



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE DEPUTY SECRETARY

September 30, 2004

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

Dear Governor Camacho:

We appreciate the cooperation and the progress made by the Guam Department of Education (GDOE), which we observed during the recent visit to Guam. These efforts will help to address the challenging grant management and accountability issues that GDOE has been facing with regard to the administration of Federal education grants. Because of the GDOE's status as a "high-risk grantee" under 34 C.F.R. § 80.12, special conditions will be applied to program grants and funds awarded to the GDOE from the U.S. Department of Education (Department). Enclosed are the special conditions that will be incorporated in the grant awards made by the Department to GDOE for all of the Federal education programs it administers.

We look forward to seeing the progress GDOE continues to make as it works to address its challenges and meets these special conditions. We are encouraged by the progress being made to implement new systems and procedures. 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 Guam is left behind.

Sincerely,

C. Todd Jones
Associate Deputy Secretary for
Budget and Strategic Accountability

cc: Juan Flores
Superintendent of Education
Guam Department of Education
P. O. Box DE
Hagatña, Guam 96932

Enclosure

Commonwealth of Guam Department of Education – Special Conditions

PREAMBLE: These special conditions are imposed on the Government of Guam Department of Education's (GDOE's) program grants issued by the U.S. Department of Education (Department) on or after the date of these special conditions. Additionally, the special conditions apply to funds granted by the Department to the GDOE that are still available for obligation 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 the GDOE awards are expended in accordance with applicable legal requirements and with appropriate fiscal accountability measures and management practices and controls.

I. EXPLANATION OF HIGH-RISK STATUS

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

- A. Until recently, the GDOE had not been in compliance with the Single Audit Act. Over a period of a number of years, GDOE submitted its single audits significantly late or not at all. While GDOE submitted single audits for FY 2001-2003, the audits have been qualified with reportable conditions that are material with questioned costs. In addition, the auditors declared the records of GDOE to be unauditible for FYs 1998, 1999, and 2000.
- B. GDOE is currently instituting corrective actions to address the findings related to fiscal accountability of Department funds, but much work needs to be done by GDOE to fully address the Single Audit findings. The audit findings show underlying fiscal and management issues which raise concerns about GDOE's ability to deliver quality services to its students with Federal education funds.

II. SPECIAL CONDITIONS

A. Reporting Requirements:

- 1. GDOE will provide a detailed quarterly report on the administration of each Federally funded program by GDOE, the expenditures made by the GDOE in each program that will satisfy the accountability needs of the Department, and descriptions of the progress of each significant aspect of the program at the school and GDOE levels. Expenditures (or liquidations) may be grouped by category (e.g., purchase of computers, professional development, etc.) but they must be in sufficient detail for the Department to match against the program application or spending plan, if applicable, and allow the Department to determine the allowability of the expenditures (or liquidation). The descriptions on progress

must also provide enough detail on program activities to determine if sufficient progress is being made in the program.

2. GDOE will provide, a detailed quarterly report, on the status of management issues affecting the administration of federally funded programs. At a minimum, GDOE must report on:
 - a. implementation of its Fixed Assets Action Plan;
 - b. compliance with its procurement procedures;
 - c. implementation of its reorganization plan and staffing of the Business Office;
 - d. assessment of its current financial management system and implementation of a new system;
 - e. milestones for completing its FY 2004 Single Audit; and
 - f. progress in resolving applicable audit findings on all matters affecting funds under these grant programs. This will include the resolution of all pending findings resulting from single audits, other audits or reviews, and from findings made by the Guam Office of Public Auditor (GOPA). If any audits by other federal agencies or other single or other audits or reviews of any other part of the Government of Guam contain findings on cross-cutting issues (e.g., procurement, property, financial management) affecting the administration of these program funds, or that cover funds under any of these grant programs, the GDOE shall also report such findings to the Department and to the GOPA, and outline the corrective actions to be taken.
3. The GDOE's Superintendent of Education, in his capacity as the "certifying officer of GDOE" or another authorized official of GDOE, shall certify, under penalty of Federal law, to the accuracy and completeness of the reports, including verification that all of the expenditures are being made for authorized purposes under each of the programs.
4. GDOE must continue to post on its Internet web site (available to the general public) the budget, application, and reports mentioned above, and the information in the reports on the Internet must be updated on the site on a monthly basis.

GDOE shall submit to the Department its reports and certifications no later than thirty days after the end of each quarter. If a report is not timely or is not considered acceptable by the Department, the Department may take one or more remedies for that program, 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 the services.

The Department shall require these reports and will perform the functions of an oversight agent for both programmatic and management reports until such time as proper internal controls are in place and functioning for a period sufficient to assure the Department that they will continue to function and that they are effective in protecting Federal funds.

B. Single Audits

GDOE shall continue to conduct single audits and submit reports on an annual basis in a timely and complete manner. All single audits shall be completed and the reports published within nine months after the end of each fiscal year, as required by the Single Audit Act, as amended. If, for any reason, GDOE expects an audit or report to be delayed and late, it shall notify the Department's contact person of the reason and extent of the delay as soon as possible. Based on the information provided, the Department may take one or more remedies including, but not limited to the imposition of further conditions; recovery of misspent funds; or the implementation of a contract with a third party to provide services.

C. Prompt Access

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

D. Failure to Comply with Conditions

In addition to the remedies described in Section II A and B above, if the U.S. Department of Education determines that the GDOE has not made substantial progress in meeting the objectives of the program, or has not met program requirements or the Special Conditions contained in paragraphs A-C above, then the Department may consider not continuing the grant or taking further enforcement action steps, or apply additional conditions such as the following:

1. The GDOE would receive no further funds under this grant award or only on a reimbursement basis; and
2. The GDOE would contract with a third party, who must be approved by the Department, to provide the services or financial management under this grant award. 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 appropriate expenditures under applicable grant awards.

III. OTHER TERMS

A. Enforcement

If the GDOE 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 that are required to be submitted by GDOE to the Department under these special conditions shall be submitted to:

Christine Jackson
400 Maryland Avenue, S.W.
FB-6, Room 2W323
Washington, DC 20202

C. Reconsideration and Modifications

At any time, GDOE may request reconsideration of the above special conditions by contacting the Department and stating reasons why GDOE 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 GDOE meets, to the Department's satisfaction, the conditions mentioned above.

Dated: SEP 30 2004