

July 1, 2016

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) 2016 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our approval is based on our review of the IDEA Part B application submitted by the Guam Department of Education (GDOE) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on April 19, 2016, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A.

Guam's FFY 2016 IDEA Part B grant is being released subject to Department-wide Special Conditions placed on all Department grants awarded to GDOE to address significant problems in fiscal accountability for Department grant funds. A description of the fiscal accountability issues and the Special Conditions are detailed in Enclosure C. Under the FFY 2016 Special Conditions in Enclosure C to this letter, GDOE must maintain its contract with its third party Agent, to ensure that the Agent performs the financial management duties previously performed by GDOE, required under 34 CFR Parts 75 and 76 and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) codified in 2 CFR Part 200, 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. The Special Conditions in Enclosure C also continue to require GDOE to implement its Comprehensive Corrective Action Plan (CCAP) and submit quarterly reports to the Department on its progress in meeting the objectives of the CCAP. GDOE agrees to obtain the assistance of GDOE Internal Audit staff in reviewing and validating quarterly reports for accuracy prior to submission. 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 GDOE's Agent, 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.

Please note that as part of your application for FFY 2016, Guam has provided a certification, pursuant to 34 CFR §76.104, that its application meets the requirements of IDEA Part B and that Guam will operate its Part B program in accordance with all of the required assurances and certifications. Any changes made by Guam, after OSEP approval, to information that is a part of Guam's Part B application, must meet the public participation requirements in 34 CFR §300.165.

Enclosed is Guam's FFY 2016 grant award for funds currently available under the Consolidated Appropriations Act, 2016, P.L. 114-113, for the IDEA Part B Section 611 (Grants to States)

program. These funds are available for obligation by States and entities from July 1, 2016, through September 30, 2018, 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 2016. Of the \$11,912,848,000 appropriated for Section 611 in FFY 2016, \$2,629,465,000 is available for awards on July 1, 2016, and \$9,283,383,000 will be available for awards on October 1, 2016. Under the Section 611 formula, the Secretary reserves not more than one percent of the amount appropriated for FFY 2016 to provide assistance to the outlying areas in accordance with their respective populations of individuals aged three through 21.

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 Section V of its IDEA Part B application, pursuant to the authority in IDEA Section 618(a)(3), the Guam was required to submit data on the total amount of State financial support made available for special education and related services for children with disabilities in Guam's State fiscal year (SFY) 2014 and SFY 2015. 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.

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 the 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, Guam is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensure 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 2016 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, all prime recipients of IDEA Part B 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.

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

Sincerely,

/S/

Ruth E. Ryder

Acting Director

Office of Special Education Programs

Enclosures

Enclosure A

Enclosure B

Enclosure C

cc: State Director of Special Education