

July 1, 2003

Honorable William A. Mehojah, Jr.  
Acting Director, Office of Indian Education Programs  
Bureau of Indian Affairs  
MS-3512, MIB  
1849 C Street, NW  
Washington, DC 20240-0001

Dear Acting Director Mehojah:

This is to inform you that we have conditionally approved the Bureau of Indian Affairs' (BIA) Eligibility Document Submission for Federal Fiscal Year (FFY) 2003 under Part B 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 following documents submitted by BIA to the U.S. Department of Education, Office of Special Education Programs (OSEP):

1. The Part B Eligibility Document Submission for FFY 2003 including the Eligibility Documents submitted June 24, 2000 and subsequent revisions to those Eligibility Documents and the Submission Statement submitted May 9, 2003; and
2. The June 26, 2003 letter from the Bureau of Indian Affairs to OSEP, in which BIA assures that as soon as possible, but no later than July 1, 2004, BIA will complete all of the changes set forth in the June 24, 2003 issues chart including: 34 CFR §300.504(b)(10) and (14); §300.505(b); §300.509(b)(2); §300.142; and 300.147(a).

In the June 26, 2003 letter, the Bureau of Indian Affairs also assures that it will take steps to ensure that, throughout the period of this grant award, all BIA-funded schools that provide special education and related services to children with disabilities will operate their programs in a manner fully consistent with Part B. BIA further assures that it will provide OSEP with a copy of a memorandum notifying all BIA-funded schools of the changes that impact BIA-funded school's provision of special education and related services that OSEP requires as a result of its review of the BIA's eligibility documents.

Please note that as part of your Eligibility Document Submission for FFY 2003, BIA 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 periods for which it receives grant funding. Any changes made by the BIA, after OSEP approval, to information that is a part of BIA's eligibility documentation, must meet the public participation requirements of the IDEA and must be approved by OSEP before implementation.

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The Bureau of Indian Affairs FFY 2003 IDEA Part B grant awards are being released subject to FFY 2003 Special Conditions, as set forth in Enclosure A, that are being imposed pursuant to the Department's authority in 34 CFR §80.12. Specifically, OSEP determined that the BIA is not reporting publicly on the participation and performance of children with disabilities in State and district-wide alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139.

The requirement that States report publicly on the participation and performance of children with disabilities in State and district-wide assessments is crucial to ensuring that children with disabilities are provided access to high-quality instruction in the general curriculum, and that States and districts are held accountable for the progress of these children. 20 U.S.C. 1412(a)(17); 34 CFR §§300.139.

The Bureau of Indian Affairs failure to report on the participation and performance of children with disabilities in alternate assessments resulted in the Department imposing the FFY 2002 Special Conditions contained in Enclosure A of this letter. Because BIA did not meet those Special Conditions, and has not yet reported to the public on the participation and performance of children with disabilities in alternate assessments, the Department is imposing Special Conditions on the State's FFY 2003 grant awards under Part B. The reasons for doing so and the specific conditions are detailed in the enclosure. BIA 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 BIA of these grant awards constitutes an agreement by the BIA to comply with these Special Conditions.

Enclosed is the Bureau of Indian Affairs' Grants to States award of \$80,458,990 for funds appropriated for Federal Fiscal Year 2003 under section 611(c) of Part B of the Individuals with Disabilities Education Act (IDEA).

Under the section 611(i)(1) of IDEA, the award includes \$64,367,192 to be used by 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 and secondary schools for Indian children operated or funded by the Secretary of the Interior.

Under Section 611(i)(3), the award includes \$16,091,798 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(i)(3) can be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

These awards are based on submission of a complete eligibility document package, a signed assurance statement regarding resolution of issues identified in OSEP's review of that eligibility

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document package, and implementation of the provisions of the Individuals with Disabilities Education Act. The complete eligibility document package and assurances must be made available for public inspection.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,

/s/Patricia J. Guard for

Stephanie S. Lee  
Director  
Office of Special Education Programs

Enclosures

cc: Sherry Allison