



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

SEP 29 2008

Honorable Nerissa Bretania-Shafer
Superintendent of Education
Guam Public School System
P.O. Box DE
Hagatna, Guam 96932

Dear Superintendent Bretania-Shafer:

This is to inform you that we have conditionally approved Guam's Application for Federal Fiscal Year (FFY) 2008 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the Guam Public School System (GPSS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 6, 2008, and amended on June 18, 2008 and June 23, 2008, 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 State 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 statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2008 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, the State'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 State in Section II of its application or June 30, 2009. Section II of the State's application identifies the IDEA statutory sections for which the State needs to amend any policies, procedures, methods and descriptions and the timelines by which the State will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the State 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.

Guam's FFY 2008 IDEA Part C grant award is additionally being released subject to special conditions that are identified in the enclosed U.S. Department of Education's (USDOE's) September 26, 2008 letter to GPSS (included as Enclosure B). These Special Conditions are being imposed pursuant to the Department's authority in 34 CFR §80.12 due to continuing problems in GPSS' fiscal accountability and management practices and controls. Under the Special Conditions, GPSS can draw down only up to 50% of its grant award amount under each Department program, including the Grants to States program authorized by Part C of IDEA, until after it has: (1) obtained approval from USDOE of its revised comprehensive corrective action plan (CCAP); and (2) submitted its biannual report due January 31, 2009 describing its progress under the CCAP (see enclosed special conditions for further information). The special conditions

associated with the high-risk designation that remain in effect while the GPSS continues to address the Department's remaining fiscal and management concerns include the following: (1) submission of a revised version of the CCAP no later than October 17, 2008; (2) submission of a biannual report to USDOE on GPSS' progress in implementing measures required under the CCAP; and (3) the timely completion of single audits.

Enclosed is the State's grant award for funds currently available under the Department of Education Appropriations Act, 2008 for the Part C program. These funds are available for obligation by States from July 1, 2008 through September 30, 2010.


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 C.

Please note that as part of your State's application for FFY 2008, your State 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 2008 grant period. Any changes made by the State to its FFY 2008 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 the State's implementation of its new or revised application, policies and procedures.

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 a State 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,



William W. Knudsen
Acting Director
Office of Special Education Programs

Enclosures

Enclosure A
Enclosure B

cc: Part C Coordinator