



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

JUL 2 2008

Honorable Vivian I. Ebbesen-Fludd  
Commissioner  
Virgin Islands Department of Health  
Sugar Estate # 48  
St. Thomas, U.S. Virgin Islands 00802

Dear Commissioner Ebbesen-Fludd:

This is to inform you that we have conditionally approved the Virgin Islands' 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 Virgin Islands Department of Health (VIDH or Territory) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 7, 2008 and amended on June 17, 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 Territory 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 Territory's 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 Territory'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 VIDH in Section II of its application or June 30, 2009. Section II of the VIDH's application identifies the IDEA statutory sections for which the VIDH needs to amend any policies, procedures, methods and descriptions and the timelines by which the VIDH will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the 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 2008 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 Special Conditions imposed under Part C to ensure the timely payment to vendors who provide early intervention services to infants and toddlers with disabilities and their families. Enclosure C imposes Special Conditions on the Virgin Islands Government for all Department grants to the Virgin Islands to ensure fiscal accountability of grant funds. By accepting this grant award, VIDH expressly agrees to comply with the Special Conditions identified in Enclosures B and C.

Page 2 – Lead Agency Director

Enclosed is the Territory's grant award for funds currently available under the Department of Education Appropriations Act for FFY 2008 for the Part C program. These funds are available for obligation by VIDH 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 VIDH's application for FFY 2008, VIDH 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 VIDH 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 VIDH's implementation of its new or revised application, policies and procedures.

Section IV.B of the FFY 2008 application for Part C funds requested updated information about each the Territory's restricted indirect cost rate. Our records indicate that your agency has a restricted indirect cost rate that expired on September 30, 2005 and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the period: FFYs 2005-2008. In Section IV.B of the Application, VIDH indicated it will continue to bill the Part C FFY 2008 grant based on the previously approved restricted indirect cost rate of 6.28% until a final restricted indirect cost rate is approved for FFY 2008, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2008 grant funds. The Department's issuance of this FFY 2008 grant award does not constitute approval of the previously approved rate as the final rate for VIDH for FFY 2008 period. When a final restricted rate indirect cost rate is approved for FFY 2008, 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 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 in programs assisted under the IDEA. Therefore, by accepting this grant the Territory 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.

Page 3 – Lead Agency Director

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 (Section II of the FFY 2008 Application)
- Enclosure B (Special Conditions under Part C of IDEA)
- Enclosure C (Department-wide Special Conditions)

cc: Part C Coordinator