UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL 13 2005

Honorable Juan Flores
Superintendent of Education
Department of Education
Post Office Box DE
Hagatna, Guam 96932

Dear Dr. Flores:

This is to inform you that we have conditionally approved Guam's Application, including policies, procedures, methods, descriptions, assurances and certifications for Federal Fiscal Year (FFY) 2005 under Part C of the Individuals with Disabilities Education Act (IDEA) and with special conditions, under the regulations governing "high risk" grantees in 34 CFR §80.12. Our determination that you are eligible for a conditional approval is based on our receipt of the Part C Application for FFY 2005, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted on May 4, 2005, and amended on June 20, 2005 by the Guam Department of Education to the U.S. Department of Education, Office of Special Education Programs (OSEP), in which it assures that it will:

1. Operate consistent with the Part C requirements of PL 108-446 and its applicable regulations;
2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2005 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 State in Section II of its application or July 1, 2006. Section II of the State's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the State needs to amend 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 2005 IDEA Part C grant award is being released subject to special conditions in the enclosed U.S. Department of Education's June 23, 2005 letter to Guam (which is incorporated to the grant letter by this reference) regarding the Single Audit Act that are being imposed pursuant to the Department's authority in 34 CFR §80.12. The special conditions associated with the high-risk designation that remain in effect while the Guam Department of Education (GDOE) continues to address the Department's remaining fiscal and programmatic concerns include the following: (1) the timely completion of single audits; (2) reliance upon the expertise of an Oversight Agent; (3) submission of detailed quarterly reports; and (4) monthly posting of budget and expenditure information on the GDOE's website.

Please note that as part of your State's Application for FFY 2005, your State 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 2005 grant period. Any changes made by the State, after OSEP approval, to the State's Part C application (including policies, procedures, descriptions and methods) must meet the public participation requirements of IDEA, including those in 20 U.S.C. 1232d(b)(7).

The enclosed grant award for FFY 2005 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application and appendices, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

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 a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

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

Sincerely,

Troy R. Justesen
Acting Director
Office of Special Education
Programs

Enclosures

cc: Cathy Tydingco
Part C Coordinator