Part C Fiscal Monitoring Indicators for State Lead Agencies

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Each state's Part C Lead Agency is responsible for carrying out general administration and supervision of the Early Intervention (EI) system. The Lead Agency, as part of the single line of responsibility, is required to monitor all Early Intervention Services (EIS) providers, regardless of whether they receive IDEA funds. Monitoring and enforcing the use of federal Part C funds is a key responsibility established in the IDEA (20 U.S.C. §1435(a)(10)) and the Part C Regulations (34 CFR §303.120).

The Lead Agency is also responsible for the identification and coordination of all available resources, assignment of financial responsibility, development of procedures to ensure timely receipt of services, resolution of disputes related to financial responsibility, and use of methods to establish financial responsibility.

There are three main categories for the Lead Agency to consider when developing state fiscal monitoring systems:

1. **State Part C Fiscal Indicators** — This section includes mechanisms and procedures Part C Lead Agencies need to have in place to monitor and enforce use of funds and consistent implementation of fiscal requirements. A State Part C Fiscal Indicators Checklist aids states in reviewing their fiscal policies and procedures.
2. **Potential EIS Provider Fiscal Monitoring Indicators** — This section outlines potential indicators states might use in monitoring EIS provider implementation of fiscal requirements. In this context, EIS provider refers to a specific state agency, local or regional EIS program, or private contracted provider responsible for providing EI services.
3. **Considerations for Developing EIS Provider Fiscal Monitoring Indicators** — This section includes guiding questions to inform the development of state fiscal monitoring procedures. The EIS Provider Fiscal Monitoring Indicator Template is also provided to aid states in outlining fiscal monitoring indicators, as well as a set of Example EIS Provider Fiscal Monitoring Indicators.

> In this context, *EIS provider* refers to a specific state agency, local or regional EIS program, or private contracted provider responsible for providing EI services.

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ECTA Center Project Officer: Julia Martin Eile DaSy Center Project Officers: Meredith Miceli and Amy Bae

CIFR Project Officers: Jennifer Finch and Charles Kniseley

State Part C Fiscal Indicators

The Part C Lead Agency must have mechanisms and procedures to monitor and enforce use of funds and other fiscal requirements in accordance with IDEA Part C (20 U.S.C. §1431–1444) and Uniform Guidance (2 CFR §200) to ensure consistent implementation. The following list includes critical elements a state should have in place to carry out these activities. The State Part C Fiscal Indicators Checklist can be used by states to evaluate their system.

1. The state has mechanisms to provide oversight of agencies, institutions, organizations, and EIS providers' use of IDEA Part C funds (*e.g.*, audits, invoices, contracts, financial reports, fiscal monitoring reports).
2. The state has procedures that describe how the state equitably allocates IDEA Part C funds to its EIS providers (*e.g.*, accounting for financial, geographic, and demographic differences and individualized EIS providers' needs).
3. The state has policies and procedures that describe IDEA fiscal requirements, including use of funds, payor of last resort, system of payments, and prohibition against supplanting.
4. The state has established internal controls to comply with federal statutes, regulations, and the terms and conditions of federal awards (2 CFR §200.303) including:
    A. evaluating and monitoring its compliance with the internal control requirements for the federal IDEA Part C grant award (2 CFR §200.303(c));
    B. taking prompt action when instances of noncompliance are identified including when noncompliance is identified in audit findings (2 CFR §200.303(d)); and
    C. taking reasonable measures to safeguard protected personally identifiable information (PII) (2 CFR §200.303(e)).
5. The state must have financial management systems that include:
    A. records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, the preparation of required reports, and tracking funds demonstrating expenditures meet the federal statutes, regulations, and the terms and conditions of the federal award (2 CFR §200.302(a));
    B. the process for tracking all state expenditures of IDEA Part C funds to budgeted amounts, consistent with 2 CFR §200.302(b)(5);
    C. effective controls over and accountability for all funds, property, and assets paid for with federal funds, consistent with 2 CFR §200.302(b)(4); and
    D. written procedures for determining the allowability of costs in accordance with cost principles outlined in 2 CFR §200.400–200.476 and the terms and conditions of the federal award (2 CFR §200.302(b)(7)).
6. The state has processes for monitoring compliance with the applicable fiscal management requirements and performance expectations carried out under the federal IDEA Part C award (2 CFR §200.329(a)). This monitoring covers each program, function, or activity.
7. The state may not charge indirect costs to the grant unless approved by the Lead Agency's cognizant federal agency or by the Secretary. If approved, the Lead Agency must charge indirect costs through either a restricted indirect cost rate that meets the requirements in 34 CFR §§76.560–76.569 or a cost allocation plan that meets the non-supplanting requirements in 34 CFR §303.225(b) and 34 CFR §76. In charging indirect costs, rent, occupancy, or space maintenance costs cannot be charged directly to the Part C grant, unless those costs are specifically approved in advance by OSEP (34 CFR §303.225(c)).

8. The state has contracts or other arrangements for providing EIS that include provisions that all EIS providers meet state standards, Part C, and the OMB Uniform Guidance requirements (34 CFR §303.121, 34 CFR 303.118, and 2 CFR §§200.317–327) and include reference to:
    A. requirements related to charging indirect costs (2 CFR §200.414);
    B. procedures that ensure EIS are provided to infants and toddlers with disabilities and their families in a timely manner under Part C, pending the resolution of any disputes among public agencies or EIS providers (34 CFR §§303.120(d) and 34 CFR §303.511);
    C. 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 EIS provider (34 CFR §303.511(c)); and
    D. procedures that outline the timely correction of noncompliance and recourse for those providers with long standing noncompliance, including withholding funds, termination of contract, etc.
9. Where appropriate, the state has procedures related to conducting oversight of partner agencies' use of Part C funds and implementation of other financial responsibilities as included in its Method (*e.g.*, interagency agreements, MOUs) and a process for resolving disputes between partner agencies (34 CFR §303.120 and 34 CFR §303.511).
10. The state has procedures that describe how the state conducts fiscal monitoring of EIS providers use of Part C IDEA funds and implementation of other IDEA fiscal requirements, including 34 CFR §303.120(a)(2):
    A. the process the state uses for conducting fiscal monitoring, including:
        - which EIS providers are being monitored (*e.g.*, specific state agencies and partners providing EIS, local or regional EIS programs, private contracted providers);
        - the responsible party performing the monitoring (*e.g.*, Lead Agency fiscal staff, Part C monitoring coordinator, state agency monitoring teams); and
        - the methods used to accomplish fiscal monitoring (*e.g.*, desk audit, record review, onsite visits), including when and how often (*e.g.*, annually, biennially); and
        - the data source(s) and the amount of data needed to monitor each fiscal indicator;
    B. the process and timeline for issuing fiscal findings and ensuring correction of noncompliance after the Lead Agency's identification consistent with 34 CFR §303.120(a)(2)(iv) and 34 CFR §303.700(e), as well as follow-up and enforcement actions/sanctions for any outstanding noncompliance;
    C. use of training and technical assistance to ensure adherence to state and federal fiscal regulations; and
    D. how state audit findings (*e.g.*, from single audits, state audits, or audits by federal offices like the Office of Inspector General or U.S. Department of Education) are considered in conducting fiscal monitoring or in required corrective action plans.
11. The state has procedures to collect, track and verify data on the expenditures and budgeting of state and local public funds to determine if the state meets Maintenance of Effort (MOE) requirements annually in accordance with IDEA Part C non-supplanting requirements (34 CFR §303.225).

Potential EIS Provider Fiscal Monitoring Indicators

States can choose to conduct fiscal monitoring as part of compliance and results monitoring of EIS providers and other state agencies and partners, including provision of timely services, appropriate natural environment justifications, timely Individualized Family Service Plan (IFSP) reviews and annual IFSP meetings, etc. Alternatively, states can choose to conduct fiscal monitoring a separate activity. Either way, fiscal monitoring and monitoring for compliance and results should be coordinated and aligned with other components of the state's system.

Each state must decide which fiscal monitoring indicators are applicable to their EIS providers. Not all indicators are applicable to every state, depending on state structures and how funds flow to EIS providers. For example, a state that does not include family fees in the Lead Agency's system of payments policies would not monitor EIS providers' implementation of the fiscal monitoring indicators related to family fees. Additionally, a state that has a combination of arrangements for EIS provision (*e.g.*, state employees and contracted providers) may monitor some of these fiscal indicators at the state level rather than the local level.

The following are potential fiscal monitoring indicators states might use in monitoring contracted EIS provider use of funds, or other IDEA Part C fiscal requirements and Uniform Guidance.

If the state subgrants to EIS providers, the responsibility for adhering to state and federal requirements is slightly different and resides more with the sub-grantee. Additional guidance is forthcoming regarding fiscal monitoring of sub-grantees.

Use of Funds

2 CFR §200.302(b)(5), 2 CFR §200.313(b), 2 CFR §§200.403–405, 2 CFR §200.439,
34 CFR §303.225, 34 CFR §303.501, 34 CFR §303.510

1. IDEA Part C funds are used in accordance with IDEA and Uniform Guidance (*e.g.*, expenditures are allowable if they are necessary, reasonable, and allocable (2 CFR §§200.403–405 and 34 CFR §303.501). This applies but is not limited to IDEA Part C funds used:
   A. by EIS providers to procure goods and services;
   B. to support training and professional development activities performed by its EIS providers to meet the requirements in 34 CFR §303.118;
   C. to support child find and public awareness activities in accordance with 34 CFR §§303.301–302;
   D. for other programmatic infrastructure or administrative activities (*e.g.*, fiscal data systems, or fiscal system management contractor activities);
   E. for state employees' salaries based on their time and effort involved in EIS (2 CFR §200.430); and

F. to provide EIS in accordance with IDEA payor of last resort requirements in 34 CFR §303.510, if services are:
    - limited to those services defined as Part C services under 34 CFR §303.13 and 34 CFR §303.34;
    - listed on the child's IFSP and match the length, duration, frequency, intensity, and method captured there; and
    - accurate, matching documentation of the visit in the child's record (*e.g.*, visit or progress notes).

2. EIS providers request the Lead Agency obtain OSEP prior approval for applicable EIS providers' expenditures involving Part C funds (*e.g.*, expenditures for equipment, renovation, construction, rent, and participant support costs) as required by 20 U.S.C. §1405, 34 CFR §303.225, and 2 CFR §200.439 including:
    A. equipment valued at $5,000 or more and with a useful life of more than one year;
    B. construction or renovation that increases the value or useful life of a building or property;
    C. participant support costs for non-employees to attend trainings and conferences, *e.g.*, parents, providers, or others for costs greater than $5,000 per conference or training event per person; and
    D. rent.
3. EIS providers use equipment purchased with IDEA Part C funds for the purposes of Part C in accordance with state rules under 2 CFR §200.313(b) and retain records related to the equipment.
4. EIS providers' Part C grant funds expenditures to budgeted amounts are tracked, consistent with 2 CFR §200.302(b)(5), including budgetary changes.

Payor of Last Resort

34 CFR §303.510

1. Part C funds are used as interim payment, as needed, to prevent a delay in the timely provision of EIS.
2. If provided for in the state's system of payments policies, private insurance, Medicaid, state general funds, and other sources of funds are used prior to using Part C funds (*e.g.*, payor of last resort).
    A. Documentation of denial of coverage from private insurance or Medicaid is included in children's records to substantiate use of Part C funds to pay for services.

System of Payments

34 CFR §303.500(b), 34 CFR §303.520, 34 CFR §303.521

A state's System of Payments (SoP) policies can include the use of public insurance or benefits, private insurance or family fees to pay for EIS. The Lead Agency must monitor to ensure that SoP policies are implemented consistently with all families across the state.

Family Fees

34 CFR §303.521

When a state charges family fees, the following requirements must be monitored:

1. Ability to pay is determined consistently with all families in alignment with the state's definition of ability to pay.
2. Families are not charged for EIS if they are determined unable to pay based upon the state's definition of ability to pay (if a state charges out of pocket costs to families such as copayments, deductibles, or family fees).
3. Families are not charged for services that a child is entitled to receive at no cost.
4. Parents are informed of their procedural safeguard options regarding payments for services. This includes notice for billing Medicaid, billing private insurance, and rights if parents disagree with financial obligations.

Use of Private Insurance

34 CFR §303.520(b)

When a state requires the use of private insurance, the following requirements must be monitored:

1. Parental consent is obtained for the use of private insurance to pay for Part C services:
    A. initially;
    B. each time there is an increase in frequency, length, duration, or intensity of services on the child's IFSP; and
    C. when private insurance is a prerequisite for the use of public benefits.
2. A lack of parental consent for the use of private insurance to pay for Part C services does not result in the delay or denial of EIS to children or families that are determined unable to pay (or when otherwise provided in state rules).
3. Parents are consistently provided Lead Agency policies when parental consent is required for the use of private insurance when:
    A. private insurance is being sought to pay for the initial provision of an EIS on an IFSP, and each time consent is required due to an increase in the provision of services; and
    B. private insurance benefits are initially used to pay for EIS, if a state has a statute that includes certain protections.

Public Insurance

34 CFR §303.520(a)

When a state requires the use of public insurance, the following requirements must be monitored:

1. Parents are not required to sign up for public benefits or insurance (*e.g.*, Medicaid) as a condition of receiving EIS.
2. Parent consent is obtained prior to using a child's or parent's public insurance when the child or parent is not already enrolled in such a program.
3. Parent consent is obtained when the use of public insurance or benefits to pay for Part C services would result in specified costs including:
    A. a decrease in the available lifetime coverage or any other insured benefit for the child or parent under that program;
    B. the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;
    C. an increase in premiums or discontinuation of public benefits or insurance for the child or the child's parents; and
    D. risk of loss of eligibility for the child or the child's parents for home and community-based waivers based on aggregate health-related expenditures.
4. Parents are provided a written notification that includes all IDEA-required elements in 34 CFR §303.520(a)(3), including information that parents must provide informed written consent to share PII under 34 CFR §303.521(a)(3)(i) prior to using a child's or parent's public insurance to access and pay for EIS.

Considerations for Developing EIS Provider Fiscal Monitoring Indicators

These guiding questions and accompanying EIS Provider Fiscal Monitoring Indicator Template can aid states in establishing their own fiscal monitoring indicators:

- What are the **legal foundations** or other rationale for monitoring this indicator? These might be from federal statues like the IDEA, the Part C Regulations, or state laws or written policies.
- Who is the **responsible party** for monitoring the indicator?
- How **frequently** will the indicator be monitored?
- What **method** will be used to accomplish monitoring the indicator?
- What **data sources** does the responsible party need access to (*e.g.*, child records, consent forms, financial agreement forms)?
- What **amount of data** is needed (*e.g.*, a minimum number or percentage of relevant records)?
    - What amount of data is **sufficient to reach a sound conclusion** that the EIS provider demonstrates 100% compliance with the fiscal monitoring indicator (e.g., IDEA fiscal requirement) or if the EIS provider has noncompliance?
    - Does the data **represent the demographics of the population served** within each EIS provider to ensure equitable decisions are made in identifying noncompliance?
- What are the **compliance criteria** (how the responsible party will know if the indicator has been met)?
- What are the **procedures for using this information** to determine if there is compliance or noncompliance for the indicator?

When conducting fiscal monitoring and findings of noncompliance are identified, **correction of noncompliance** must be addressed. Those details can be found in A State Guide on Identifying, Correcting, and Reporting Noncompliance with IDEA Requirements.

Example EIS Provider Fiscal Monitoring Indicators

The following examples illustrate how a state might organize this information for inclusion in their fiscal monitoring procedures. The information articulates how the state would monitor an EIS provider to determine if a specific IDEA fiscal requirement was being met.

The percentages and minimum numbers of records presented here are only examples, and are not requirements.

Example Indicator 1: Families are not charged for services that a child is entitled to receive at no cost.

Example Indicator 1	Description
Legal Foundations	34 CFR §303.321(b), 34 CFR §303.521
Responsible Party	Part C quality assurance and monitoring staff
Frequency and Method	Annual desk audit
Data Sources	• State data system • Family invoices
Amount of Data	• 10% of families who are charged fees (minimum of 10 families) • 3 monthly invoices per family
Compliance Criteria	All reviewed family invoices must reflect no charges for "at no cost" services
Monitoring Summary	Part C quality assurance and monitoring staff perform an annual desk audit, generating a report from the data system, which lists families who were charged fees during the last year for allowable services. 10% of these families are selected (minimum of 10 families). For each selected family, 3 monthly invoices from the past year are reviewed to determine if fees were charged for only allowable EIS, and not for any "at no cost" services listed under 34 CFR §303.321(b). **If only allowable services are billed for all reviewed family invoices, this indicator is 100% compliant.**

Example Indicator 2: Parental consent is obtained for the use of private insurance to pay for Part C services initially, each time there is an increase in frequency, length, duration, or intensity of services on the child's IFSP, and where a new service is added.

Example Indicator 2	Description
Legal Foundations	34 CFR §303.520(b)
Responsible Party	Part C on-site monitoring team
Frequency and Method	Biennial record review
Data Sources	• EIS provider billing records • Parent Consent to Bill form • IFSPs
Amount of Data	• 10% of child records for whom private insurance was billed (minimum of 10 records)
Compliance Criteria	All reviewed records must indicate parent consent is obtained as required during the time frame reviewed
Monitoring Summary	On a biennial basis, the EIS provider shares a list of child records who had private insurance billed for any IFSP service during the past year. The Part C on-site monitoring team reviews the records of children who had an initial IFSP developed or modified during the year. 10% of these records (minimum of 10 records) are selected and reviewed to determine if written parental consent is provided on the Parent Consent to Bill form at the initial IFSP, at each revised IFSP where there is an increase in frequency, length, duration, or intensity of services, and where a new service is added. **If written parent consent is provided at all the required junctures for all reviewed records, this indicator is 100% compliant.**

Example Indicator 3: Parental consent is obtained when private insurance is a prerequisite for the use of public insurance.

Example Indicator 3	Description
Legal Foundations	34 CFR §303.520(a)
Responsible Party	Part C on-site monitoring team
Frequency and Method	Biennial record review
Data Sources	• EIS provider billing records • parent consent to bill forms
Amount of Data	• 10% of child billing records who had both Medicaid and private insurance coverage (minimum of 10 records)
Compliance Criteria	All reviewed records must indicate the parent provided consent to bill private insurance on the Parent Consent to Bill form prior to having Medicaid billed
Monitoring Summary	On a biennial basis, the EIS provider shares a list of children who have both private insurance and Medicaid. The Part C on-site monitoring team reviews the parent consent to bill forms for 10% of those records (minimum of 10 records) to determine if the parent provided written consent to bill private insurance prior to billing Medicaid. **If consent to bill private insurance is provided by a parent for all reviewed records, this indicator is 100% compliant.**

Example Indicator 4: Ability to pay is determined consistently with the state's definition of ability to pay.

Example Indicator 4	Description
Legal Foundations	34 CFR §303.521
Responsible Party	Lead Agency fiscal staff
Frequency and Method	Biennial record review
Data Sources	• family financial agreement forms • state's definition of ability to pay
Amount of Data	• 10% of child records (minimum of 10 records)
Compliance Criteria	Ability to pay is consistently determined across families
Monitoring Summary	On a biennial basis, Lead Agency fiscal staff review the family financial agreement forms for 10% of the child records (minimum of 10 records) to determine if the family's ability to pay—as documented on the form—is consistent with the state's definition of ability to pay. **If all reviewed family financial agreement forms document the family's ability to pay in accordance with the state's definition, this indicator is 100% compliant.**