

## Republic of the Marshall Islands 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 Republic of the Marshall Islands (RMI) Ministry of Education's (MOE) general supervision, data and fiscal systems, and RMI's systems for improving child and family outcomes and protecting child and family rights.

#### Methods

In reviewing RMI's systems for general supervision, collection of RMI reported data, fiscal management, and RMI's systems for improving child and family outcomes and protecting child and family rights, OSEP:

- Analyzed the components of RMI's general supervision, data and fiscal systems to ensure that the systems are reasonably calculated to demonstrate compliance and improved performance
- Reviewed RMI's systems for collecting and reporting data RMI submitted for selected indicators in RMI's Federal fiscal year (FFY) 2008 Annual Performance Report (APR)/State Performance Plan (SPP)
- Reviewed the following–
  - Previous APRs
  - RMI's application for funds under Part B of the Individuals with Disabilities Education Act (IDEA)
  - The Marshall Islands Continuous Improvement Focused Monitoring and On-Site Monitoring Procedures
  - Previous OSEP monitoring reports
  - 35 individualized education programs (IEPs)
  - 10 of RMI's monitoring reports
  - RMI's on-site monitoring protocols
  - RMI's Web site
  - The Ministry of Finance Operating Procedural Manual
  - RMI's Procedural Safeguards Notice
  - RMI's IDEA section 618 data reports
  - Other pertinent information related to RMI's systems<sup>1</sup>
- Gathered additional information through surveys, focus groups or interviews with–
  - The Assistant Secretary for Early Childhood and Elementary Education
  - The Director of Special Education
  - RMI personnel responsible for implementing the general supervision, data and fiscal systems
  - RMI's Advisory Panel

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<sup>1</sup> Documents reviewed as part of the verification process were not reviewed for legal sufficiency, but rather to inform OSEP's understanding of RMI's systems.

## **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?*

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

RMI collects compliance data primarily through two of its monitoring components: On-site Monitoring and the Special Education Information Management System (SEIMS) data system. RMI identifies noncompliance and issues findings through on-site monitoring, and uses data extracted from IEPs and entered into SEIMS data system to report compliance data in the State Performance Plan/Annual Performance Report (SPP/APR).

#### On-site Monitoring

Because RMI is a unitary system and does not have local educational agencies (LEAs), the RMI MOE directly monitors 76 public primary schools (grades kindergarten to eight), two middle schools and five high schools. RMI conducts on-site monitoring in schools on the larger islands at least every other year and in schools on the outer islands at least once every three years. All public elementary and secondary education, kindergarten through grade 12, is administered and provided by the RMI MOE. Based on RMI's monitoring procedures and confirmed in interviews with RMI officials, the on-site component is used to monitor compliance with Part B requirements, including: (1) the provision of a free appropriate public education (FAPE); (2) IEPs; (3) participation of private school students placed by their parents; (4) evaluation procedures; (5) due process procedures; (6) placement in the least restrictive environment; (7) confidentiality; and (8) child identification.

Based on OSEP's review of RMI's monitoring procedures, monitoring protocols, monitoring reports, 35 IEPs for the 2008-2009 and 2009-2010 school years, and interviews with MOE officials including the Director of Special Education and other administrative staff, OSEP found that RMI did not have an effective method for implementing its monitoring procedures for identifying noncompliance with the IEP requirements in 34 CFR §§300.320 and 300.324 using its on-site monitoring process. For example, although RMI's monitoring procedures, IEP format, and IEP file review protocol address Part B requirements at 34 CFR §§300.320 and 300.324, in practice, RMI did not issue written findings of noncompliance in the following areas:

- (1) The results of the initial or most recent evaluation of the child (34 CFR §300.324(a)(iii));
- (2) A statement of measurable annual goals, including academic and functional goals, designed to meet the child's needs that result from the child's disability (34 CFR §300.320(a)(2)(i));
- (3) When periodic reports on the child's progress toward meeting the annual goals will be provided (34 CFR §300.320(a)(3)(ii));
- (4) The projected date for beginning special education and related services and supplementary aids and services and program modifications or supports for school personnel that will be provided, and the anticipated frequency, location, and duration of these services and modifications (34 CFR §300.320(a)(7)); and

- (5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in 34 CFR §300.320(a)(4) (34 CFR §300.320(a)(5)).

#### Special Education Information Management System (SEIMS)

RMI collects data online from IEPs and enters it into the SEIMS database. These data are used to report compliance data for SPP/APR Indicators 11, 13 and 15.

#### **OSEP Conclusion**

To effectively monitor the implementation of Part B of the IDEA, as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), RMI must have procedures for monitoring the Part B IEP requirements at 34 CFR §§300.320 and 300.324. Based on the review of documents, analysis of data, and interviews with RMI personnel, as described above, OSEP concludes that RMI does not have a general supervision system that is reasonably designed to identify noncompliance with 34 CFR §§300.320 and 300.324 using its on-site monitoring procedures.

#### **Required Actions/Next Steps**

Within 90 days from the date of this letter, RMI must submit:

- (1) revised monitoring procedures that include identifying noncompliance with 34 CFR §§300.320 and 300.324. These procedures must require RMI to: (a) issue written findings of noncompliance when data and information collected from on-site monitoring show noncompliance with the Part B IEP requirements at 34 CFR §§300.320 and 300.324; or (b) if RMI chooses not to make a finding of noncompliance because the school immediately corrects the identified noncompliance for the specific child, verify that the school is correctly implementing the regulatory requirement (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) a plan for training teachers and administrators on ensuring that IEPs contain:
  - results of the initial or most recent evaluation of the child (34 CFR §300.324(a)(iii));
  - a statement of the measurable annual goals for the child, including academic and functional goals, that are designed to meet the needs the child has as a result of his/her disability that is identified in the child's evaluation (34 CFR §300.320(a)(2)(i));
  - information on when periodic reports on the child's progress toward meeting the statement of annual goals will be provided (34 CFR §300.320(a)(3)(ii));
  - projected dates for beginning special education and related services and supplementary aids and services and program modifications or supports for school personnel that will be provided, and the anticipated frequency, location, and duration of these services (34 CFR §300.320(a)(7)); and
  - an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in activities described in 34 CFR §300.320(a)(4) (34 CFR §300.320(a)(5)).

***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 by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), RMI 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 Individuals with Disabilities Education Act, dated October 17, 2008 (OSEP Memo 09-02), in order to verify that previously identified noncompliance has been corrected, RMI 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 RMI.

**OSEP Conclusion**

Based on the review of documents, analysis of data, and interviews with RMI personnel, OSEP concludes that RMI's systems for general supervision are reasonably designed to correct noncompliance in a timely manner.

**Required Actions/Next Steps**

No action is required.

***Critical Element 3: Dispute Resolution***

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

RMI must have reasonably designed dispute resolution procedures and practices if it is to effectively implement: (1) the State level 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.

**OSEP Conclusions**

Based on the review of documents and interviews with RMI personnel, OSEP concludes that RMI has procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA. However, because RMI had not received any recent State level complaints or due process hearing requests, OSEP could not determine the effectiveness of those procedures and practices.

**Required Actions**

No action is required.

***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?*

RMI 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 RMI personnel, OSEP concludes that RMI 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., private schools, National Instructional Materials Accessibility Standard (NIMAS), and assessment?*

RMI must have reasonably designed procedures and practices that address grant assurances/requirements if it is to effectively implement the following selected grant assurances: (1) children in private school requirements pursuant to IDEA section 612(a)(10) and 34 CFR §300.129; (2) NIMAS requirements pursuant to IDEA section 612(a)(23) and 34 CFR §300.172; and (3) assessment requirements pursuant to IDEA section 614(d)(1)(A)(i)(VI) and 34 CFR §300.320(a)(6).

**OSEP Conclusions**

Based on the review of documents and interviews with RMI personnel, OSEP concludes that RMI has procedures and practices that are reasonably designed to implement selected grant requirements, i.e., private schools, NIMAS and assessment requirements.

**Required Actions/Next Steps**

No action is required.

**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, RMI 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.

RMI does not currently have a web-based information system in operation for the government as a whole. However, the RMI MOE has developed an on-line data system, the Special Education Information Management System (SEIMS), for the ongoing collection of special education students' documents, including IEPs submitted by special education teachers on-line, or delivered annually to the RMI MOE during the summer special education institute on Majuro from schools on the remote outer islands that do not have internet access. The RMI MOE officials work directly with school staff to collect data, including school information, student information, private school data, and data required for IDEA section 618 reports, and SPP/APR data.

RMI provided OSEP with copies of data tables that have been submitted to the U.S. Department of Education as required under IDEA section 618. Based on the review of these tables and interviews with RMI personnel, OSEP identified a specific concern regarding the collection and reporting of valid and reliable data related to Tables 4 and 6. Table 4 collects data on students exiting from special education and Table 6 collects data on assessments. With respect to Table 4, in examining both the overall number of children with disabilities and the data on children with disabilities who have exited from special education, RMI could not account for the exiting status of all children with disabilities aged 14-21. In addition, RMI could not account for data in Table 6 that reported that only 45% of children with disabilities participated in the eighth grade Marshall Islands High School Entrance Test, an assessment that is required for all eighth grade students. Specifically, RMI officials could not explain whether the children had not taken the assessment or whether some assessments were not delivered to the RMI MOE for scoring and reporting.

### **OSEP Conclusion**

To ensure that RMI 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 manner, as required by IDEA section 618 and 34 CFR §§300.640 through 300.641, the data that RMI reports to the Department in Tables 4 and 6 must be valid and reliable. Based on the review of documents, analysis of data, and interviews with RMI personnel, as described above, OSEP concludes that RMI does not have procedures and practices that are, in their entirety, 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 manner.

### **Required Actions/Next Steps**

Within 90 days from the date of this letter, RMI must submit a plan to ensure the accuracy of the data collected and reported in Tables 4 and 6.

In the FFY 2010 SPP/APR due February 1, 2012, RMI must provide a description under Indicator 20 of the methods RMI used to ensure that the data reported on Tables 4 and 6 for IDEA section 618 are accurate.

### ***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 of IDEA, and 34 CFR §§300.601(b) and 300.640 through 300.646, RMI must have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

#### **OSEP Conclusion**

Based on the review of documents and interviews with RMI personnel, with the exception of Tables 4 and 6 discussed above, OSEP concludes that RMI 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 beyond what this is required in Critical Element 1: Collecting and Reporting Valid and Reliable Data

#### ***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), RMI 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 RMI personnel, OSEP concludes that RMI 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?*

RMI must have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA Part B funds, as required by 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**

Based on the review of documents and interviews with RMI personnel, OSEP concludes that RMI has procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds.

**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?*

States 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**

RMI is a unitary system and is not required to develop a funding mechanism to distribute funds within RMI.

**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?*

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

Under section 612(a)(18)(A) of the IDEA and 34 CFR §300.163(a), the State must not “reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.” As defined in section 602(32) of the IDEA and 34 CFR §300.40, “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas, and is not limited to the State educational agency (SEA). RMI is a freely associated State and as such, must meet the conditions for eligibility for a Part B grant that all States must meet (34 CFR §300.701(a)(2)).

Accordingly, when calculating the amount of financial support that RMI made available for special education and related services, RMI must include in its calculation of financial support any financial support for special education and related services provided by any ministry in RMI, and not just financial support for special education and related services provided by the MOE. See Memorandum 10-05, dated December 2, 2009, entitled Maintenance of State Financial Support under the Individuals with Disabilities Education Act (OSEP Memo 10-05) for detailed guidance on how to calculate State financial support under Part B of the IDEA. A copy of OSEP Memo 10-05 is attached for your review. This memorandum outlines the sources of State financial support that must be included when calculating State-level financial support, and provides that a State must include in its calculation of financial support any financial support for special education and related services provided by any State agency.

Although States may have different statutory and regulatory processes for making funds available for special education and related services, “made available” generally means

appropriated. However, there are some limited circumstances when RMI may include funds that ministries other than the MOE directly pay to staff or contractors for the delivery of special education and related services pursuant to an IEP in its calculation of State financial support that is made available. For example, if a ministry within RMI provides mental health services to children with disabilities pursuant to their IEPs, the cost of such services would be included in RMI's calculation of the amount of its financial support for special education and related services. Under these circumstances, to account for financial support for special education and related services provided by ministries other than the MOE, when calculating its level of financial support made available, RMI must include amounts that other ministries directly pay to staff or contractors for the delivery of special education and related services pursuant to an IEP.

MOE officials reported that it will determine whether, in addition to the MOE, other ministries within RMI provide financial support for special education and related services. If other ministries do provide support, RMI must include the amount of financial support for special education and related services from ministries other than the MOE when calculating its State level of financial support for special education and related services.

In addition, pursuant to the requirement in 34 CFR §300.701(a)(2)(iii), RMI has provided with its application for Part B funds the amount of funds, in addition to funds under Part B of the IDEA, that it will make available to ensure that FAPE is available to all children with disabilities within its jurisdiction. With its applications for FFY 2007 – FFY 2010 Part B IDEA grants, RMI reported the same dollar amount of funds that it will make available to ensure that FAPE is available to all children with disabilities within its jurisdiction. However, MOE officials reported during the verification visit that RMI has increased the amount of funds that it makes available to ensure that FAPE is available to all children with disabilities within its jurisdiction, and that, therefore, the dollar amount of funds included in RMI's assurances is likely not accurate.

### **OSEP Conclusion**

Based on the review of documents, analysis of data, and interviews with RMI, as described above, OSEP concludes that RMI, with the exception of the State maintenance of financial support requirement in section 612(a)(18)(A) of the IDEA and 34 CFR §300.163(a), has procedures and practices that are reasonably designed to ensure appropriate use of IDEA funds. However, RMI does not have procedures that are reasonably designed to calculate and report RMI's financial support for special education and related services. As required in section 612(a)(18)(A) of the IDEA and 34 CFR §300.163(a), RMI must include the financial support made available by the MOE and all ministries within RMI for special education and related services for children with disabilities. In addition, RMI does not have procedures reasonably designed to ensure that it is reporting the accurate amount of funds it intends to make available for special education and related services with its application for Part B funds, as required in 34 CFR §300.701(a)(2)(iii).

### **Required Actions/Next Steps**

Within 90 days from the date of this letter, RMI must submit to OSEP:

- (1) A copy of any correspondence from RMI MOE ministries within RMI that it determines make available financial support for special education and related services provided pursuant to a child's IEP, which includes: (a) an explanation of the requirement that RMI

include in its calculation of State financial support the amount of financial support provided by all ministries within RMI, as required in section 612(a)(18)(A) of the IDEA and 34 CFR §300.163(a); (b) the name and contact information of an office within RMI that is available to provide technical assistance to ministries within RMI regarding this requirement; (c) the name and contact information of the office within RMI to which ministries should provide information on the amount of financial support made available for special education and related services for children with IEPs; and (d) a copy of OSEP Memorandum 10-05;

- (2) The procedures that RMI uses to calculate maintenance of State financial support for special education and related services, including how RMI ensures that it will not reduce the amount of State financial support for special education and related services for children with disabilities, below the amount of that support for the preceding fiscal year;
- (3) A written assurance that RMI has utilized the methodology developed in accordance with item 1 above to calculate State financial support for special education and related services for fiscal year 2010, consistent with the requirements in 34 CFR §300.163(a); and
- (4) A copy of the correspondence in which RMI has informed its audit office of the need to review RMI's compliance with the State financial support requirements in section 612(a)(18)(A) of the IDEA and 34 CFR §300.163(a) as part of any audit conducted under the Single Audit Act and OMB Circular A-133.

Attachment