

July 1, 2018

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) 2018 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 May 11, 2018, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A.

Guam's FFY 2018 IDEA Part B grant award is being released subject to Specific Conditions that are identified in the U.S. Department of Education's (Department's) June 27, 2018 letter to Guam, included as Enclosure C to this grant letter and which letter is hereby expressly incorporated into the terms of Guam's FFY 2018 IDEA Part B grant.¹ These Specific 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 Specific Conditions identified in Enclosure C throughout the period that Guam uses its IDEA Part B FFY 2018 funds.

Guam's IDEA Part B 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 2018 Special Conditions in Enclosure C 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 Specific Conditions, and under the terms and conditions specified in this IDEA Part B FFY 2018 grant award. The Specific Conditions in Enclosure C 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 C, these fiscal Specific 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.

¹In OSEP's letter transmitting Guam's FFY 2017 IDEA Part B grant award, the term "Special Condition" was used in referring to the grant condition and reporting requirements imposed on the release of that grant award. For grant awards released in FFY 2018, the term "specific condition" replaces the term "special condition."

Please note that as part of your application for FFY 2018, 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 2018 grant award for funds currently available under the Department of Education Appropriations Act, Title III of Subdivision H, 2018, P.L. 115-141, for the IDEA Part B Section 611 (Grants to States) program. These funds are available for obligation by States and entities from July 1, 2018, through September 30, 2020, 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 2018. Of the \$12,277,848,000 appropriated for Section 611 in FFY 2018, \$2,994,465,000 is available for awards on July 1, 2018, and \$9,283,383,000 will be available for awards on October 1, 2018. Under the Section 611 formula, the Secretary reserves not more than one percent of the amount appropriated for FFY 2018 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), Guam was required to submit data on the total amount of financial support Guam made available for special education and related services for children with disabilities in Guam's State fiscal year (SFY) 2016 and SFY 2017. 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 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 2018 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.

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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