



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

October 1, 2013

Honorable Theodore E. Wymyslo
Director
Ohio Department of Health
246 North High Street
Columbus, Ohio 43215

Dear Dr. Wymyslo:

We have conditionally approved Ohio's application for Federal fiscal year (FFY) 2013 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). The effective date of the grant award is September 30, 2013. Our conditional approval is based on our review of the IDEA Part C application, submitted by Ohio Department of Health (ODH) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 19, 2013, July 5, 2013, and September 30, 2013.

Our conditional approval of the State's FFY 2013 IDEA Part C grant is also based on the State's policies, procedures, methods, descriptions, assurances, and certifications identified in Section II.A, II.B, and II.C, which is incorporated by reference to this grant award letter as Enclosure A. Our approval is also based on the State's certification in Section II.D of its FFY 2013 IDEA Part C application, in which section the State certifies under 34 CFR §76.104 that it will:

1. Operate throughout the period of the FFY 2013 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.A. or B of its application or June 30, 2014.

The conditional approval for Ohio's FFY 2013 IDEA Part C grant is also based on the State's assurance, dated September 30, 2013, from the Ohio Department of Health in which the State specifically assured that:

1. Ohio has made the necessary changes to the Ohio Administrative Code (OAC) 3701-8-01 to include the language from the IDEA Part C regulations in 34 CFR §303.13(c) and (d) and ODH submitted the revised rule with its September 30, 2013 letter.
2. Ohio ensures that, throughout the period that the State uses its IDEA Part C FFY 2013 grant funds, all early intervention programs and providers in the State will comply with all requirements of IDEA Part C, including 34 CFR §303.13(c) and (d) and make available early intervention services to an infant or toddler with a disability and his or her family if identified by the child's IFSP team as necessary to meet the unique developmental needs of a particular infant or toddler.
3. Ohio sent a memorandum, dated September 30, 2013, notifying all early intervention programs and providers that are part of the State's IDEA Part C Early Intervention

system of the changes which have taken place that affect the provision of early intervention services and provided a copy of that memorandum to OSEP.

4. Ohio ensures that the statewide system of Early Intervention required by IDEA Part C, in 20 U.S.C. §§1431 through 1444 and regulations in 34 CFR Part 303, will be in effect throughout the FFY 2013 grant period.

The conditional approval for Ohio's FFY 2013 IDEA Part C grant is also based on the assumption reflected in OSEP's September 5, 2013 letter to ODH in which we clarified that "ODH will include in the non-exhaustive list of early intervention services that an IFSP [Team] can identify and that the State will make available if identified as needed by the IFSP Team under IDEA Part C, the early intervention service referred to as ABA [applied behavior analysis] therapy both under 34 CFR §303.13 and Ohio's rule."

As part of your State's application for FFY 2013, your State has made an assurance, under Section II.C.2 of its FFY 2013 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 2013 grant period.

Before adopting a new or revised IDEA Part C policy or procedure that is required under Part C of the IDEA or under 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, for those policies and procedures specifically referenced in 34 CFR §303.101(c), receive OSEP approval prior to their implementation.

Enclosed is the State's FFY 2013 grant award for funds currently available under the Consolidated and Further Continuing Appropriations Act, 2013 -- P.L. 113-6 for the IDEA Part C program. These funds are available for obligation by States from the effective date of this grant award, September 30, 2013 through September 30, 2015 in accordance with 34 CFR §76.709.

Section IV.B of the State FFY 2013 application for Part C funds requested updated information about each State's restricted indirect cost rate. ODH indicated in Section IV.B that ODH has a final restricted indirect cost rate agreement that has been approved by ODH's cognizant Federal agency and was effective through June 30, 2013. In Section IV.B, ODH (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 2013 grant funds until a new restricted indirect cost rate agreement is negotiated and approved by ODH's cognizant Federal agency. When a final restricted indirect cost rate is approved for FFY 2013, 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 any adjustments made to GAPS/G-5 liquidations as a result of the 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 2013 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, 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. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State's Fiscal Accountability 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

Enclosure

Enclosure A

cc: Part C Coordinator