



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

JUL - 1 2009

Honorable Kevin Skenandore  
Acting Director  
Bureau of Indian Education  
U.S. Department of the Interior  
1849 C St. NW, MS-3609, MIB  
Washington, D.C. 20240

Dear Director Skenandore:

This is to inform you that we have conditionally approved the Bureau of Indian Education's application for Federal Fiscal Year (FFY) 2009 funds under Part B of the Individuals with Disabilities Education Act (IDEA or Part B). Our conditional approval is based on our review of the application submitted by the Bureau of Indian Education (BIE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 13, 2009 and the additional information regarding public participation received on June 2, 2009, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A. In addition, the BIE provided specific assurances that it will:

1. Operate consistent with Part B and applicable regulations; and
2. Make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of Part B of the IDEA and applicable regulations as soon as possible, and not later than June 30, 2010. Section II of the BIE's application identifies the IDEA requirements for which the BIE needs to amend policies and procedures and the timelines by which the BIE will amend its policies and procedures in order to comply with Part B and applicable regulations. Within Section II, the BIE has included for each assurance it cannot meet at this time the date by which it expects to complete necessary changes to any policies and procedures that are not yet in compliance with the requirements of Part B and applicable regulations.

BIE's FFY 2009 IDEA Part B grant award is being released subject to FFY 2009 Special Conditions, as set forth in Enclosure B. Specifically, OSEP determined that the BIE failed to complete all of the corrective actions contained in Section C of the Program Improvement and Accountability Plan (PIAP). The objective of Section C of the PIAP is to ensure BIE provides a free appropriate public education (FAPE) to all eligible students in all BIE-funded schools. Therefore, OSEP is imposing Special Conditions on the BIE's FFY 2009 grant award under Part B. The reasons for doing so and the specific conditions are detailed in the enclosure. BIE must administer this award in keeping with both the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document. Acceptance by BIE of this grant award constitutes an agreement by the BIE to comply with the Special Conditions.

Enclosed is the BIE's Grants to States award of \$92,011,750 appropriated for FFY 2009 under IDEA section 611(b)(2). These funds are for use primarily in school year 2009-2010 and are available for obligation by the BIE from July 1, 2009 through September 30, 2011.

Under IDEA section 611(h)(4)(A), this award includes \$18,402,350, twenty percent of the amount allotted under IDEA section 611(b)(2), to be distributed by the Secretary of the Interior to tribes or tribal organization 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 IDEA section 611(h)(4)(A) can be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

Under IDEA section 611(h)(1)(A), \$73,609,400 eighty percent of the amount allotted under IDEA section 611(b)(2), is provided to 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 schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. Under IDEA section 611(h)(1)(A) and 34 CFR §300.707(b), with the exception of five percent of these funds, which may be reserved for administrative costs, 80 percent of the funds must be allocated to such schools by July 1st and 20 percent must be allocated to such schools by September 30th.

Please note that as part of your application for FFY 2009, the BIE 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 2009 grant period. Any changes made by the BIE, after OSEP approval, to information that is a part of the BIE's application, must meet the public participation requirements in 34 CFR §300.165.

On March 28, 2007, the Office of the Inspector General (OIG) issued a final audit report titled Bureau of Indian Affairs (BIA) Administration of IDEA, Part B Funds. The OIG found, among other things, that BIA was unable to adequately account for the entire \$111 million of IDEA, Part B funds appropriated during the audit period (July 1, 2001 through September 30, 2003) and recommended that the Assistant Secretary for Special Education and Rehabilitative Services (OSERS) obtain an assurance from BIA officials that the \$111 million of IDEA, Part B funds was used to deliver educational assistance to the children with disabilities at all of the BIA funded schools and return any funds not used for those purposes to the Department, to the extent authorized by law; and instruct the BIA to establish written accounting policies and procedures to properly account for IDEA, Part B funds and all Department funds. Although OSEP has provided the BIE a list of the information and documentation that the BIE was required to submit in order to resolve the audit, to date, OSEP has not received the information needed to resolve the audit. We note that BIE has assured OSEP in Section II of its application that funds paid to the BIE will be expended in accordance with all the provisions of Part B of IDEA.

The enclosed grant awards for FFY 2009 are made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if

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necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part B.

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

Sincerely,

A handwritten signature in black ink that reads "Patricia J. Guard". The signature is written in a cursive style with a large initial "P".

Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures

Enclosure A

Enclosure B

cc: State Director of Special Education