



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

AUG - 5 2005

Honorable J. Nick Baird  
Director  
Ohio Department of Health  
P.O. Box 118  
246 North High Street  
Columbus, Ohio 43216-0118

Dear Director Baird:

This is to inform you that we have conditionally approved Ohio'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) and with special conditions, under the regulations governing "high risk" grantees in 34 CFR §80.12. Enclosed is an attachment detailing the special conditions and the reasons for considering the Ohio Department of Health (ODH) a high-risk grantee. 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 by the Ohio Department of Health (ODH) 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.

Our determination that you are eligible for a conditional approval is also based on our receipt of the July 29, 2005 assurance from ODH to OSEP, in which ODH assures that it will:

1. Submit to OSEP by December 1, 2005 a written statement of how the ODH plans to revise its system of payments to address the Office of Special Education Programs (OSEP) concerns with monitoring and assuring compliance by Part C providers;
2. Submit by June 30, 2006, its revised system of payment policies, that define a parent's ability to pay and state how families may be charged for early intervention services or clarify that they will not be charged;

3. On or before October 1, 2005, ODH will implement an interim systems payment plan to include a definition of a families' inability to pay and the assurance that eligible children and families who meet the definition of "inability to pay" are offered the services at no cost through providers for Medicaid and the Title V program for children with special health care needs – Bureau for Children with Medical Handicaps (BCMh);
4. Throughout the period of the State's grant award for fiscal year 2005 under Part C of IDEA, the State will monitor all providers in the State for compliance with all requirements of Parts A and C of IDEA, including 20 U.S.C. §§1432(4) and 1435(a)(10) and 34 CFR §§303.173(a), 303.501(a)(2) and (b), 303.520(b) and 303.521(a), (including sending a memorandum to all agencies and providers that are part of the State's Part C early intervention system to inform them of changes that impact on the provision of early intervention services in the State with respect to the above-identified Part requirements);
5. The State will provide OSEP with a copy of memoranda notifying agencies and providers that are part of the State's Part C early intervention system of all changes that impact on the provision of services under Part C; and
6. Ensure that the statewide system of early intervention required by Part C of IDEA at 20 U.S.C. §§1431-1444 and its applicable implementing regulations will be in effect throughout the FFY 2005 grant period.

Under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR §80.12, the Department has determined that ODH is a "high risk" grantee for purposes of Part C of IDEA for FFY 2005. OSEP is releasing Ohio's FFY 2005 IDEA Part C grant award subject to the FFY 2005 special conditions, as set forth in Enclosure B. The special conditions are imposed to ensure that the funds are expended for the timely identification and evaluation of, and provision of early intervention services to, infants and toddlers with disabilities and their families in Ohio.

ODH must administer this grant award both in keeping with applicable Federal laws and regulations and the Special Conditions attached to the award. Ohio'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 has a restricted indirect cost rate that has been approved by your agency's cognizant Federal agency. Section IV. B of your State's Part C Application indicates that your agency will continue to apply this restricted indirect cost rate throughout the FFY 2005 grant year until a new restricted indirect cost rate or plan is approved by your agency cognizant Federal agency. Please forward to us your restricted indirect cost rate or cost allocation plan once it is approved by your cognizant 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.

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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,



Troy R. Justesen  
Acting Director  
Office of Special Education  
Programs

Enclosure

cc: Debbie Cheatham  
Part C Coordinator