



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

JUL - 2 2007

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

Dear Director Dowd:

This is to inform you that we have conditionally approved Bureau of Indian Education's (BIE's) application for Federal Fiscal Year (FFY) 2007 under Part B of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of your application submitted by BIE to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 30, 2007, and the revisions submitted on June 26, 2007, including assurances provided in Section II, and incorporated by reference to this letter as noted in Enclosure A. In addition, BIE provided specific assurances that it will:

1. Operate consistent with the applicable Part B 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 June 30, 2008. Section II of BIE's application 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.

We consider the May 17, 2007 letter to OSEP and the May 14, 2007 Memorandum to Education Line Officers and School Principals attached to your application to satisfy the remaining issues identified in June 2006 issues chart. The issues chart required that BIE revise its eligibility document to address the requirements in 34 CFR §§300.142(b)(2), 300.142(e), and 300.142(f) (now §§300.154(b)(2), 300.154(d), and 300.154(e)) regarding methods of ensuring services. In the May 17, 2007 letter, BIE informed OSEP that subsequent to reauthorization of IDEA Improvement Act of 2004 (IDEA 2004), BIE provided interim procedures to all BIE-funded schools. The interim procedures were reiterated in a May 14, 2007 memorandum sent to its Education Line Officers and School Principals. The memorandum requires all BIE funded schools to comply with the requirements in 34 CFR §§300.707 through 300.716, which includes compliance with 34 CFR §300.154, while BIE policies and procedures that align with IDEA

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2004 are finalized. In the May 17, 2007 letter, BIE has assured OSEP that the language in 34 CFR §§300.154(b)(2), 300.154(d), and 300.154(e) will be included in the final policies and procedures.

As set forth in Enclosure B, in a June 27, 2007 letter, the Department informed BIE that it is imposing special conditions on the Department of Interior's funds due to an unsatisfactory subtask completion rate on BIE's Program Improvement and Accountability Plan (PIAP), addressing management and accountability issues in BIE's administration of Department funds. The requirements of the special conditions are specified in an attachment to the June 27, 2007 letter.

Enclosed is the Bureau of Indian Affairs' Grants to States award of \$87,432,898 for funds appropriated for Federal Fiscal Year 2007 under section 611(b)(2) of Part B of the Individuals with Disabilities Education Act (IDEA). These funds are for use primarily in school year 2007-2008 and are available for obligation by BIE from July 1, 2007 through September 30, 2009.

Under the section 611(h)(1)(A) of IDEA, the award includes \$69,946,318 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 and secondary schools for Indian children operated or funded by the Secretary of the Interior. Under section 611(h)(1)(A) of IDEA and 34 CFR §300.707(b), with the exception of five percent of these funds, which may be reserved for administrative costs, 80% of the funds must be allocated to such schools by July 1st and 20% must be allocated to such schools by September 30th.

Under the section 611(h)(4)(A), the award includes \$17,486,580 to be distributed by the Secretary of the Interior to tribes or tribal organization or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Secretary of Interior. The funds received by a tribe or tribal organization must be used to assist in child find, screening and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. None of the funds provided under section 611(h)(4)(A) can be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

Please note that as part of your application for FFY 2007, BIE 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 periods for which it receives grant funding. Any changes made by BIE, after OSEP approval, to information that is a part of BIE's application, must meet the public participation requirements in 34 CFR §300.165.

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 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 the 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 the BIE will be expended in accordance with all the provisions of Part B of IDEA.

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 B.

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 BIE 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 programs assisted under the IDEA.

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

Sincerely,



Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures

Enclosure A

Enclosure B

cc: Director of Special Education