



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

JUL - 1 2010

Honorable Julia Sheen-Aaron
Commissioner
Virgin Islands Department of Health
Sugar Estate #48
St. Thomas, Virgin Islands 00802-6746

Dear Commissioner Sheen-Aaron:

We have conditionally approved the Virgin Islands' (or Territory's) application for Federal Fiscal Year (FFY) 2010 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). The effective date of Virgin Islands IDEA Part C FFY 2010 grant award is July 14, 2010. Our conditional approval is based on our review of the application submitted by the Virgin Islands Department of Health (VIDH) to the U.S. Department of Education (the Department), Office of Special Education Programs (OSEP), on May 10, 2010 and amended on June 17, 2010, including policies, procedures, methods, descriptions, assurances, and certifications identified in Section II, which is incorporated by reference to this letter as Enclosure A. In addition, the Virgin Islands provided the following specific assurances that it will:

1. Operate consistently 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 Territory wide system of early intervention services required by IDEA Part C and its implementing regulations is, and will remain, in effect throughout the FFY 2010 grant period; and
3. Make such changes to, and submit, for OSEP's approval, the Virgin Islands' policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of IDEA Part C, as soon as possible, and not later than the earlier of the date indicated by the Virgin Islands in Section II of its application or June 30, 2011. Within Section II of its application, the Virgin Islands 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 IDEA Part C.

The Virgin Islands' FFY 2010 IDEA Part C grant award is also being released subject to two sets of Special Conditions (which are Enclosures B and C to this letter and incorporated in this grant letter by this reference) that are being imposed by OSEP pursuant to the Department's authority in IDEA sections 616(g) and 642 and 34 CFR §80.12. Enclosure B imposes Special Conditions on the Virgin Islands' Government for all Department grants to the Virgin Islands to ensure fiscal accountability of grant funds. Enclosure C identifies the fiscal Special Conditions imposed under Part C to ensure the timely payment to vendors who provide early intervention services to infants and toddlers with disabilities and their families in the Virgin Islands. By accepting this grant award, the Virgin Islands expressly agrees to comply with the Special Conditions identified in both Enclosures B and C.

Please note that as part of the Virgin Islands' application for FFY 2010, the Virgin Islands has made an assurance, pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2010 grant period. Before adopting a new or revised IDEA Part C policy or procedure that is required under Section II.A of the Virgin Islands' FFY 2010 application, the Virgin Islands must subject those policies and procedures to the public participation requirements in 34 CFR §§303.110 through 303.113 and receive OSEP approval for them prior to their implementation.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Enclosed is the Virgin Islands' FFY 2010 grant award for funds available under the Consolidated Appropriations Act, 2010 – P.L. 111-117 for the Part C program. These funds are available for obligation by States from July 1, 2010 through September 30, 2012 in accordance with 34 CFR §76.709.

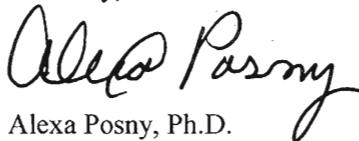
Section IV.B of the FFY 2010 application for Part C funds requested updated information about each recipient's restricted indirect cost rate. The Virgin Islands indicated that VIDH had a restricted indirect cost rate of 6.82% that expired on September 30, 2008, and that VIDH is in the process of negotiating a new restricted indirect cost rate that will be in effect for the period: FFYs 2009-2012. In Section IV.B, VIDH indicated it will continue to bill the IDEA Part C FFY 2010 grant based on this previously approved restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2010, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2010 grant funds. When a final restricted indirect cost rate is approved for FFY 2010, please forward to our Indirect Cost Unit and to your OSEP State Contact: (1) a copy of the final restricted rate agreement; and (2) details of adjustments made to GAPS liquidations from the prior billing rate after approval of the final rate.

Section 604 of the IDEA provides that “[a] State shall not be immune under the 11th 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 Virgin Islands 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 of FFY 2010 funds 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 may be necessary 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,



Alexa Posny, Ph.D.

Acting Director

Office of Special Education Programs

Enclosures:
Enclosure A
Enclosure B
Enclosure C

cc: Part C Coordinator