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

The Honorable Jon Fernandez
Superintendent of Education
Guam Department of Education
P.O. Box DE
Hagatna, Guam 96932

JUL - 1 2013

Dear Superintendent Fernandez:

Thank you for the timely submission of Guam's Federal fiscal year (FFY) 2011 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA).

The U. S. Department of Education (Department) has determined that, under IDEA sections 616(d)(2)(A)(ii) and 642, Guam "needs assistance" in implementing the requirements of Part C of IDEA. The Department's determination is based on the totality of Guam's data and information, including Guam's FFY 2011 APR and revised SPP, other State-reported data, and other publicly available information. Guam's data are reflected in a new 2013 Compliance Matrix (Compliance Matrix), described below.

Guam's determination is based on the data reflected in the enclosed "2013 Part C Compliance Matrix" that the Office of Special Education Programs (OSEP) completed based on Guam's data. Also enclosed is the document entitled, "How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2013: Part C," which provides a detailed description of how OSEP evaluated States' data using the Compliance Matrix. The Compliance Matrix reflects the compliance data summarized in the Guam's FFY 2011 APR/SPP Response Table. The specific reason for Guam's determination of "needs assistance" is that Guam's Compliance Matrix percentage was at least 75% but less than 90%.

The enclosed Guam FFY 2011 Response Table provides OSEP's analysis of Guam's FFY 2011 APR and revised SPP. The Response Table includes: (1) the Indicators; (2) the Results Data Summary; (3) the Results Data Summary Notes; (4) the Compliance Data Summary; and (5) the Compliance Data Summary Notes. In the Results Data Summary and the Compliance Data Summary, the Response Table sets forth, by indicator, Guam's: (1) reported FFY 2010 data; (2) reported FFY 2011 data; and (3) FFY 2011 target(s), in a concise "dashboard" format. The Compliance Data Summary also includes a column that reflects the number of findings of noncompliance identified by Guam in FFY 2010, and the correction of those findings. In the "Notes" sections following the Results Data Summary and the Compliance Data Summary, OSEP has provided more detailed information regarding specific indicators, including, where appropriate, information regarding: (1) Guam's correction of any remaining findings of noncompliance identified in years prior to FFY 2010; (2) any issues with the validity and reliability of the data that Guam reported; and (3) any required actions. It is important that Guam read the information for each indicator in the Results Data Summary and the Compliance Data Summary together with any Notes for that indicator.

Guam's determinations for FFYs 2005, 2006, 2007, 2008, 2009, and 2010 were also needs assistance. In accordance with sections 616(e)(1) and 642 of the IDEA and 34 CFR §303.704(a),

if a State is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: (1) advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance; (2) direct the use of State-level funds on the area or areas in which the State needs assistance; or (3) identify the State as a high-risk grantee and impose Special Conditions on the State's Part C grant award.

Pursuant to these requirements, the Secretary is continuing to require the Guam Department of Education (GDOE) to access technical assistance related to Guam's Department-wide special conditions and status as a high-risk grantee through the Department's Risk Management Service (RMS). Under the 2013 Special Conditions, Guam must maintain its contract with Alvarez and Marsal, LLC, its third party fiduciary agent. Guam must also continue to implement its Comprehensive Corrective Action Plan (CCAP), to revise the process for reporting progress under the CCAP, and to report to the Department on a quarterly basis on its progress in implementing measures under the CCAP. These quarterly reports are intended to allow GDOE to demonstrate measurable progress in developing financial management systems and in administering Department funds.

As required by section 616(e)(7) of the IDEA and 34 CFR §303.706, Guam must notify the public within Guam that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency's Web site and distributing the notice to the media and through public agencies.

Pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642 and 34 CFR §303.702(b)(1)(A), Guam must report annually to the public on the performance of each early intervention services program (EIS program) located in Guam on the targets in the SPP as soon as practicable, but no later than 120 days after Guam's submission of its FFY 2011 APR. In addition, Guam must: (1) review EIS program performance against targets in Guam's SPP; (2) determine if each EIS program "meets requirements" of Part C, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part C of the IDEA; (3) take appropriate enforcement action; and (4) inform each EIS program of its determination. *See*, IDEA sections 616(a)(1)(C) and 642 and 34 CFR §303.700(a)(2) and (3). For further information regarding these requirements, see "The Right IDEA" website at: http://therightidea.tadnet.org/determinations. Finally, please ensure that your updated SPP is posted on the Guam lead agency's Web site and made available to the public, consistent with IDEA sections 616(d)(2)(C)(ii)(I) and 642 and 34 CFR §303.702(b)(1).

As you know, OSEP is redesigning its accountability system to more directly support States in improving results for infants, toddlers, children and youth with disabilities, and their families. Section 616 of the IDEA requires that the primary focus of IDEA monitoring must be on improving educational results and functional outcomes for children with disabilities, and ensuring that States meet the IDEA program requirements. The monitoring system implemented between 2004 and 2012 placed a heavy emphasis on compliance and we are moving towards a more balanced approach that considers results as well as compliance.

OSEP is committed to several key principles to guide the development of a results-driven accountability system, including transparency, stakeholder involvement, and burden reduction. In support of these principles, we are taking a number of steps. First, we solicited input from special education, early intervention, assessment and early childhood outcomes experts, and

gathered input from the public through conference calls, a blog on the Department's website, and through multiple meetings and conferences. Next, OSEP published for comment a new SPP/APR package for FFYs 2013 through 2018 that significantly reduces data collection and reporting burden and shifts the focus of the SPP/APR to improving educational results and functional outcomes for children with disabilities. Third, as explained above, this year OSEP has incorporated compliance data into a matrix that is helpful in simultaneously processing multiple sets of data, and has used this matrix in making determinations. This Compliance Matrix includes a color-coded system (green, yellow, red) which provides a visual representation of Guam's performance. Finally, as we move forward in using results data in determinations, OSEP will provide the public with an opportunity to comment on how we will use results when making determinations in 2014 under IDEA section 616.

OSEP recognizes Guam's efforts to improve results for infants and toddlers with disabilities and their families and looks forward to working with Guam over the next year as we continue our important work of improving the lives of children with disabilities and their families. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Charles Kniseley, your OSEP State Contact, at 202-245-7322.

Sincerely,

Melody Musgrove

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosures

cc: Part C Coordinator