



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

OCT 21 2005

Honorable Noreen Michael  
Commissioner of Education  
Virgin Islands Department of Education  
44-46 Kongens Gade  
St. Thomas, U.S. Virgin Islands 00802

Dear Commissioner Michael:

This is to inform you that we have conditionally approved the Virgin Islands' 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 State's application submitted by the Virgin Islands Department of Education to the U.S. Department of Education (ED), Office of Special Education Programs (OSEP), on May 6, 2005 and amended on May 23, 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.

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

The Virgin Islands' FFY 2005 IDEA Part B grant award is being released subject to special conditions identified in the U.S. Department of Education's September 26, 2005 letter to the Virgin Islands regarding the use of a third party fiduciary agent (copy enclosed) that are being imposed pursuant to the Department's authority in 34 CFR §80.12. The special conditions describe the responsibility of the Virgin Islands to procure work with a third party fiduciary agent, as well as the role and responsibilities of that agent in administering ED grant funds. The use of a third party agent is necessary because of the Virgin Islands' failure to implement a credible central financial management system as required under the Compliance Agreement.

In addition, The Virgin Islands' FFY 2005 IDEA Part B grant award is being released subject to programmatic FFY 2005 Special Conditions as set forth in Enclosure C that are being imposed pursuant to the Department's authority under 34 CFR §80.12. Specifically, OSEP determined, based on its February 2005 visit to the Virgin Islands and the Virgin Islands' FFY 2003 Part B Annual Performance Report, that the Virgin Islands did not meet all of the conditions of the FFY 2004 Special Conditions and that the Virgin Islands is not ensuring the participation of all children with disabilities on statewide and districtwide assessments. The terms of these Special Conditions and the reasons for imposing them are detailed in Enclosure C.

The Virgin Islands must administer this award both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document. Acceptance by the Virgin Islands of this grant award constitutes an agreement by the Virgin Islands to comply with these Special Conditions.

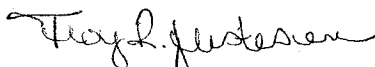
Enclosed are grant awards for funds currently available under the Department of Education FFY 2005 Appropriations Act for the Part B Section 611 (Grants to States) program. These funds are for use primarily in school year 2005-2006 and are available for obligation by States from July 1, 2005 through September 30, 2007.

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 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: Ms. Carrie S. Johns