

Office of Special Education Programs (OSEP) Fiscal Monitoring Instrument

Federated States of Micronesia, Department of Education (FSM)

Scope of Review:

The Office of Special Education Programs (OSEP) monitored FSM's procedures for ensuring compliance with the fiscal components of the Individuals with Disabilities Education Act (IDEA) and other related Federal fiscal requirements. In performing this review, OSEP reviewed publicly available information, State-submitted documentation, and Office of Management and Budget Circular A-133 and Office of Inspector General audits, and conducted both on-site and telephone interviews with State staff.

Effective July 1, 2015, for IDEA Part B FFY 2015 grant awards, IDEA Part B funds are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in 2 CFR Part 200 and commonly referred to as the Uniform Guidance. The Uniform Guidance provisions in 2 CFR Part 200 replace provisions previously found in the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74 and 80 and prior OMB Circulars A-87 and A-133. Therefore, the "Finding" and "Citation" sections of the enclosure include citations to the provisions in EDGAR in 34 CFR Parts 74 and 80, prior OMB Circulars A-87 and A-133, and the LEA MOE regulations in effect prior to July 1, 2015. However, because the "Further Action Required" section of the enclosure addresses corrective actions the LEA must take after July 1, 2015, that section includes citations to the Uniform Guidance.

Please note the following abbreviations are used in the Fiscal Monitoring Instrument:

AMI – The American Recovery and Reinvestment Act (ARRA) of 2009 Monitoring Inventory

CrEAG – Critical Elements Analysis Guide

EDGAR – Education Department General Administrative Regulations

FFY – Federal Fiscal Year

FS – fiscal systems element of the CrEAG

GEPA – General Education Provisions Act

LEA – local educational agency

MFS – maintenance of financial support

SEA – State educational agency

**IDEA Part B
Summary of Monitoring Criterion**

Monitoring Area 1, IDEA Part B: Obligation/Liquidation

| Criterion Number | Description | Noncompliance identified? | Applicable Requirements |
|-------------------------|---|----------------------------------|---|
| Criterion 1.1 | The SEA has procedures to allocate the IDEA section 611 and section 619 subgrants to eligible LEAs based upon the correct formula. | Not Applicable | 34 CFR §§300.200, 300.705(a)-(b), 300.815-300.816 |
| Criterion 1.2 | The SEA has procedures to ensure that LEAs are provided 27 months to obligate funds. | Not Applicable | 34 CFR §76.709(a) |
| Criterion 1.3 | The SEA has procedures to obligate funds solely during the 27 month period of availability and liquidate funds not later than 90 days after the end of the funding period or an extension of that timeline authorized by the Department. | Yes | 34 CFR §§76.703, 76.709, 80.23 |
| Criterion 1.4 | The SEA has procedures to ensure that LEAs obligate funds solely during the 27 month period of availability and liquidate funds not later than 90 days after the end of the funding period or an extension of that timeline authorized by the Department. | Not Applicable | 34 CFR §§76.709, 80.23 |
| Criterion 1.5 | The SEA has procedures to reallocate IDEA section 611 and section 619 subgrants, when appropriate, consistent with the regulations. | Not Applicable | 34 CFR §§300.705(c), 300.817 |
| Criterion 1.6 | The SEA has procedures to draw down funds based on immediate needs; any interest accrued by the SEA or LEAs in excess of \$100 per year per account is returned to the Department. | No | 34 CFR §80.21(c)&(i) |

Finding: Criterion 1.3: In program determination letters (PDLs) dated April 29, 2015 (Audit control number (ACN) 09-10-110858) and August 8, 2014, (ACN 09-11-210726) related to FSM's fiscal year (FY) 2010 and FY 2011 single audits, respectively, the Office for Special Education and Rehabilitative Services (OSERS) found that FSM does not have policies and procedures in place to ensure that IDEA funds are obligated and liquidated in a timely manner, which is inconsistent with the requirements of section 421(b) of the GEPA and its implementing regulations in 34 CFR §§76.709 and 80.23(b) of EDGAR. The PDL partially attributes this finding to FSM not maintaining effective control and accountability for IDEA grant funds (e.g., was not able to identify the source and

application of grant funds, or to accurately document its obligations and unobligated balances), not having a system in place to allow for the tracing of funds to a level of expenditures adequate to establish that those funds were not used in violation of applicable period of availability requirements, and not maintaining records related to its compliance with the requirements above. In the PDLs, OSERS required FSM, within 60 days of the dates of the PDLs, to take the corrective actions identified in the Further Action Required section below. FSM has not submitted documentation to OSEP demonstrating that it took these required actions.

Citation: IDEA Part B grants are “forward funded,” meaning that a portion of the IDEA funds are made available three months prior to the start of the Federal fiscal year (i.e., on July 1) and the remainder of the funds are made available on October 1. Under 34 CFR §76.709(a), which implements section 421(b) of GEPA, known as the Tydings Amendment, if FSM does not obligate all of its grant funds by the end of the fiscal year for which Congress appropriated the funds, it may obligate the funds during a carryover period of one additional fiscal year. See 20 U.S.C. §1225(b)(1). Section 76.709(b) of EDGAR requires FSM to return to the Federal government any carryover funds not obligated at the conclusion of the carryover period. Therefore, funds under Part B of the IDEA are available for obligation by FSM from either July 1 or October 1 through September 30 of the fiscal year following the fiscal year in which Congress appropriated the funds. Through the combination of forward funding and the Tydings Amendment, FSM has 27 months to obligate the IDEA Part B funds that become available on July 1 and 24 months to obligate the IDEA Part B funds that become available on October 1. Under 34 CFR §80.23(b), a State must liquidate all obligations incurred under its IDEA Part B grant award not later than 90 days after the funding period.¹ Further, as required by 34 CFR §80.20(a)(2), fiscal control and accounting procedures of the State must be sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.² In addition, as required by 34 CFR §80.42, the State must have procedures to ensure that it maintains financial and programmatic records for the period of time required by Federal law.³

Further Action Required: Within 90 days of receipt of this letter, FSM must provide evidence to OSEP of the implementation of the required actions in the PDLs for its FY 2010 and 2011 single audits, which included:

1) Providing the Department with evidence of the steps that it has taken, including the development of any policies and procedures, to ensure that it will obligate IDEA Part B funds by the end of the fiscal year following the fiscal year in which Congress appropriated

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² See footnote 1. The Uniform Guidance provision at 2 CFR §200.302(a) regarding financial management replaces the provision previously found at 34 CFR §80.20(a)(2).

³ See footnote 1. The Uniform Guidance provision at 2 CFR §200.333 regarding record retention requirements replaces the provision previously found at 34 CFR §80.42

the funds and will liquidate all obligations incurred under IDEA Part B grant awards no later than 90 days after the end of the funding period, consistent with 34 CFR §300.709(a) and 2 CFR §200.343(b).

2) Developing procedures that allow FSM to trace IDEA Part B grant award funds to a level of expenditures adequate to establish that those funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award, including the above-referenced period of availability requirements. 34 CFR §§76.703, 76.709 and 2 CFR §§200.302(a) and 200.343(b).

3) Maintaining financial records related to FSM's compliance with cash management and period of availability requirements, in a manner consistent with the retention and access requirements in 34 CFR §76.730 and 2 CFR §200.333.

Monitoring Area 2, IDEA Part B: Use of Funds

| Criterion Number | Description | Noncompliance identified? | Applicable Requirement |
|----------------------|---|---------------------------|---|
| Criterion 2.1 | The SEA has procedures to ensure that funds are expended in accordance with the requirements of the IDEA Part B. | Yes | 34 CFR §§300.162(a), 300.202(a)(1) |
| Criterion 2.2 | The SEA has procedures to ensure that LEAs use IDEA funds only to pay the excess costs of providing special education and related services to children with disabilities in accordance with IDEA. | Not Applicable | 34 CFR §§300.16, 300.202(a)(2) |
| Criterion 2.3 | The SEA has procedures to ensure that LEAs spend the required amount on providing special education and related services to parentally-placed private school children with disabilities. | No | 34 CFR §300.133 |
| Criterion 2.4 | The SEA has procedures to provide an approved restricted indirect cost rate (RICR) for its LEAs. | No | 34 CFR §§76.560-76.569 |
| Criterion 2.5 | The SEA has procedures to provide IDEA funds to LEA charter schools in accordance with IDEA and EDGAR. | Not Applicable | 34 CFR §§76.788-76.797, 300.209(c), 300.705(a)-(b), 300.815-300.816 |
| Criterion 2.6 | The SEA has procedures to ensure that each LEA provides funds to charter schools that are part of the LEA in the same manner it provides funds to its other schools. | Not Applicable | 34 CFR §§76.799, 300.209(b) |

Finding: Criterion 2.1: In PDLs dated September 28, 2011 related to FSM's FY 2008 and 2009 single State audits (ACNs 09-08-910500 and 09-09-010703), and September 22, 2014 and May 14, 2015 related to FSM's FY 2012 (ACN 09-12-39795) and FY 2013 (ACN 09-13-49676) single State audits, respectively, OSERS found that FSM does not have policies and procedures in place to ensure that all IDEA funds are obligated for allowable purposes or that FSM maintains sufficient documentation to demonstrate the allowability of expenditures. In the PDLs, OSERS initiated a recovery action against FSM for the four audits totaling \$27,953.45 and required FSM to revise its procedures to ensure that IDEA funds are used appropriately. For the FY 2008 audit, OSERS required repayment in the amount of \$2,720.45. For the FY 2009 audit, OSERS required repayment in the amount of \$9,401. For the FY 2012 audit, OSERS required repayment in the amount of \$3,286. For the FY 2013 audit, OSERS required repayment in the amount of \$12,546. For each of the above audits, in addition to submitting repayment, FSM was required to submit revised procedures within 90 days from the dates of the PDLs. FSM has neither made repayment of the funds from non-Federal sources nor has it submitted revised procedures for ensuring FSM will expend IDEA Part B funds for allowable purposes going forward.

Citation: Under 34 CFR §300.162(a), funds paid to FSM must be expended in accordance with all the provisions of Part B of the IDEA. In order to receive IDEA Part B funding, FSM, as a freely associated State, must assure the Department that IDEA funds will be used only for the direct provision of special education and related services to children with disabilities and to enhance its capacity to make a free appropriate public education (FAPE) available to all children with disabilities. 34 CFR §300.701(a)(2)(ii). In accordance with OMB Circular A-133, to be allowable under Federal awards, costs must, among other things, be necessary and reasonable for proper and efficient performance and administration of Federal awards, be allocable to Federal awards under the provisions of 2 CFR Part 225, and be adequately documented. See 2 CFR Part 225, Appendix A, C.1. (a), (b) and (j).⁴ Under 34 CFR §80.20(b)(3), FSM must implement a control environment where accountability must be maintained for all grant cash, real and personal property, and other assets. Grantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.⁵ In addition, as required by 34 CFR §80.42, the State must have procedures to ensure that it maintains financial and programmatic records for the period of time required by Federal law.⁶

Further Action Required: Within 90 days of the receipt of this letter, FSM must provide evidence to OSEP of the implementation of the required actions in the PDLs for its FY 2008, 2009, 2012 and 2013 single State audits, which included:

1) Using non-Federal funds, remit \$27,953.45 to the Department. Since FSM has not made repayment and its debt to the Department is over 180 days delinquent, in accordance with the Debt Collection Improvement Act of 1996, the Department has notified the United States Department of Treasury of the debt for purposes of administrative offset (withholding). The administrative

⁴ See footnote 1. The Uniform Guidance provision at 2 CFR §200.403 regarding factors affecting allowability of costs replaces the provision in 2 CFR Part 225, Appendix A, C.1. (a), (b) and (j).

⁵ See footnote 1. The Uniform Guidance provision at 2 CFR §200.302(b)(4) regarding financial management replaces the provision previously found at 34 CFR §80.20(b)(3).

⁶ See footnotes 1 and 3.

offset program in Treasury is known as the Treasury Offset Program.⁷ This offset may impact FSM's ability to receive Federal funds until repayment is made by FSM to the Department. Instructions on how to repay funds may be found in any of the above referenced PDLs.

2) Providing the Department with evidence of the steps that it has taken, including the development of any policies and procedures, to ensure that IDEA funds will only be used for the direct provision of special education and related services to children with disabilities and to enhance its capacity to make FAPE available to all children with disabilities, consistent with 34 CFR §300.701(a)(2)(ii). The revised policies and procedures must address how FSM will maintain financial and programmatic records for the period of time required by Federal law. 34 CFR §76.730 and 2 CFR §200.333.

Monitoring Area 3, IDEA Part B: ARRA

| Criterion Number | Description | Noncompliance identified? | Applicable Requirement |
|------------------|--|---------------------------|--|
| Criterion 3.1 | The SEA ensures that infrastructure investments are properly certified and posted. | Not Applicable | ARRA §1511 |
| Criterion 3.2 | The SEA has procedures to ensure that LEAs comply with the "Buy American" requirements. | Not Applicable | 2 CFR §§176.60-176.170 |
| Criterion 3.3 | The SEA has procedures to ensure that LEAs comply with the prevailing wage requirements. | Not Applicable | 2 CFR §§176.180, 176.190 |
| Criterion 3.4 | The SEA has procedures to ensure that it prevents and detects fraud, waste, and abuse. | No | Inspector General Act of 1987 (P.L. 100-504) |

Finding: None

Monitoring Area 4, IDEA Part B: Level of Effort

| Criterion Number | Description | Noncompliance identified? | Applicable Requirement |
|------------------|-------------|---------------------------|------------------------|
|------------------|-------------|---------------------------|------------------------|

⁷ Information about the Treasury Offset Program may be found at the following link.
https://fiscal.treasury.gov/fsservices/gov/debtColl/faqs/debt_questions_top_state.htm

| Criterion Number | Description | Noncompliance identified? | Applicable Requirement |
|-------------------------|--|----------------------------------|--------------------------------------|
| Criterion 4.1 | The State has procedures to calculate its financial support for special education and related services for children with disabilities in accordance with the IDEA. | No | 34 CFR §300.163(a) |
| Criterion 4.2 | The SEA has procedures to ensure that each LEA budgets, for the education of children with disabilities, at least the same amount as the LEA spent for that purpose in the most recent prior year for which information is available. | Not Applicable | 34 CFR §300.203(b) |
| Criterion 4.3 | The SEA has procedures to ensure that each LEA expends at least the same amount as it expended in the immediate prior year for the education of children with disabilities, unless the LEA has allowable exceptions or adjustments. | Not Applicable | 34 CFR §§300.203(a), 300.204-300.205 |
| Criterion 4.4 | The SEA's procedures for reviewing LEA MOE consider each of the following ways to calculate MOE: total local funds; per capita local funds; total local and State funds; or per capita local and State funds. The SEA's procedures for reviewing LEA MOE find an LEA to have met MOE if the LEA met MOE based on one or more of those comparisons. | Not Applicable | 34 CFR §300.203(b) |

Finding: None

Monitoring Area 5, IDEA Part B: Procurement, Property, and Record Retention

| Criterion Number | Description | Noncompliance identified? | Applicable Requirement |
|------------------|---|---------------------------|------------------------|
| Criterion 5.1 | The SEA obtains approval from the Department prior to using its State-level IDEA funds for equipment, construction, or alteration of facilities. | No | 34 CFR §300.718 |
| Criterion 5.2 | The SEA has procedures to ensure that an LEA obtains its approval prior to using IDEA funds for equipment, construction, or alteration of facilities. | Not Applicable | 34 CFR §300.718 |
| Criterion 5.3 | The SEA has procedures to ensure that its procurement mechanisms, and those used by its LEAs, conform to applicable Federal law and State procurement rules. | Not Applicable | 34 CFR §80.36 |
| Criterion 5.4 | The SEA has procedures to ensure that each LEA maintains a physical inventory of property acquired with IDEA funds and conducts inventories to reconcile with property records at least once every two years. | Not Applicable | 34 CFR §80.32(d)(2) |
| Criterion 5.5 | The SEA has procedures to ensure that it, and its LEAs, do not award or obligate funds to any party that has been debarred or suspended. | No | 34 CFR §80.35 |
| Criterion 5.6 | The SEA has procedures to ensure it, and its LEAs, maintain financial and programmatic records for the period of time required by Federal law. | Yes | 34 CFR §80.42 |

Finding: Criterion 5.6: See finding, citation and required actions under Criteria 1.3 and 2.1.

Monitoring Area 6, IDEA Part B: Fiscal Monitoring

| Criterion Number | Description | Noncompliance identified? | Applicable Requirement |
|------------------|---|---------------------------|---|
| Criterion 6.1 | The SEA has a reasonably designed system to monitor subgrantees to ensure compliance with applicable Federal fiscal requirements. | Not Applicable | 34 CFR §§80.26, 80.40, 300.149, 300.600 |

Finding: None