April 24, 2020

The Honorable Frank T. Brogan

Assistant Secretary for Elementary and

Secondary Education Office of Elementary

and Secondary Education

U.S. Department of Education 400 Maryland Avenue, SW Washington, DC 20202

[Frank.Brogan@ed.gov](mailto:Frank.Brogan@ed.gov)

Dear Assistant Secretary Brogan:

On March 19, 2020, the federal Office of Management and Budget (OMB) issued M-20-17, *"Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations,"* to provide flexibilities for grants to agencies affected by the loss of operational capacity and increased costs due to the COVID-19 crisis. This memorandum provides short term relief for administrative, financial management, and audit requirements under 2 CFR Part 200, *Uniform Administrative Requirements, Cost principles and Audit Requirements for Federal Awards,* without compromising Federal financial assistance accountability requirements.

For the flexibilities provided within the memorandum, agencies are reminded of their existing flexibility to issue exceptions on a case-by-case basis in accordance with 2 CFR § 200.102, *Exceptions.* In early April, the U.S. Department of Education released a template for waiver requests under Every Student Succeeds Act. The Puerto Rico Department of Education (PRDE) has submitted a request utilizing that template. However, there are flexibilities included in the OMB memo that were not covered by that template.

Appropriately, PRDE is writing to request waivers, of the requirement(s) enumerated below on behalf of the State Educational Agency (SEA) and its subgrantees:

**Flexibility with SAM registration.** (2 CFR § 200.205)

PRDE is seeking flexibility of the requirement for active System for Award Management (SAM) registration at time of application in order to expeditiously issue funding. Under that OMB guidance, current registrants in SAM with active registrations expiring before May 16, 2020 can be afforded a one-time extension of 60 days.

**Allowability of salaries and other project activities.** (2 CFR § 200.403, 2 CFR § 200.404, 2 CFR § 200.405)

PRDE would like to continue to charge salaries and benefits to currently active Federal awards consistent with our policy of paying salaries (under unexpected or extraordinary circumstances) from all funding sources, Federal and non-Federal. PRDE would charge other costs to Federal awards necessary to resume activities supported by the award, consistent with applicable Federal cost principles and the benefit to the project. PRDE will continue to maintain appropriate records and cost documentation as required by 2 CFR § 200.302 -*Financial management* and 2 CFR § 200.333 -*Retention requirement of records* to substantiate the charging of any salaries and other project activities costs related to interruption of operations or services.

**Allowability of Costs not Normally Chargeable to Awards.** (2 CFR § 200.403, 2 CFR § 200.404, 2 CFR § 200.405)

PRDE has incurred costs related to the cancellation of events, travel, or other activities necessary and reasonable for the performance of the award, or the pausing and restarting of grant funded activities due to the public health emergency, and is requesting approval to charge these costs to our awards without regard to 2 CFR § 200.403, *Factors affecting allowability of costs,* 2 CFR § 200.404, *Reasonable costs,* and 2 CFR § 200.405, *Allocable costs.* PRDE is requesting approval to charge full costs of cancellation when the event, travel, or other activities are conducted under the auspices of the grant. PRDE will continue to maintain appropriate records and cost documentation as required by 2 CFR § 200.302 -*Financial management* and 2 CFR § 200.333 ­*Retention requirement of records,* to substantiate the charging of any cancellation or other fees related to interruption of operations or services.

**No-cost extensions on expiring awards.** (2 CFR § 200.308)

To the extent permitted by law, PRDE is requesting an extension for awards which were active as of **March 31, 2020** and scheduled to expire prior or up to December 31, 2020, automatically at no­ cost for a period of up to twelve (12) months. This will allow time for PRDE assessments, the resumption of many individual projects, and a report on program progress and financial status to agency staff. PRDE understands that project-specific financial and performance reports will be due 90 days following the end date of the extension, unless the U.S. Department of Education (ED) says otherwise.

**Extension of financial, performance, and other reporting.** (2 CPR§ 200.327, 2 CPR§ 200.328)

PRDE is seeking permission to delay submission of financial, performance and other reports up to three (3) months beyond the normal due date. These reports will be submitted at the end of the postponed period. In addition, we are asking that ED waive the requirement for PRDE to notify the agency of problems, delays or adverse conditions related to COVID-19 on all grants (200 CPR 200.328(d)(l).

**Extension of currently approved indirect cost rates.** (2 CPR§ 200.414 (c))

PRDE is asking ED to allow us to continue to use the currently approved indirect cost rates (i.e., predetermined, fixed, or provisional rates) to recover our indirect costs on Federal awards, for one additional year without submission of an indirect cost proposal. PRDE is also requesting an extension of the indirect cost rate proposal submission to finalize the current rates and establish future rates.

**Extension of closeout.** (2 CPR§ 200.343)

PRDE is also asking for authority to delay submission of any pending financial, performance and other reports required by the terms of the award for the closeout of expired projects for one year after the award expires, provided that PRDE gives proper notice to ED about the reporting delay.

In seeking these waivers, PRDE assures that:

The SEA will use, and ensure that its subgrantees use, funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers.

The SEA will work to mitigate, and ensure that its subgrantees work to mitigate, any negative effects, if any, that may occur as a result of the requested waivers.

The SEA will provide the public in the State with notice of, and the opportunity to comment on, this request by posting information regarding the waiver request and the process for commenting on the PRDE website.

Thank you for your consideration.

Sincerely,

Dr. Eligio Hernández Pérez

PRDE Secretary