



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

SEP 18 2006

Honorable Luis S. N. Reyes
Interim Superintendent
Guam Department of Education
P.O. Box DE
Hagatna, Guam 96932

Dear Superintendent Reyes:

This is to inform you that we have conditionally approved Guam's Eligibility Documents, including assurances and certifications, for Federal Fiscal Year (FFY) 2006 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 April 21, 2006 in which it assures that it will:

1. Operate consistent with the Part B 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 Guam's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which Guam needs to amend policies and procedures and the timelines by which Guam will amend its policies and procedures in order to comply with Part B of the IDEA. Within Section II, Guam 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.

Enclosed is a grant award for funds currently available under the Department of Education FFY 2006 Appropriations Act for the Part B Section 611 (Grants to States) program. These funds are for use primarily in school year 2006-2007 and are available for obligation by States from July 1, 2006 through September 30, 2008.

Please note that as part of your Eligibility Documents for FFY 2006, 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 Guam, 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).

Guam's FFY 2006 IDEA Part B grant award is being released subject to special conditions that are identified in the enclosed U.S. Department of Education's September 15, 2006 letter to GDOE (which is incorporated into the grant letter by this reference) that are being imposed pursuant to the Department's authority in 34 CFR §80.12. Under the Special Conditions, GDOE can only draw down up to one-fourth of its grant award amount in each Department program, including the Grants to States program authorized by Part B of IDEA, in each three month period

unless it receives approval from the Department to draw down a larger amount. 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) submission of detailed quarterly reports; and (3) monthly posting of budget and expenditure information on the GDOE's website.

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 2006. Of the \$10,582,960,540 appropriated for Section 611 in FFY 2006, \$5,158,760,540 is available for awards on July 1, 2006, and \$5,424,200,000 will be available on October 1, 2006.

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.

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 your application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part B.

Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities. Therefore, by accepting this grant, Guam is expressly agreeing as a condition of IDEA funding to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities.

In addition to responding to Guam's Eligibility Documents, including assurances and certifications for FFY 2006 under Part B, this letter responds to Guam's March 28, 2006 final progress report as required in OSEP's November 4, 2005 letter. OSEP's November 4, 2005 letter required Guam to provide data and analysis demonstrating compliance with 34 CFR §§300.132 and 300.121(c) regarding early childhood transition. This is to inform you that the final progress report that Guam submitted on March 28, 2006 demonstrates compliance with 34 CFR §§300.132 and 300.121(c). (34 CFR §§300.124 and 300.101(b) in the final regulations published in the Federal Register on August 14, 2006 (71 FR 46540)) OSEP recognizes the effort made by Guam and looks forward to reviewing data in the Annual Performance Report (APR), due February 1, 2007, that demonstrates continuing compliance with these requirements.

This letter also responds to Guam's June 20, 2006 request for prior approval of its Bus Purchase Plan. Guam requested approval to purchase 5 buses in FY 2006 and every year until FY 2013. Prior to FY 2006, 40 buses were purchased. On September 30, 2005, 5 buses were purchased at a cost of \$79,374.00 per bus. The buses are requested to replace buses that have been or will be removed from service based upon bus condition, mileage, and maintenance repair cost. Guam has requested a yearly replacement schedule to reflect the wear and tear of the vehicles caused by the road conditions on Guam and the location of student residences. The buses will be used to transport students who are eligible for Part B services and will be part of a fleet of 38 buses used

to transport 350 students. The buses are inventoried once a month and are locked and secured at any government facility on Guam.

OMB Circular 87 – General Principles for Determining Allowable Costs, Section C, Item 1, Factors Affecting Allowability of Costs, states that to be an allowable cost under Federal awards, the cost must “be necessary and reasonable for proper and efficient performance and administration of Federal awards.” Furthermore, section 605 of IDEA states: “If the Secretary determines that a program authorized under the Act would be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.” Under this authority, this Office determines that the purchase of the buses described in this letter are allowable costs if the requirements of Part B, the Federal cost principles in OMB Circular 87, and procurement requirements are met. If Part B funds are used to pay the entire cost of purchasing these vehicles, the vehicles must be used to provide transportation for children with disabilities. Guam must confirm in each subsequent application, that the buses approved were actually purchased, that the plan is still valid and intact, and request approval for future purchases under that grant application.

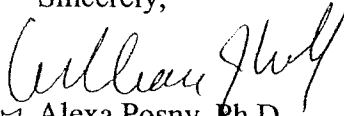
In the June 20, 2006 letter, you also request OSEP’s approval for the rental of commercial space for the Family Resource and Transition Center. The rental space requested by Guam is to replace two 12x12 offices that currently house the Family Resource and Transition Center. In a June 28, 2006 telephone conversation, a member of your staff stated that the Family Resource and Transition Center provides resources for families of children with disabilities in Guam. Families of children with disabilities receive resources that include information on disabilities, parenting, and reference material related to special education available through local programs and national centers. The center also provides hands-on vocational and academic training geared toward helping students with disabilities transition into the workplace. Guam is requesting approval to rent approximately 2,000 square feet of rental space to house a resource center, computer center, conference/meeting rooms, and a hands-on vocational and academic training center for stakeholders. The current offices only allow a desk and file storage and extremely limited space for families or stakeholders to receive or utilize the services provided by the Family Resource and Transition Center on site. The cost of the rental will range from \$0.08 to \$1.00 per square ft., depending on the specific building and size of rental space available at the time of rental.

While prior approval is necessary under section 605 of IDEA for purchase of the buses, which meet the definition of equipment in section 602(7) of IDEA and 34 CFR §80.3, prior approval is not needed under section 605 of IDEA to use Part B funds to rent commercial space. However, any Part B funds must be used only for costs that are allowable under OMB Circular 87 – General Principles for Determining Allowable Costs. As noted above, to be an allowable cost under Part B of IDEA, the cost must “be necessary and reasonable for proper and efficient performance and administration of Federal awards.” If Part B funds are used to pay the entire cost of the rental space, the rental space must be used exclusively for activities related to providing special education and related services to students with disabilities. In addition, item 37 of Attachment B of OMB Circular A-87 provides principles to be applied in establishing the allowability of rental costs.

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

Sincerely,


for Alexa Posny, Ph.D.

Director

Office of Special Education Programs

Enclosures

Enclosure A

Enclosure B

cc: Katrina Pieper
Associate Superintendent