



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

July 1, 2013

The Honorable Jon Fernandez
Superintendent of Education
Guam Department of Education
P.O. Box DE
Hagatna, Guam 96932

Dear Superintendent Fernandez:

We have approved Guam's application for Federal fiscal year (FFY) 2013 funds, under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our approval is based on our review of the IDEA Part C application, submitted by the Guam Department of Education (GDOE) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 18, 2013 and June 5, 2013.

Our approval of Guam's FFY 2013 IDEA Part C grant includes approval of policies, procedures, methods, descriptions, assurances, and certifications identified in Section II.A, II.B, and II.C, which is incorporated by reference to this grant award letter as Enclosure A. OSEP's approval of Guam's IDEA Part C FFY 2013 application is also based on our approval of the policies submitted by Guam on June 5, 2013, under the following sections of the FFY 2013 IDEA Part C application: II.A.2 (Description of services); II.A.4a (Evaluation); II.A.8 (Geographic equity), II.A.9 (Public participation); and II.A.12 (GEPA equitable access). OSEP's May 31, 2013 memorandum previously approved Guam's submissions under Sections II.A.4b, II.A.5, II.A.7, and II.A.11 of Guam's FFY 2012 IDEA Part C application.

Our approval is also based on Guam's certification in Section II.D of its FFY 2013 application that Guam's provisions meet the requirements of IDEA Part C as found in 20 U.S.C. §§1431 through 1443 and the final regulations in 34 CFR Part 303 (as published on September 28, 2011), and that Guam will operate its Part C program in accordance with all of the IDEA Part C requirements including required policies, procedures, methods, descriptions, assurances and certifications. *See*, 34 CFR §76.104.

Guam's FFY 2012 IDEA Part C 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 Guam, included as Enclosure B to this grant letter and which letter is hereby expressly incorporated into the terms of Guam's FFY 2013 IDEA Part C grant. 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), 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 B to this letter, GDOE is required to continue to work with A&M as GDOE's agent, 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 C FFY 2013 grant award. They also continue to require GDOE to implement its Comprehensive Corrective Action Plan (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 B, 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. By accepting the enclosed grant award, GDOE expressly agrees to comply with the Special Conditions identified in Enclosure B.

As part of Guam's IDEA Part C application for FFY 2013, Guam has made an assurance, under Section II.C.2 of its FFY 2013 application and 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.

Before adopting a new or revised IDEA Part C policy or procedure that is required under Part C of the IDEA or the final regulations in 34 CFR Part 303, Guam must subject those policies and procedures to the public participation requirements in 34 CFR §303.208 and receive OSEP approval for those policies and procedures referenced in 34 CFR §303.101(c) prior to their implementation.

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 C program. These funds are available for obligation by IDEA Part C grant recipients from July 1, 2013 through September 30, 2015 in accordance with 34 CFR §76.709.

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, your State 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 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 C.

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 Guam's Fiscal Accountability Facilitator if you have further questions.

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

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

Enclosure

Enclosure A
Enclosure B

cc: Part C Coordinator