Honorable Frederick P. Cerise  
Secretary  
Department of Health and Hospitals  
P.O. Box 629  
1201 Capitol Access Road  
Baton Rouge, Louisiana 70821-0629  

Dear Secretary Cerise:

This is to inform you that we have conditionally approved Louisiana’s Application, including policies, procedures, methods, descriptions, assurances and certifications for Federal Fiscal Year (FFY) 2005 under Part C of the Individuals with Disabilities Education Act (IDEA). As further described below and in Enclosure B, this grant award is made with Special Conditions, under the regulations governing “high risk” grantees in 34 CFR §80.12. Our determination that you are eligible for a conditional approval is based on our receipt of the Part C Application for FFY 2005, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted on May 2, 2005 and amended on June 28, 2005 by the Louisiana Department of Health and Hospitals (DHH) to the U.S. Department of Education, Office of Special Education Programs (OSEP), in which it assures that it will:

1. Operate consistent with the Part C requirements of PL 108-446 and its applicable regulations;  
2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2005 grant period; and  
3. Make such changes to, and submit for OSEP’s approval, existing policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of Part C of the IDEA, as amended, as soon as possible, and not later than the earlier of the date indicated by the State in Section II of its application or July 1, 2006. Section II of the State’s application (which is incorporated by reference and enclosed with this grant letter) identifies the IDEA statutory sections for which the State needs to amend policies, procedures, methods and descriptions and the timelines by which the State will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies, procedures, methods and descriptions that are not yet in compliance with the requirements of Part C of the IDEA, as amended.

With its application for FFY 2005, DHH included proposed procedures for a System of Payments and the State’s Definition of Developmental Delay and Eligibility Criteria. Because those proposed procedures are not yet final documents, OSEP has not reviewed them as part of its review of the State’s FFY 2005 application. OSEP will provide the State with OSEP’s review in a separate response once the State confirms that it has completed the public participation process, as required by 34 CFR §§303.110-303.113, and that they are final procedures.

Due to the State’s long-standing failure to comply with the requirements of Part C of the IDEA, the State’s FFY 2004 Part C grant award letter designated Louisiana as a high-risk grantee, and imposed Special Conditions, pursuant to 34 CFR §80.12, in four areas of noncompliance, as detailed in Enclosure B of the FFY 2004 Part C grant award. The State was to demonstrate compliance in each of these four areas by May 31, 2005. In its June 16, 2005 Progress Report, the State reports data which continues to be collected and compiled regarding each area of noncompliance. As further detailed in Enclosure B of this letter, the State has not corrected the noncompliance, and the Department is, therefore, releasing Louisiana’s FFY 2005 IDEA Part C grant award subject to the FFY 2005 Special Conditions, as set forth in Enclosure B. DHH must administer this grant award both in keeping with applicable Federal laws and regulations and the Special Conditions attached to the award. Louisiana’s acceptance of its award constitutes an agreement to meet the Special Conditions.
Please note that as part of your State’s Application for FFY 2005, your State 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 FFY 2005 grant period. Any changes made by the State, after OSEP approval, to the State’s Part C application (including policies, procedures, descriptions and methods) must meet the public participation requirements of IDEA, including those in 20 U.S.C. 1232d(b)(7).

Section IV.B of the FFY 2005 application for Part C funds requested updated information about each State’s restricted indirect cost rate. Our records indicate that your agency, DHHS, has a cost allocation plan that has been approved by your cognizant Federal agency but that does not reflect restricted costs. DHHS has agreed that it will modify the costs in that plan based on the Department’s April 2004 correspondence and its June 3, 2005 assurance in which DHHS confirmed that it would exclude certain unallowable costs to ensure that the indirect costs charged to the Part C grant are restricted and further that its indirect cost rate would not exceed eight percent (8%). Section IV.B of your State’s Part C Application indicates that DHHS will continue to apply the currently approved cost allocation plan (subject to the June 3, 2005 amendment) throughout the FFY 2005 grant year until a new restricted indirect cost rate or cost allocation plan is approved by the State’s cognizant Federal agency.

The enclosed grant award for FFY 2005 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application and appendices, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

Section 604 of the IDEA provides that “[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.” Therefore, by accepting this grant a State is expressly agreeing to a waiver of Eleventh Amendment immunity as a condition of IDEA funding.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,

[Signatures]

Troy R. Justesen
Acting Director
Office of Special Education
Programs

Enclosures

cc: Nichole Dupree
Part C Coordinator