



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

MAY 19 1998

Honorable Howard A. Peters III
Secretary
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762

Dear Secretary Peters:

This is in response to your letter dated February 27 and postmarked March 10, 1998, in which you requested a nine-month extension of Illinois' FY 1996 Part H grant award (grant #H181A70130). Based on the information you presented in the letter, and subsequent conversations between you, members of your staff and Dr. Bobbi Stettner-Eaton of my staff, it appears that you are requesting that the Office of Special Education Programs (OSEP) grant Illinois an extension of the obligation period of the FY 1996 funds.

Federal funds granted to States under the IDEA are governed by the Education Department General Administration Regulations (EDGAR). Specifically, 34 CFR §§76.703 - 76.710 relate to the obligation of funds. Section 76.709 provides that: "(a) If a State . . . does not obligate all of its grant funds by the end of the fiscal year for which Congress appropriated the funds, it may obligate the remaining funds during a carryover period of one additional fiscal year. (b) The State shall return to the Federal Government any carryover funds not obligated by the end of the carryover period by the State . . ."

The Department obligated the FY 1996 funds to Illinois on September 30, 1997, the last day on which the Department could obligate those funds. Under EDGAR §76.709, Illinois may continue to obligate the FY 1996 funds for an additional fiscal year, or until September 30, 1998. If the FY 1996 funds are not obligated by that date, the remaining unobligated funds must be returned to the Department. While we understand the pressure under which your staff is operating in order to expedite the obligation of the FY 1996 funds, the Department does not have the authority to grant extensions of the obligation period of any grant funds.

In making your decisions about the obligation of funds, please refer to the table in EDGAR §76.707 showing when obligations are legally made depending on the type of services to be performed and by whom (e.g., State employees or private contractors). For example, an obligation for personal services by a State employee is made when the services are actually performed (see §76.707(b)). However, an obligation for personal services by a contractor who is not a State employee is made "on the date on which the State . . . makes a binding written commitment to obtain the services" (see §76.707(c)). Therefore, it would be permissible to obligate the FY 1996 funds to a non-State contractor prior to September 30, 1998, for delivery of personal services within a reasonable time after that date.

In addition, EDGAR §80.23 states that each grantee must liquidate the obligated funds within 90 days after the end of the grant period, unless the grantee requests, and is granted an extension of that liquidation date, from the Secretary of the U.S. Department of Education. For purposes of the FY 1996 funds, Illinois must liquidate the obligated FY 1996 funds by December 30, 1998, unless the State submits to OSEP a written request for an extension, for a specific length of time, of the liquidation period. Please contact Dr. Bobbi Stettner-Eaton, your OSEP Part H contact, if you have further questions.

Sincerely,



Thomas Hehir
Director
Office of Special Education Programs

Enclosure

cc: Ms. Mary Miller
Bureau Chief and
Part H Coordinator