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

JUL - 1 2011

Honorable Nerissa Bretania Underwood
Superintendent
Guam Department of Education
Post Office Box DE
Hagatna, Guam 96932

Dear Superintendent Bretania Underwood:

We have approved Guam's application for Federal Fiscal Year (FFY) 2011 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our approval is based on review of the application submitted by the Guam Department of Education (GDOE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 4, 2011, and revised on May 19, 2011, including assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A.

Guam's FFY 2011 IDEA Part B grant award is being released subject to Special Conditions that are identified in the U.S. Department of Education's (Department's) June 15, 2011, letter to Guam, included as Enclosure C. These Special Conditions are being imposed pursuant to the Department's authority in the Education Department General Administrative Regulations (EDGAR) in 34 CFR §80.12 due to continuing problems in GDOE's fiscal accountability and management practices and controls. On September 13, 2010, GDOE entered into a contract with a third-party fiduciary agent, Alvarez & Marsal, LLC (A&M) (Agent), which contract was approved by the Department and required by section II.A of the FFY 2009 Amended Special Conditions imposed on all FFY 2009 Department grants awarded to GDOE.

Under the FFY 2011 Special Conditions in Enclosure C to this letter, GDOE must maintain this contract with A&M, and A&M must perform the financial management duties previously performed by GDOE and which duties are required under the applicable EDGAR provisions in 34 CFR Parts 75, 76, and 80, for all grants awarded by the Department to GDOE on or after the date of these conditions, and for all grants previously awarded by the Department to GDOE that are still available for obligation or liquidation on the date of these special conditions, and under the terms and conditions specified in this IDEA Part B FFY 2011 grant award. The FFY 2011 Special Conditions in Enclosure C describe the responsibility of GDOE to work with A&M, as well as the role and responsibilities of A&M in administering Department grant funds. They also continue to require GDOE to: 1) revise its Comprehensive Corrective Action Plan (CCAP) and the process for reporting progress under the CCAP; 2) report to the Department on a quarterly basis on its progress in implementing measures under the CCAP; 3) continue to implement its Financial Management Improvement System to enable GDOE to properly manage the fiscal aspects of its Department grant funds in accordance with Federal requirements; and 4) continue to ensure that it conducts single audits and submits reports on an annual basis in a timely and complete manner. By accepting the enclosed grant award, GDOE expressly agrees to comply with the Special Conditions identified in Enclosure C.

Please note that as part of your application for FFY 2011, Guam 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 2011 grant period. Any changes made by Guam, after OSEP approval, to information that is a part of your application, must meet the public participation requirements in 34 CFR §300.165.

Enclosed is Guam's FFY 2011 grant award for funds currently available under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 -- P.L. 112-10 for the IDEA Part B Section 611 (Grants to States) program. These funds are available for obligation by GDOE from July 1, 2011 through September 30, 2013 in accordance with 34 CFR §76.709.

The amount shown in your award for the Section 611 program is only part of the total funds that will be awarded to you for FFY 2011. Of the $11,482,200,578 appropriated for Section 611 in FFY 2011, $2,889,817,578 is available for awards on July 1, 2011, and $8,592,383,000 will be available for awards on October 1, 2011.

Enclosure B provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure B shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations.

In its September 18, 2006 grant award letter, OSEP approved GDOE's June 20, 2006 request for prior approval of its Bus Purchase Plan. In this plan, GDOE requested approval to purchase five buses in FY 2006 and every year until FY 2013. This Office has determined that the purchase of the buses described in the FFY 2006 letter are allowable costs if the requirements of Part B of IDEA, the Federal cost principles in OMB Circular A-87, and procurement requirements are met. OSEP reminds GDOE that if Part B funds are used to pay the entire cost of purchasing these vehicles, the vehicles must be used to provide transportation for children with disabilities.

In its July 1, 2009 grant award letter, OSEP approved GDOE's request to purchase five new buses using FFY 2009 Part B funds. In its June 15, 2010 status report on the Bus Purchase Plan, GDOE reported that a request was submitted to the Guam Legislature in FFY 2009 to fund a portion of the buses needed through local funds because the FFY 2009 Part B funds were needed to subsidize the increases in Federally-funded special education personnel salaries. GDOE did not request approval to purchase any buses with FFY 2010 Part B funds because five new buses would be purchased with remaining FFY 2009 Part B funds and local funds.

In its May 2, 2011 status report on the Bus Purchase Plan, GDOE reported that it submitted a purchase order in May 2011 to purchase five buses. Three buses will be purchased with remaining FFY 2009 Part B funds and two buses will be purchased with local funds approved by the Guam Legislature. Guam requested approval to purchase five buses with FFY 2011 Part B funds to replace five buses in the current fleet. OSEP approves GDOE's request to purchase five replacement buses using FFY 2011 Part B funds.

GDOE reaffirmed that its fleet of 34 buses are used solely for special education purposes, inventoried monthly, and are locked and secured at all times under the supervision of the driver or assigned personnel or secured in a government facility when not in use. GDOE must continue to confirm in each subsequent application whether the buses approved were actually purchased, that the plan is still valid and intact (including that the buses are inventoried once a month and

are locked and secured at any government facility on Guam), and request approval for future purchases under that grant application.

The enclosed grant award of FFY 2011 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 IDEA Part B.

As a reminder, within 30 days of July 1, 2011, all prime recipients of IDEA (Part B or Part C) funds must report subaward information as required by the Federal Financial Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. FFATA guidance is found at http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html. Please contact your State's Recovery Act Facilitator if you have further questions.

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

Sincerely,

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosures

Enclosure A
Enclosure B
Enclosure C

cc: GDOE Director of Special Education