



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

JUL - 1 2011

Honorable Elisapeta Ponausua
Director
American Samoa Department of Health
Government of American Samoa
Pago Pago, American Samoa 96799

Dear Director Elisapeta Ponausua:

We have conditionally approved American Samoa's application for Federal Fiscal Year (FFY) 2011 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our conditional approval is based on our review of the application, submitted by the American Samoa Department of Health (ASDOH) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 25, 2011, including the policies, procedures, methods, descriptions, assurances, and certifications identified in Section II, which is incorporated by reference to this letter as Enclosure A. In addition, American Samoa provided the following specific assurances that it will:

1. Operate consistently with the IDEA 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 IDEA Part C and its implementing regulations is, and will remain, in effect throughout the FFY 2011 grant period; and
3. Make such changes to, and submit, as necessary, for OSEP's approval, American Samoa's policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of IDEA Part C, as soon as possible, and not later than the earlier of the date indicated by the State in Section II of its application or June 30, 2012. Within Section II of its application, American Samoa 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 IDEA Part C.

The Department has determined the American Samoa Government (ASG) as a "high risk" grantee for all FFY 2011 Department grants under the authority of the Education Department General Administrative Regulations (EDGAR) in 34 CFR §80.12. In addition, pursuant to IDEA sections 616(g) and 642 and 34 CFR §80.12, the Department is imposing Special Conditions under IDEA Part C for FFY 2011. These two sets of Special Conditions are set forth in Enclosures B and C to this FFY 2011 grant award letter and are incorporated by this reference to American Samoa's IDEA Part C FFY 2011 grant award. By accepting this grant award, ASDOH and the ASG accepts and agrees to both sets of these Special Conditions.

The first set of FFY 2011 Special Conditions is contained in the Department's June 20, 2011 letter, which is Enclosure B to this grant award letter. These Special Conditions associated with

the high-risk designation that remain in effect while American Samoa continues to address the Department's remaining fiscal and programmatic concerns require American Samoa to: (1) submit semiannual reports regarding its progress in implementing measures required under the Comprehensive Corrective Action Plan; (2) submit semiannual Payroll Corrective Action Plan internal control maintenance reports regarding monitoring of its payroll operations and internal controls to ensure they are operating as intended; (3) conduct single audits and submit reports on an annual basis in a timely and complete manner; and (4) develop and implement appropriate procurement procedures to ensure the timely retention of personnel to provide IDEA Part C services.

The second set of FFY 2011 Special Conditions is contained in Enclosure C to this grant award letter. These Special Conditions in Enclosure C are to ensure that ASDOH provides data and ensures: (1) initial evaluations, assessments, and individualized family service plan (IFSP) meetings are conducted within 45 days of a child's referral, as required by 34 CFR §§303.321(e), 303.322(e) and 303.342(a); and (2) the timely provision of early intervention services to infants and toddlers with disabilities and their families, as required by IDEA section 634(1) and 34 CFR §§303.340(c), 303.342(e), and 303.344(f). Under the Special Conditions in Enclosure C, ASDOH must submit progress reports by October 1, 2011 and February 1, 2012.

Please note that as part of American Samoa's application for FFY 2011, American Samoa has made an assurance, pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2011 grant period. Before adopting a new or revised IDEA Part C policy or procedure that is required under Section II.A of American Samoa's FFY 2011 application, American Samoa must subject those policies and procedures to the public participation requirements in 34 CFR §§303.110 through 303.113 and receive OSEP approval for them prior to their implementation.

Enclosed is American Samoa's FFY 2011 grant award for funds currently available under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 -- P.L. 112-10 for the IDEA Part C program. These funds are available for obligation by States from July 1, 2011 through September 30, 2013 in accordance with 34 CFR §76.709.

Section IV.B of the State FFY 2011 application for Part C funds requested updated information about each State's restricted indirect cost rate. American Samoa indicated that ASDOH has a final restricted indirect cost rate agreement of 9.3% that has been approved by ASDOH's cognizant Federal agency and is effective until September 30, 2011. In Section IV.B, your agency (as the lead agency designated under Part C) indicated that it will continue to apply the currently approved restricted indirect cost rate to its IDEA Part C FFY 2011 grant funds until a new restricted indirect cost rate agreement is negotiated and approved by ASDOH's cognizant Federal agency. Please forward a copy to our Indirect Cost Unit and to your OSEP State Contact of the new or revised restricted indirect cost rate agreement once it is approved by ASDOH's cognizant Federal agency.

Section 604 of the IDEA provides that "[a] State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this [Act]."

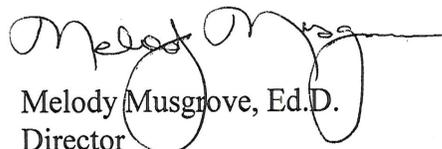
Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant, American Samoa is expressly agreeing as a condition of IDEA funding 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 of FFY 2011 funds 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 may be necessary needed to allow us to appropriately carry out our administrative responsibilities related to IDEA Part C.

As a reminder, within 30 days of July 1, 2011, all prime recipients of IDEA (Part B or Part C) funds must report subaward information as required by the Federal Financial Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact American Samoa's Recovery Act Facilitator if you have further questions.

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

Sincerely,



Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosures:

- Enclosure A
- Enclosure B
- Enclosure C

cc: Part C Coordinator