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

JUL - 1 2012

Honorable Albert A. Delia
Acting Secretary
North Carolina Department of Health and Human Services
2001 Mail Service Center
Raleigh, North Carolina 27699-2001

Dear Secretary Delia:

We have conditionally approved North Carolina's application for Federal Fiscal Year (FFY) 2012 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 North Carolina Department of Health and Human Services (NCDHHS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 12, 2012, June 1, 2012, June 19, 2012, and June 25, 2012.

Our conditional approval of the State's FFY 2012 IDEA Part C grant is also based on the State's policies, procedures, methods, descriptions, assurances, and certifications identified in Section II, which is incorporated by reference to this grant award letter as Enclosure A. Our approval is also based on the State's certification under Section II.D of its FFY 2012 application that the State will:

1. Operate throughout the period of the FFY 2012 grant award consistently with the requirements of the IDEA as found in 20 U.S.C. 1431 through 1443 and the final regulations in 34 CFR Part 303 (as published on September 28, 2011); and
2. Make such changes to existing 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, 2013. *See,* 34 CFR §76.104.

OSEP's conditional approval is also based on OSEP's review, and acceptance, of the June 19, 2012 and June 25, 2012 submission of documentation to resolve the two dispute resolution findings (regarding mediation and State complaint decisions) from OSEP's March 2012 Continuous Improvement Visit letter. As part of your State's application for FFY 2012, your State has made an assurance, under Section II.C.2 of its FFY 2012 application and pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2012 grant period.

Before adopting a new or revised IDEA Part C policy or procedure that is required under Part C of the IDEA or the final regulations in 34 CFR Part 303, the State must subject those policies and procedures to the public participation requirements in 34 CFR §303.208 and receive OSEP

approval for those policies and procedures referenced in 34 CFR §303.101(c) prior to their implementation.

Enclosed is the State's FFY 2012 grant award for funds currently available under the Consolidated Appropriations Act, 2012 -- P.L. 112-74 for the IDEA Part C program. These funds are available for obligation by States from July 1, 2012 through September 30, 2014 in accordance with 34 CFR §76.709.

Section IV.B of the State FFY 2012 application for Part C funds requested updated information about each State's restricted indirect cost rate. North Carolina indicated in Section IV.B that NCDHHS has a restricted indirect cost rate that expired on June 30, 2012, and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the period: July 1, 2012 – June 30, 2013. In Section IV.B, NCDHHS indicated it will continue to bill the IDEA Part C FFY 2012 grant based on this previously approved restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2012, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2012 grant funds. When a final restricted indirect cost rate is approved for FFY 2012, please forward to our Indirect Cost Unit and to your OSEP State Contact: (1) a copy of the final restricted rate agreement; and (2) details of adjustments made to GAPS/G-5 liquidations from the provisional or prior billing rate after approval of the final rate.

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, your 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 of FFY 2012 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 to allow us to appropriately carry out our administrative responsibilities related to IDEA Part C.

As a reminder, no later than August 31, 2012, all prime recipients of IDEA (Part C) funds must report subaward information as required by the Federal Funding 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 your State'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
VRR

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

Enclosure

Enclosure A

cc: Part C Coordinator