



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

NOV 20 2006

Honorable Darlene A. Carty
Commissioner
Department of Health
Sugar Estate #48
St. Thomas, U.S. Virgin Islands 00802

Dear Commissioner Carty:

This is to inform you that we have conditionally approved the Virgin Islands' 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). The effective date of the enclosed FFY 2006 Part C grant award is November 1, 2006.

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 Virgin Islands Department of Health (VIDH) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on August 28, and October 3, 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 Territory's 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 VIDH in Section II of its application or June 30, 2007. Section II of VIDH's application (which is incorporated by reference and Enclosure A to this grant letter) identifies the IDEA statutory sections for which VIDH needs to amend policies, procedures, methods and descriptions and the timelines by which VIDH will amend any policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, 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 2006 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 and programmatic Special Conditions imposed under Part C to ensure the timely identification of, and provision of early

intervention services to, infants and toddlers with disabilities and their families. Enclosure C, which is the September 27, 2006 letter 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.

Enclosed is VIDH's grant award for funds currently available under the Department of Education FFY 2006 Appropriations Act for the Part C program. These funds are for use primarily in the fiscal year 2006-2007 and are available for obligation from the effective date of the grant award through September 30, 2008.

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 VIDH's Application for FFY 2006, VIDH 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 VIDH 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.

VIDH has requested, in Section III.B of its FFY 2006 Part C Application, approval of grant funds under Section 605 of the IDEA, for the purchase of a vehicle. Specifically, VIDH proposes to use \$25,000 of its FFY 2006 Part C grant funds to purchase a vehicle to transport staff. VIDH indicated in its e-mail correspondence dated September 19, 2006 and October 18, 2006, that transporting staff on the island of St. Croix is allowed in order for VIDH to provide early intervention services in natural environments as required by 34 CFR §§303.12(a)(1), 303.18, 303.340(c), 303.342(e) and 303.344. The Department has reviewed VIDH's request and approves it under IDEA Section 605 and Office of Management and Budget (OMB) Circular A-87 (Attachment A) because the purchases will improve the Part C lead agency's ability to provide early intervention services in the homes and other natural environments of infants and toddlers with disabilities and their families.

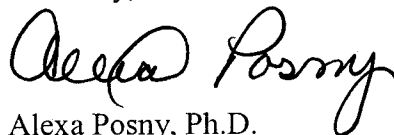
Section IV.B of the FFY 2006 application for Part C funds requested updated information about each State's restricted indirect cost rate. Our records indicate that VIDH had an approved restricted indirect cost rate of 6.28 percent that expired on September 30, 2005 and that VIDH is in the process of negotiating a new restricted indirect cost rate for FFY 2005 and 2006. In Section IV.B of the Application, VIDH indicated it will continue to bill the Part C FFY 2006 grant based on this previously approved restricted indirect cost rate of 6.28 percent until a final restricted indirect cost rate is approved for FFY 2005 and 2006, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2005 and 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 GAPS liquidations from the 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.” Therefore, by accepting this grant, the Virgin Islands is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

Section 606 of the IDEA 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, VIDH 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.

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

Sincerely,

A handwritten signature in black ink that reads "Alexa Posny". The signature is written in a cursive, flowing style.

Alexa Posny, Ph.D.

Director

Office of Special Education Programs

Enclosures:

Enclosure A (Section II of FFY 2006 Application)

Enclosure B (Special Conditions under Part C of IDEA)

Enclosure C (Department-wide Special Conditions)

cc: Renee Joseph-Rhymer
Part C Coordinator