



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

JUL - 2 2007

Honorable Phyllis L. Wallace
Acting Commissioner
Department of Health
Sugar Estate #48
St. Thomas, Virgin Islands 00802

Dear Acting Commissioner Wallace:

This is to inform you that we have conditionally approved the Virgin Islands' Application for Federal Fiscal Year (FFY) 2007 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the Virgin Islands Department of Health (VIDH or Territory) to the U.S. Department of Education, Office of Special Education Programs (OSEP) on April 25, 2007, including policies, procedures, methods, descriptions, assurances, certifications, and submission statement provided in Section II, and incorporated by reference to this letter as noted in Enclosure A. In addition, the VIDH provided the following specific assurances that it will:

1. Operate consistent with the Part C requirements in 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303;
2. Ensure that the Territory's system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2007 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, the Territory's policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of Part C of the IDEA, as amended, as soon as possible, and not later than the earlier of the date indicated by the VIDH in Section II of its application or June 30, 2008. Section II of the VIDH's application identifies the IDEA statutory sections for which the VIDH needs to amend any policies, procedures, methods and descriptions and the timelines by which the VIDH will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the VIDH has included the date by which it expects to complete necessary changes associated with any policies, procedures, methods and descriptions that are not yet in compliance with the requirements of Part C of the IDEA, as amended.

VIDH's FFY 2007 IDEA Part C grant award is also being released subject to two sets of Special Conditions (which are Enclosures B and C to this letter and incorporated in this grant letter by this reference) that are being imposed pursuant to the U.S. Department of Education's (Department) authority in 34 CFR §80.12. Enclosure B identifies the fiscal Special Conditions imposed under Part C to ensure the timely payment to vendors who provide early intervention services to infants and toddlers with disabilities and their families. Enclosure C from the Department imposes Special Conditions on the Virgin Islands Government for all Department grants to ensure fiscal accountability. By accepting this grant award, VIDH expressly agrees to accept the Special Conditions identified in Enclosures B and C.

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VIDH's FFY 2006 IDEA Part C grant award also contained special conditions regarding personnel recruitment and retention. VIDH hired full-time and part-time personnel, expedited its payroll procedures so that new personnel are paid in less than a month, coordinated recruitment of personnel with the Virgin Islands Department of Education, and implemented its approved long-term personnel recruitment plan. In addition, VIDH reported in its FFY 2005 Annual Performance Report submitted on February 1, 2007 that it had ensured 100% compliance and correction with the Part C requirement to timely provide early intervention services to infants and toddlers with disabilities and their families. OSEP appreciates VIDH's efforts to recruit and retain personnel to ensure the provision of early intervention services in the Virgin Islands.

Enclosed is the Territory's grant award for funds currently available under the Department of Education FFY 2007 Appropriations Act for the Part C program. These funds are available for obligation by the Territory from July 1, 2007 through September 30, 2009.

The enclosed grant award for FFY 2007 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 C.

Please note that as part of VIDH's application for FFY 2007, VIDH has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2007 grant period. Any changes made by VIDH to its FFY 2007 application or Part C policies or procedures that are application requirements, after issuance of this grant award, must meet the applicable public participation requirements under Part C of the IDEA in 34 CFR §§303.110 through 303.113 and if they are requirements under Section II.A must be submitted to, and approved by, OSEP prior to VIDH's implementation of its new or revised application, policies and procedures.

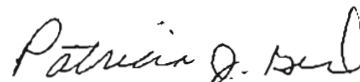
Section IV.B of the FFY 2007 application for Part C funds requested updated information about each grant recipient's restricted indirect cost rate. Our records indicate that VIDH has a restricted indirect cost rate of 6.28 percent that was approved by VIDH's cognizant agency, the U.S. Department of Interior, and which expired on September 30, 2005. VIDH indicated that it is in the process of negotiating a new restricted indirect cost rate that will be in effect for FFYs 2006 through 2008. In Section IV.B of the Application, VIDH also indicated it will continue to bill the Part C FFY 2007 grant based on this previously approved restricted indirect cost rate until a final restricted indirect cost rate is approved for FFY 2007, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2007 grant funds. The Department's issuance of this FFY 2007 grant award does not constitute approval of this rate as the rate for VIDH for the FFY 2007 period. When a final restricted indirect cost rate is approved for FFY 2007, please forward to our Indirect Cost Unit: (1) a copy of the final rate agreement and (2) details of adjustments made to GAPS liquidations from the provisional or prior billing rate after approval of the final rate.

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." Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted

under the IDEA. Therefore, by accepting this grant the Territory is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures:

- Enclosure A (Section II of the FFY 2007 Application)
- Enclosure B (Special Conditions under Part C of IDEA)
- Enclosure C (Department-wide Special Conditions)

cc: Part C Coordinator