



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

JUL 15 2008

Honorable Tracy L. Wareing
Director
Arizona Department of Economic Security
P.O. Box 6123
1717 West Jefferson Street
Phoenix, Arizona 85005

Dear Director Wareing:

This is to inform you that we have conditionally approved Arizona'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 Arizona Department of Economic Security (DES) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on June 17, 20, 27, and July 1, 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.

Arizona's FFY 2007 Part C grant award was subject to the December 16, 2004 Compliance Agreement between DES and this Department under Part C, which ended on December 17, 2007. OSEP's August 16, 2007 letter confirmed that Arizona had resolved all areas of noncompliance addressed under the Agreement except for DES's ability to timely: (1) correct noncompliance under 34 CFR §303.501(b); (2) conduct evaluations, assessments and initial IFSP meetings within 45 days of referral under 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a); and (3) provide early intervention services under 34 CFR §§303.340(c), 303.342(e), and 303.344(f)(1).

Regarding timely correction, the State's data in its FFY 2006 APR and March 2008 final progress report under the Compliance Agreement indicate that DES had corrected its findings of noncompliance except in the areas of 45-day timeline and timely service provision, for which areas the State corrected the majority (but not all) of its findings. Regarding 45-day timeline, the State's progress report data demonstrate the correction of noncompliance in all but five regions. Regarding timely service provision, the State's FFY 2006 APR and progress report data indicate continued noncompliance by specific early intervention service providers in five regions.

Thus, Arizona's FFY 2008 grant award is being released subject to the Special Conditions set forth in Enclosure B to ensure compliance with Part C's 45-day timeline and timely service provision requirements. These Special Conditions are imposed under 34 CFR §80.12. Arizona must administer this award both in keeping with the applicable provisions of Federal law and regulations and the Special Conditions enclosed with this grant award letter. Acceptance by Arizona of this grant award constitutes an agreement by the State to comply with these Special Conditions, which require a progress report by February 2, 2009 and a final progress report by May 15, 2009.

Enclosed is Arizona'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 the FFY 2008 grant award effective date 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 DES has a final cost allocation plan that has been approved by the Department and is effective until amended. Section IV.B of your State's Part C Application indicates that DES will continue to apply the currently approved cost allocation plan to FFY 2008 Part C grant funds until a revised cost allocation plan is negotiated and approved by the State lead agency's cognizant Federal agency.

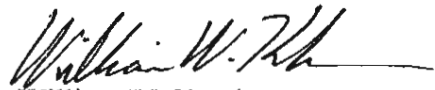
Section 604 of the IDEA provides that "[a] State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of

Page 3 – Lead Agency Director

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,

A handwritten signature in black ink, appearing to read "William W. Knudsen", with a horizontal line extending to the right.

William W. Knudsen

Acting Director

Office of Special Education Programs

Enclosures:

Enclosure A

Enclosure B

cc: Part C Coordinator