



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

JUL - 1 2012

Honorable Debra Wanser
Commissioner
Texas Department of Assistive and Rehabilitative Services
4800 North Lamar Boulevard
Austin, Texas 78756

Dear Commissioner Wanser:

We have conditionally approved Texas'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 Texas Department of Assistive and Rehabilitative Services (DARS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 16, 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.

The conditional approval for Texas' FFY 2012 IDEA Part C grant is also based on the State's assurance, dated June 22, 2012 (and received June 25, 2012) from DARS in which the State specifically assured that it shall:

1. Make all changes necessary to the Texas Administrative Code (TAC) sections 101.7043, 101.7049, 101.8011(d)(1), and 101.8013, to address the three issues identified in OSEP's June 11, 2012 memorandum to comply with the IDEA Part C requirements in IDEA section 639(a)(1) and 34 CFR §§303.09, and 303.437(b) and (c). DARS must submit to OSEP the revised TAC provisions as soon as they are finalized, but no later than December 31, 2012;
2. Ensure that, throughout the period that the State uses its FFY 2012 grant funds under IDEA Part C, all early intervention service (EIS) programs and providers in the State will comply with all requirements of IDEA Part C of IDEA, including the requirements in IDEA section 639(a)(1) and 34 CFR §§303.09, and 303.437(b) and (c);
3. Provide to OSEP, by September 1, 2012, a copy of the memorandum notifying all EIS

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programs and providers and parents that are part of the State's Part C early intervention system of any changes that affect the provision of early intervention services under Part C, including the IDEA Part C requirements in IDEA section 639(a)(1) and 34 CFR §§303.09, and 303.437(b) and (c); and

4. Ensure that the statewide system of early intervention required by Part C of IDEA in 20 U.S.C. 1431-1443 and final regulations in 34 CFR Part 303, including IDEA section 639(a)(1) and 34 CFR §§303.09, and 303.437(b) and (c), will be in effect throughout the FFY 2012 grant period.

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. Texas indicated in Section IV.B that DARS has a provisional restricted indirect cost rate of ten percent (10%) that expires on August 31, 2012, and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the FFY 2012 grant period. In Section IV.B, DARS indicated it will continue to bill the IDEA Part C FFY 2012 grant based on this provisional 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

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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 B or 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,

Handwritten signature of Melody Musgrove in cursive script, with initials 'RM' written below the name.

Melody Musgrove, Ed.D.

Director

Office of Special Education Programs

Enclosure

Enclosure A

cc: Part C Coordinator