



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

JUL - 1 2009

Honorable Nerissa Bretania-Shafer
Superintendent of Education
Guam Public School System
Post Office Box DE
Hagatna, Guam 96932

Dear Superintendent Bretania-Shafer:

This is to inform you that we have conditionally approved Guam's application for Federal Fiscal Year (FFY) 2009 funds under Part C of the Individuals with Disabilities Education Act (IDEA) and are transmitting your regular IDEA Part C funds for FFY 2009. This letter also transmits the first fifty percent of your jurisdiction's IDEA Part C funds under the American Reinvestment and Recovery Act of 2009 (ARRA) (see Enclosure C- April 1, 2009 Memo and Grant Terms and Conditions).

Our conditional approval of Guam's regular IDEA Part C funds is based on our review of the application submitted by the Guam Public School System (GPSS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 11, 2009, 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. In addition, GPSS 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 statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2009 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, the State'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, and applicable regulations, as soon as possible, and not later than the earlier of the date indicated by the State in Section II of its application or June 30, 2010. Section II of the State's application identifies the IDEA requirements for which the State needs to amend any 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 and applicable regulations. Within Section II, the State has included for each requirement that it cannot meet at this time, 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 and applicable regulations.

Guam's FFY 2009 IDEA Part C grant award is being released subject to Special Conditions in the U.S. Department of Education's June 23, 2009 letter to Guam regarding the Single Audit Act, which is Enclosure B to this grant letter. These Special Conditions are imposed pursuant to the

Department's authority in 34 CFR §80.12 to ensure fiscal accountability of funds received through Department grants. The Special Conditions require Guam to: (1) continue to implement its comprehensive Corrective Action Plan (CCAP); (2) submit semiannual reports regarding its progress in implementing measures required under the CCAP; (3) provide the Department with a new written assurance regarding management stability; (4) address a number of other matters including completing the implementation of the financial management contract with MGA Consulting, fully implementing its Management Internal Controls program and reviewing and implementing as appropriate, the recommendations of the independent Management and Curriculum Audit conducted by Evergreen Solutions, LLC; and (5) conduct single audits and submit reports on an annual basis in a timely and complete manner. By accepting the enclosed grant awards, GPSS expressly agrees to comply with the Special Conditions identified in Enclosure B.

OSEP's April 1, 2009 verification letter to Guam required GPSS to submit, with its Part C FFY 2009 application, an assurance that GPSS has informed its State audit office of the need to review, as part of the State's Single Audit conducted under the Single Audit Act, GPSS' procedures to comply with the tracking of State and local expenditures to meet the requirements of Part C's maintenance of effort (MOE) requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b). With its application, GPSS included a May 5, 2009 memorandum from the GPSS Superintendent of Education to Guam's Chief Internal Auditor that addresses the requirements in OSEP's April 1, 2009 letter. In its June 1, 2009 response, GPSS addressed a number of additional issues identified in OSEP's April 1, 2009 letter. OSEP will respond separately to GPSS' submissions related to these verification issues.

Please note that as part of your State's application for FFY 2009, your State 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 State to its FFY 2009 application or Part C policies or procedures that are application requirements, after OSEP approval, must meet the applicable public participation requirements under Part C in 34 CFR §§303.110 through 303.113 and, if they are requirements under Section II.A, must also be submitted to, and approved by, OSEP prior to the State's implementation of its new or revised application, policies and procedures.

Enclosed is the State's regular grant award for funds currently available under the Omnibus Appropriations Act, 2009 for the Part C program. These funds are for use primarily in 2009-2010 and are available for obligation by States from July 1, 2009 through September 30, 2011 in accordance with 34 CFR §76.709.

In addition to these regular FFY 2009 Part C funds, the ARRA provided a one-time increment in IDEA Part C funding. The ARRA IDEA Part C grants are a supplemental appropriation to the regular IDEA Part C appropriation. The first 50 percent of Guam's ARRA IDEA Part C funds is being awarded through this grant letter to GPSS with its regular FFY 2009 IDEA Part C formula grant. The effective date of the ARRA IDEA Part C grant award is February 17, 2009. Acceptance by your jurisdiction of the ARRA IDEA Part C grant award constitutes an agreement to comply with the conditions in Enclosure C and Box 10 on the enclosed Grant Award Notification.

As specified in OSEP's June 12, 2009 e-mail, GPSS is required to submit a plan that describes the activities to be funded with the ARRA IDEA Part C funds and how GPSS will provide project management oversight and maintain separate accounting records by unique CFDA numbers of project activities and expenditures, before it will be considered eligible to receive the second 50 percent of its ARRA IDEA Part C funds. Together, the State's regular FFY 2009 IDEA funds and all of its ARRA IDEA Part C funds constitute Guam's total FFY 2009 IDEA Part C allocation. Given the increased IDEA Part C FFY 2009 allocation to each State and Territory, States and Territories may wish to review carefully the guidance on the ARRA IDEA Part C grant awards, available at <http://www.ed.gov/fund/data/award/idea/arra/index.html>.

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, each jurisdiction 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.

The enclosed grant award for FFY 2009 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.

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

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

- Enclosure A
- Enclosure B
- Enclosure C

cc: Part C Coordinator