JUL - 2 2007

Honorable Karen L. Beye
Executive Director
Colorado Department of Human Services
1575 Sherman Street
Denver, Colorado 80203

Dear Director Beye

This is to inform you that we have conditionally approved Colorado's Application for Federal Fiscal Year (FFY) 2007 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on our review of the application submitted by the Colorado Department of Human Services (CDHS) to the U.S. Department of Education, Office of Special Education Programs (OSEP) on April 17, 2007 and revision dated June 25, 2007, including policies, procedures, methods, descriptions, assurances, certifications, and submission statement provided in Section II, and incorporated by reference to this letter as noted in Enclosure A. In addition, the State provided the following specific assurances that it will:

1. Operate consistent with the Part C requirements in 20 U.S.C. 1431 through 1444 and applicable regulations in 34 CFR Part 303;

2. Ensure that the Statewide system of early intervention services required by Part C and its implementing regulations is in effect throughout the FFY 2007 grant period; and

3. Make such changes to, and submit, as necessary, for OSEP's approval, the State's policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of Part C of the IDEA, as amended, as soon as possible, and not later than the earlier of the date indicated by the State in Section II of its application or June 30, 2008. Section II of the State's application identifies the IDEA statutory sections for which the State needs to amend any policies, procedures, methods and descriptions and the timelines by which the State will amend its policies, procedures, methods and descriptions in order to comply with Part C of the IDEA. Within Section II, the State has included the date by which it expects to complete necessary changes associated with any policies, procedures, methods and descriptions that are not yet in compliance with the requirements of Part C of the IDEA, as amended.

As confirmed in June 28, 2007 correspondence between CDHS and OSEP, CDHS's policies and procedures will be submitted as amendments to its FFY 2007 application by September 30, 2007 and finalized based on any revisions required as a result of OSEP's review by June 30, 2008. Enclosed is the State's grant award for funds currently available under the Department of Education FFY 2007 Appropriations Act for the Part C program. These funds are available for obligation by States from July 1, 2007 through September 30, 2009.

The enclosed grant award for FFY 2007 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 are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

Please note that as part of your State's application for FFY 2007, your State has made an assurance, in 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to the FFY 2007 grant period. Any changes made by the State to its FFY 2007 application or Part C policies or procedures that are application requirements, after issuance of this grant award, must meet the applicable public participation requirements under Part C of the IDEA in 34 CFR §§303.110 through 303.113 and if they are requirements under Section II.A must be submitted to, and approved by, OSEP prior to the State's implementation of its new or revised application, policies and procedures.
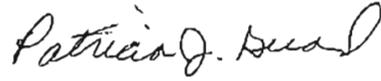
Section IV.B of the FFY 2007 application for Part C funds requested updated information about each State's restricted indirect cost rate. CDHS indicated in Section IV.B that it will apply for a restricted indirect cost rate but will not charge indirect costs to Part C FFY 2007 funds until a final rate has been approved by CDHS's cognizant Federal agency. By accepting Part C grant funds, CDHS (as Colorado's lead agency designated under Part C) is agreeing not to charge indirect costs to the Part C program for FFY 2007 Part C grant funds until a restricted indirect cost rate has been approved. Please provide OSEP a copy of CDHS's indirect cost rate proposal when it is submitted to your cognizant Federal agency. In addition, approval of a final restricted indirect cost rate may result in an adjustment of the final audited expenditures allowable to be charged to the Part C grant. When a final restricted indirect cost rate is approved, CDHS must submit to OSEP and the Department's Indirect Cost Unit: (1) a copy of the "final" restricted indirect cost rate agreement; and (2) details of adjustments made to past GAPS draw downs in light of the "final" rate.

Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh 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 a 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.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures:

Enclosure A

cc: Part C Coordinator