



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL 3 2006

Honorable Rosa Perez Perdomo  
Secretary of Health  
Commonwealth of Puerto Rico  
Department of Health  
P. O. Box 70184  
San Juan, Puerto Rico 00936-8184

Dear Secretary Perdomo:

This is to inform you that we have conditionally approved the Commonwealth of Puerto Rico's Application, including policies, procedures, methods, descriptions, and assurances, for Federal Fiscal Year (FFY) 2006 under Part C of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the Part C Application for FFY 2006, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted by the Puerto Rico Department of Health (PRDH) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 6, 2006, and amended on May 8, 2006, in which it assures that it will:

1. Operate consistent with the Part C requirements of PL 108-446 and its applicable regulations in 34 CFR Part 303;
2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2006 grant period; and
3. Make such changes to, and submit for OSEP's approval, existing 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 Commonwealth of Puerto Rico in Section II of its application or June 30, 2007. Section II of the Commonwealth of Puerto Rico's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the Commonwealth of Puerto Rico needs to amend policies, procedures, methods and descriptions and the timelines by which the Commonwealth of Puerto Rico will amend any policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the Commonwealth of Puerto Rico 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.

Enclosed is the Commonwealth of Puerto Rico's grant award for funds currently available under the Department of Education FFY 2006 Appropriations Act for the Part C program. These funds are available for obligation by Part C grant recipients from July 1, 2006 through September 30, 2008. OSEP's March 10, 2006 letter responding to Puerto Rico's Part C State Performance Plan (SPP) required PRDH to submit by June 1, 2006 data demonstrating compliance regarding SPP Indicators 1 (Timely provision of Part C services), 9 (Monitoring and correction), and 10 (Timely

resolution of complaints). PRDH's submission dated June 1, 2006 provided data indicating improvement with Indicator 9 regarding PRDH's ability to identify and correct noncompliance. PRDH reported no complaints were filed under Indicator 10. OSEP looks forward to reviewing updated data regarding SPP Indicators 9 and 10 in the SPP annual performance report due February 1, 2007. However, PRDH's June 1, 2006 final progress report indicated and the Department has determined that Puerto Rico has not ensured the timely provision of early intervention services to infants and toddlers with disabilities and their families under 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1).

Therefore, the Department is imposing Special Conditions on the Commonwealth of Puerto Rico's FFY 2006 IDEA Part C grant award pursuant to the Department's authority in 34 CFR §80.12. These special conditions are imposed to ensure the timely provision of early intervention services to infants and toddlers with disabilities and their families in the Commonwealth of Puerto Rico. The reasons for imposing specific conditions and their nature are detailed in the enclosure. Puerto Rico must administer these awards both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions set forth in Enclosure B. Acceptance by the Commonwealth of Puerto Rico of this FFY 2006 Part C grant award constitutes an agreement by the Commonwealth to comply with the programmatic Part C Special Conditions in Enclosure B, which require a progress report by February 1, 2007 and a final progress report with data demonstrating compliance by June 1, 2007.

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 C.


Please note that as part of the Part C Application for FFY 2006, the Commonwealth of Puerto Rico 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 FFY 2006 grant period. Any changes made by the Commonwealth of Puerto Rico to its FFY 2006 Application or its Part C policies, after OSEP's approval, must meet the applicable public participation requirements in Part C of the IDEA and may also need to be submitted to OSEP for approval prior to implementation.

Section IV.B of the FFY 2006 application for Part C funds requested updated information about each State's restricted indirect cost rate. Our records indicate that: your agency has a restricted indirect cost rate of 6.8% that expired on June 30, 2006, which rate is provisionally approved until amended and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the period of July 1, 2006 through June 30, 2007. In Section IV.B of the Application, the lead agency indicated it will continue to bill the Part C FFY 2006 grant based on this provisional or previously approved restricted indirect cost rate until a final restricted indirect cost rate is approved for FFY 2006, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2006 grant funds. When a final restricted indirect cost rate is approved for FFY 2006, please forward to our Indirect Cost Unit: (1) a copy of the final rate agreement and (2) details of adjustments made to Grants Administration Payment System 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. Therefore, by accepting this grant the Commonwealth of Puerto Rico 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.

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

Sincerely, ,



for

Alexa Posny, Ph.D.

Director

Office of Special Education

Programs

Enclosures

Enclosure A

Enclosure B

cc: Dr. Naydamar Perez Otero  
Part C Coordinator