, early intervention services under this section.</p> <p>(7) In States that adopt the option to make services under Part C available to children ages three and older pursuant to §303.211, there will be a referral to the Part C system, dependent upon parental consent, of a child under the age of three who directly 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, 42 U.S.C. 10401, et seq.</p> <p>(c) <u>Reporting requirement.</u> If a State includes in its application a State policy described in §303.211(a), the State must submit to the Secretary, in the State's report under §303.124, the number and percentage of children with disabilities who are eligible for services under section 619 of the Act but whose parents choose for their children to continue to receive early intervention services under §303.211.</p> <p>(d) <u>Available funds.</u> The State policy described in §303.211(a) must describe the funds—including an identification as Federal, State, or local funds—that will be used to ensure that the option described in §303.211(a) is available to eligible children and families who provide the consent described in §303.211(b)(5), including fees, if any, to be charged to families as described in §§303.520 and 303.521.</p> <p>(e) <u>Rules of construction.</u></p>
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				<p>(1) If a statewide system includes a State policy described in §303.211(a), a State that provides services in accordance with this section to a child with a disability who is eligible for services under section 619 of the Act will not be required to provide the child FAPE under Part B of the Act for the period of time in which the child is receiving services under §303.211.</p> <p>(2) Nothing in this section may be construed to require a provider of services under Part C to provide a child served under Part C with FAPE.</p> <p>(34 CFR §303.211)</p> <p><i>The policies and procedures listed in 13 are optional. Enter 'NA' in the cells to the left if the State has elected not to develop and implement a policy under 34 CFR §303.211 to make Part C services to children beyond age three; otherwise check the appropriate response under the 'Yes' column and, if checking 'N' or 'R', attach policies and procedures.</i></p>
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B. Assurances and Optional Assurances Disabilities Education Act.

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.; 34 CFR §§303.101-126; 303.220; 303.227)

<p>Yes <i>(Assurance is hereby provided.)</i></p>	<p>No <i>(Assurance cannot be ensured. Provide date on which State will complete changes in order to provide assurance.) Check and enter date(s) as applicable</i></p>	<p>Subpart B—Assurances (20 U.S.C. 1434; 1435; and 1437(b); 34 CFR §§303.101-126; 303.220; 303.227)</p>
X		<p>1. The State has adopted a policy that appropriate early intervention services, as defined in 34 CFR §303.13, are available to all infants and toddlers with disabilities in the State and their families, including—</p> <ul style="list-style-type: none"> (a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; (b) Infants and toddlers with disabilities who are homeless children and their families; and (c) Infants and toddlers with disabilities who are wards of the State. <p>(34 CFR §303.101(a))</p>
X		<p>2. The State has in effect a statewide system of early intervention services that meets the requirements of section 635 of the Act, including policies and procedures that address, at a minimum, the components required in 34 CFR §§303.111 through 303.126. (34 CFR §303.101(a))</p>
X		<p>3. The State ensures that any State rules, regulations, policies, and procedures relating to 34 CFR Part 303 conform to the purposes and requirements of 34 CFR Part 303. (34 CFR §303.102)</p>
	—	<p>4. Each statewide system (system) must include, at a minimum, the components described in §§303.111 through 303.126. (34 CFR §303.110)</p>
X		<p>5. The State has a policy in effect that ensures that appropriate early intervention services are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including—</p> <ul style="list-style-type: none"> (a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and (b) Infants and toddlers with disabilities who are homeless children and their families. (34 CFR §303.112)

X		<p>6. (a) The Statewide system ensures the performance of—</p> <ul style="list-style-type: none"> (1) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State; and (2) A family-directed identification of the needs of the family of the infant or toddler to assist appropriately in the development of the infant or toddler. <p>(b) The evaluation and family-directed identification required in paragraph (a) of this section must meet the requirements of 34 CFR §303.321.</p> <p>(34 CFR §303.113)</p>
X	—	<p>7. The Statewide system ensures that, for each infant or toddler with a disability and his or her family in the State, an IFSP, as defined in 34 CFR §303.20, is developed and implemented that meets the requirements of 34 CFR §§303.340 through 303.345 and that includes service coordination services, as defined in 34 CFR §303.34. (34 CFR §303.114)</p>
X	—	<p>8. The Statewide system includes a comprehensive child find system that meets the requirements in 34 CFR §§303.302 and 303.303. (34 CFR §303.115)</p>
X	—	<p>9. The Statewide system includes a public awareness program that—</p> <ul style="list-style-type: none"> (a) Focuses on the early identification of infants and toddlers with disabilities; and (b) Provides information to parents of infants and toddlers through primary referral sources in accordance with 34 CFR §303.301. <p>(34 CFR §303.116)</p>
X	—	<p>10. The Statewide system includes a central directory that is accessible to the general public (i.e., through the lead agency's Web site and other appropriate means) and includes accurate, up-to-date information about:</p> <ul style="list-style-type: none"> (a) Public and private early intervention services, resources, and experts available in the State; (b) Professional and other groups (including parent support and training and information centers, such as those funded under the Act) that provide assistance to infants and toddlers with disabilities eligible under Part C of the Act and their families; and (c) Research and demonstration projects being conducted in the State relating to infants and toddlers with disabilities. <p>(34 CFR §303.117)</p>
X	—	<p>11. The Statewide system includes 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. The State's comprehensive system of personnel development—</p>

		<p>(a) Includes—</p> <ol style="list-style-type: none"> (1) Training personnel to implement innovative strategies and activities for the recruitment and retention of EIS providers; (2) Promoting the preparation of EIS providers who are fully and appropriately qualified to provide early intervention services under Part C; and (3) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention services program under Part C of the Act to a preschool program under section 619 of the Act, Head Start, Early Head Start, an elementary school program under Part B of the Act, or another appropriate program. <p>(b) May include—</p> <ol style="list-style-type: none"> (1) Training personnel to work in rural and inner-city areas; (2) Training personnel in the emotional and social development of young children; (3) Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and (4) Training personnel who provide services under this part using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable. (34 CFR §303.118)
X		<p>12. The Statewide system includes policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel necessary to carry out the purposes of Part C are appropriately and adequately prepared and trained. These policies and procedures provide for the establishment and maintenance of qualification standards that are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline, or area in which personnel are providing early intervention services. Nothing in Part C of the Act may 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 Part C of the Act to infants and toddlers with disabilities. (34 CFR §303.119(a)–(c))</p>
X	—	<p>13. The Statewide system includes a single line of responsibility in a lead agency designated or established by the Governor that is responsible for the following—</p> <p>(a) (1) The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act; and</p> <p>(2) The monitoring of programs and activities used by the State to carry out Part C of the Act (whether or not the programs or activities are administered by agencies, institutions,</p>

		<p>organizations, and EIS providers that are receiving assistance under Part C of the Act), to ensure that the State complies with Part C of the Act, including—</p> <ul style="list-style-type: none"> (i) Monitoring agencies, institutions, organizations, and EIS providers used by the State to carry out Part C of the Act; (ii) Enforcing any obligations imposed on those agencies, institutions, organizations, and EIS providers under Part C of the Act and 34 CFR Part 303; (iii) Providing technical assistance, if necessary, to those agencies, institutions, organizations and EIS providers; (iv) Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency’s identification of the noncompliance; and (v) Conducting the activities in paragraphs (a)(2)(i) through (a)(2)(iv) of this section, consistent with 34 CFR §§303.700 through 303.707, and any other activities required by the State under those sections. <p>(b) The identification and coordination of all available resources for early intervention services within the State, including those from Federal, State, local, and private sources, consistent with subpart F of 34 CFR Part 303.</p> <p>(c) The assignment of financial responsibility in accordance with subpart F of 34 CFR Part 303.</p> <p>(d) The development of procedures in accordance with subpart F of 34 CFR Part 303 to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of the Act in a timely manner, pending the resolution of any disputes among public agencies or EIS providers.</p> <p>(e) The resolution of intra- and interagency disputes in accordance with subpart F of 34 CFR Part 303.</p> <p>(f) The entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with 34 CFR §303.511, 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 as set forth in subpart F of 34 CFR Part 303.</p> <p>(34 CFR §303.120)</p>
X		<p>14. The Statewide system includes a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services in the State, consistent with the provisions of Part C of the Act and 34 CFR Part 303, including the contents of the application, and the conditions of the contract or other arrangements. The policy —</p> <ul style="list-style-type: none"> (a) Includes a requirement that all early intervention services must meet State standards and be consistent with the provisions of Part C; and

		(b) Is consistent with the Education Department General Administrative Regulations in 34 CFR Part 80. (34 CFR §303.121)
X		15. The Statewide system includes procedures for securing the timely reimbursement of funds used under Part C of the Act, in accordance with subpart F of 34 CFR Part 303. (34 CFR §303.122)
X		16. The Statewide system includes procedural safeguards that meet the requirements of subpart E of 34 CFR Part 303. (34 CFR §303.123)
X	—	17. The Statewide system includes a system for compiling and reporting timely and accurate data that meets the requirements of 34 CFR §§303.700 through 303.702 and 303.720 through 303.724 and the following requirements. The data system includes a description of the process that the State uses, or will use, to compile data on infants or toddlers with disabilities receiving early intervention services under Part C, including a description of the State’s sampling methods, if sampling is used, for reporting the data required by the Secretary under sections 616 and 618 of the IDEA and 34 CFR §§303.700 through 303.707 and 303.720 through 303.724. (34 CFR §303.124)
X	—	18. The Statewide system includes a State Interagency Coordinating Council (Council) that meets the requirements of subpart G of 34 CFR Part 303. (34 CFR §303.125)
X		19. The Statewide system includes policies and procedures to ensure, consistent with 34 CFR §§303.13(a)(8) (early intervention services), 303.26 (natural environments), and 303.344(d)(1)(ii) (content of an IFSP), that early intervention services for infants and toddlers with disabilities are provided— (a) To the maximum extent appropriate, in natural environments; and (b) In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP Team, only when early intervention services cannot be achieved satisfactorily in a natural environment. (34 CFR §303.126)
X		20. The Statewide system ensures that Federal funds made available to the State under section 643 of the Act will be expended in accordance with the provisions of 34 CFR Part 303, including §§303.500 and 303.501. (34 CFR §303.221)
X		21. The Statewide system will comply with the requirements in §§303.510 and 303.511 in subpart F of this part. (34 CFR §303.222)
X	—	22. The Statewide system ensures that— (a) The control of funds provided under 34 CFR Part 303, and title to property acquired with those funds, will be in a public

		<p>agency for the uses and purposes provided in 34 CFR Part 303; and</p> <p>(b) A public agency will administer the funds and property.</p> <p>(34 CFR §303.223)</p>
X	—	<p>23. The Statewide system ensures that it will—</p> <p>(a) Make reports in the form and containing the information that the Secretary may require; and</p> <p>(b) Keep records and afford access to those records as the Secretary may find necessary to ensure compliance with the requirements of 34 CFR Part 303, the correctness and verification of reports, and the proper disbursement of funds provided under 34 CFR Part 303.</p> <p>(34 CFR §303.224)</p>
X	—	<p>24. The Statewide system ensures that –</p> <p>(a) Federal funds made available under section 643 of the Act to the State –</p> <p>(1) Will not be commingled with State funds; and</p> <p>(2) 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.</p> <p>(b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for—</p> <p>(1) A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this part; and</p> <p>(2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.</p> <p>(c) Requirement regarding indirect costs.</p> <p>(1) Except as provided in paragraph (c)(2) of this section, a lead agency under this part may not charge indirect costs to its Part C grant.</p> <p>(2) If approved by the lead agency’s cognizant Federal agency or by the Secretary, the lead agency must charge indirect costs through either—</p> <p>(i) A restricted indirect cost rate that meets the requirements in 34 CFR 76.560 through 76.569; or</p> <p>(ii) A cost allocation plan that meets the non-supplanting requirements in paragraph (b) of this section and 34 CFR Part 76 of EDGAR.</p> <p><u>(3) In charging indirect costs under paragraph (c)(2)(i) and (c)(2)(ii) of this section, the lead agency may not charge rent, occupancy, or space maintenance costs directly to</u></p>

		<p><u>the Part C grant, unless those costs are specifically approved in advance by the Secretary.</u></p> <p>(34 CFR §303.225)</p>
X	—	<p>25. The Statewide system ensures that fiscal control and fund accounting procedures will be adopted as necessary to ensure proper disbursement of, and accounting for, Federal funds paid under 34 CFR Part 303.</p> <p>(34 CFR §303.226)</p>
X		<p>26. The State ensures that policies and practices have been adopted to ensure that—</p> <p>(a) Traditionally underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all the requirements of Part C; and</p> <p>(b) These families have access to culturally competent services within their local geographical areas.</p> <p>(34 CFR §303.227)</p>
—	—	Assurance Regarding Optional Policy
X		<p><i>Enter 'NA' in the cell to the left if this assurance is not applicable to your State.</i></p> <p>27. A State may adopt and 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 paragraphs (a) and (b) of this section. (34 CFR §303.119(d))</p>

C. Certifications

The State Lead Agency is providing the following certifications:

Yes	Certification
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 arrangements to establish financial responsibility for the provision of Part C services among appropriate public agencies under §303.511 and the lead agency's contracts with EIS providers regarding financial responsibility for the provision of Part C services meet the requirements in §§303.500 through 303.521 and are current as of the date of submission of the certification. (34 CFR §303.202)</p>

D. Statement


I certify that the State of GUAM has provided the policies, procedures, methods, descriptions, and assurances checked as 'yes' in Sections II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of Part C of the Individuals with Disabilities Education Act as found in 20 U.S.C. 1431-1443 (as amended) and the 2011 regulations in 34 CFR Part 303 (as amended). The State will operate its IDEA Part C program in accordance with all of the required policies, procedures, methods, descriptions, assurances and certifications.

If any policies, procedures, methods, descriptions, and assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistently with the requirements of the IDEA as found in 20 U.S.C. 1431-1443 (as amended) and the 2011 regulations in 34 CFR Part 303 (as amended), and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2023. (34 CFR §76.104)

I, the undersigned authorized official of the

GUAM, DEPARTMENT OF EDUCATION,
(Name of State and official name of State agency)

am designated under Part C by the Governor of this State to submit this application for FFY 2022 funds under Part C of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State:	
JON J.P. FERNANDEZ, SUPERINTENDENT OF EDUCATION	
Signature: 	Date: 5/2/2012

ENCLOSURE C



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF FINANCE AND OPERATIONS

OFFICE OF ACQUISITION, GRANTS, AND RISK MANGEMENT

June 29, 2022

Superintendent Jon Fernandez
Guam Department of Education
500 Mariner Avenue
Barrigada, Guam 96913

Dear Superintendent Fernandez:

Enclosed are Federal Fiscal Year (FFY) 2022 specific conditions for U.S. Department of Education (Department) grants awarded to the Guam Department of Education (GDOE). These specific conditions apply to all grants awarded by the Department to GDOE on or after the date of these specific conditions, including any Coronavirus Aid, Relief, and Economic Security (CARES) Act or Coronavirus Response and Relief Supplemental Appropriations (CRRSA) funds that the Guam Governor awards to GDOE. Additionally, these specific conditions apply to all grant funds previously awarded by the Department to GDOE that are still available for obligation or liquidation on the date of these specific conditions, including any CARES Act or CRRSA funds that the Guam Governor awarded to GDOE.

The Department acknowledges and commends the significant progress made by you and your staff over the past 10 years under your leadership to strengthen internal controls and establish an effective financial management system. This progress was evident during the Department's recent onsite visit on May 23 – 27, 2022. As a result of the noted progress, the Department is removing 13 of the 21 responsibilities and requirements previously included in Attachment A of these conditions, as well as 18 of the 22 responsibilities and requirements previously included in Attachment B. A new requirement has been added to Attachment B to direct the third-party fiduciary agent (TPFA) to work with GDOE to return all Purchase Order (PO) functions performed within GDOE's procurement process back to GDOE's control within the GDOE MUNIS Procurement Module.

Based on the Department's ongoing assessment of the information gathered during the May onsite visit and GDOE's noted progress, the Department is not making a final determination at this time as to whether the third-party fiduciary specific condition should be removed. The Department will continue to assess progress and work with GDOE over the summer to make a final determination. GDOE is encouraged to continue focusing on working with the TPFA to adopt processes that will eventually lead to reassuming all fiscal management responsibilities currently performed by the TPFA. The Department understands that GDOE will also be working

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

with its High-Risk Consultant to develop and submit a transition restructuring plan to the Department for approval.

In the interim, the attached FFY 2022 specific conditions describe the ongoing responsibility of GDOE to work with the TPFA, as well as the role and responsibilities of the TPFA in administering Department grant funds. The FFY 2022 specific conditions also require GDOE to finalize the implementation of the pending items within its Reconsideration Evaluation Plan (REP). The Office of Acquisition, Grants, and Risk Management (OAGRM), Grants Risk Management Services Division (GRMSD) is committed to continue engaging with GDOE leadership to verify the status of GDOE's progress under the REP to eventually transition responsibilities currently performed by the TPFA back to GDOE oversight.

The Department also continues its commitment to provide assistance to work with the new GDOE leadership and staff to complete the reconsideration evaluation process. If you have any questions or require further assistance, please contact Christine Jackson, the primary contact for the Grants Risk Management Services Division of the Office of Acquisition, Grants, and Risk Management within the Office of Finance and Operations, at (202) 615-3663 or via e-mail at christine.jackson@ed.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Phillip Juengst".

Phillip Juengst
Deputy Assistant Secretary
Office of Acquisition, Grants, and Risk Management

Enclosure

cc: Governor Lou Leon Guerrero
Mark Mendiola, Chairman, Guam Education Board
Mary Okada, Vice Chair, Guam Education Board
Congressman Michael San Nicolas

Guam Department of Education **Federal Fiscal Year 2022 Specific Conditions**

PREAMBLE: These specific conditions are imposed on all program grants issued by the U.S. Department of Education (Department) to the Guam Department of Education (GDOE) on or after the date of these specific conditions, including any Coronavirus Aid, Relief, and Economic Security Act (CARES Act) or Coronavirus Response and Relief Supplemental Appropriations (CRRSA) funds that the Guam Governor awards to GDOE. Additionally, as described herein, these specific conditions apply to grant funds previously awarded by the Department to GDOE that are still available for obligation or liquidation on the date of these specific conditions, including any CARES Act or CRRSA funds that the Guam Governor awarded to GDOE. These specific conditions are applied to these program grant funds in accordance with regulations governing “high-risk” grantees and specific conditions in 2 CFR §§ 200.207 and 3474.10 in the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Pending GDOE’s completion and implementation of measures specified in the Reconsideration Evaluation Plan (REP) discussed below to address deficiencies in GDOE’s financial management and administration of Department funds, these specific conditions are imposed on GDOE’s Department grants to ensure that GDOE implements Department grant awards in accordance with applicable legal requirements and with appropriate fiscal accountability measures, management practices and controls.

I. BACKGROUND

On May 29, 2018, GDOE submitted to the Department a formal request for reconsideration of the specific conditions applicable to Department grant funds. For the past four years, the Department has worked in partnership with GDOE to: (1) develop a process for reconsideration, resulting in a Reconsideration Evaluation Plan (REP); and (2) complete the implementation of the REP as a prerequisite for the Department making a determination to modify the specific conditions. The REP is designed to: 1) provide clear guidance to GDOE on actions that it must take and complete during the reconsideration process; 2) inform the Department as it determines the extent to which specific conditions may be removed and the extent to which financial management responsibilities may be returned incrementally (or otherwise) to GDOE; and 3) inform the Department as it determines whether GDOE has taken all necessary actions to render it capable of performing the financial management responsibilities currently performed by a third-party fiduciary agent (TPFA), ultimately resulting in the removal of the requirement that GDOE have a TPFA in place to assist in managing its Department funds. The REP replaced the Comprehensive Corrective Action Plan as the document against which GDOE’s progress would be measured during the reconsideration process.

At the request of the GDOE leadership, the Office of Acquisition, Grants, and Risk Management, Grants Risk Management Services Division led a team of Department staff, including representatives from the Consolidated Grant program within the Office of Elementary and Secondary Education, Rural, Insular, and Native Achievement Programs, Insular Areas Team;

Monitoring and State Improvement Planning Division within the Office of Special Education Programs; Regional Inspector General for Audit, New York/ Dallas Region within the Office of Inspector General; and the Office of the Secretary to conduct an onsite REP validation visit, May 23-27, 2022, for the purpose of verifying GDOE's progress under the REP. The intended outcome of the visit was to determine the readiness to transition responsibilities currently performed by the TPFA back to GDOE. Progress towards addressing the items identified in the REP was evident during the Department's visit.

As a result of the noted progress, the Department is removing 13 of the 21 responsibilities and requirements previously included in Attachment A of these conditions, as well as 18 of the 22 responsibilities and requirements previously included in Attachment B. Pending the outcome of the Department's final onsite validation report and recommendations, further modifications of these conditions may occur.

As of the date of the Department's onsite REP validation visit, 91 of the 138 REP requirements, (66%) were deemed complete, representing documentation submissions in each of the following REP sections: Employee Time Tracking (64%); Financial Management Improvement System (65%); Internal Controls (71%); Procurement (69%); and Property Management (65%). In the interim, the GRMSD staff will continue to work with the GDOE Internal Audit Office to review and validate pending REP items.

II. SPECIFIC CONDITIONS

GDOE currently has an active contract with a TPFA, Alvarez & Marsal (A&M), that expires October 31, 2022. The Department will not authorize the obligation, liquidation or expenditure of Department funds unless a TPFA is in place for the full period of these specific conditions, or until the Department notifies GDOE in writing that the services of a TPFA are no longer required. GDOE understands and agrees that should a TPFA still be required after October 31, 2022, it must either extend its contract with A&M or procure the services of a new TPFA, acceptable to the Department. In the interim, GDOE must continue to work toward completion of the REP.

The responsibilities and requirements of GDOE in working with the Agent are set forth in Attachment A to these specific conditions. The responsibilities and requirements of the Agent in carrying out the financial management duties for GDOE's Department grants are set forth in Attachment B to these specific conditions.

III. ADDITIONAL PROVISIONS

A. Failure to Comply with Conditions

Failure to comply with any of these specific conditions will negatively impact GDOE's ability to continue to receive grant funds from the Department. These terms and conditions do not preclude the Department from taking any authorized enforcement or other actions at any time, including, but not limited to, withholding of Department funds.

B. Submission of Reports

All reports or other submissions that GDOE or the Agent are required to submit to the Department under these specific conditions must be submitted electronically to:

Christine Jackson
Senior Risk Consultant
Grants Risk Management Services Division
Office of Acquisition, Grants, and Risk Management
Office of Finance and Operations
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20212
ATTN: Grants Risk Management Services Division
christine.jackson@ed.gov

C. Reconsideration and Modifications

At any time, GDOE may request reconsideration of the above specific conditions by contacting the Department staff named above in paragraph III.B of these conditions and stating in writing the reasons why GDOE believes any particular condition should be amended or removed. The Department may impose additional specific conditions or modify these specific conditions, as appropriate. The Department will remove the specific conditions in total at such time as GDOE fully demonstrates, to the Department's satisfaction, the ability to manage Department funds, and property acquired with Department funds, in a manner that complies with applicable Federal requirements concerning accountability and grants management.

Dated: June 29, 2022

Attachment A to the GDOE FFY 2022 Specific Conditions
Responsibilities and Requirements of GDOE

The responsibilities and requirements of GDOE in working with the Agent under these GDOE FFY 2022 specific conditions are as follows:

1. GDOE must notify the Department when any dispute arises and remains unresolved between the Agent and GDOE concerning the implementation or continuation of the contract with the Agent, or the implementation of activities supported by Department grants, including the financial management of grant funds. GDOE agrees that the Department may assist in the resolution of any such unresolved dispute and agrees to cooperate with any requests from the Department for additional information related to the dispute and to participate in conference calls with the Agent and the Department. This does not preclude GDOE and the Agent from including formal dispute resolution mechanisms in their contract.
2. GDOE must expend Federal and matching funds only for costs that are allowable under the respective grant programs, in accordance with the regulations and cost principles in 2 CFR Part 200, Subpart E. Additionally, for purposes of the Consolidated Grant, GDOE must expend Federal and matching funds only for allowable costs under, and included in, each Department-approved Consolidated Grant plan applicable to the fiscal year in which the costs were obligated. GDOE acknowledges that the Agent has the responsibility to ensure that Department funds are used only for allowable costs, including costs that are necessary, reasonable, and allocable to the respective grants as required by 2 CFR Part 200, Subpart E, and that are procured in accordance with applicable procurement requirements in 2 CFR §§ 200.318-200.327. Where there is a question as to whether a cost is allowable, the Agent must raise this question with GDOE and, if the Agent deems it necessary, may also request assistance from the Department in determining the allowability of any expenditure.
3. GDOE must coordinate the timing of drawdowns and disbursements with the Agent to ensure that payments to staff, vendors and providers are prompt and timely. To the extent feasible, GDOE must draw down funds in a timely manner so that funds under the grants are deposited to the separate bank account on the same day that funds are drawn from the account to liquidate obligations under the grants. GDOE, as appropriate and at the Agent's direction, must draw down sufficient funds under a grant to cover each approved request for payment.
4. GDOE must charge its grants only for costs resulting from obligations that were properly made during the period of availability for the funds, including any carryover period. To ensure against the lapsing of Department funds, GDOE must provide the Agent with the amount and nature of all obligations in a timely manner to ensure that obligations are liquidated no later than 120 days after the end of the funding period, or during any extension of that period authorized by the Department, in accordance with 2 CFR § 200.344(b).

5. GDOE must establish and maintain an effective process for tracking and reporting time and effort spent by all employees whose salaries are paid under Department grants, including, but not limited to, maintaining accurate and up-to-date employee staffing lists and notices of personnel actions, distributing time among different funding sources for split-time employees, making timely and accurate adjustments to time and effort information entered into the payroll system, and properly allocating salary costs among Department grants based on records that accurately and properly record the distribution of each employee's work on multiple cost objectives, the time the employee attends work, and, for those employees who work on a single cost objective, semiannual certifications. GDOE must carry out these responsibilities consistent with Federal requirements in 2 CFR Part 200, Subpart E, and more specifically, 2 CFR §§ 200.430 and 200.431.
6. GDOE must ensure that within 24 hours of receipt of a vendor's invoice from the Agent, GDOE staff must (i) accept or reject the goods or services, and, if accepted, (ii) draw down funds for the vendor payment for deposit into the separate bank account maintained by the Agent.
7. GDOE must work with the Agent to ensure that all tangible personal property procured under Department grants is managed in accordance with the requirements of 2 CFR §§ 200.313(a) and (c)-(e) to ensure that such property is properly inventoried, maintained, and stored to prevent loss, damage, or theft of such property.
8. GDOE may include any other terms in the contract with the Agent, consistent with those above, as are necessary to ensure timely liquidation of all Department funds; timely payment to staff, providers and vendors; and general financial management consistent with applicable Federal regulations and Department grant awards.

Attachment B to the GDOE FFY 2022 Specific Conditions
Responsibilities and Requirements of the Third-Party Fiduciary Agent

The responsibilities and requirements of the Agent under these GDOE FFY 2022 specific conditions are as follows:

1. The Agent must expend funds only for costs that are allowable under the respective grant programs, in accordance with 2 CFR Part 200, Subpart E. Additionally, for purposes of the Consolidated Grant, the Agent must expend funds only for allowable costs under, and included in, each Department-approved Consolidated Grant plan applicable to the fiscal year in which the costs were obligated. If the Agent questions whether an expenditure is allowable, the Agent must raise this question with GDOE. If the Agent deems it necessary, the Agent may also request assistance from the Department in determining the allowability of any expenditure.
2. The Agent may seek approval from the Department to charge allowable pre-award costs incurred by GDOE against grant awards to which these specific conditions apply. The Agent must submit any request for pre-award costs to the Department in writing and may not reimburse any pre-award costs unless it receives written approval from the Department 120 days after the end of the funding period, or during any extension of that period authorized by the Department, in accordance with 2 CFR § 200.344(b).
3. The Agent must establish and maintain a process for tracking and reporting time and effort spent by all employees whose salaries are paid under Department grants, including distribution of time among different funding sources for split-time employees, timely and accurate adjustments to time and effort information in the payroll system, and proper allocation of salary costs among Department grants based on records that accurately and properly record the distribution of each employee's work on multiple cost objectives, the time the employee attends work, and, for those employees who work on a single cost objective, semiannual certifications. To carry out the responsibilities under this paragraph, the Agent must conduct an assessment of GDOE's internal controls over payroll operations to ensure that the payroll process is functioning as intended and calculations of gross earnings from all work performed during the pay period are correct; an assessment to determine that there are proper controls and procedures for identifying employees who are paid in whole or in part from Department grant awards; an assessment to determine whether employees are being compensated at their approved salaries/pay rates and from appropriate funding sources; and other tests to ensure that payroll earnings, deductions, and withholdings are made in accordance with the law and correspond to information contained in the employee master file. The Agent must carry out the responsibilities under this paragraph consistent with Federal requirements in 2 CFR Part 200, Subpart E.
4. The Agent must pay vendors for the delivered goods or services and must, to the extent possible, disburse funds to the vendors on the same day that funds are deposited into the separate bank account maintained by the Agent as required by 2

CFR Part 200, Subpart E, and that are procured in accordance with applicable procurement requirements in 2 CFR §200.327. The Agent must make payments by electronic funds transfer (EFT) or by paper draft if EFT is not available or possible for a particular vendor.

5. The Agent will work with GDOE to return all Purchase Order (PO) functions performed within GDOE's procurement process back to GDOE control within the GDOE MUNIS Procurement Module. This includes the generation and workflow approval of all POs and PO modifications, as well as the printing, signing and scanning of POs. The TPFA will continue to have the role as a reviewer within the PO workflow approval process in the GDOE MUNIS and will maintain authority to return POs that do not meet requirements for approval.