

**IDEA PART C GRANT APPLICATION TECHNICAL ASSISTANCE CHECKLIST FOR
FISCAL CERTIFICATION REQUIRED UNDER 34 CFR §303.202**

I. IDEA Part C Application Requirement -- Fiscal Certification under Section 303.202 Regarding Methods of Ensuring Services and Contracts

Section II of the FFY 2012 IDEA Part C grant application requires States to provide a certification to the Secretary that meets the fiscal certification requirements in 34 CFR §303.202 of the IDEA Part C Final Regulations that were published on September 28, 2011. Under that section, the State lead agency is specifically making a certification regarding its:

1. Methods to establish financial responsibility for the provision of Part C services among appropriate public agencies under 34 CFR §303.511 (“Methods”); and
2. Contracts with EIS providers regarding financial responsibility for the provision of Part C services (“Contracts”).

In order to provide that fiscal certification, the State lead agency must ensure that both its Methods and Contracts:

1. Meet the requirements in Subpart F of the IDEA Part C Final Regulations (in 34 CFR §§ 303.500 through 303.521); and
2. Are **current** as of the date of submission of the fiscal certification (i.e., the date the State submits its FFY 2012 IDEA Part C grant application). OSEP has established April 16, 2012 as the deadline for the application in order for States to timely receive FFY 2012 IDEA Part C funds by July 1, 2012.

II. Methods Included in this Fiscal Certification

This section describes what Methods the State must include in its fiscal certification under 34 CFR §§303.202 and 303.511, the format of those Methods, and the requirements that apply to those Methods.

A. Method is Required If Another State-level Agency Pays for, or Provides, Part C Services

The first part of the fiscal certification is made if the State is required to have a Method to establish financial responsibility for the provision of Part C services and it applies only to State-level Agencies that provide or pay for Part C services. The following four questions must be answered in order to determine whether a State is required to have a Method under 34 CFR §§303.202 and 303.511 and what documents the State must submit regarding its Method.

Question 1: In your State, are there State-level agencies, other than the State lead agency, that provide or pay for Part C services?

If the answer to that question is YES, then your State **MUST** have a Method for ensuring the financial responsibility for those services.

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Question 2: What Method does your State use for ensuring the financial responsibility for services provided, or paid for, by State-level agencies other than the State lead agency?

The Methods used by the State must be embodied in one of the following formats: (1) State law or regulation, (2) signed interagency or intra-agency agreement (that clearly identifies the financial and service provision responsibilities of each State agency, or entity within the State agency), or (3) another appropriate written method (that is reviewed and approved by the Secretary of the U.S. Department of Education (Department)).

Question 3: What requirements must be included in the Methods?

As explained further in Section II.B. of this document directly below, each Method must be consistent with the requirements in Subpart F of the Final Regulations, including the requirements for use of funds, payor of last resort, system of payments (if applicable), and the requirements for the Methods in 34 CFR §303.511.

Question 4: What must be submitted to the Department?

In addition to providing the fiscal certification in Section II of the State's FFY 2012 IDEA Part C grant application, if the State uses any Method other than State statute or regulation (i.e., an interagency or intra-agency agreement or another appropriate written method) to ensure the provision of, and financial responsibility for, Part C services, the State must submit, consistent with 34 CFR §303.203(b)(2), that Method (the agreement or other written method) to the Department with the State's IDEA Part C grant application.

B. Requirements Applicable to Each Method of Ensuring Services

The Method must be current as of the date of submission of the fiscal certification, and the Method must be consistent with the following requirements:

1. **Use of Funds** – The use of IDEA Part C funds in each Method must be consistent with the use of funds requirements in 34 CFR §303.501.
2. **Payor of Last Resort** – The Method must provide that Part C funds may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, consistent with 34 CFR §303.510.
3. **System of Payments, if Applicable** – If a State has a system of payments, including sliding fees or cost participation fees, the Method must be consistent with those policies, which the State has adopted in writing and established under 34 CFR §§303.520 and 303.521. In addition, the Method must include any provisions the State has adopted under 34 CFR §303.520 regarding the use of insurance to pay for

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Part C services, consistent with 34 CFR §303.511(d)(2).

4. **Requirements in 34 CFR §303.511** – Consistent with the content requirements in 34 CFR §303.511, the lead agency must ensure that each Method:
 - a. Includes procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State’s early intervention service program. Those procedures must include a mechanism for resolution of disputes within agencies and for the Governor, Governor’s designee, or the lead agency to make a final determination for interagency disputes, which determination must be binding upon the agencies involved (34 CFR §303.511(c)(1));
 - b. Permits the agency to resolve its own internal disputes (based on the agency’s procedures that are included in the agreement), so long as the agency acts in a timely manner (34 CFR §303.511(c)(2)(i)); and
 - c. Includes the process that the lead agency will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner (34 CFR §303.511(c)(2)(ii)).
 - d. Provides that if, during the lead agency’s resolution of the dispute, the Governor, Governor’s designee, or lead agency determines that the assignment of financial responsibility under this section was inappropriately made—
 - i. The Governor, Governor’s designee, or lead agency must reassign the financial responsibility to the appropriate agency; and
 - ii. The lead agency must make arrangements for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility (34 CFR §303.511(c)(3)).
 - e. Includes a mechanism to ensure that no services that a child is entitled to receive under this part are delayed or denied because of disputes between agencies regarding financial or other responsibilities (34 CFR §303.511(d)(1)).
 - f. Includes any additional components necessary to ensure effective cooperation and coordination among, and the lead agency’s general supervision (including monitoring) of, EIS providers (including all public agencies) involved in the State’s early intervention service programs (34 CFR §303.511(e)).
 - g. Is consistent with the Statewide system requirements in IDEA section 635 and the State’s IDEA Part C application (34 CFR §303.511(a)(2)). The Method does not need to expressly refer to IDEA section 635 and the State’s IDEA Part C application, but it may not be inconsistent with those requirements. For example, the Method is not required to include definitions of early intervention services, but if any definitions are included, they must be consistent with IDEA section 635 and the State’s IDEA Part C application.

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III. Contracts Included in this Fiscal Certification

This section describes what Contracts the State must address in its fiscal certification under 34 CFR §303.202, and the requirements that apply to the fiscal certification that the State is providing regarding those Contracts.

A. Contracts with EIS Providers for the Provision of Part C Services

The second part of the fiscal certification relates to any Contracts that the State lead agency has with EIS providers for the provision of Part C Services. If the lead agency provides Part C services through Contracts with EIS providers, then the State must ensure that those Contracts are consistent with the requirements in Subpart F, including the requirements for use of funds, payor of last resort and system of payments (if applicable), as explained further below.

B. Requirements in Subpart F Applicable to Contracts

The Contracts must be current as of the date of submission of the fiscal certification, and the Contracts must be consistent with the following requirements:

1. **Use of Funds** – The use of IDEA Part C funds in the Contracts must be consistent with the use of funds requirements in 34 CFR §303.501.
2. **Payor of Last Resort** – The Contracts must provide that Part C funds may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, consistent with 34 CFR §303.510.
3. **System of Payments, if applicable** – If a State has a system of payments, including sliding fees or cost participation fees, the Contracts must be consistent with those policies, which the State has adopted in writing and established under 34 CFR §§303.520 and 303.521. The Contracts do not need to expressly include the provisions in the State’s system of payments policies, but may not be inconsistent with those policies, including any applicable consent requirements for use of public benefits or insurance or private insurance.