



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

OCT 23 2013

Kasinda C. Ludwig
Acting Administrator
Division of Vocational Rehabilitation
Department of Integrated Services for Individuals with Disabilities
238 AFC Flores Street
Suite 602, DNA Building
Hagatna, GU 96910

Elisa Cruz
Chair
Statewide Independent Living Council
DNA Building 238
AFC Flores Street, Suite 602
Hagatna, Guam 96910

Dear Ms. Ludwig and Ms. Cruz:

This is to notify you that Guam is not eligible to receive its FY 2014 federal funds for the State Independent Living Services program authorized under Chapter 1, Part B (IL Part B) of the Rehabilitation Act of 1973, as amended (Rehabilitation Act), because it has not submitted a State Plan for Independent Living (SPIL) required under section 704 of the Rehabilitation Act and it has not provided documentation that it has established a Statewide Independent Living Council (SILC) that meets the requirements of section 705 of the Rehabilitation Act. The Rehabilitation Services Administration (RSA) will not be awarding Guam's FY 2014 Part B funds until it submits the required SPIL and verifies the existence of a SILC meeting section 705 requirements.

As explained in the RSA letter to Guam Governor Baza Calvo, dated August 13, 2013, Section 704(a)(1) of the Rehabilitation Act stipulates the following: "To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section." Section 704(a)(4) specifies that "the State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan." The due date consistent with Section 704(a)(4) was July 1, 2013. However, as of the date of this letter, Guam has not submitted their SPIL to RSA.

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In accordance with section 704(a)(2) of the Rehabilitation Act, the SPIL must be jointly developed and signed by the SILC and the designated state unit (DSU), in this case, the Office of Vocational Rehabilitation. The SILC, in turn, must be established by the state in accordance with section 704(b) of the Rehabilitation Act, which requires that the SILC meet all of the appointment, composition and term limit requirements in Section 705 of the Rehabilitation Act, including:

- Governor appointment of members;
- Majority of members consisting of individuals with disabilities not employed by a state agency or center for independent living;
- Majority of voting members consisting of individuals with disabilities not employed by a state agency or center for independent living; and
- No member of the Council serving more than two consecutive full, three-year terms.

Note: These requirements apply to all SILC members, including ex-officio representatives of the DSU and other state agencies.

Based on its communications with the Guam Division of Vocational Rehabilitation over the last few months, RSA understands that there are outstanding issues related to the SILC's compliance with these requirements and its ability to fulfill its duties. RSA has been unable to obtain documentation from Guam regarding SILC appointment, composition and term limit matters.

In addition, consistent with 34 CFR 76.141 and 34 CFR 364.20(g), Guam is required to hold public hearings offering all segments of the public, including interested groups, organizations and individuals, the opportunity to comment on the contents of the SPIL prior to its submission, with sufficient public notice (at least 30 days prior to the public meeting) through various media available to the general public such as newspapers and public service announcements and through specific contacts with appropriate constituency groups and organizations identified by the DSU and SILC.

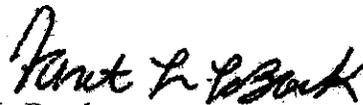
At this time, therefore, RSA cannot issue the FY 2014 IL Part B award because Guam has not submitted a SPIL, conducted public hearings or responded to RSA requests for verification of SILC compliance with federal requirements regarding SILC appointment, composition and term limits. In addition, Guam has not submitted its annual performance reports (704 Report, Part I) for October 1, 2012-September 30, 2013, as required in Section 704(m)(4)(B).

RSA urges Guam to take immediate action to constitute the SILC in compliance with section 705, conduct public hearings, submit an approvable SPIL, and submit its overdue 704 Report. The FY 2014 IL Part B funds will become available to Guam once an approvable SPIL and 704 Report are submitted, SILC compliance with federal requirements is verified, and the SPIL is approved by RSA. SILC verification documentation must include copies of the governor's appointment letters and a membership roster specifying the members' voting and ex-officio status, start date (of first term) and end dates, disability status (whether or not they have a

disability) and employment status (whether they are employed by a CIL or state agency). Guam must also provide information pertaining to the SILC's ability to conduct business in the case of vacancies (e.g. meeting quorum according to SILC bylaws).

Please do not hesitate to contact Felipe Lulli, Guam Independent Living Unit representative, at felipe.lulli@ed.gov or (202) 245-7425 if RSA can be of further assistance.

Sincerely,



Janet L. LaBreck
Commissioner

cc: Benito Servino
Timothy Beatty
Adrienne Grierson
Felipe Lulli