



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

September 29, 2015

Honorable Retta Ward, Secretary
New Mexico Department of Health
1190 S. St. Francis Drive, Suite N 4100
Santa Fe, New Mexico 87502

Dear Secretary Ward:

We have approved New Mexico's application for Federal fiscal year (FFY) 2015 funds, under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our approval is based on our review of the IDEA Part C application, submitted by the New Mexico State Department of Health/ Developmental Disabilities Support Division NMDOH/DDSD to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on September 3, 2015. The effective date of this grant award is September 3, 2015.

Our approval of the State's FFY 2015 IDEA Part C grant includes approval of 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 2015 application that the State's provisions meet the requirements of IDEA Part C 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 that the State will operate its Part C program in accordance with all of the IDEA Part C requirements including required policies, procedures, methods, descriptions, assurances and certifications. See, 34 CFR §76.104.

OSEP's approval of the State's FFY 2015 IDEA Part C application is also based on our approval of the method submitted by NMDOH under Section II.A.3.b of its FFY 2015 application. The method is the State of New Mexico Governmental Services Agreement between Human Services Department (HSD) and the Department of Health (DOH), dated 6-13-2013, and amended 7-23-2015 with cross-references to New Mexico Administrative Code 7.30.8.8 (Agreement). OSEP has determined that the Agreement is consistent with applicable requirements under Section II.A.3a including the IDEA Part C requirements in 34 CFR 303.511.

As part of the IDEA Part C application for FFY 2015, your State has provided a certification, under Section II.D of its FFY 2015 application and pursuant to 34 CFR §76.104, that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2015 grant period.

Enclosed is the State's FFY 2015 grant award for funds currently available under the Consolidated and Further Continuing Appropriations Act, 2015, P.L. 113-235, for the IDEA Part C program. These funds are available for obligation by IDEA grant recipients from September 3, 2015 through September 30, 2017 in accordance with 34 CFR §76.709.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Please note that effective with this IDEA Part C FFY 2015 grant award, IDEA Part C funds are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in 2 CFR Part 200 and commonly referred to as the Uniform Guidance. The Uniform Guidance provisions in 2 CFR Part 200 replace provisions previously found in the Education Department General Administrative Regulations or EDGAR in 34 CFR Parts 74 and 80 and prior OMB Circulars A-87 and A-133. Under 2 CFR 200.308(e), a State must obtain the prior approval of OSEP, by submitting a revised Section III (Use of Funds), for a transfer of funds among direct cost categories, programs, or activities that exceed 10% of the total grant award or are expected to exceed 10% of that total, and the Federal share in the grant exceeds the Simplified Acquisition Threshold (currently set at \$150,000). This replaces a similar provision previously found in 34 CFR §80.30(c)(1). Please review the Department's technical assistance resources on the Uniform Guidance at <http://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>.

Section IV.B of the IDEA Part C FFY 2015 application requested updated information about how your lead agency implements the restricted indirect cost rate requirements in 34 CFR §303.225(c), which require indirect costs to be applied on a restricted basis or to not be charged to Federal IDEA Part C grant funds. Your State indicated in Section IV.B that NMDOH has a restricted indirect cost rate agreement that has been approved by NMDOH's cognizant Federal agency and is effective through June 30, 2016. However, the agreement provided by NMDOH indicated that it has an approved indirect cost rate of 3.3% but does not indicate that this rate is restricted. Under 2 CFR §200.210(a)(15) (effective with NMDOH's receipt of this award) the IDEA Part C FFY 2015 grant must identify the approved rate. However, given that NMDOH does not have an approved restricted indirect cost rate, your State may not charge indirect costs to its FFY 2015 grant until such rate is approved on a restricted basis. Kindly contact your cognizant Federal agency to submit a proposed restricted indirect cost rate proposal. Once a restricted indirect cost rate agreement is approved for the IDEA Part C FFY 2015 grant award period, please submit to a copy of the revised restricted indirect cost rate agreement to our Indirect Cost Unit and to your OSEP State Contact and request approval of the applicable 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 2015 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 revises those IDEA Part C policies or procedures that are 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.

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 the first name "Melody" and last name "Musgrove" clearly distinguishable.

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

Enclosure

Enclosure A

cc: Part C Coordinator

