



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

APR 19 2007

Honorable Thomas M. Dowd
Director
Office of Indian Education Programs
Bureau of Indian Education
MS-3512, MIB
Washington, DC 20240

Dear Director Dowd:

In response to your written request submitted March 22, 2007, we have enclosed the eighty percent (80%) portion of the Bureau of Indian Education's (BIE's)¹ Federal Fiscal Year (FFY) 2006 Part B funds of the Individuals with Disabilities Education Act (IDEA). BIE's application was submitted to the U.S. Department of Education, Office of Special Education Programs (OSEP), on March 28, 2006. However, on June 30, 2006, prior to the release of FFY 2006 Part B funds, OSEP received and accepted BIE's written request to withdraw its application. On December 22, 2006, BIE requested the twenty percent (20%) portion of its FFY 2006 grant award under Part B. These funds were enclosed in our January 16, 2007 letter to BIE.

We have conditionally approved BIE's Eligibility Documents, including assurances and certifications, for FFY 2006 under Part B. Our determination that BIE is eligible for conditional approval is based on our receipt of BIE's application submitted to OSEP, on March 28, 2006, in which BIE 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, 2007. Section II of BIE's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which BIE needs to amend policies and procedures and the timelines by which BIE will amend its policies and procedures in order to comply with Part B of the IDEA. Within Section II, BIE 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.

BIE also submitted a letter on June 22, 2006, in which it assures that as soon as possible, but no later than July 1, 2007, it will complete all of the changes set forth in the June 21, 2006 issues chart. In the June 22, 2006 letter, BIE also assures that it will take steps to ensure that,

¹ Formerly named the Bureau of Indian Affairs (BIA).

throughout the period of this grant award, all BIE-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. BIE further assures that it will provide OSEP with a copy of a memorandum notifying all BIE-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 BIE's Eligibility Documents.

Please note that as part of its Eligibility Documents for FFY 2006, BIE 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 BIE, 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, in accordance with section 611(h)(1)(A) of IDEA, is the remaining portion of BIE's Grants to States award of \$69,045,127 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. Under 34 CFR §300.707(b), with the exception of five percent of the funds, which may be reserved for administration, these funds must be allocated to such schools as expeditiously as possible.


On March 28, 2007, the Office of the Inspector General (OIG) issued a final audit report titled Bureau of Indian Affairs (BIA) Administration of IDEA, Part B Funds. The OIG found, among other things, that BIA was unable to adequately account for the entire \$111 million of IDEA, Part B funds appropriated during the audit period (July 1, 2001 through September 30, 2003) and recommended that the Assistant Secretary for the Office of Special Education and Rehabilitative Services (OSERS) obtain an assurance from BIA officials that the \$111 million of IDEA, Part B funds was used to deliver educational assistance to the children with disabilities at all of the BIA funded schools and return any funds not used for those purposes to the Department, to the extent authorized by law; and instruct BIA to establish written accounting policies and procedures to properly account for IDEA, Part B funds and all Department funds. We note that BIE has assured OSEP in Section II of its application that funds paid to BIE will be expended in accordance with all the provisions of Part B of IDEA. OSERS and the Deputy Secretary will be issuing a program determination letter addressing the findings made in the OIG's audit, which may include corrective actions BIE will be required to take.

The enclosed grant award for FFY 2006 is made with the continued understanding that this Office may, from time to time, require clarification of information within BIE's application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part B.

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

Sincerely,



Alexa Posny, Ph.D.

Director

Office of Special Education

Programs

Enclosures

cc: Gloria Yepa

Director

Special Education Programs