

July 1, 2017

Honorable Jon Fernandez  
Superintendent of Education  
Guam Department of Education  
500 Mariner Avenue  
Barrigada, Guam 96913

Dear Superintendent Fernandez:

We have approved Guam's application for Federal fiscal year (FFY) 2017 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 (Department), Office of Special Education Programs (OSEP), on April 17, 2017.

Our approval of Guam's FFY 2017 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. Our approval is also based on Guam's certification in Section II.D of its FFY 2017 application that Guam's provisions meet the requirements of IDEA Part C as found in 20 U.S.C. §§1431 through 1443 and the regulations in 34 CFR Part 303, 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 2017 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 21, 2017 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 2017 IDEA Part C grant. These Special Conditions are being imposed by OSEP pursuant to the Department's authority in IDEA sections 616(g) and 642 and 2 CFR §§ 200.207 and 3474.10. By accepting this grant award, Guam expressly agrees to comply with the Special Conditions identified in Enclosure B throughout the period that Guam uses its IDEA Part C FFY 2017 funds.

Guam's IDEA Part C grant has been subject to Special Conditions since its FFY 2009 grant. Specifically, on September 13, 2010, GDOE entered into a contract with a third-party fiduciary agent approved by the Department, as required by the FFY 2009 Amended Special Conditions imposed on all FFY 2009 Department grants awarded to GDOE. Under the FFY 2017 Special Conditions in Enclosure B to this letter, GDOE is required to continue to work with its third party Agent, to ensure that the Agent performs the financial management duties previously performed by GDOE and which duties are required under the applicable requirements in 2 CFR Part 200 and 34 CFR Parts 75 and 76, 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 2017 grant

award. The Special Conditions in Enclosure B also continue to require GDOE to implement its Comprehensive Corrective Action Plan (CCAP) and submit reports regularly to the Department on its progress in implementing 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 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.

Enclosed is Guam's FFY 2017 grant award for funds currently available under the Consolidated Appropriations Act, 2017, P.L. 115-31, for the IDEA Part C program. These funds are available for obligation by IDEA grant recipients from July 1, 2017 through September 30, 2019 in accordance with 34 CFR §76.709.

Under IDEA section 605, 2 CFR Part 200, and 34 CFR §303.104, Guam must obtain prior approval to charge the following expenses as direct costs: (1) equipment (2 CFR §200.33 and 34 CFR §303.104); (2) participant support costs (2 CFR §200.75); (3) construction/renovation (2 CFR §200.12(b) and 34 CFR §303.104); and (4) rent (2 CFR §200.465 and 34 CFR §303.225(d)). OSEP's approval of the FFY 2017 IDEA Part C grant application does not constitute approval for any costs that fall into these categories that are listed in Section III of the grant application. For any direct costs Guam proposes under these categories in Section III of its FFY 2017 IDEA Part C grant application, OSEP will review and respond after July 1, 2017 through a separate approval process.

Section 604 of the IDEA provides that “[a] State shall not be immune under the 11<sup>th</sup> 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, Guam 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 2017 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. If Guam revises those IDEA Part C policies or procedures that are required under Part C of the IDEA or the 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.

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 Fiscal Accountability Facilitator if you have further questions.

Page 3 – Lead Agency Director

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

Sincerely,

/S/

Ruth E. Ryder  
Acting Director  
Office of Special Education Programs

Enclosure

Enclosure A

Enclosure B

cc: Part C Coordinator