



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

JUL 11 2005

Honorable Juan P. Flores  
Director of Education  
Guam Department of Education  
P.O. Box DE  
Hagatna, Guam 96932

Dear Director Flores:

This is to inform you that we have conditionally approved Guam's 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 application submitted by the Guam Department of Education (GDOE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 9, 2005, and amended on June 20, 2005 (Assurances), 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 State's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the State needs to amend policies and procedures and the timelines by which the State will amend its policies and procedures in order to comply with Part B of the IDEA. Within Section II, the State 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 federal Fiscal Year (FFY) 2004 grant award under Part B of the IDEA was issued to Guam with Special Conditions related to reporting on the participation and performance of children with disabilities on alternate assessments in the same detail as it reports on the regular assessments of nondisabled children, unless it would result in disclosure of performance results identifiable to individual children, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139(a). This is to inform you that the documentation Guam submitted satisfies the requirements of the Special Conditions, which are now removed from your Fiscal Year (FY) 2004 Part B grant award. This determination is based on OSEP's receipt of the following:

1. The document "GDOE Special Conditions Timeline and Talking Points" provided to OSEP in a meeting with Vince Leon Guerrero, Associate Superintendent, on March 9, 2005, concerning reporting on the participation and performance of children with disabilities on the alternate assessment in the same detail as GDOE reports on the regular assessments of nondisabled children; and

2. The May 17, 2005 email communication from Guam to OSEP confirming that GDOE has reported to the public on the participation and performance of children with disabilities taking the alternate assessment. This correspondence included Guam's website ([http://www.gdoe.net/supt/ann\\_rept.htm](http://www.gdoe.net/supt/ann_rept.htm)) where the participation rates and the scores for the IEP-based alternate assessment are reported for children with disabilities in the same detail as GDOE reports on the regular assessments of nondisabled children.

Please note that as part of your Eligibility Documents for FFY 2005, Guam 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 State, 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).

In addition, Guam's FFY 2005 IDEA Part B grant award is being released subject to special conditions identified in the U.S. Department of Education's June 23, 2005 letter to Guam regarding the Single Audit Act (copy enclosed) that are being imposed pursuant to the Department's authority in 34 CFR §80.12. The special conditions associated with the high-risk designation that remain in effect while the GDOE continues to address the Department's remaining fiscal and programmatic concerns include the following: (1) the timely completion of single audits; (2) reliance upon the expertise of an Oversight Agent; (3) submission of detailed quarterly reports; and (4) monthly posting of budget and expenditure information on the GDOE's website.

Enclosed is a grant award for funds currently available under the Department of Education FFY 2005 Appropriations Act for the Part B Section 611 (Grants to States program). 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.

The amount shown in your award for the Section 611 program is only part of the total funds that will be awarded to you for FFY 2005. Of the \$10,589,745,824 appropriated for Section 611 in FFY 2005, \$5,176,745,824 is available for awards on July 1, 2005, and \$5,413,000,000 will be available on October 1, 2005.

Under the Section 611 formula, subject to certain maximum and minimum funding requirements, State allocations are based on the amount that each State received from FFY 1999 funds, the general population in the age range for which each State ensures a free appropriate public education (FAPE) to all children with disabilities, and the number of children living in poverty in the age range for which each State ensures FAPE to all children with disabilities. Section 619 funds are allocated to States subject to certain maximum and minimum funding requirements, based on the amount that each State received from FFY 1997 funds, the general population of children age 3 to 5, and the number of children living in poverty in the age range 3 to 5.

Enclosure B provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure B shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations. Table II in Enclosure B shows your State-specific information for within-State distribution of 611 funds based on your State's application. If you disagree with the information in Enclosure B Table II, notify your State contact immediately.

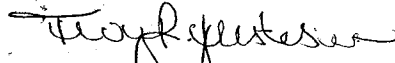
Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of

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this Act." Therefore, by accepting this grant a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

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

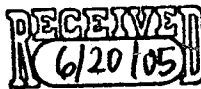
Sincerely,



Troy R. Justesen  
Acting Director  
Office of Special Education  
Programs

Enclosures

cc: Katrina Celes  
Vince Leon Guerrero



Section II

A. Assurances

The State makes the following assurances and provisions as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419)

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1411-1419)
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		1. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.
X		2. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1).
X		3. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal (20 U.S.C. 1412(a)(2)).
X		4. All children with disabilities residing the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3).
	X NLT Jul 1, 2006	5. An individualized education program, or an individualized family service plan that meets the requirements of 20 U.S.C. 1436(d), is developed, reviewed, and revised for each child with a disability in accordance with 20 U.S.C. 1414(d). (20 U.S.C. 1412(a)(4))

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1411-1419)
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		6. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B).
	X  NLT Jul 1, 2006	7. Children with disabilities and their parents are afforded the procedural safeguards required by 20 U.S.C. 1415 and in accordance with 20 U.S.C. 1412(a)(6).
	X  NLT Jul 1, 2006	8. Children with disabilities are evaluated in accordance with subsections (a) through (c) of 20 U.S.C. 1414. (20 U.S.C. 1412(a)(7))
X		9. Agencies in the State comply with 20 U.S.C. 1417(c) (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8))
X		10. Children participating in early intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with 20 U.S.C. 1437(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 20 U.S.C. 1414(d)(2)(B) and 20 U.S.C. 1436(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under 20 U.S.C. 1435(a)(10). (20 U.S.C. 1412(a)(9))
	X  NLT Jul 1, 2006	11. To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 20 U.S.C. 1412(a)(10)(A)-(C) unless the Secretary has arranged for services to those children under subsection (f) [By pass].
X		12. The State educational agency is responsible for ensuring that the requirements of part B are met according to 20 U.S.C. 1412(a)(11)(A)-(C).

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1411-1419)
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		13. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) of 20 U.S.C. 1412(a)(12) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C).
X		14. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13))
	X NLT Jul 1, 2006	15. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E).
X		16. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C).
	X NLT Jul 1, 2006	17. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E).
X		18. Funds paid to a State under this part will be expended in accordance with all the provisions of part B including 20 U.S.C. 1412(a)(17)(A)-(C).
X		19. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year in accordance with 20 U.S.C. 1412(a)(18)(A)-(D).

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1411-1419)
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		20. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities: (20 U.S.C. 1412(a)(19))
X		21. In complying with 20 U.S.C. 1412(a)(17) and (18), a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20))
X		22. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D)).
X		23. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B).
	X NLT Jul 1, 2006	24. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A)-(E).
X		25. The State has in effect, consistent with the purposes of the IDEA and with 20 U.S.C. 1418(d), policies and procedures designed to prevent the inappropriate over identification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 20 U.S.C. 1401. (20 U.S.C 1412(a)(24))
X		26. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation under subsection (a) or (c) of 20 U.S.C. 1414, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B).

Check and enter date(s) as applicable		Assurances (20 U.S.C. 1411-1419)
Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)	
X		27. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under 20 U.S.C. 1413 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3).
X		28. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3))
X		29. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702.)
X		30. The State will continue to comply with the regulations that are still applicable and currently in place.

**B. Certifications**

The State Educational Agency is providing the following certifications:

Yes	
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i> the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	<p>2. The State certifies that 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 responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1).</p>



**C. Statement**

I certify that the State of GUAM can make the assurances checked as 'yes' in Section II.A and the certifications required in Section II.B of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

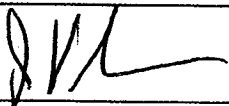
If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than July 1, 2006. (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 by the Governor of this State to submit this application for FFY 05 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State: <b>JUAN P. FLORES, SUPERINTENDENT OF EDUCATION</b>	
Signature: 	Date: <u>5/4/05</u>