



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

SEP 28 2006

Honorable Carol K. Olson
Executive Director
Department of Human Services
State Capitol, Judicial Wing
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0520

Dear Director Olson:

This is to inform you that we have conditionally approved North Dakota's Applications for Federal Fiscal Years (FFYs) 2005 and 2006 funds, including policies, procedures, methods, descriptions, assurances and certifications for FFYs 2005 and 2006 under Part C of the Individuals with Disabilities Education Act (IDEA). Our determination that you are eligible for a conditional approval is based on our receipt of the Part C Applications for FFYs 2005 and 2006, including the policies, procedures, methods, descriptions, assurances, certifications, and submission statement submitted by the North Dakota Department of Human Services (NDDHS) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on August 31, 2006 and amended on September 7, 2006, September 12, 2006 and September 14, 2006 in which NDDHS assures that it will:

1. Operate consistent with the Part C requirements of PL 108-446 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 FFYs 2005 and 2006 grant periods; and
3. Make such changes to, and submit for OSEP's approval, existing 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 applications or June 30, 2007. Section II of the State's applications (which are incorporated by reference and enclosed with this grant letter) identify 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.

Enclosed are the State's grant awards for funds currently available under the Department of Education FFYs 2005 and 2006 Appropriations Acts for the Part C program. The FFY 2005 funds are available for obligation by States from the effective date of the grant through September 30, 2007. The FFY 2006 funds are for use primarily in the fiscal year 2006-2007 and are available for obligation by States from the effective date of the grant through September 30, 2008.

The enclosed grant awards for FFYs 2005 and 2006 are made with the continued understanding that this Office may, from time to time, require clarification of information within your applications and appendices, if necessary. These inquiries are needed to allow us to appropriately carry out our administrative responsibilities related to Part C.

OSEP's March 28, 2006 letter regarding the State's Performance Plan (SPP) required North Dakota to submit, by June 1, 2006, updated information and data to ensure compliance with Part C's 45-day timeline and general supervision requirements. OSEP's September 25, 2006 memorandum to NDDHS responded to North Dakota's June 1, 2006 submission and requires that NDDHS submit data in its February 2007 FFY 2005 Part C Annual Performance Report (APR) related to these requirements. Failure to submit the data requested in OSEP's September 22, 2006 memorandum in the State's FFY 2005 APR will affect OSEP's determination under IDEA Section 616(d) and may result in the State's designation as a "high risk" grantee for its FFY 2007 Part C grant.

Please note that as part of your State's Applications for FFYs 2005 and 2006, your State has made an assurance, under 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect with respect to both grant periods. Any changes made by the State to its FFY 2005 or FFY 2006 Applications or its Part C policies, after OSEP's approval, must meet the applicable public participation requirements in Part C of the IDEA and may also need to be submitted to OSEP for approval prior to implementation.

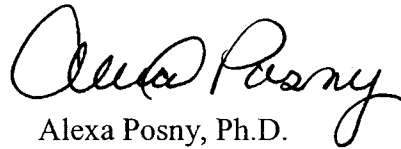
Section IV.B of the FFYs 2005 and 2006 applications for Part C funds requested updated information about each State's restricted indirect cost rate. Your agency indicated that it has a cost allocation plan, which expired on June 30, 2006. The amount NDDHS allocated for indirect costs in both its FFYs 2005 and 2006 grant application budgets is \$26,000 (or less than two percent of its Part C allotment for FFYs 2005 and 2006). In Section IV.B of the Applications, NDDHS indicated it will continue to bill the Part C FFYs 2005 and 2006 grants based on this previously approved cost allocation plan until a final cost allocation plan (or amendment thereto) is approved for FFYs 2005 and 2006, which approval may result in an adjustment of the final audited expenditures allowed to the Part C FFYs 2005 and 2006 grant funds. When a final cost allocation plan (with any amendments) is approved for FFYs 2005 and 2006, please forward to OSEP and the Department's Indirect Cost Unit: (1) a copy of the approved final cost allocation plan and (2) details of adjustments made to GAPS liquidations from the provisional or prior billing rate after approval 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. 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.

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 "Alexa Posny". The signature is fluid and cursive, with the first name "Alexa" written in a larger, more prominent script than the last name "Posny".

Alexa Posny, Ph.D.
Director
Office of Special Education
Programs

Enclosure A

cc: Deb Balsdon
Part C Coordinator