



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

July 1, 2014

Honorable Santi Rogers
Director
Department of Developmental Services
1600 9th Street, Room 240, MS 2-13
Sacramento, California 95814

Dear Director Rogers:

We have conditionally approved California's application for Federal fiscal year (FFY) 2014 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our conditional approval is based on our review of the IDEA Part C application, submitted by the Department of Developmental Services (DDS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 13 and June 26, 2014.

Our conditional approval of the State's FFY 2014 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 2014 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 2014 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 either the date indicated by the State in Section II.A or B of its application or June 30, 2015, whichever is earlier.

The conditional approval for California's FFY 2014 IDEA Part C grant is further based on the State's assurance, dated June 26, 2014, from DDS in which the State specifically assured that it shall:

1. Make all changes necessary to Title 17, Section 52086 of the California Code of Regulations, and complete all actions as specified in OSEP's memorandum, dated June 20, 2014, to comply with the IDEA Part C requirements in 34 CFR §303.310, and submit to OSEP the revised regulation, as soon as it is finalized, but no later than June 1, 2015;
2. Ensure that, throughout the period that the State uses its IDEA Part C FFY 2014 grant funds, all early intervention service (EIS) programs and providers in the State will comply with all requirements of IDEA Part C, including 34 CFR §303.310;
3. Provide OSEP, by September 2, 2014, a copy of the memorandum notifying all EIS programs and providers that are part of the State's IDEA Part C early intervention system of the changes described in OSEP's June 20, 2014 memo above that affect the provision of early intervention services under IDEA Part C, in 34 CFR §303.310; and

4. Ensure that the statewide system of early intervention required by IDEA Part C, in 20 U.S.C. §§1431 through 1444 and 34 CFR Part 303, will be in effect throughout the FFY 2014 grant period.

The State's June 26, 2014 assurance was provided as a follow-up to the original finding of noncompliance identified in OSEP's February 15, 2011 California IDEA Part C Verification Visit Letter and to address the specific assurance provided as part of California's FFY 2013 IDEA Part C grant award. Additionally, as part of the Department's June 23, 2014 determination that California "needs intervention" in implementing the requirements of IDEA Part C for four consecutive years under IDEA sections 616 and 642, the Department required California to submit a corrective action plan (CAP) to OSEP by September 2, 2014 as well as submit its transition policies and agreement that are required under Section II.A.10 of the IDEA Part C grant award application. Under the 2014 Determinations CAP, the State must submit its initial progress report under the CAP by December 1, 2014 and its final progress report by February 2, 2015. In addition, the State must submit to OSEP by December 1, 2014 the draft transition policies and agreement and submit, by April 30, 2015, its final transition policies and agreement under Section II.A.10 of its FFY 2015 IDEA Part C grant application. OSEP will respond under separate cover to the State's CAP and other documents required to be submitted by California as a result of the State's 2014 determination.

As part of your State's application for FFY 2014, your State has made an assurance, under Section II.C.2 of its FFY 2014 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 2014 grant period.

Enclosed is the State's FFY 2014 grant award for funds currently available under the Consolidated Appropriations Act, 2014 – P.L. 113-76 for the IDEA Part C program. These funds are available for obligation by States from July 1, 2014 through September 30, 2016 in accordance with 34 CFR §76.709.

Section IV.B of the IDEA Part C FFY 2014 application requested updated information about each how your lead agency implements the restricted indirect cost rate requirements in 34 CFR §303.225(c). California indicated in Section IV.B that DDS has a provisional restricted indirect cost rate of 26.1% that expires on June 30, 2014, and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the FFY 2014 grant period. In Section IV.B, your lead agency also indicated it will continue to bill IDEA Part C FFY 2014 grant funds based on this previously approved restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2014, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2014 grant funds. When a final restricted indirect cost rate is approved by DDS's cognizant Federal agency for FFY 2014, please forward a copy of it to our Indirect Cost Unit and to your OSEP State Contact.

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 2014 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. If your State adopts 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, it 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.

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,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a long horizontal line extending to the right.

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

Enclosure

Enclosure A

cc: State Part C Coordinator