



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

July 1, 2013

Honorable Jon Fernandez
Superintendent
Guam Department of Education
Post Office Box DE
Hagatna, Guam 96932

Dear Superintendent Fernandez:

We have approved Guam's application for Federal Fiscal Year (FFY) 2013 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 2, 2013, including assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A.

Guam's FFY 2013 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 10, 2013 letter to GDOE, included as Enclosure C to this grant letter. 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 GDOE's continuing failure to successfully address significant problems in fiscal accountability for Department grant funds. On September 13, 2010, GDOE entered into a contract with a third-party fiduciary agent, Alvarez & Marsal, LLC (A&M) (Agent), approved by the Department, as 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 2013 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 2013 grant award. The FFY 2013 Special Conditions also continue to require GDOE to implement its Comprehensive Corrective Action Plan (CCAP), to revise the process for reporting progress under the CCAP, and to report to the Department on a quarterly basis on its progress in implementing measures under the CCAP. As noted under Section III.E in Enclosure C, these fiscal Special Conditions must be incorporated as an addendum to the contract between GDOE and A&M, inclusive of the responsibilities for GDOE and the Agent described in Attachments A and B of these conditions, before GDOE may expend Department grant funds, including IDEA Part B funds. 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 2013, 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 2013 grant period. Any changes made by Guam, after OSEP approval, to information that is a part of a State's application, must meet the public participation requirements in 34 CFR §300.165.

Enclosed is Guam's FFY 2013 grant award for funds currently available under the Consolidated and Further Continuing Appropriations Act, 2013 -- P.L. 113-6 for the IDEA Part B Section 611 (Grants to States) program. These funds are available for obligation by States from July 1, 2013 through September 30, 2015 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 2013. Of the \$10,974,865,803 appropriated for Section 611 in FFY 2013, \$1,691,482,803 is available for awards on July 1, 2013, and \$9,283,383,000 will be available for awards on October 1, 2013. Under the Section 611 formula, in a year in which the amount available for allocations to States decreases from the prior year, but is greater than the 1999 level, any amount available for allocations to States above the 1999 level is allocated based on the relative increases in funding that the States received between 1999 and the prior year.

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 FFY 2006 and every year until FFY 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 May 2, 2013 status report on the Bus Purchase Plan, GDOE reported that it currently is "working on the requisition" for the purchase of five buses to be purchased with FFY 2012 Part B funds. GDOE is further requesting approval to use FFY 2013 IDEA Part B funds to purchase three buses (two additional buses will be purchased with State (local) funds) to replace older buses that will be removed from use due to expected "wear and tear." OSEP approves GDOE's request to purchase three buses using FFY 2013 Part B funds.

GDOE reaffirmed that its fleet of 42 buses (inclusive of the three new buses purchased with FFY 2011 Part B funds) are used solely for special education purposes, inventoried monthly (including review for operational conditions and required maintenance), 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 is not required to submit a Bus Plan with its FFY 2014 application. However, OSEP reminds GDOE, that when purchasing buses, GDOE must meet the requirements of Part B of

IDEA (section 605 of the IDEA; 20 U.S.C. §1404 and 34 CFR §300.718), the Federal cost principles in OMB Circular A-87, and GDOE's procurement procedures (which must meet the requirements in section 80.36 of EDGAR). GDOE must also: (1) follow the procedures for requesting OSEP's approval for purchasing equipment (Enclosure D); and (2) include in its request to purchase buses the total number of buses purchased with Part B funds that are inventoried by GDOE, a statement about how GDOE will use the buses to enhance their ability to provide FAPE to students with disabilities on Guam, and ensure sole use of the buses by the Part B program.

The enclosed grant award of FFY 2013 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.

In Section V of its IDEA Part B application, pursuant to the authority in IDEA section 618(a)(3), Guam was required to submit data on the total amount of Guam's financial support made available for special education and related services for children with disabilities in State fiscal year (SFY) 2011 and SFY 2012. If OSEP receives information through audits, fiscal monitoring or other means that raises questions about the data Guam has provided in Section V, OSEP will follow-up with Guam.

As a reminder, all prime recipients of IDEA (Part B or Part C) funds must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State's Fiscal Accountability Facilitator if you have further questions.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a long horizontal line extending to the right.

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

Enclosures

- Enclosure A
- Enclosure B
- Enclosure C
- Enclosure D

cc: State Director of Special Education