



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

SEP 15 2005

Honorable Edward Parisian
Director, Office of Indian Education Programs
Bureau of Indian Affairs
MS-3512, MIB
1849 C Street, NW
Washington, DC 20240-0001

Dear Director Parisian:

This is to inform you that we have conditionally approved the Bureau of Indian Affairs' (BIA) Eligibility Documents, including assurances and certifications, for Federal Fiscal Year (FFY) 2005 under Part B of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for conditional approval is based on our receipt of the Bureau's application submitted by the BIA to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 9, 2005, and amended on June 29, 2005, in which it assures that it will:

1. Operate consistent with all requirements of PL 108-446 and applicable regulations; and
2. Make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of Part B of the IDEA, as amended, as soon as possible, and not later than July 1, 2006. Section II of the Bureau's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the Bureau needs to amend policies and procedures and the timelines by which the Bureau will amend its policies and procedures in order to comply with Part B of the IDEA. Within Section II, the Bureau has included the date by which it expects to complete necessary changes associated with any policies and procedures that are not yet in compliance with the requirements of Part B of the IDEA, as amended.

The BIA also submitted a letter on August 16, 2005, in which the BIA assures that as soon as possible, but no later than July 1, 2006, the BIA will complete all of the changes set forth in the July 28, 2005 issues chart. In the August 16, 2005 letter, the BIA also assures that, it will take steps to ensure that, throughout the period of this grant award, all BIA- funded schools will comply with all of the requirements of section 611(h)(2) of the IDEA, including the applicable IDEA requirements and regulations identified in 34 CFR Part 300. The BIA further assures that it will provide OSEP with a copy of a memorandum notifying all BIA- funded schools of changes that impact on their provision of special education and related services that are required by OSEP as a result of its review of the BIA's Eligibility Documents.

Please note that as part of your Eligibility Documents for FFY 2005, the Bureau has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. Any changes made by the Bureau, after OSEP approval, to policies and procedures needed to comply with Part B of the IDEA, must meet the applicable public participation requirements, including those in 20 U.S.C. 1232d(b)(7).

Enclosed is the Bureau of Indian Affairs' Grants to States award of \$83,545,766 for funds appropriated for Federal Fiscal Year 2005 under section 611(b)(2) of Part B of the Individuals with Disabilities Education Act (IDEA). These funds are for use primarily in school year 2005-2006 and are available for obligation by States from July 1, 2005 through September 30, 2007.

Under section 611(h)(1)(A) of IDEA, the award includes \$66,836,613 to be used by the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. Section 611(h)(4)(1)(A) requires that BIA allocate 80 percent of these funds by July 1 of this fiscal year and the remaining 20 percent by September 30 of the fiscal year. Given that the July 1 date has passed, the BIA must allocate 80 percent of these funds to schools as expeditiously as possible.

Under the section 611(h)(4)(A), the award includes \$16,709,153 to be distributed by the Secretary of the Interior to tribes or tribal organization or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Secretary of Interior. The funds received by a tribe or tribal organization must be used to assist in child find, screening and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. None of the funds provided under section 611(h)(4)(A) can be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

Our records show that for the last Part B grant under section 611 for which the obligation and liquidation period has ended (grant from FFY 2002), the BIA has failed to spend a significant portion of its grant award. In addition, BIA has considerable unexpended funds remaining from the FFY 2003 Part B grant as well as the entire FFY 2004 Part B grant. As noted in the January 2005 communication to Chief State School Officers from former Deputy Secretary Eugene Hickok, "Your vigilance is crucial to ensuring that all federal funds under your management are used to help America's neediest children do well in the classroom..." We urge you to take the steps necessary to ensure that the BIA fully expends the available funds in the attached FFY 2005 Part B grant awards to meet the needs of the BIA's children with disabilities. If by July 1, 2006 you anticipate that the State will not be able to obligate all of the funds from the FFY 2005 grant awards by September 30, 2007, please notify OSEP immediately of the amount that the BIA will not be using to carry out the Part B program so that we can reallocate the remaining funds to other States for use in better serving children with disabilities.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education
Programs

Enclosures

cc: Gloria Yepa
Director
Special Education Programs