

American Samoa Part B Verification Visit Letter

Enclosure

Scope of Review

During the verification visit, the Office of Special Education Programs (OSEP) reviewed critical elements of the American Samoa Department of Education (ASDOE) general supervision, data and fiscal systems, and the ASDOE's systems for improving child and family outcomes and protecting child and family rights.

Methods

In reviewing the ASDOE's systems for general supervision, collection of the ASDOE-reported data¹, fiscal management, and the ASDOE's systems for improving child and family outcomes and protecting child and family rights, OSEP:

- Analyzed the components of the ASDOE's general supervision, data and fiscal systems to ensure that the systems are reasonably calculated to demonstrate compliance and improved performance
- Reviewed the ASDOE's systems for collecting and reporting data the ASDOE submitted for selected indicators in the ASDOE's Federal fiscal year (FFY) 2009 Annual Performance Report (APR)/State Performance Plan (SPP)
- Reviewed the following–
 - Previous APRs
 - The ASDOE's application for funds under Part B of the Individuals with Disabilities Education Act (IDEA or Part B)
 - Previous OSEP monitoring reports
 - The ASDOE's Web site
 - Other pertinent information related to the ASDOE's systems²
- Gathered additional information through surveys, focus groups or interviews with–
 - The ASDOE Director of Special Education
 - The ASDOE personnel responsible for implementing the general supervision, data and fiscal systems
 - Parents and Advocates

Departmentwide Special Conditions

The U.S. Department of Education (Department) designated American Samoa a high-risk grantee under 34 CFR §80.12 for all Department grant awards in FFYs 2007 through FFY 2010 based on noncompliance with the Single Audit Act and other fiscal accountability requirements.

¹ For a description of the State's general supervision and data systems, see the State Performance Plan (SPP) on the State's Web site.

² Documents reviewed as part of the verification process were not reviewed for legal sufficiency, but rather to inform OSEP's understanding of your State's systems.

Under the FFY 2010 Departmentwide special conditions, American Samoa must submit progress reports. The Department will respond separately to those progress reports. The findings and conclusions in this report under Critical Element 3: Appropriate Use of IDEA Funds are subject to the findings and corrective actions required in the Departmentwide special conditions.

I. General Supervision Systems

Critical Element 1: Identification of Noncompliance

*Does the State have a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components?*³

To effectively monitor the implementation of Part B of the IDEA by local educational agencies (LEAs),⁴ as required in IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the ASDOE must have a general supervision system that identifies noncompliance in a timely manner.

Since OSEP's last Verification Visit in February 2005, the ASDOE has implemented a monitoring system designed to identify noncompliance with IDEA requirements. The ASDOE reported that it identifies noncompliance through on-site monitoring visits to schools, which it conducts on a four year cycle. The monitoring process includes a review of a sample of student records, a review of data collected pursuant to sections 616 and 618 of the IDEA in each school, and on-site interviews with school staff and parents. The ASDOE shared with OSEP the protocols, procedures and forms that it uses to monitor schools and demonstrated that it has a monitoring process. In addition, the ASDOE demonstrated that it utilizes its monitoring process to identify noncompliance by providing OSEP a monitoring schedule and a sample of monitoring reports for visits that the ASDOE conducted during the 2009-2010 school year.

Based on OSEP's review of the ASDOE's monitoring schedule and interviews with the ASDOE personnel, OSEP found that the ASDOE did not have an effective method for identifying noncompliance in its early learning centers.⁵ The ASDOE personnel indicated that they monitor the 22 schools in their system on a four year cycle. However, five of the ASDOE's six early learning centers have never been monitored to determine if they meet Part B requirements consistent with 34 CFR §§300.149 and 300.600.

In addition, the ASDOE's monitoring system did not identify noncompliance related to the content of individualized education programs (IEPs) – specifically, the requirement in 34 CFR §300.320(a)(7) that IEPs include the duration of special education and related services. ASDOE monitors use a checklist to review IEPs. That checklist requires reviewers to determine if there is evidence in the file to demonstrate “a date indicating beginning of services and frequency, location, and duration of the services.” However, in a review of 30 IEPs, OSEP found that special education and related services were listed as “daily” or “2 times per week” without specifying the amount of time the child would receive the service (i.e., the duration).

³ The term “State” in this enclosure refers to American Samoa.

⁴ American Samoa functions as a unitary system, meaning that it is both the State educational agency and the local educational agency as those terms are defined under Part B. ASDOE conducts monitoring activities in schools and early learning centers.

⁵ The ASDOE's early learning centers provide a developmental curriculum for three and four year olds in different geographical locations across American Samoa.

OSEP Conclusions

To effectively monitor the implementation of Part B of the IDEA, as required in IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State must identify noncompliance in a timely manner. Based on the review of documents and interviews with the ASDOE personnel, as described above, OSEP concludes that the ASDOE does not have a general supervision system that is, in its entirety, reasonably designed to identify noncompliance in a timely manner using its different components.

Required Actions/Next Steps

Within 90 days from the date of this letter, the ASDOE must provide OSEP: (1) revised procedures and evidence of staff training regarding the inclusion of the duration of services on IEPs consistent with 34 CFR §300.320(a)(7); and (2) a revised monitoring schedule to include the five early learning centers that the ASDOE has not monitored.

In addition, with the FFY 2010 APR, due February 1, 2012, the ASDOE must provide OSEP: (1) a sample of ten IEPs that ASDOE has monitored for consistency with 34 CFR §300.320(a)(7); and (2) a copy of monitoring reports of the five early learning centers that have not yet been monitored by the ASDOE.

Critical Element 2: Correction of Noncompliance

Does the State have a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner?

To effectively monitor the implementation of Part B of the IDEA, as required in IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State must have a general supervision system that corrects noncompliance in a timely manner. In addition, as noted in OSEP Memorandum 09-02, Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the IDEA, dated October 17, 2008 (OSEP Memo 09-02), in order to verify that previously identified noncompliance has been corrected, the State must verify that it: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the State.

Prior to the verification visit, OSEP reviewed five monitoring reports with findings, corrective action plans, and evidence that the ASDOE verified the correction and closed out the noncompliance. The ASDOE has procedures to issue corrective actions for noncompliance as soon as possible following the on-site monitoring visits to schools. The ASDOE's procedures require that monitoring findings be closed as soon as possible, but no later than one year from the issuance of the monitoring report. Based on OSEP's review of five monitoring files for the 2009-2010 school year, the ASDOE demonstrated that all noncompliance was closed within one year from the issuance of the monitoring report. The ASDOE reported that it collects file data to verify the correction of noncompliance for each child. However, the ASDOE personnel stated in interviews with OSEP that they did not understand the requirement to collect and review updated data to ensure that the school is correctly implementing the specific regulatory requirements that formed the basis of the finding of noncompliance. Therefore, the ASDOE's process to verify correction of noncompliance is not consistent with guidance in OSEP Memo 09-02.

OSEP Conclusions

Based on the review of documents including data verifying correction, and interviews with the ASDOE personnel, OSEP concludes that American Samoa does not have a system that is reasonably designed to verify the correction of noncompliance as soon as possible but no later than one year from identification because the ASDOE did not verify that schools where noncompliance was identified were correctly implementing the specific regulatory requirements consistent with OSEP Memo 09-02.

Required Actions/Next Steps

1. Within 90 days from the date of this letter, the ASDOE must provide OSEP a written assurance from the Assistant Director of Special Education that the ASDOE has revised its policies and procedures for verifying timely correction of noncompliance to include a requirement that the ASDOE determined that a finding of noncompliance has been corrected only if the ASDOE verifies that the school has: (1) correctly implemented the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the State, consistent with the OSEP Memo 09-02.
2. With the FFY 2010 APR, due February 1, 2012, the ASDOE must provide OSEP with two monitoring reports and the additional data it has collected and reviewed to verify correction of the noncompliance identified in the two monitoring reports consistent with OSEP Memo 09-02.
3. In the narrative for Indicator 15 in its FFY 2010 APR, due February 1, 2012, the ASDOE must describe the extent to which, for FFY 2009 findings of noncompliance for which it reports timely correction in the Indicator 15 Worksheet, it verified, within one year from the date of the findings, correction in a manner consistent with OSEP Memo 09-02.

Critical Element 3: Dispute Resolution

Does the State have procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA?

The ASDOE must have reasonably designed dispute resolution procedures and practices if it is to effectively implement: (1) the State Complaint procedure requirements in IDEA sections 612(a)(11) and 615(a), 34 CFR §§300.151 through 300.153, and 20 U.S.C. 1221e-3; (2) the mediation requirements in IDEA section 615(e) and 34 CFR §300.506; and (3) the due process complaint requirements in IDEA sections 615(b)(6) – (8), 615(c)(2), 615(f) – (i) and (o) and 34 CFR §§300.507, 300.508, and 300.510 through 300.517.

State Complaints: The Part B regulations in 34 CFR §300.152(a)(5) require the ASDOE to issue a written decision that addresses each allegation in the complaint within 60 days after a complaint is filed. The regulations further provide that an extension of this timeline may be granted only if exceptional circumstances exist with respect to a particular complaint, or if the parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency agree to extend the time to engage in mediation, or to engage in other alternative means of dispute resolution, if available in that State. 34 CFR §300.152(b)(1). Although the ASDOE

has complaint procedures consistent with Part B requirements for resolving State complaints, the ASDOE reported that it only recently had to implement its State complaint procedures. The ASDOE reported that it received two State complaints during the 2009-2010 school year that resulted in a written decision. The ASDOE received Complaint #1 in March 2009. ASDOE personnel reported that they attempted to resolve the complaint “informally.” However, the ASDOE did not extend the timeline pursuant to 34 CFR §300.152(b)(1) and issued a written decision on October 18, 2010, more than one and a half years after it received the written State complaint. The ASDOE received Complaint #2 on June 10, 2010, did not extend the timeline pursuant to 34 CFR §300.152(b)(1), and issued a written decision on October 14, 2010, more than 120 days later. In addition, consistent with 34 CFR §300.152(a)(5), the written decision must address each allegation in the complaint, contain findings of fact and conclusions, and the reasons for the State’s final decision. Based on a review of the two written decisions, OSEP found that both decisions contained a chronology of events, but did not include findings of fact and conclusions, and the reasons for the State’s final decision.

Due Process Hearings: The IDEA Part B regulations in 34 CFR §300.515(a) require that no later than 45 days after the expiration of the 30 day resolution period under 34 CFR §300.510(b), or the adjusted time periods in 34 CFR §300.510(c), a final decision in a due process hearing must be reached, and a copy of the decision mailed to each of the parties. Pursuant to 34 CFR §300.515(c), the hearing officer may grant specific extensions of time beyond the period set out in 34 CFR §300.515(a) at the request of either party. OSEP reviewed the record of a due process hearing complaint requested by a parent on October 31, 2007. The hearing officer did not grant an extension, but did not issue the final decision until September 20, 2010 – almost three years later. The ASDOE Director of Special Education reported that the ASDOE was unable to hold a timely hearing because it did not have any trained hearing officers at the time of the request.

OSEP Conclusions

Based on the review of documents and interviews with the ASDOE personnel, OSEP concludes that American Samoa does not have practices that are reasonably designed to implement the dispute resolution requirements of Part B of the IDEA. Specifically, the ASDOE does not ensure that: (1) State complaints are resolved within the 60-day or State-established timeline with appropriate extensions as required in 34 CFR §§300.152(a)(5) and 300.152(b)(1); (2) complaint decisions include findings of fact and conclusions and the reasons for the final decision as required in 34 CFR §300.152(a); and (3) due process hearing decisions are timely issued as required in 34 CFR §300.515.

Required Actions/Next Steps

OSEP strongly recommends that the ASDOE contact the Consortium for Appropriate Dispute Resolution in Special Education (CADRE) for technical assistance in implementing effective dispute resolution procedures.

During the time period starting with the date of this letter and through two years from the date of this letter, ASDOE must inform OSEP within 10 days when it receives a State complaint filed pursuant to 34 CFR §300.151 or a due process hearing complaint filed pursuant to 34 CFR §300.507. In addition, for every State complaint filed pursuant to 34 CFR §300.151, and for every due process hearing complaint filed pursuant to 34 CFR §300.507, during the time period starting with the date of this letter and through two years from the date of this letter, the ASDOE must also submit to OSEP a status report every 3 months beginning on the date that the State

complaint or request for a due process hearing was received. The status report must include the dates of any extensions granted pursuant to 34 CFR §§300.152(a)(5) and 300.152(b)(1) (for State complaints) and 34 CFR §300.515(c) (for due process hearings), the reasons for the extensions, the dates of any hearings, and the dates and nature of the resolution of the State complaints and due process hearings (copy of final decision or documentation of settlement or other resolution).

Critical Element 4: Improving Educational Results

Does the State have procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities?

The State must have procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities.

OSEP Conclusions

Based on the review of documents and interviews with State personnel, OSEP concludes that the State has procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities.

Required Actions/Next Steps

No action is required.

Critical Element 5: Implementation of Grant Assurances

Does the State have procedures and practices that are reasonably designed to effectively implement selected grant assurances, i.e., making local determination and publicly reporting on LEA performance, private schools, NIMAS, assessment, and grant assurances for outlying areas and freely associated states?

The State must have reasonably designed procedures and practices that address grant assurances/requirements if it is to effectively implement the following selected grant assurances: (1) making local determinations and publicly reporting on LEA performance pursuant to IDEA sections 616 and 34 CFR §300.600;⁶ (2) children in private school requirements pursuant to IDEA section 612(a)(10) and 34 CFR §300.129; (3) NIMAS requirements pursuant to IDEA section 612(a)(23) and 34 CFR §300.172; (4) assessment requirements pursuant to IDEA section 614(d)(1)(A)(i)(VI) and 34 CFR §300.320(a)(6); (5) interagency agreements or other mechanisms for interagency coordination between each public agency described at 34 CFR §300.154(b) and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education (FAPE) are provided, including the provision of such services during the pendency of any dispute under §300.154(b)(3) (such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C) and 34 CFR §300.154(a)); and (6) grant assurances pursuant to 34 CFR §300.701 for outlying areas and freely associated states.

⁶ The requirement for making local determinations and publicly reporting on LEA performance pursuant to IDEA section 616 and 34 CFR §300.600 do not apply to the ASDOE because it is a unitary system and does not have LEAs. The ASDOE meets the requirement by publicly reporting its SPP/APR on the Ministry of Education Web site.

Based on a review of the ASDOE's Memorandum of Understanding (MOU) with the American Samoa Department of Health, OSEP determined that the MOU does not contain the fiscal responsibility and dispute resolution procedures as required in 34 CFR §300.154(a). Also, the ASDOE personnel reported that the ASDOE provides special education and related services to incarcerated youth with disabilities in the American Samoa Department of Corrections, but that it does not have a MOU or other method for ensuring services for children with disabilities in the American Samoa Department of Corrections.

OSEP Conclusions

To ensure that the ASDOE has procedures and practices that are reasonably designed to implement interagency agreements, as required in 34 CFR §300.154, the ASDOE must ensure that the general supervisory responsibilities in 34 CFR §300.154 are in place and implemented, including the establishment of financial responsibility and the resolution of disputes. Based on the review of documents and interviews with the ASDOE personnel, as described above, OSEP concludes that the ASDOE does not have procedures and practices that are reasonably designed to implement the grant requirement for interagency agreements in 34 CFR §300.154.⁷

Required Actions/Next Steps

Within 90 days from the date of this letter, the ASDOE must provide: (1) a revised MOU with the American Samoa Department of Health to ensure that the general supervisory responsibilities in 34 CFR §300.154 are in place and implemented, including the establishment of financial responsibility and the resolution of disputes; and (2) a MOU with the Department of Corrections to ensure that all required general supervisory responsibilities in 34 CFR §300.154 are in place and implemented. The MOU must describe how juveniles detained in juvenile correctional facilities are identified as children with disabilities, and how special education and related services are provided to those children.

II. Data Systems

Critical Element 1: Collecting and Reporting Valid and Reliable Data

Does the State have a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner, and that the data collected and reported reflects actual practice and performance?

To meet the requirements of IDEA sections 616 and 618, and 34 CFR §§300.601(b) and 300.640 through 300.646, the State must have a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner and ensure that the data collected and reported reflects actual practice and performance.

OSEP Conclusions

Based on the review of documents and interviews with the ASDOE personnel, OSEP concludes that the ASDOE has a data system that is reasonably designed to collect valid and reliable data and information, to report the data and information to the Department and the public in a timely

⁷ In lieu of the interagency agreements outlined in the Required Actions/Next Steps, American Samoa may meet the requirements in 34 CFR §300.154(a) by submitting to OSEP within 90 days of the date of this letter a copy of a statute or regulation that meets the requirements in 34 CFR §300.154(a) or other appropriate written methods that meet the requirements in 34 CFR §300.154(a), as described in 34 CFR §300.154(c)(1) and (3).

manner, and to ensure that the data and information collected and reported reflects actual practice and performance.

Required Actions/Next Steps

No action is required.

Critical Element 2: Data Reflect Actual Practice and Performance

Does the State have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance?

To meet the requirements of IDEA sections 616 and 618, and 34 CFR §§300.601(b) and 300.640 through 300.646, the State must have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

OSEP Conclusions

Based on the review of documents and interviews with the ASDOE personnel, OSEP concludes that the ASDOE has procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

Required Actions/Next Steps

No action is required.

Critical Element 3: Integrating Data Across Systems to Improve Compliance and Results

Does the State compile and integrate data across systems and use the data to inform and focus its improvement activities?

To meet the requirements of IDEA section 616, 34 CFR §300.601(b) and OSEP Memorandum 10-03, Part B State Performance Plan (Part B – SPP) and Part B Annual Performance Report (Part B – APR), dated December 3, 2009 (OSEP Memo 10-03), the State must compile and integrate data across systems and use the data to inform and focus its improvement activities.

OSEP Conclusions

Based on the review of documents and interviews with the ASDOE personnel, OSEP concludes that the ASDOE compiles and integrates data across systems and uses the data to inform and focus its improvement activities.

Required Actions/Next Steps

No action is required.

III. Fiscal Systems

Critical Element 1: Timely Obligation and Liquidation of Funds

Does the State have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds?

The State must have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA Part B funds, as required in the General Education Provisions Act (GEPA), its implementing regulations in the Education Department General Administrative Regulations (EDGAR) (including 34 CFR Parts 76 and 80), and the relevant sections of Office of Management and Budget (OMB) Circulars A-87 and A-133.

OSEP Conclusions

Within the scope of this limited review, OSEP believes that State has procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds, as required in GEPA, its implementing regulations in EDGAR (including 34 CFR Parts 76 and 80), and the relevant sections of OMB Circulars A-87 and A-133.

Required Actions/Next Steps

No action is required.

Critical Element 2: Appropriate Distribution of IDEA Funds

Does the State have procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State?

The State must have procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State, consistent with IDEA sections 611(f) and 619(g) and 34 CFR §§300.705 and 300.816.

OSEP Conclusions

Because American Samoa is a unitary system, this section of the IDEA is not applicable.

Required Actions/Next Steps

No action is required.

Critical Element 3: Appropriate Use of IDEA Funds

Does the State have procedures that are reasonably designed to ensure appropriate use of IDEA funds?

The State must have procedures that are reasonably designed to ensure appropriate use of IDEA Part B funds, as required in GEPA, EDGAR, OMB Circulars A-87 and A-133, and applicable provisions in Part B of the IDEA.

Accounting for Section 611 Funds: A State may only reserve for each fiscal year a maximum amount, based on the formula in 34 CFR §300.704, for State-level activities. The remaining funds must be spent on special education and related services for children with disabilities. For FFY 2010, the ASDOE received \$6,297,058 for its section 611 program. Consistent with 34 CFR §300.704(a) and (b), the ASDOE may use a maximum of \$314,853 for State-level activities. Based on a review of the ASDOE's FFY 2010 budget for special education and related services, and an interview with the ASDOE's Assistant Director for Special Education, OSEP found that the ASDOE combines all section 611 funds together and does not separately account for funds used on State-level activities and funds used for special education and related services. Accordingly, the ASDOE is unable to ensure that only \$314,853 of section 611 funds is being used for State-level activities in FFY 2010.

Procurement Policies and Procedures Affecting the Provision of FAPE: During the verification visit, ASDOE staff expressed concern regarding the "unusual delays" in the procurement process and in processing purchase requests. ASDOE staff reported that the American Samoa Government's (ASG) fiscal responsibilities are spread across several agencies and departments, which include Procurement, Treasury, and Budget and Planning. In addition, the ASDOE personnel reported that the approval process for procuring equipment, supplies, and materials for

children with disabilities is very burdensome, often taking months to order essential items that are not typically stocked in the ASDOE warehouse. OSEP's review of the Business Office's procedures and interview with the ASDOE personnel confirmed a lengthy and cumbersome process. The resource specialist at the school initiates procurement requests through the use of a paper form. After the principal approves the request, the request must be approved by the Assistant Director for Special Education, the Deputy Director for Instructional Services, and the Director of Education. At that point, the Director of Education sends the request to the Business Office. Paperwork is often delayed or lost requiring the ASDOE to restart the process. If the request receives all the approvals, it goes to the Office of Procurement. If the purchase totals more than \$10,000, it must go through a bidding process.

Also, because of late reimbursements, some vendors no longer release items to the government until they receive payment, and the Office of Treasury will not pay the vendors unless they have a report of the items received from the Office of Procurement. The ASDOE personnel reported that they have to work informally with amenable vendors to obtain needed materials and equipment. Taken together, these policies and procedures result in long delays in the acquisition of needed equipment, supports, and materials. For example, ASDOE staff reported to OSEP that, due to problems with its procurement system, children whose IEPs included the provision of a wheelchair did not receive the wheelchair in a timely fashion, and as a result did not receive a FAPE, as required in 34 CFR §300.101.

OSEP Conclusions

Based on the review of documents and interviews with the ASDOE personnel, OSEP concludes that the ASDOE does not have procedures that are reasonably designed to ensure appropriate use of IDEA Part B funds, as required in GEPA, EDGAR, OMB Circulars A-87 and A-133, and applicable provisions in Part B of the IDEA. First, American Samoa does not meet the requirement in 34 CFR §300.704 to account for section 611 funds that are to be used only for special education and related services.

Second, OSEP concludes that the procedures related to the procurement of special education and related services are not reasonably designed to ensure the appropriate use of Part B funds. As a result of the lengthy and cumbersome procurement policies and procedures, the ASDOE is not able to obtain needed equipment and materials in a timely manner to ensure that a FAPE is made available for all children with disabilities, consistent with 34 CFR §300.101. However, based on the information collected during the verification visit, OSEP cannot determine the scope of the problem caused by the procurement delays.

OSEP is aware that the ASG has been working with the Department's Risk Management Team (RMT) on issues relating to the improvement of ASG's internal control structure, including its processes for the procurement of items and services with Federal funds. ASG, including the ASDOE, is implementing a Corrective Action Plan (CAP) as required under special conditions imposed by the Department on ASG's grant awards. The CAP requires ASG to address and improve its procurement processes. We understand that the RMT will conduct a site visit to American Samoa in the spring of 2011, at which time the RMT will assess the progress that ASG has made in improving its procurement processes and the effect of those processes on the delivery of services under the Department's programs, including IDEA, Part B. OSEP will continue to monitor ASG's progress through its work with the RMT and will visit American

Samoa in the spring of 2011 with the RMT to examine the extent to which the procurement process is affecting the availability of a FAPE within American Samoa.

Required Actions/Next Steps

1. Within 90 days from the date of this letter, the ASDOE must provide: (1) a revised special education budget for FFY 2010 to include the amounts reserved under section 611 for ASDOE State-level activities; and (2) a request from the ASDOE to conduct an audit, including a line item analysis, of FFY 2008 and FFY 2009 expenditures of section 611 funds for its State-level activities.
2. Within six months of the date of this letter, ASDOE must provide a copy of the completed audit referenced above.
3. ASDOE must have available, for OSEP's review at the spring 2011 visit, the procedures, including timelines, specific to American Samoa's procurement process as it relates to obtaining required supplies and materials in order to make available a FAPE to children with disabilities as required in 34 CFR §300.101.

Failure to provide this information may affect American Samoa's FFY 2011 IDEA Part B grant.