



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

JUL 2 2008

Honorable Steve Shivers
Commissioner
Alabama Department of Rehabilitation Services
P.O. Box 11536
2129 East South
Montgomery, AL 36111-0586

Dear Commissioner Shivers:

This is to inform you that we have conditionally approved Alabama's Application for Federal Fiscal Year (FFY) 2008 under Part C of the Individuals with Disabilities Education Act (IDEA). Our conditional approval is based on review of the application submitted by the Alabama Department of Rehabilitation Services to the U.S. Department of Education, Office of Special Education Programs (OSEP), on May 6, 2008 and amended on June 18, 2008 and June 27, 2008, 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 2008 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, 2009. 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.

The conditional approval for Alabama's FFY 2008 Part C grant is also based on the State's assurance dated June 27, 2008 from the Alabama Department of Rehabilitation Services in which it specifically assured that the State shall:

1. Complete all actions as specified in OSEP's June, 16, 2008 Memorandum regarding the State's opt-out policy to comply with the following Part C requirements, at 20 U.S.C 1437(a)(9) and applicable regulations in 34 CFR §303.148(b)(1) and 34 CFR §§303.110-

- 303.113, and OSEP's 2004 Letter to Elder, and submit to OSEP the State's new opt-out policy and as soon as it is finalized, but no later than June 30, 2009;
2. Ensure that, throughout the period that the State uses its FFY 2008 grant funds under Part C of IDEA, all early intervention service programs and providers in the State will comply with all requirements of Part C of IDEA, including 20 U.S.C. 1437(a)(9), applicable regulations in 34 CFR §303.148(b)(1), and OSEP's 2004 Letter to Elder;
 3. Provide OSEP with a copy of the memorandum notifying all early intervention service programs and providers that are part of the State's Part C early intervention system of any changes that affect the provision of early intervention services under Part C, including 20 U.S.C. 1437(a)(9), applicable regulations in 34 CFR §303.148(b)(1), and OSEP's 2004 Letter to Elder; and
 4. Ensure that the statewide system of early intervention required by Part C of IDEA in 20 U.S.C. 1431-1444 and applicable regulations in 34 CFR Part 303 will be in effect throughout the FFY 2008 grant period.

Enclosed is the State's grant award for funds currently available under the Department of Education Appropriations Act for FFY 2008 for the Part C program. These funds are available for obligation by States from July 1, 2008 through September 30, 2010.

The enclosed grant award for FFY 2008 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 2008, 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 the FFY 2008 grant period. Any changes made by the State to its FFY 2008 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 2008 application for Part C funds requested updated information about each State's restricted indirect cost rate. Our records indicate that your agency has a final restricted indirect cost rate of 5.4% that has been approved by your agency's cognizant Federal agency and is effective until September 30, 2008. Section IV.B of your State's Part C Application indicates that your agency will continue to apply the currently approved restricted indirect cost rate throughout the FFY 2008 grant year until a new restricted indirect cost rate is negotiated and approved by the State lead agency's cognizant Federal agency. Please forward to us any revisions to your agency's restricted indirect cost rate once it is approved by your cognizant agency.

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

Page 3 -- Lead Agency Director

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,



William W. Knudsen

Acting Director

Office of Special Education Programs

Enclosures

Enclosure A

cc: Part C Coordinator