

July 1, 2017

Honorable Motusa Tuileama Nua  
Director  
American Samoa Department of Health  
PO Box 5666  
Government of American Samoa  
Pago Pago, American Samoa 96799

Dear Director Nua:

We have conditionally approved American Samoa's application for Federal fiscal year (FFY) 2017 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 American Samoa Department of Health (ASDOH) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on April 27, 2017.

Our conditional approval of the ASDOH's FFY 2017 IDEA Part C grant is also based on American Samoa'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 conditional approval is also based on the ASDOH's certification in Section II.D of its FFY 2017 IDEA Part C application, in which American Samoa certifies under 34 CFR §76.104 that it will:

1. Operate throughout the period of the FFY 2017 grant award consistently with the requirements of IDEA Part C as found in 20 U.S.C. §§1431 through 1443 and the regulations in 34 CFR Part 303; 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 American Samoa in Section II.A or B of its application or June 30, 2018, whichever is earlier.

American Samoa's FFY 2017 IDEA Part C grant award is also being released subject to the fiscal Special Conditions regarding internal control deficiencies and the Single Audit Act as described in the enclosed U.S. Department of Education's June 26, 2017 letter to American Samoa (which is Enclosure B and incorporated by this reference to this grant letter). These Department-wide Special Conditions regarding the Single Audit Act, are imposed pursuant to the Department's authority in IDEA sections 616(g) and 642 and 2 CFR §§200.207 and 3474.10.

By accepting the enclosed grant award, American Samoa agrees to comply with the Special Conditions identified in Enclosure B.

As part of American Samoa's application for IDEA Part C FFY 2017 funds, American Samoa has provided a certification, under Section II.D of its FFY 2017 application and pursuant to 34 CFR §76.104, that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2017 grant period.

Enclosed is American Samoa's FFY 2017 grant award for funds currently available under the Consolidated Appropriations Act, 2017, P.L. 115-31, for the IDEA Part C program. These funds are available for obligation by American Samoa from the effective date of the grant award, July 1, 2017 through September 30, 2019 in accordance with 34 CFR §76.709.

Under IDEA section 605, 2 CFR Part 200, and 34 CFR §303.104, the State must obtain prior approval to charge the following expenses as direct costs: (1) equipment (2 CFR §200.33 and 34 CFR §303.104); (2) participant support costs (2 CFR §200.75); (3) construction/renovation (2 CFR §200.12(b) and 34 CFR §303.104); and (4) rent (2 CFR §200.465 and 34 CFR §303.225(d)). OSEP's approval of the FFY 2017 IDEA Part C grant application does not constitute approval for any costs that fall into these categories that are listed in Section III of the grant application. For any direct costs the State proposes under these categories in Section III of its FFY 2017 IDEA Part C grant application, OSEP will review and respond after July 1, 2017 through a separate approval process.

Section IV.B of the IDEA Part C FFY 2017 application requested updated information about how your lead agency implements the restricted indirect cost rate requirements in 34 CFR §303.225(c). American Samoa indicated in Section IV.B that ASDOH has or had a restricted indirect cost rate of 8.4% that expired on September 30, 2016, and that the American Samoa lead agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the FFY 2017 grant period. In Section IV.B, your lead agency also indicated it will continue to bill IDEA Part C FFY 2017 grant funds based on this previously approved restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2017. This letter confirms that, under 2 CFR §200.210(a)(15) and by accepting this IDEA Part C FFY 2017 grant, American Samoa will continue to bill the IDEA Part C FFY 2017 grant funds based on this previously approved restricted indirect cost rate, to the extent authorized by your cognizant Federal agency, until a final restricted indirect cost rate agreement is approved for FFY 2017. When a final restricted indirect cost rate is approved by your cognizant Federal agency for FFY 2017, you must forward a copy of it to the Department's Indirect Cost Unit and to your OSEP State Lead.

Section 604 of the IDEA provides that "[a] State shall not be immune under the 11<sup>th</sup> 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, American Samoa 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 2017 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 American Samoa adopts a new or revised IDEA Part C policy or procedure that is required under Part C of the IDEA or under the 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 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 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,

/S/

Ruth E. Ryder  
Acting Director  
Office of Special Education Programs

Enclosure

Enclosure A

Enclosure B

cc: Part C Coordinator