



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

JUL - 1 2009

Honorable Tuiasina Salamo Laumoli
Acting Director
American Samoa Department of Health
Government of American Samoa
Pago Pago, American Samoa 96799

Dear Director Tuiasina Salamo Laumoli:

This is to inform you that we have conditionally approved American Samoa's application for Federal Fiscal Year (FFY) 2009 funds under Part C of the Individuals with Disabilities Education Act (IDEA) and are transmitting your regular IDEA Part C funds for FFY 2009. This letter also transmits the first fifty percent of your jurisdiction's IDEA Part C funds under the American Reinvestment and Recovery Act of 2009 (ARRA) (see Enclosure C- April 1, 2009 Memo and Grant Terms and Conditions).

Our conditional approval of your regular FFY 2009 Part C grant award is based on our review of the application submitted by the American Samoa Department of Health (ASDH) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 20, 2009, including policies, procedures, methods, descriptions, assurances, certifications, and submission statement provided in Section II, and incorporated by reference to this letter as Enclosure A. In addition, ASDH provided the following specific assurances that it will:

1. Operate consistent with the Part C requirements in 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303;
2. Ensure that the statewide system of early intervention services required by Part C and its implementing regulations is in effect in American Samoa throughout the FFY 2009 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, the State's 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, and applicable regulations, as soon as possible, and not later than the earlier of the date indicated by the ASDH in Section II of its application or June 30, 2010. Section II of ASDH's application identifies the IDEA requirements for which it needs to amend any policies, procedures, methods and descriptions and the timelines by which ASDH will amend its policies, procedures, methods and descriptions in order to comply with Part C and applicable regulations. Within Section II, ASDH has included for each requirement that it cannot meet at this time, 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 and applicable regulations.

American Samoa's FFY 2009 IDEA Part C grant awards are also being released subject to fiscal Special Conditions regarding the Single Audit Act that are identified in the enclosed U.S. Department of Education's June 23, 2009 letter to American Samoa (which is Enclosure B and incorporated in this grant letter by this reference). These Special Conditions, regarding the Single Audit Act, are imposed pursuant to the Department's authority in 34 CFR §80.12. By accepting the enclosed grant awards, American Samoa agrees to comply with the Special Conditions identified in the Department's enclosed June 23, 2009 letter.

Please note that as part of your State's application for FFY 2009, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2009 grant period. Any changes made by the State to its FFY 2009 application or Part C policies or procedures that are application requirements, after OSEP approval, must meet the applicable public participation requirements under Part C in 34 CFR §§303.110 through 303.113 and, if they are requirements under Section II.A, must also be submitted to, and approved by, OSEP prior to the State's implementation of its new or revised application, policies and procedures.

Enclosed is the State's regular grant award for funds currently available under the Omnibus Appropriations Act, 2009 for the Part C program. These funds are for use primarily in 2009-2010 and are available for obligation by States from July 1, 2009 through September 30, 2011 in accordance with 34 CFR §76.709.

In addition to these regular FFY 2009 Part C funds, the ARRA provided a one-time large increment in IDEA Part C funding. The ARRA IDEA Part C grants are a supplemental appropriation to the regular IDEA Part C appropriation. The first 50 percent of American Samoa's ARRA IDEA Part C funds are being awarded through this grant letter to ASDH with its regular FFY 2009 IDEA Part C formula grant. The effective date of the ARRA IDEA Part C grant award is February 17, 2009. Acceptance by your jurisdiction of the ARRA IDEA Part C grant award constitutes an agreement to comply with the conditions in Enclosure C and Box 10 on the enclosed Grant Award Notification.

As specified in OSEP's June 12, 2009 e-mail, ASDH is required to submit a plan that describes the activities to be funded with the ARRA IDEA Part C funds and how ASDH will provide project management oversight and maintain separate accounting records by unique CFDA numbers of project activities and expenditures, before it will be considered eligible to receive the second 50 percent of its ARRA IDEA Part C funds. Together, ASDH's regular FFY 2009 IDEA funds and its ARRA IDEA Part C funds constitute American Samoa's total FFY 2009 IDEA Part C allocation. Given the increased IDEA Part C FFY 2009 allocation to each State and Territory, States and Territories may wish to review carefully the guidance on the ARRA IDEA Part C grant awards, available at <http://www.ed.gov/fund/data/award/idea/arra/index.html>.

Section IV.B of the FFY 2009 application for Part C funds requested updated information about each grant recipient's restricted indirect costs. Under 34 CFR §76.568(c), the Department is approving in this grant letter, as direct costs under the IDEA Part C program, the occupancy and space maintenance costs identified in Section III of the State's FFY 2009 grant application.

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In Section IV.B of the FFY 2009 application, ASDH indicated that it is not charging any indirect costs to IDEA Part C funds. By accepting the IDEA and ARRA Part C grant funds, ASDH (as the lead agency designated under Part C) is agreeing not to charge indirect costs to the Part C program for all FFY 2009 Part C grant funds, including ARRA IDEA Part C funds.

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.” Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant a State is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

The enclosed grant award for FFY 2009 is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

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

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

Enclosure A
Enclosure B
Enclosure C

cc: Part C Coordinator