

July 1, 2018

Honorable Sharon Ann McCollum
Commissioner of Education
Virgin Islands Department of Education
1834 Kongens Gade
St. Thomas, Virgin Islands 00802

Dear Commissioner McCollum:

We have approved Virgin Islands' 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 Virgin Islands Department of Education (VIDE) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on May 17, 2018 including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A.

VIDE's FFY 2018 IDEA Part B grant award is also being released subject to the Department-wide Specific Conditions placed on all Departmental grants awarded to VIDE in order to ensure that the VIDE is managing and administering Department funds in accordance with applicable Federal requirements and the appropriate fiscal accountability measures and management practices and controls¹. The reasons for doing so and the specific requirements are detailed in Enclosure C. Because the services of a third-party fiduciary agent continue to be necessary to ensure that the Virgin Islands is managing and administering Department funds in accordance with applicable Federal requirements, the Department, through the FFY 2018 Specific Conditions, is continuing to require VIDE to use a third-party fiduciary agent to perform the financial management duties required under 34 CFR parts 75 and 76, and the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), 2 CFR Part 200, for all Department grant awards.

Please note that as part of your application for FFY 2018, VIDE has provided a certification, pursuant to 34 CFR §76.104, that its application meets the requirements of IDEA Part B and that VIDE will operate its Part B program in accordance with all of the required assurances and certifications. Any changes made by VIDE, after OSEP approval, to information that is a part of VIDE's Part B application, must meet the public participation requirements in 34 CFR §300.165.

Enclosed is VIDE'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.

¹ Pursuant to the requirements in 2 CFR §§200.207 and 3474.10, the term "Specific Condition" is used, rather than "Special Condition" for FFY 2018 IDEA Part B grant awards that are issued subject to additional requirements. In this letter, the term "Specific Conditions" is used when referencing the State's IDEA Part B grant awards and required reporting associated with the receipt of those funds for years prior to FFY 2018

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 and to provide each freely associated State a grant in the amount that such freely associated state received in fiscal year 2003 under Part B of the IDEA.

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.

Under Section 608(a)(2) of the IDEA, each State that receives funds under IDEA Part B is required to inform in writing local educational agencies located in the State of any State-imposed rule, regulation, or policy that is not required by IDEA or Federal regulations. A State may use the same list of State-imposed rules, regulations, and policies that it was required to submit to the Department in Section IV of its IDEA Part B application for this purpose.

In Section V of its IDEA Part B application, pursuant to the authority in IDEA Section 618(a)(3), the VIDE was required to submit data on the total amount of the VIDE financial support made available for special education and related services for children with disabilities in VIDE'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 VIDE has provided in Section V, OSEP will follow-up with VIDE.

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, VIDE 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.

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