



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL - 2 2007

Honorable Rosa Perez
Secretary of Public Health
Puerto Rico Department of Health
P.O. Box 70184
San Juan, Puerto Rico 00936

Dear Secretary Perez:

This is to inform you that we have conditionally approved Puerto Rico's Application for Federal Fiscal Year (FFY) 2007 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the Puerto Rico Department of Health (PRDH or Commonwealth) to the U.S. Department of Education, Office of Special Education Programs (OSEP) on April 19, 2007, 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 and revisions to these documents submitted on June 26, 2007. In addition, the Commonwealth 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 Commonwealth-wide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2007 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, the Commonwealth'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 Commonwealth in Section II of its application or June 30, 2008. Section II of the Commonwealth's application identifies the IDEA statutory sections for which the Commonwealth needs to amend any policies, procedures, methods and descriptions and the timelines by which the Commonwealth will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the Commonwealth 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.

Puerto Rico's FFY 2006 Part C grant award included special conditions to ensure the timely provision of Part C services to infants and toddlers with disabilities and their families under 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1). PRDH's June 1, 2007 final progress report, submitted under its FFY 2006 grant special conditions indicate that PRDH has fully corrected and demonstrated compliance with the requirement to timely provide Part C services to infants and toddlers with disabilities and their families, pursuant to 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1). OSEP appreciates the Commonwealth's

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efforts to ensure the timely provision of Part C services. Based on the progress reports, OSEP is removing the special conditions imposed on PRDH's FFY 2006 grant award. Enclosed is the Commonwealth's grant award for funds currently available under the Department of Education FFY 2007 Appropriations Act for the Part C program. These funds are available for obligation by PRDH from July 1, 2007 through September 30, 2009.

The enclosed grant award for FFY 2007 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 the Commonwealth's application for FFY 2007, PRDH 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 2007 grant period. Any changes made by the Commonwealth to its FFY 2007 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 Commonwealth's implementation of its new or revised application, policies and procedures.

Section IV.B of the FFY 2007 application for Part C funds requested updated information about the restricted indirect cost rate for each Part C lead agency. PRDH indicated that it has a provisional restricted indirect cost rate of 6.8% that expired on June 30, 2006 and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the period July 1, 2006 until amended. In Section IV.B of the Application, PRDH indicated it will continue to bill the Part C FFY 2007 grant based on this provisional or previously approved restricted indirect cost rate until a final restricted indirect cost rate is approved for FFY 2007, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2007 grant funds. The Department's issuance of this FFY 2007 grant award does not constitute approval of the provisional rate as the final rate for PRDH as the lead agency for the FFY 2007 period. When a final restricted rate indirect cost rate is approved for FFY 2007, 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 Commonwealth 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.

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

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures:

Enclosure A

cc: Part C Coordinator