

GUAM DEPARTMENT OF EDUCATION

**(A LINE AGENCY OF THE
GOVERNMENT OF GUAM)**

SINGLE AUDIT REPORTS

YEAR ENDED SEPTEMBER 30, 2016

GUAM DEPARTMENT OF EDUCATION

SINGLE AUDIT REPORTS
Year Ended September 30, 2016

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INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

Mr. Jon Fernandez
Superintendent of Education
Guam Department of Education:

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the Guam Department of Education (GDOE) as of and for the year ended September 30, 2016, and the related notes to the financial statements, which collectively comprise GDOE's basic financial statements, and have issued our report thereon dated May 2, 2017.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered GDOE's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of GDOE's internal control. Accordingly, we do not express an opinion on the effectiveness of GDOE's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

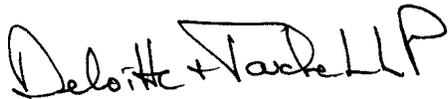
Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether GDOE's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

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May 2, 2017

INDEPENDENT AUDITORS' REPORT ON COMPLIANCE FOR EACH MAJOR FEDERAL PROGRAM; REPORT ON INTERNAL CONTROL OVER COMPLIANCE; AND REPORT ON SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS REQUIRED BY THE UNIFORM GUIDANCE

Mr. Jon Fernandez
Superintendent of Education
Guam Department of Education:

Report on Compliance for Each Major Federal Program

We have audited the Guam Department of Education's (GDOE's) compliance with the types of compliance requirements described in the *OMB Compliance Supplement* that could have a direct and material effect on each of GDOE's major federal programs for the year ended September 30, 2016. GDOE's major federal programs are identified in the summary of auditors' results section of the accompanying Schedule of Findings and Questioned Costs.

Management's Responsibility

Management is responsible for compliance with federal statutes, regulations, and the terms and conditions of its federal awards applicable to its federal programs.

Auditors' Responsibility

Our responsibility is to express an opinion on compliance for each of GDOE's major federal programs based on our audit of the types of compliance requirements referred to above. We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about GDOE's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances.

We believe that our audit provides a reasonable basis for our opinion on compliance for each major federal program. However, our audit does not provide a legal determination of GDOE's compliance.



Opinion on Each Major Federal Program

In our opinion, GDOE complied, in all material respects, with the types of compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended September 30, 2016.

Other Matters

The results of our auditing procedures disclosed instances of noncompliance, which are required to be reported in accordance with the Uniform Guidance and which are described in the accompanying Schedule of Findings and Questioned Costs as items 2016-001 and 2016-002. Our opinion on each major federal program is not modified with respect to these matters.

GDOE's response to the noncompliance findings identified in our audit are described in the accompanying corrective action plan. GDOE's response was not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

Report on Internal Control Over Compliance

Management of GDOE is responsible for establishing and maintaining effective internal control over compliance with the types of compliance requirements referred to above. In planning and performing our audit of compliance, we considered GDOE's internal control over compliance with the types of requirements that could have a direct and material effect on each major federal program to determine the auditing procedures that are appropriate in the circumstances for the purpose of expressing an opinion on compliance for each major federal program and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of GDOE's internal control over compliance.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is reasonable possibility that material noncompliance with a type of compliance requirement of a federal program will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

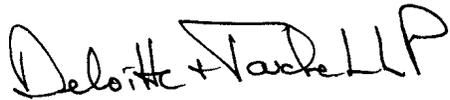
Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. We did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses. However, we identified certain deficiencies in internal control over compliance, as described in the accompanying Schedule of Findings and Questioned Costs as items 2016-001 and 2016-002 that we consider to be significant deficiencies.

GDOE's response to the internal control over compliance findings identified in our audit are described in the accompanying corrective action plan. GDOE's response was not subjected to the auditing procedures applied in the audit of compliance and, accordingly, we express no opinion on the response.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Accordingly, this report is not suitable for any other purpose.

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the governmental activities, each major fund, and the aggregate remaining fund information of the Guam Department of Education as of and for the year ended September 30, 2016, and the related notes to the financial statements, which collectively comprise GDOE's basic financial statements. We issued our report thereon dated May 2, 2017, which contained unmodified opinions on those financial statements. Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the basic financial statements. The accompanying Schedule of Expenditures of Federal Awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Schedule of Expenditures of Federal Awards is fairly stated in all material respects in relation to the basic financial statements as a whole.

A handwritten signature in black ink that reads "Deloitte + Tuck LLP". The signature is written in a cursive, stylized font.

May 2, 2017

GUAM DEPARTMENT OF EDUCATION

Schedule of Expenditures of Federal Awards
Year Ended September 30, 2016

Federal Grantor/Pass-Through Grantor/Program or Cluster Title	Federal CFDA Number	Pass-Through Entity Identifying Number	Passed Through to Subrecipients	Federal Expenditures
U.S. DEPARTMENT OF AGRICULTURE:				
Direct:				
National School Lunch Program	10.555		\$ 283,002	\$ 11,140,979
State Administrative Expenses for Child Nutrition	10.560			445,110
Emergency Food Assistance Program (Administrative Costs)	10.568			34,826
Child Nutrition Discretionary Grants Limited Availability	10.579			105,307
Fresh Fruit and Vegetable Program	10.582			2,654
Total U.S. Department of Agriculture				<u>\$ 11,728,876</u>
U.S. DEPARTMENT OF DEFENSE:				
Direct:				
Army JROTC	12.000			\$ 275,140
Air Force JROTC	12.000			142,233
Marine JROTC	12.000			1,059
Total U.S. Department of Defense				<u>\$ 418,432</u>
U.S. DEPARTMENT OF THE INTERIOR:				
Pass-Through Government of Guam - Department of Administration: Economic, Social, and Political Development of the Territories	15.875	778904292		\$ 8,788,006
Total U.S. Department of the Interior				<u>\$ 8,788,006</u>
U.S. DEPARTMENT OF EDUCATION:				
Direct:				
Special Education-Grants to States	84.027			\$ 13,701,363
Special Education-Grants for Infants and Families	84.181			1,819,954
Territories and Freely Associated States Education Grant Program	84.256			989,320
Striving Readers	84.371			230,916
Consolidated Grant to the Outlying Areas	84.403			23,931,473
Total U.S. Department of Education				<u>\$ 40,673,026</u>
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES:				
Direct:				
Cooperative Agreements to Promote Adolescent Health through School-Based HIV/STD Prevention and School-Based Surveillance	93.079			\$ 594
Affordable Care Act (ACA) Personal Responsibility Education Program	93.092			212,174
Head Start	93.600			2,528,817
Total U.S. Department of Health and Human Services				<u>2,741,585</u>
Total Federal Awards Expended			\$ 283,002	<u>\$ 64,349,925</u>

See notes to Schedule of Expenditures of Federal Awards.

GUAM DEPARTMENT OF EDUCATION

Notes to Schedule of Expenditures of Federal Awards Year Ended September 30, 2016

1. Scope of Audit:

The Guam Department of Education (GDOE) is a line agency of the Government of Guam, a governmental entity established by the 1950 Organic Act of Guam, as amended, and has the powers of a body corporate, as defined in the act and local statutes. Only the operations of the Guam Department of Education are included within the scope of the audit.

2. Basis of Presentation:

The accompanying Schedule of Expenditures of Federal Awards (the Schedule) includes the federal grant activity of GDOE under programs of the federal government for the year ended September 30, 2016. The information in this Schedule is presented in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)*. Because the Schedule presents only a selected portion of the operations of GDOE, it is not intended to and does not present the financial position, changes in net position or cash flows of GDOE.

3. Summary of Significant Accounting Policies:

a. Basis of Accounting:

GDOE is named as the federal award recipient on federal award documents and is responsible for maintaining the accounting records for federal expenditures. All expenditures and capital outlays that represent the federal share are reported as expenditures. Expenditures reported on the Schedule are reported on the modified accrual basis of accounting, consistent with the manner in which GDOE maintains its accounting records. Such expenditures are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement. Pass-through entity identifying numbers are presented where available. GDOE does not elect to use the 10-percent de minimis indirect cost rate allowed under the Uniform Guidance.

b. Subgrants:

Certain program funds are passed through the Guam Department of Education to subrecipient organizations. Federal awards provided to subrecipients are treated as expenditures when paid to the subrecipient. The Schedule of Expenditures of Federal Awards does not contain separate schedules disclosing how the subrecipients outside of the Guam Department of Education's control utilized the funds. If the subrecipient expends \$750,000 or more in federal awards, the subrecipient separately satisfies the audit requirements of the Uniform Guidance.

4. High-Risk Grantee Status:

GDOE is designated a high-risk grantee by the U.S. Department of Education.

5. CFDA Number 10.555:

Expenditures for CFDA number 10.555 include expenditures for both the National School Lunch Program and the School Breakfast Program, which is listed in the CFDA index as CFDA number 10.553. Only CFDA number 10.555 is presented in the Schedule of Expenditures of Federal Awards as the U.S. Department of Agriculture awarded Child Nutrition Program funds under the one CFDA number in its Grant Award Document.

GUAM DEPARTMENT OF EDUCATION

Reconciliation of Schedule of Expenditures of Federal Awards to
Basic Financial Statements
Year Ended September 30, 2016

	<u>Expenditures</u>
Federal contributions, as reported in the 2016 financial statements:	
Federal Grants Assistance Fund expenditures	\$ 63,931,493
<u>CFDA Program</u>	
12.000 Army JROTC	275,140
12.000 Air Force JROTC	142,233
12.000 Marine JROTC	<u>1,059</u>
 Total Federal Expenditures Subject to Audit	 \$ <u>64,349,925</u>

GUAM DEPARTMENT OF EDUCATION

Schedule of Findings and Questioned Costs
Year Ended September 30, 2016

Section I – Summary of Auditors’ Results

Financial Statements

1. Type of report the auditors issued on whether the financial statements audited were prepared in accordance with GAAP: Unmodified

Internal control over financial reporting:

- 2. Material weakness(es) identified? No
- 3. Significant deficiency(ies) identified? None reported
- 4. Noncompliance material to financial statements noted? No

Federal Awards

Internal control over major federal programs:

- 5. Material weakness(es) identified? No
- 6. Significant deficiency(ies) identified? Yes
- 7. Type of auditors’ report issued on compliance for major federal programs: Unmodified
- 8. Any audit findings disclosed that are required to be reported in accordance with 2 CFR 200.516(a)? Yes
- 9. Identification of major federal programs:

<u>CFDA</u>	
<u>Numbers</u>	<u>Name of Federal Program or Cluster</u>
84.181	Special Education-Grants for Infants and Families
84.403	Consolidated Grant to the Outlying Areas

- 10. Dollar threshold used to distinguish between Type A and Type B Programs: \$1,930,497
- 11. Auditee qualified as low-risk auditee? No

Section II – Financial Statement Findings

No matters were reported.

Section III - Federal Award Findings and Questioned Costs

<u>Reference</u>	<u>CFDA</u>		<u>Questioned</u>
<u>Number</u>	<u>Number</u>	<u>Finding</u>	<u>Costs</u>
2016-001	84.181	Matching, Level of Effort, Earmarking	\$ -
2016-002	84.403	Procurement and Suspension and Debarment	-

GUAM DEPARTMENT OF EDUCATION

Schedule of Findings and Questioned Costs, Continued Year Ended September 30, 2016

Finding No.: 2016-001
Federal Agency: U.S. Department of Education
CFDA Program: 84.181 Special Education-Grants for Infants and Families
Federal Award No.: H181A150008, H181A160008
Area: Matching, Level of Effort, Earmarking
Questioned Costs: \$0

Criteria:

In accordance with applicable level of effort – maintenance of effort requirements, the total amount of State and local funds budgeted for expenditure in the current fiscal year for early intervention services for children eligible under Part C and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available.

Condition:

GDOE does not meet the definition of a State. Rather, GDOE is a public agency within the Government of Guam (the State) with an accounting system that is segregated from that of the State. As a result of such segregation, much of the data required to demonstrate compliance with the requirement is not available within GDOE. Because GDOE does not have information available from the Government of Guam regarding the State's overall budget and actual expenditures, we are unable to determine Guam's overall compliance with 34 CFR 303.225(a)(2) and (b).

Cause:

There is a lack of coordination between Government of Guam and Guam Department of Education for purposes of compliance with the applicable level of effort – maintenance of effort requirement.

Effect:

Guam's compliance cannot be determined until information external to GDOE is obtained. The requirement goes beyond the operations of GDOE, and until such time that coordinated efforts are established, the condition above is likely to remain unresolved.

Recommendation:

GDOE should consider applying similar procedures described in GDOE's SOP No. 300-003, accordingly, to demonstrate compliance with applicable level of effort – maintenance of effort requirements.

Views of Auditee and Planned Corrective Actions:

GDOE does not concur with the finding. GDOE believes the level of effort – maintenance of effort requirement was not applicable to GDOE. See full response in the Corrective Action Plan.

Auditor Response:

GDOE has provided neither grantor correspondence nor State data to substantiate its position.

GUAM DEPARTMENT OF EDUCATION

Schedule of Findings and Questioned Costs, Continued
Year Ended September 30, 2016

Finding No.: 2016-002
 Federal Agency: U.S. Department of Education
 CFDA Program: 84.403 Consolidated Grant to the Outlying Areas
 Area: Procurement and Suspension and Debarment
 Questioned Costs: \$0

Criteria:

In accordance with Special Conditions for U.S. Department of Education grants awarded to GDOE for award numbers S403A120002, S403A130002, and S403A150005, the applicable procurement requirements are set forth in 34 CFR 80.36(b)-(j) for grantees other than States. In accordance with applicable procurement requirements, procurement by sealed bids (formal advertising) or by competitive proposals will be used in acquiring services that cost more than the simplified acquisition threshold (\$100,000); procurement by noncompetitive proposals (sole source) may be used only when the item is available only from a single source.

Condition:

Of twenty-seven transactions, aggregating \$1,881,071 of \$7,452,325 in total program non-payroll costs, we noted the following:

1. For one (or 4%), the contractor was selected to provide career technical education for high school students because it was deemed "grant-specific" in the grant application, therefore, sole source procurement method was applied. Although the grant application was approved, transactions must still be procured in accordance with the Special Conditions. As such, the small purchase method should have been applied for services below \$100,000 for the following:

<u>Award Number</u>	<u>Purchase Order</u>	<u>Vendor</u>	Transaction <u>Amount</u>	<u>FY 2016 Expenditures</u>
S403A130002	20150363	80299	\$1,615	\$41,485

No questioned cost is presented as GDOE subsequently performed a cost analysis of one other potential supplier which showed that equal or greater cost would have been incurred if the other supplier was selected for these particular services. Furthermore, GDOE has sought open competition in subsequent procurements, for the same services, applying the small purchase procurement method.

2. Based on procurement guidance from the grantor, Executive Order 2000-25 was applied to obtain on-island professional training services from an institution of higher education (IHE). Such application resulted in informal procedures to procure services that cost more than \$100,000, which appears to be in conflict with the expected formal procurement methodology for the following:

<u>Award Number</u>	<u>Purchase Order</u>	<u>Vendor</u>	<u>PO Amount</u>	<u>FY 2016 Expenditures</u>
S403A130002	20140588	19001	\$1,016,928	\$87,040

No questioned cost is presented as GDOE sought and applied grantor guidance and also attempted competition by obtaining quotations from the only two IHEs on Guam. However, this condition is reportable due to the differing interpretations of the applicable procurement requirements and the need for grantor clarification regarding procurement transactions subject to future Special Conditions, if any.

GUAM DEPARTMENT OF EDUCATION

Schedule of Findings and Questioned Costs, Continued
Year Ended September 30, 2016

Finding No.: 2016-002, Continued
Federal Agency: U.S. Department of Education
CFDA Program: 84.403 Consolidated Grant to the Outlying Areas
Area: Procurement and Suspension and Debarment
Questioned Costs: \$0

Condition, Continued:

- 3. Based on procurement guidance from the grantor in March 2012, Title 5 GCA (Guam Code Annotated) Section 5004(b) was applied to obtain law-related education services directly from the Judiciary of Guam, a line agency of the Government of Guam. 5 GCA Section 5004(b) states that the Guam procurement law "shall not apply...to contracts between the Territory and another government." Such application resulted in sole source procedures to procure services available from more than one source.

<u>Award Number</u>	<u>Purchase Order</u>	<u>Vendor</u>	<u>PO Amount</u>	<u>FY 2016 Expenditures</u>
S403A150005	20150130	19002	\$1,114,995	\$468,722

No questioned cost is presented as GDOE sought and applied grantor guidance. However, this condition is reportable due to the differing interpretations of the applicable procurement requirements and the need for grantor clarification regarding procurement transactions subject to future Special Conditions, if any.

Cause:

For Condition 1, GDOE Supply Management did not enforce internal control over compliance with applicable procurement requirements.

For Conditions 2 and 3, GDOE believed that the applications of Executive Order 2000-25 and 5 GCA 5004(b) were acceptable to the grantor. Although GDOE received some clarification regarding the requirements of the Special Conditions in June 2016, GDOE's efforts towards corrective action could not be retroactively applied to procurements that occurred in FY 2014 and FY 2015.

Effect:

For Condition 1, GDOE is in noncompliance with applicable procurement requirements. For Conditions 2 and 3, it appears GDOE may be in technical noncompliance with expected procurement requirements.

Identification as a Repeat Finding: Finding 2015-001

Recommendation:

GDOE should continue discussions with the grantor regarding applicable procurement requirements under the Special Conditions. The specific guidance and rationale for each procurement decision should be documented at the time of the procurement and retained in the procurement file to clearly substantiate compliance. Also, GDOE should enforce established procurement regulations consistently for all procurements and strengthen internal control procedures to maximize full and open competition.

GUAM DEPARTMENT OF EDUCATION

Schedule of Findings and Questioned Costs, Continued
Year Ended September 30, 2016

Finding No.: 2016-002, Continued
Federal Agency: U.S. Department of Education
CFDA Program 84.403 Consolidated Grant to the Outlying Areas
Area: Procurement and Suspension and Debarment
Questioned Costs: \$0

Views of Auditee and Planned Corrective Actions:

For Condition 1, GDOE concurs with the finding.

For Condition 2 and 3, GDOE does not concur with the finding. GDOE believes that it is technically compliant with federal regulations, citing 2 CFR 200.318 to 200.326, which allow intergovernmental agreements outside of the competitive procurement regime.

See full response in the Corrective Action Plan.

Auditor Response:

GDOE's response highlights the need for continued discussions with U.S. ED.

GUAM DEPARTMENT OF EDUCATION

Corrective Action Plan
Year Ended September 30, 2016

Finding No.: 2016-001
Federal Agency: U.S. Department of Education
CFDA Program 84.181 Special Education-Grants for Infants and Families Federal Award No.:
H181A150008, H181A160008
Area: Matching, Level of Effort, Earmarking
Questioned Costs: \$0

Views of Auditee and Corrective Action Plan:

GDOE does not concur with the finding, see discussion below.

GDOE, as a whole, has not expended any funds towards early intervention services under IDEA Part C per Public Law 33-66 Government of Guam FY16 Appropriations Act. No funds were allocated for IDEA Part C and GDOE did not receive local funds for IDEA Part C. Hence, level of effort was not applicable.

GUAM DEPARTMENT OF EDUCATION

Corrective Action Plan, Continued
Year Ended September 30, 2016

Finding No.: 2016-002
Federal Agency: U.S. Department of Education
CFDA Program: 84.403 Consolidated Grant to the Outlying Areas
Area: Procurement and Suspension and Debarment
Questioned Costs: \$0

Condition 1

GDOE concurs with the finding, see discussion below.

As part of its Career Pathway Program, GDOE enrolls students in classes at the Guam Community College (GCC) and the Guam Contractors Association Trades Academy (Trades Academy). GCC and the Trades Academy work together to schedule classes to complement and not compete with one another. Both GCC and the Trades Academy are named in the grant application. The Trades Academy offers courses not available at GCC. Furthermore, the Trades Academy could also provide the students with a nationally recognized certification upon successful completion of courses, which would make the students ready for the workforce and more appealing to potential employers.

This procurement was treated as a grant specific procurement. Additionally, tuition or registration fees are not typically competitively procured as the classes are specifically identified by the end user for the program.

Corrective Action Plan: In FY16, the Supply Management Administrator amended existing SOPs relative to sole source procurement. The Procurement Section will utilize competitive procurement practices where deemed appropriate. Assigned procurement staff utilizes a procurement checklist to determine the sufficiency of requested sole source procurement and the Supply Management Administrator must document approval before the procurement is moved forward. If the end user determines that the procurement is 'grant specific,' written confirmation from the grantor must be provided as part of the procurement file.

Plan to Monitor: The Supply Management Administrator has assigned procurement staff to monitor incoming requisitions and perform additional procedures to limit and/or reduce the utilization of sole source procurement. Additionally, Internal Audit will periodically conduct an internal review for compliance with established SOPs.

Officials Responsible: Supply Management Administrator and designated Buyer.

Planned Completion Date: In place by September 30, 2016. Please note that this was a FY15 procurement.

Conditions 2 & 3

GDOE does not concur with the finding, see discussion below.

GDOE's establishment of an inter-agency agreement.

In October 2009, GDOE entered into a Memorandum of Agreement with the GCC to serve as the framework for GCC Career and Technical Education programs and activities in the GDOE High Schools. This agreement was signed by the GDOE Superintendent and the GCC President.

GUAM DEPARTMENT OF EDUCATION

Corrective Action Plan, Continued
Year Ended September 30, 2016

In March 2015, GDOE entered into a Memorandum of Understanding with the Judiciary of Guam (JOG) to provide educational activities within GDOE campuses. This agreement was signed by the GDOE Superintendent and the Chief Justice.

GDOE references AG's guidance

GDOE relied on the AG guidance on "Government to Government Contractual Services" dated May 2007. Again, this guidance specifically stated "obtaining services from another government entity within the government of Guam would likewise not require procurement. If the government can itself provide the services needed, it need not obtain those services elsewhere."

These documents were maintained in GDOE's procurement record and subsequently provided to Deloitte for review and audit resolution. However, Deloitte contends that stricter federal requirements have been imposed as stated in the special conditions letter in 2015 and 2016 and require competitive procurement processes. Specifically:

"GDOE must grant the Agent authority to enter into contracts with vendors on behalf of GDOE, and in doing so, GDOE must cooperate with the Agent to ensure compliance with the provisions for procurement set forth in 2 CFR §§ 200.318- 200.326."

CFR allows for interagency agreements

GDOE calls to attention Title 2 of the Code of Federal Regulations (CFR) §200.318(e), which states: (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. (emphasis added)

The citation specifically allows for the establishment and the use of intergovernmental agreements, which is consistent and relevant to the procurement in question. The citation does not speak to the dollar threshold amount.

Additional affirmation sought

On June 29, 2016, the Attorney General of Guam issued legal guidance in the form of a letter reaffirming that Title 5 of the Guam Code Annotated, Chapter 5 does not apply to contracts between agencies or departments within GovGuam. Additionally, guidance is being sought from USDOE to determine if, based on the regulations cited in the Special Conditions, whether agreements between GDOE and GCC or JOG require competitive procurement procedures.

In summary, GDOE believes that it is technically in compliance with federal regulations, 2 CFR §200.318 to §200.326, which allow intergovernmental agreements outside of the competitive procurement regime. Further, GDOE believes that intergovernmental agreements include interagency agreements such as those between GDOE and GCC or JOG.

Note that while GDOE disagrees with this finding, until guidance is provided by USDOE, GDOE will use competitive procurement methods for services above the small purchase threshold even if those services are procured from other GovGuam agencies. Further, GDOE notes that this is a repeat finding, i.e. a finding in the FY15 Single Audit. However, the procurements selected were from FY14 and FY15 and, therefore, the change in procurement procedures will not be evident until late in FY16.

GUAM DEPARTMENT OF EDUCATION

Schedule of Prior Audit Findings
Year Ended September 30, 2016

<u>Finding Number</u>	<u>CFDA Number</u>	<u>Requirement</u>	<u>Questioned Cost</u>	<u>Status</u>
2015-001	84.403	Procurement and Suspension and Debarment	\$ -	Condition 1. Additional affirmation sought. Guidance was sought from USDOE to determine if, based on the regulations cited in the Special Conditions, whether agreements between GDOE and UOG or GCC require competitive procurement procedures. Condition 2. The Guam Department of Education amended Standard Operating Procedures (SOP) 200-018 in August 2016. Assigned procurement staff utilizes a procurement checklist to determine the sufficiency of requested sole source procurement and the Supply Management Administrator documents approval before sending it to the Third Party Fiduciary Agent for review and disposition. The Internal Audit Office has included a compliance assessment of SOP 200-018 in its 2015-2017 Audit Plan.
2015-002	93.092	Procurement and Suspension and Debarment	\$ -	Pending U.S. DHSS's determination.
2014-001		General Ledger Reconciliations	\$ -	Corrective action taken. Reconciliation between the general ledger account(s), the SEFA and the SEFRAD, with subsidiary ledger account(s) is performed monthly and reports are submitted to the Comptroller for review and approval. The Comptroller continues to monitor the reconciliation process to ensure reconciliation is performed more timely.
2014-002		Non-Appropriated Funds (Agency Funds)	\$ -	Corrective action plan on-going