



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

SEP 29 2004

Honorable Edward Parisian  
Director, Office of Indian Education Programs  
Bureau of Indian Affairs  
MS-3512, MIB  
1849 C Street, NW  
Washington, DC 20240-0001

Dear Director Parisian:

This is to inform you that we have conditionally approved the Bureau of Indian Affairs' (BIA) Eligibility Document Submission for Federal Fiscal Year (FFY) 2004 under Part B of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the following documents submitted by BIA to the U.S. Department of Education, Office of Special Education Programs (OSEP):

1. The Part B Eligibility Document Submission for FFY 2004 including the Eligibility Documents submitted June 24, 2000 and subsequent revisions to those Eligibility Documents and the Submission Statement submitted June 30, 2004; and
2. The September 23, 2004 letter from the Bureau of Indian Affairs to OSEP, in which BIA assures that as soon as possible, but no later than July 1, 2005, BIA will complete all of the changes set forth in the August 24, 2004 issues chart including: 34 CFR §300.504(a)(14); §300.142; §300.147(a); and §300.18(b)(3).

In the September 23, 2004 letter, the Bureau of Indian Affairs also assures that it will take steps to ensure that, throughout the period of this grant award, all BIA-funded schools that provide special education and related services to children with disabilities will operate their programs in a manner fully consistent with Part B. BIA further assures that it will provide OSEP with a copy of a memorandum notifying all BIA-funded schools of the changes that impact BIA-funded schools' provision of special education and related services that OSEP requires as a result of its review of the BIA's eligibility documents.

Please note that as part of your Eligibility Document Submission for FFY 2004, BIA has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding. Any changes made by the BIA, after OSEP approval, to information that is a part of BIA's eligibility documentation, must meet the public participation requirements of the IDEA and must be approved by OSEP before implementation.

The Bureau of Indian Affairs' FFY 2004 IDEA Part B grant award is being released subject to FFY 2004 Special Conditions, as set forth in Enclosure A, that are being imposed pursuant to the Department's authority in 34 CFR §80.12. Specifically, OSEP determined that the BIA is not reporting publicly on the participation and performance of children with disabilities in State and district-wide alternate assessments, as required at 20 U.S.C. 1412(a)(17) and 34 CFR §300.139. In addition, it has come to our attention that the BIA is not reporting publicly on the number of children with disabilities participating in regular assessments. Although the BIA reported by grade level and content area (math and reading) in its FFY 2002 Annual Performance Report (APR), submitted to OSEP on March 31, 2004, on the participation and performance of children with disabilities on the regular assessment and the alternate assessment, the BIA has not reported publicly on its website on the participation and performance of children with disabilities on the alternate assessment and on the number of children with disabilities participating in regular assessments. As evidence necessary for the special conditions to be removed, BIA must report to the public on its website on the participation and performance of children with disabilities on the alternate assessment and the participation of children with disabilities on the regular assessment.

The requirement that States report publicly on the participation and performance of children with disabilities in State and district-wide assessments is crucial to ensuring that children with disabilities are provided access to high-quality instruction in the general curriculum, and that States and districts are held accountable for the progress of these children. 20 U.S.C. 1412(a)(17); 34 CFR §§300.139. The Part B regulations require, at 34 CFR §300.139, that each State must report to the public, with the same frequency and in the same detail as it reports on the assessment of nondisabled children: (1) the number of children with disabilities participating in regular assessments and in alternate assessments; and (2) the performance results of these children on regular assessments and on alternate assessments, if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children. Those reports to the public must include: (1) aggregated data that include the performance of children with disabilities together with all other children; and (2) disaggregated data on the performance of children with disabilities.

The Bureau of Indian Affairs failure to report on the participation and performance of children with disabilities in alternate assessments resulted in the Department imposing the FFY 2002 Special Conditions. Because BIA did not meet those Special Conditions, and has not yet reported to the public on the participation and performance of children with disabilities in alternate assessments, and the participation of children with disabilities in regular assessments, the Department is imposing Special Conditions on the State's FFY 2004 grant award under Part B contained in Enclosure A of this letter. The reasons for doing so and the specific conditions are detailed in the enclosure. BIA must administer this award both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions attached to the grant award document. Acceptance by BIA of this grant award constitutes an agreement by the State to comply with these Special Conditions.

Enclosed is the Bureau of Indian Affairs' Grants to States award of \$81,616,614 for funds appropriated for Federal Fiscal Year 2004 under section 611(c) of Part B of the Individuals with Disabilities Education Act (IDEA).

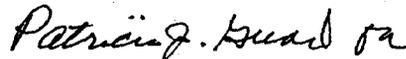
Under the section 611(i)(1) of IDEA, the award includes \$65,293,291 to be used by the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior.

Under Section 611(i)(3), the award includes \$16,323,323 to be distributed by the Secretary of the Interior to tribes or tribal organizations or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary and secondary schools for Indian children operated or funded by the Secretary of Interior. The funds received by a tribe or tribal organization must be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. None of the funds provided under section 611(i)(3) can be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

This award is based on submission of a complete eligibility document package, a signed assurance statement regarding resolution of issues identified in OSEP's review of that eligibility document package, and implementation of the provisions of the Individuals with Disabilities Education Act. The complete eligibility document package and assurances must be made available for public inspection.

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

Sincerely,



Stephanie Smith Lee

Director

Office of Special Education Programs

cc: Gloria Yepa  
Director  
Special Education Programs

Enclosure