



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

JUL 1 2008

Honorable Kevin Skenandore
Director
Office of Indian Education Programs
Bureau of Indian Education
MS-3512, MIB
Washington, DC 20240

Dear Director Skenandore:

This is to inform you that we have conditionally approved Bureau of Indian Education's (BIE's) application for Federal Fiscal Year (FFY) 2008 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 15, 2008, 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, 2009. 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.

Enclosed is the Bureau of Indian Affairs' Grants to States award of \$71,723,853 of the \$88,767,145 appropriated for Federal Fiscal Year 2008 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)(4)(A), this award includes \$17,753,429, twenty percent of the amount allotted under section 611(b)(2), to be distributed by the Secretary of the Interior to tribes or tribal organizations 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.

Under the section 611(h)(1)(A) of IDEA, \$71,013,716, eighty percent of the amount allotted under section 611(b)(2), is provided to 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 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. Because of the Special Conditions noted below, this award includes \$53,970,424, the amount that BIE must allocate to elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior by July 1. BIE must distribute all of these funds to such schools; none of these funds may be used by BIE for administrative costs.

BIE's FFY 2008 IDEA Part B grant award is being released subject to FFY 2008 Special Conditions, as set forth in Enclosure B. Specifically, OSEP determined that BIE failed to meet the public participation requirements set forth in the Part B regulations at 34 CFR §300.709. Therefore, the Department is imposing Special Conditions on the BIE's FFY 2008 grant awards under Part B. The reasons for doing so and the specific conditions are detailed in the enclosure. BIE must administer these awards both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document. Acceptance by BIE of these grant awards constitutes an agreement by BIE to comply with the Special Conditions. When BIE has satisfied the FFY 2008 Special Conditions by posting its FFY 2008 application on its website for 60 days and accepting public comment for at least 30 days, the Department will issue a Supplemental grant award that includes \$ 3,550,686 (the 5% of the 80% that may be used by BIE for administration) and \$ 13,492,607 (the 20% of the 80% that must be allocated to elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior by September 30th).

In addition to the Part B FFY 2008 Special Conditions related to public participation requirements, in a June 17, 2008 letter, the Department informed BIE that it is imposing Special Conditions, as set forth in Enclosure C, based on the Department of Interior's failure to complete all of the corrective actions contained in the revised Program Improvement and Accountability Plan (PIAP). The requirements of those Special Conditions are specified in an attachment to the June 17, 2008 letter.

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 2008 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,



William W. Knudsen
Acting Director
Office of Special Education Programs

Enclosures

- Enclosure A
- Enclosure B
- Enclosure C

cc: Director of Special Education