



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEP 28 2005

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

Dear Commissioner Carty:

This is to inform you that we have conditionally approved Virgin Islands' Application, including policies, procedures, methods, descriptions, assurances and certifications for Federal Fiscal Years (FFYs) 2004 and 2005 under Part C of the Individuals with Disabilities Education Act (IDEA) with special conditions, under the regulations governing "high risk" grantees in 34 CFR §80.12. Enclosed are two attachments that are incorporated by this reference and which detail the special conditions and the reasons for considering the Virgin Islands' Department of Health (VIDH) a high-risk grantee under Part C. Attachment B to this grant letter identifies the fiscal and programmatic special conditions imposed under Part C to ensure the timely identification of, and provision of services to, infants and toddlers with disabilities and their families. A second attachment, the September 26, 2005 letter from the Department, imposes special conditions on the Virgin Islands Government for all Department grants to ensure fiscal accountability of Federal Department grant funds.

Our determination that VIDH is eligible for a conditional approval is based on our receipt of VIDH's Part C Applications for FFY 2004 and FFY 2005, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted on July 28, 2005, by VIDH 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 Territory's 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 VIDH in Section II of its application or July 1, 2006. Section II of VIDH's application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the Virgin Islands needs to amend policies, procedures, methods and descriptions and the timelines by which the Virgin Islands will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the Virgin Islands 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.

Under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR §80.12, the Department has determined that VIDH is a "high risk" grantee for purposes of Part C of IDEA for FFY 2004 and FFY 2005. OSEP is releasing Virgin Islands' FFY 2004 and FFY 2005 IDEA Part C grant awards subject to the FFY 2004 and FFY 2005 special conditions, as set forth in Enclosure B. The special conditions are imposed to ensure that Part C Federal funds are expended to ensure the timely identification and evaluation of infants and toddlers with disabilities and the timely and appropriate provision of and payment for early intervention services.

Please note that as part of VIDH's Part C Applications for FFY 2004 and FFY 2005, 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 2004 and FFY 2005 grant periods. Any changes made by VIDH, after OSEP approval, to VIDH'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).

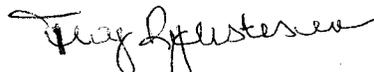
Section IV.B of the FFY 2004 and FFY 2005 applications for Part C funds requested updated information about the Virgin Islands' restricted indirect cost rate. Our records indicate that VIDH has a restricted indirect cost rate of 6.28 percent that has been approved by your cognizant Federal agency and is effective until September 30, 2005. Section IV. B of the Virgin Islands' Part C Application indicates that VIDH will continue to apply this restricted indirect cost rate of 6.28 percent throughout the FFY 2004 and FFY 2005 grant years until a new restricted indirect cost rate is approved by VIDH's cognizant Federal agency. Please forward to us any revised or updated restricted indirect cost rate once it is approved by VIDH's cognizant agency.

The enclosed grant awards for FFY 2004 and FFY 2005 are 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:

Attachment A (Section II)
Attachment B (Special Conditions under Part C of IDEA)
September 26, 2005 Letter (with enclosure)

cc: Renee-Joseph Rhymer
Part C Coordinator