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Nerissa Bretania Underwood, Ph.D.
Superintendent of Education

October 13, 2009

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MEMORANDUM

TO: Chairman and Members, Guam Education Policy Board
FROM: Superintendent of Education
SUBJECT: Response to USDOE Letter Dated September 28, 2009

I am herewith providing you a copy of the response to Philip Maestri of USDOE that was emailed and mailed today, Tuesday, October 13, 2009.

If you have any concerns, please do not hesitate to call me at 475-0457.

Sincerely yours,

Nerissa Bretania Underwood, Ph.D.

Attachments

Cc: Congresswoman Madeleine Bordallo
Governor of Guam
Speaker, 30th Guam Legislature
Attorney General
Office of Public Accountability

30-09-1211
Office of the Speaker
J. M. W. Pat. Ed. R.
9-14/09
10/14/09

Background

In a letter dated September 28, 2009, U.S. Department of Education concluded that Guam Department of Education has not made substantial progress in implementing the Comprehensive Corrective Action Plan (CCAP), and consequently required GDOE to take the following major actions no later than October 13, 2009:

1. Respond to the request made by the USDOE in its letter dated June 23, 2009 for an assurance from the GDOE Superintendent that management stability will be maintained.
2. Respond to the request in the cover letter accompanying this site visit report that GDOE demonstrate why the USDOE should not begin to make immediate administrative action with regard to GDOE's grants, including, but not limited to, withholding funds or requiring a third-party fiduciary agent to administer and manage Federal funds awarded to GDOE.

Process for Development of Response

Upon receipt of the September 28th letter, the Superintendent conducted meetings with the Senior Management Team, Principal Representatives, Financial Services staff, Chief Internal Auditor and the Administrator of Federal Programs. The meetings involved in-depth analysis of the USDOE findings in the context of established procedures. Various members of this team reviewed draft documents depicting GDOE's response to the "show cause" letter. The Superintendent also read a draft letter to USDOE during the GEPB meeting on October 7, 2009.

As the response neared completion, the Superintendent continued to solicit input from the Senior Management Team, Chief Auditor and Administrator of Federal Programs. Given that the Federal Program Administrator has been on sick leave, one of the Senior Federal Program Monitors attended the review meetings. The Superintendent also met with various support division leaders to get clarity on specific citations. On Monday, October 12th the Superintendent met with all the Federal Program Monitors to give them an overview of GDOE's position and solicit feedback on the proposed action steps for facilitating the implementation of the CCAP.

The Superintendent used the participatory approach for developing the GDOE response to continue building capacity and collaboration among the department leaders.

Report Structure

This report describes Guam DOE's response to USDOE's show cause letter. Responses are categorized under the two major requirements stated in the September 28, 2009 cover letter.

- I. Respond to the request made by the USDOE in its letter dated June 23, 2009 for an assurance from the GDOE Superintendent that management stability will be maintained.

USDOE: The USDOE has expressed concern over the past few years about the management instability within GDOE. After its visit in August 2008, a Management Team consisting of Deputy Superintendents was to be pursued, in addition to hiring a Chief Internal Auditor, which would provide needed segregation of duties as well as a process of checks and balances for the organization. The composition of this Management Team continues to be a very fluid and ambiguous function within GDOE as three Deputies have left the organization in less than a year. The inability to maintain a qualified team of deputy superintendents is a primary challenge to the stability of the organization and, consequently, to its ability to institute and implement internal controls necessary for proper financial management of Federal funds.

GDOE RESPONSE: It would be irresponsible to make *an assurance that management stability will be maintained* in light of the fact that the Superintendent of Education cannot force any individual to continue employment in GDOE. Individuals within any organization are free to make personal decisions regarding their career. An employee's departure from an organization is either through resignation or through termination for failure to perform to expected standards. As such, the impact of the departure of key individuals within financial services, be it the Administrator of Procurement and Supply Management, Comptroller or Deputy Superintendents, can only be fairly assessed in the context of employee performance standards that are aligned with the implementation of the CCAP and expectations of USDOE.

It must be emphasized that while the objective of having a stable senior management team is important to the systemic implementation of corrective actions, management stability cannot overshadow the need for accountability and competence to perform the job. There simply has to be a balance between the two.

Management stability will also not necessarily result in the successful implementation of corrective action plans in the absence of a performance-based accountability system. The need for performance-based accountability is strongly implied by the following USDOE findings:

"Additionally, the report noted that the Comptroller used funds from the Bond Proceeds indiscriminately without regard to how the funds were appropriated and allotted."

"The USDOE considers that lack of compliance with established SOPs by senior management as a significant barrier to promoting and ensuring that GDOE staff understand and comply with all local and Federal procurement requirements. Specifically, prolonged procurement processing creates delays in the time schools receive goods and series."

The financial twists and turns of the past year, particularly with respect to the management of local funds, have exposed weaknesses in key support divisions, which were not tolerable. If stability of personnel had taken precedence, the situation we face today could be even more serious.

There is also a need to clarify USDOE's position regarding its' critique of the financial management and simultaneous counsel relative to management team stability, specifically since personnel changes occurred among those responsible for the financial services that are the subject of criticism.

We agree with the basic tenet that the maintenance of a qualified team is essential to DOE's ability to institutionalize internal controls that are necessary for proper financial management of both local and federal funds. What constitutes a "qualified team" is measured by each member's demonstrated ability to manage both federally and locally funded educational programs as well as services intended to support those programs. We also recognize that while each member of the management team is accountable for meeting the standards within their respective areas, the Superintendent holds the ultimate responsibility for ensuring that the team is provided adequate support and leadership for achieving DOE's goals. More importantly, while the immediate goal of implementing the CCAP is to meet compliance requirements set by USDOE, Guam Department of Education's ultimate goal for implementing the corrective actions, such as the Manager's Internal Control (MIC) Program, is to develop our school system's capacity for continuous quality assessment, correction and renewal.

Superintendent's Assurances

Given the foregoing principles and limitations in making assurances for management stability, the Superintendent makes assurances for improving the implementation of DOE's Comprehensive Corrective Action Plan system-wide through a review of the action steps, re-alignment of responsibilities with the management team and reformatting of the reporting through the following:

1. **RE-PRIORITIZE CCAP:** USDOE stated that an important first step to improving the systemic implementation of the CCAP is the re-examination and re-prioritization of the corrective action steps, which are viewed to be numerous and cumbersome. The reporting format should also be simplified.

Action: The senior management team, comprised of the Superintendent of Education, Deputy Superintendent of Finance and Administrative Services, Deputy Superintendent of Curriculum and Instructional Improvement, and Deputy Superintendent of Educational Support and Community Learning, will continue efforts to re-examine and re-prioritize the CCAP in view of USDOE findings that were reported in the September 28, 2009 show cause letter. The review will include consultation with the Chief Internal Auditor, the Administrator and

Monitors of Federal Programs, and Principal Representatives from each of the four regions: Lagu, Luchan, Kattan and Haya.

We welcome USDOE's assistance to reprioritize and reformat the CCAP, which Christine Jackson stated might be provided after USDOE makes a decision regarding the third party fiduciary agent.

Product: Revised List of CCAP Priority Action Steps with specific timelines starting and ending (i.e., month and year instead of "ongoing" or "in process") and reporting format.

2. **SHARED RESPONSIBILITY:** Since the designation of the "high risk" status to DOE in 2003 and USDOE's approval of the CCAP in 2007, the responsibility for the CCAP development, implementation, monitoring, compilation and validation of progress reports for submission rested primarily on the Federal Programs Division. Numerous efforts through mandated training and meetings with the aim of institutionalizing the prescribed changes in schools and support divisions have been documented. However the complexity entailed by CCAP combined with the USDOE citations regarding DOE's failure to fully implement the improvement steps, warrant the re-alignment of responsibilities to the senior management team whose members possess the authority to impose accountability measures to carry out action steps. Therefore, the responsibility for supervising the implementation of the Revised List of CCAP Priority Action Steps will be aligned with each of the senior management team members, based on their respective roles and responsibilities.

The Internal Audit Office, through the Chief Auditor's leadership, will continue to be responsible for validating the progress reports that program managers submit to the Federal Programs Office and Superintendent. The Federal Programs Office, through its Administrator's leadership, will continue to provide support, additional implementation training, monitor implementation efforts through site visits and compile the validated reports for submission to the Superintendent and USDOE.

It should be noted that the described restructuring does not abdicate the roles and responsibilities of Federal Programs.

3. **INTEGRATED COMPREHENSIVE CORRECTIVE ACTION PLAN IMPLEMENTATION:** The Superintendent is making assurances for facilitating an integrated, system-wide approach in implementing the CCAP. The implementation of the CCAP is widely perceived to be limited to federally funded programs in light of its development and implementation as a condition for getting off the "high risk" status. Although USDOE is limited in imposing sanctions to federally funded programs, there must be a shift from the dichotomous, fragmented view of the management of federal and local funds to an interdependent, integrated perspective relative to how both

funding sources serve our students. The required changes in the management of federal funds and programs in the CCAP will be achieved and sustained by making simultaneous changes in the financial management of local funds. In fact, closer examination of factors contributing to the delay in implementing the CCAP commonly cites the outdated financial computer system and the lack of continuous training for financial services staff that provide services to both locally and federally funded programs.

Facilitating Steps

1. GDOE is in the process of developing a Memorandum of Understanding with the Department of Administration (DOA), Bureau of Budget Research and Management (BBMR), with the goal of providing immediate assistance (i.e, training and upgrade of technology) to DOE's financial services. The MOU was initiated through meetings with the Governor of Guam, Speaker of the Legislature and the Guam Education Policy Board (GEPB) Chairman. The GEPB has stated its full support for acquiring assistance from those agencies through Resolution 2009-11 that was passed during the board meeting on October 7, 2009. The MOU is an essential step to simultaneously address the needed changes in financial services for locally and federally funded programs. See a copy of the Draft MOU in Attachment A and GEPB Resolution 2009-11 in Attachment B.
 2. The Superintendent, with assistance from the Senior Management Team, will conduct training for school and support division leaders on the revised CCAP priority corrective actions. This will be scheduled upon USDOE's acceptance or approval of the revised CCAP priorities and reporting format and procedures. The Superintendent's hands-on role is intended to facilitate the conceptual shift in regards to the CCAP as a catalyst for DOE's transformation.
- II. Respond to the request in the cover letter accompanying this site visit report that GDOE demonstrate why the USDOE should not begin to make immediate administrative action with regard to GDOE's grants, including, but not limited to, withholding funds or requiring a third-party fiduciary agent to administer and manage Federal funds awarded to GDOE.

The following section includes GDOE's response to each finding from the USDOE validation visit report. The response is organized under each subheading and stated "failures".

FINDINGS

USDOE (1): Submission of both biannual CCAP reports (January 31 and May 31, 2009) to the USDOE, as required by the FY 2008 special conditions were intended to provide an update on GDOE's progress under the CCAP in the areas of fiscal and management oversight, consolidated grant, special education and discretionary grant programs. Supporting documentations in the form of hard-copy binders, postings on the GDOE website and electronic copy via CD were provided to the USDOE to further support the actions described by GDOE in its CCAP as either complete or in progress.

Interviews conducted by the USDOE's Risk Management Services staff with the GDOE management team, senior leadership and selected staff confirmed the following general findings:

- (1) The CCAP is not being implemented as described in the biannual reports and, in fact interviews with several GDOE staff confirmed that most actions required under the CCAP are not taken unless they are related to the exercise of preparing a required report submission. In other words, the CCAP is "shelved" for the most part in between biannual report submissions, and has not become a living document that is used or referenced by GDOE staff on a regular basis; (p.2)

GDOE RESPONSE: The perception that the GDOE staff shared with USDOE regarding the CCAP not being used on a regular basis is not entirely correct. If the CCAP was entirely ignored the citations would have included problems with the overall management of the consolidated grant, special education grants, and discretionary grants. In fact, the Site Validation Report included the following positive statements:

"The USDOE program staff has no remaining issues in the CCAP specific to the Consolidated grant program that need to be addressed by GDOE at this time." (p. 10)

"With regard to GDOE's internal control, financial management, and procurement procedures, all procurement-related special education audit findings through FY 2007 have been resolved and closed, and the 2008 single audit does not contain any procurement findings for the special education program. It is also noteworthy that there were no questioned costs for the program in the 2008 single audit report." (p. 11)

"The USDOE program officer for the Improving Literacy Through Libraries Program noted that there are no specific corrective actions within the CCAP that need to be addressed by GDOE at this time." (p. 12)

“The USDOE program staff (for Freely Associated States Education Grant – T&FASEG) has not identified any corrective actions within the CCAP that need to be addressed by GDOE at this time.” (p. 12)

“The OII program office did not identify any corrective actions related to the Chamorran Language Program grant that need to be addressed by GDOE in the CCAP.” (p. 13) (USDOE please note, Chamorro is the correct language for Guam’s indigenous population, not Chamorran)

“The USDOE OPE staff met with the Guam TQE program director and concluded that the grant is being administered and implemented appropriately.” (p.13)

Those positive findings are indicators of the institutionalization of program internal controls, which are part of the CCAP.

Statements of the interviewed staff indicating that “most actions required under the CCAP are not taken unless they are related to the exercise of preparing required report submission” is rooted on a commonly articulated perception that the CCAP is solely a “Federal Programs Division” project. That perception may be attributable to the primary role that Federal Programs played in the development, training, implementation and monitoring of CCAP. But the interviewed staff statements, whether partially erroneous or correct, strongly suggest the need to re-examine the CCAP priorities and the effectiveness of the training programs that are intended to institutionalize the corrective actions.

GDOE CORRECTIVE ACTION: No later than three weeks after receipt of USDOE’s approval or acceptance of GDOE’s Response to Show Cause, the Revised CCAP priorities will be communicated to all school and support division leaders through meetings conducted by the Superintendent, Senior Management Team and Federal Programs Administrator.

USDOE (2): all GDOE central office staff with direct responsibility for Federal grants have not been trained or involved in the ongoing fulfillment of the CCAP implementations. For example, Standard Operating Procedures (SOPs) have been developed for all the major functions (Business, Procurement, Fixed Assets Inventory) within GDOE as part of the solution to GDOE’s fiscal management deficiencies with respect to Department grants; however, the SOPs do not reflect the actual day-to-day procedures used by the GDOE staff, and the GDOE has failed to make significant progress under the CCAP as a result; (p.2)

GDOE RESPONSE: Notwithstanding evidence provided by GDOE that training has been provided on numerous occasions, the Superintendent agrees with USDOE that GDOE has not achieved the goal of successfully training all central office staff with direct responsibility for Federal grants. If all the GDOE staff have been trained in the SOPs

that have been developed for major functions such as the Business Office and Procurement, GDOE would not have encountered problems with the Food Service Contract, which caused the shutdown of schools in the beginning of this school year. Nor would GDOE been subjected to protests from vendors vying for federally funded projects.

The Senior Management Team, Chief Auditor and Administrator of Federal Programs Division collectively noted that there is a need to re-vamp the training program, to include pre-/post-tests, guided practice, on-site follow-up and if necessary, mentoring. The Superintendent believes that the success of the training program is also largely dependent on management's active participation in training activities, combined with the alignment of employee performance evaluation to measureable standards.

CORRECTIVE ACTION: GDOE management team, in collaboration with DOA, BBMR, University of Guam (UOG) and Guam Community College (GCC) will re-design the CCAP training program to include research-based elements of an effective professional development program. If necessary, continuous professional development services will be advertised through a Request For Proposal (RFP). The training needs will be among the immediate actions that will be addressed by DOA and BBMR.

It is important to note that the General Supply Agency (GSA) has already started training the procurement staff on the Standard Operating Procedures (SOP) for procurement. Guided practice is immediately provided to GDOE procurement staff in light of their re-location to the GSA facility. The training has resulted in significant improvement on the number of purchase orders that have been processed within the past five weeks following established GSA procurement standards. Please refer to Attachment D for the progress report from the Chief Procurement Officer

USDOE (3): Operational internal controls have not been institutionalized in GDOE, and there is consequently no assurance that any fiscal and management improvements that GDOE makes will be sustained, regardless of changes in GDOE's senior leadership. While GDOE has been reporting the implementation of the Management Internal Controls (MIC) program, which was approved in October 2008, as an ongoing activity in the CCAP biannual reports, its implementation has, in fact, been delayed. (p. 2)

GDOE RESPONSE: The Superintendent agrees that the full implementation of the Manager's Internal Control (MIC) program has been delayed in that formal training did not start until April 2009, although it was approved since October 2008. The delay may be attributable to the fact that the Internal Audit Office (IAO) has a total staff of three auditors. They hold the primary responsibility for training GDOE leaders on the MIC program while at the same time have been actively engaged in conducting audits of various services and programs, such as Personnel Services, Textbook Management and Inventory, Bond Proceeds Administration, and Non-Appropriated Funds. The IAO,

as an independent arm of the GDOE, has also provided the Superintendent and management team with consultative services.

However, it should be noted that to date up to 80 GDOE managers comprised of school principals and support division leaders have been trained in the MIC. Additional training activities will be implemented through October, with a completion goal scheduled for November 2009. This is discussed more in detail in subsequent pages pertaining to this issue.

FISCAL OVERSIGHT

USDOE: As stated in the June 23, 2009 letter from Phil Maestri, Director, Risk Management Service, USDOE, to GDOE Superintendent Underwood (then Shafer), transmitting the fiscal year (FY) 2009 special conditions, there are several areas that GDOE must address under the current special conditions. In this letter, the USDOE requested that a written assurance be provided by the Superintendent concerning the organization's management stability, which now includes the Superintendent's Management Team; however, this has not been received. Additionally, the required biannual reporting of CCAP progress was intended to identify specific weaknesses that still exist in the areas of adequate internal controls, and procurement and property management policies, which in total continue to support the organization's "high-risk" designation.

GDOE RESPONSE: The Superintendent received the June 23, 2009 letter from Risk Management Director, Phil Maestri on July 7, 2009. She discussed her stance concerning management stability with Christine Jackson, USDOE Senior Consultant of the Management Improvement Team under the Risk Management Service, during a meeting with USDOE Attorney Jeanette Lim around July 13th, which was the week of the Validation Site Visit. At the time, the Superintendent considered discussion with Ms. Jackson and Attorney Lim concerning management stability as an official response in light of their official positions. She was also advised by GDOE legal counsel that a written response was not required given the lack of specific deadline for the response.

The Superintendent's position concerning the requirement to make management stability assurances was thoroughly discussed on page 1-4 of this report.

USDOE: Lack of Staff training/Expertise within DOE's Business Office

GDOE reported that "On October 31, 2008, it completed the realignment of the Business Office operations to improve its Financial Management systems and operations." During onsite interviews, it was discovered that the Business Office had indeed hired additional accountants and a new Budget Analyst; however an imbalance continues to exist between the staff and their respective responsibilities. There are insufficient qualified staff to handle the volume and complexity of its fiscal operations; thus the financial management systems and operations have not improved.

GDOE RESPONSE: GDOE acknowledges that systemic improvement in Business Office requires an upgraded Financial Management System as well as trained qualified staff. In the absence of funding for the immediate procurement of an upgraded Financial Management System (FMS) and a comprehensive professional development for the Business Office staff, the Superintendent has requested assistance from BBMR and DOA to address the day to day operational needs.

A Memorandum of Understanding (MOU) between GDOE, DOA and BBMR is being drafted to address the training needs and deficiencies identified by USDOE. Please refer to Attachment A, to review the details of the Draft MOU as of October 13, 2009. It should be noted that given the assistance that BBMR and DOA will provide GDOE in addressing the need for immediate technology upgrade and personnel training, the determination for additional staffing will be made within the first 6 months of the MOU implementation.

Additional assistance for GDOE Business Office includes:

1. DOE has included the request for funding a complete overhaul of its Financial Management System through the ARRA stimulus funds.
2. The 30th Guam Legislature, through Speaker Won Pat, has drafted Bill 254 to provide financial support for training DOE personnel at the Financial Services Division and Personnel Services Division. This is specifically intended to address deficiencies in personnel management and financial administration of all funds under the purview of GDOE. Please refer to Attachment C for details on Bill 254.

USDOE: The total amount of funds provided to GDOE to comply with Guam's Every Child is Entitled to an Adequate Public Education Act (Public Law 29-19) was \$26,135,977 (based on a fund adjustment made in P.L. 29-57). The IAO report noted the five areas of particular concern: (1) duplicate invoices with different amounts; (2) absence of valid project completion; (3) unorganized project management of these funds; (4) lack of technical personnel in project management; and (5) lack of standard operating procedures. Additionally, the report noted that the Comptroller used funds from the Bond Proceeds indiscriminately without regard to how the funds were appropriated and allotted.

GDOE RESPONSE: It should also be noted that the Internal Audit on the bond proceeds was initiated by the Superintendent of Education for accountability

purposes. The Department of Public Works initially managed the projects under the bond proceeds until the emergency period ended in late October 2008. The transition from DPW to GDOE may have been one of the factors contributing to the deficiencies. By October 23, 2009, the new Deputy Superintendent of Finance will provide an update on the implementation of the recommendations in the IAO report.

USDOE: The Public Auditor also made several observations and recommendations related to GDOE's operations during this site visit, including a conclusion that even though there has been marginal improvement in GDOE's basic Business Office functions, there is still undue reliance on assistance from the auditor, Deloitte & Touche, for guidance in preparing for their single audits. At the time of this visit, the auditor expressed hope that if GDOE is able to maintain the current Business Office staff with the Comptroller, accountants and Budget Analyst in place who are provided advanced training, the organization should be able to identify and make improvements. However, given the recent resignation of both the Comptroller and the Deputy Superintendent for Financial and Administrative Services, to whom the Comptroller reported, GDOE's financial management operations remain unstable.

GDOE RESPONSE: While there are concerns about the departure of the Deputy Superintendent of Finance and Administrative Services, and the Comptroller, as noted earlier, stability cannot supersede accountability.

A Deputy Superintendent of Finance was hired on Friday, October 9th to fill the vacant position. This deputy is a Certified Public Accountant, who brings a wealth of experience in financial management, including having oversight of federal funds. (See Attachment D for more details on Ms. Taitano's Resume.) The qualifications of the new Deputy Superintendent of Finance brings promise. This was reiterated with the Superintendent's recent meeting with the Public Auditor, Doris Flores Brooks, and Dan Fitzgerald, the managing partner of Deloitte Auditing Firm.

GDOE will actively recruit for a Comptroller and in the meantime DOA will provide support and advise through the MOU.

USDOE: Failure to implement Critical Financial Management Recommendations from the Evergreen Solutions Management and Curriculum Audit.

The Management and Curriculum Audit conducted by Evergreen Solutions between 2008 and March 2009 was intended to provide GDOE with a comprehensive assessment of its operations from the school level to the central office level. The audit findings and recommendations were represented to GDOE and the Guam Education Policy Board in April 2009. Within the 182 recommendations were specific actions that GDOE should take to strengthen its financial management operations. Actions to be undertaken by

GDOE were subsequently the focus of a 2-day management retreat. GDOE management projected that these recommendations will be implemented through FY 2011; however, an order of priority was not identified. GDOE has failed to implement recommendations specific to improve financial management as provided in the Evergreen Solutions Management and Curriculum Audit. Additional findings of financial management deficiencies are discussed below relative to the implementation of the Management Internal Controls (MIC) Program.

GDOE RESPONSE: In May 2009, GDOE held a strategic planning session comprised of school administrators, board members, federal programs employees and central office personnel to review and prioritize the Evergreen Management and Curriculum Audit recommendations for implementation purposes. The list of priorities were examined by a larger group of stakeholders made up of parents, community leaders, teachers, higher education personnel and legislators during an Education Summit on September 19, 2009.

Although there has been a turnover of two Deputy Superintendents of Finance in the past year, GDOE has implemented critical financial management recommendations:

- Improve the accountability system for procurement. (See Attached Document titled "GDOE Purchasing Goals and Objectives" effective August 6, 2009.)
- Although the full integration of fixed assets into the FMS has yet to be completed, we have developed Fixed Assets Standard Operating Procedures, and provided training to key personnel at the school sites and central office.
- An in-depth study of the GDOE Food Service Program was completed, and as a result, GDOE has increased the price of meals.
- Track performance data on work requests and other major operational processes to develop specific standards (GSA trained GDOE Personnel on these standards and procedures).
- GDOE has put out an RFP to begin steps in conducting a comprehensive assessment of school facilities and develop a 5-year capital improvement plan.

USDOE: Failure to Timely Cancel with MGA Consulting Services for Non-performance

GDOE has consistently updated its biannual CCAP reports (January 31, 2009 and May 31, 2009) with the status of its contract with MGA Consulting Services as an interim step toward addressing identified improvements in financial management. Specifically, the contract with MGA Consulting Services is reported several times under the CCAP "Status and Updates" for Fiscal Oversight. This contract, as described in the CCAP document, was to provide the following services: (1) review the reconciliation processes of GDOE's general ledger bank accounts and other balance sheets; (2) redesign and remap the GDOE chart of accounts; (3) assess the funds control system; (4) review the 2003 Financial Management System Manual; and (5) provide necessary training to GDOE staff. ... However, this contract was consistently and inaccurately reported in several CCAP reports as "progressing." The removal of the 50% drawdown restriction as stated

in the May 15, 2009 letter from the USDOE to GDOE was conditioned in part on addressing the status of the MGA Consulting contract. The failure of this contract is another indicator of GDOE's inability to manage contracts intended to improve its fiscal oversight.

GDOE RESPONSE: The contract with MGA Consulting Services was cancelled on September 25, 2009. The MOU being developed with DOA and BBMR will include the determination on whether the tasks not completed by MGA can be addressed with assistance from DOA and BBMR. If necessary an RFP will be sent to address any of the items that are not addressed by the MOU. Please refer to Attachment A for the Draft MOU.

USDOE: Failure to Implement Procurement Standard Operating Procedures as Reported in CCAP. The procurement staff expressed concerns about inconsistent policies and procedures that are allowed to dictate and override applicable procurement regulations, often hindering the staff's efficiency. The USDOE considers the lack of compliance with established SOPs by senior management as a significant barrier to promoting and ensuring that GDOE staff understand and comply with all local and Federal procurement requirements.

GDOE RESPONSE: GDOE initially sought assistance from General Services Agency (GSA) in April 2009 and final approval was given by the Governor September 1, 2009. Personnel from the GDOE Procurement Office have been assigned to work under the mentorship of GSA. This arrangement has allowed us to rectify many procurement problems and enabled us to effectuate a rigorous training program and implementation of SOPs for GDOE. As a result of this partnership, GSA with the assistance from our GDOE procurement staff has issued 893 purchase orders, awarded five bids, and issued three RFPs to vendors. The MOU between GSA and GDOE includes provisions to modify existing GSA SOPs to fit the needs of GDOE. A more detailed progress report with recommendations from the Chief Procurement Officer of GSA can be found in Attachment E.

MANAGEMENT OVERSIGHT

USDOE: Failure to Fully Implement Fixed Assets Property Inventory as Reported in CCAP

GDOE has reported progress with the automation and reconciliation of its fixed assets inventory for both locally and federally funded equipment. GDOE also reported that several SOPs related to fixed assets, such as SOP#900-010, were established and staff were trained accordingly. However, USDOE interviews with both the Business Office staff and Fixed Assets Inventory staff have not supported full implementation as reported in the CCAP and the supporting documentation provided. Despite efforts by

the Fixed Assets Inventory staff to document and issue reports of noncompliance at the school and division sites, and to submit these findings to GDOE management, no corrective action has been taken. Regular staff training is provided; however, its effectiveness is minimized due to the lack of enforcement of established procedures by GDOE management.

GDOE has reported that it has taken the steps to incorporate an automated bar coding system into its fixed assets inventory process; however, this process seems to be hampered by; (1) varying interpretations of "fixed assets" based on dollar value used by GDOE central office managers, and at the school sites, which has slowed the implementation process; and (2) lack of adequate resources, i.e., staff, computer and software systems, and bar coding equipment to effectively implement the process. The Public Auditor found that GDOE's definition of what constitutes a "fixed asset" varies, which leads to inconsistent treatment for purposes of managing Federal funds. The Business Office staff confirmed an inability to integrate the fixed assets inventory into the financial management system, including its inability to capture and integrate the depreciation value of equipment. After visiting several schools, it was confirmed that the process for bar coding every item, including textbooks, within the schools has yet to be completed. Warehouse inventory is still processed manually, but scheduled to be automated in the near future.

GDOE RESPONSE: Although the full integration of fixed assets into the FMS has yet to be completed, we have developed Fixed Assets Standard Operating Procedures, and provided training to key personnel at the school sites and central office. Training is conducted on an annual basis, with the most recent training and site visits occurring between October 2008 to February 2009. The trainings will be re-examined in light of the recent interviews indicating that the end users still need guided practice.

USDOE: Failure to implement Management Internal Controls (MIC) Program throughout GDOE.

A new Management Internal Controls Program (MIC) has been reported as implemented by GDOE in both CCAP reports for January 31, 2009 and May 31, 2009. USDOE views the initiation of the MIC program as a major component for educating and emphasizing the need for GDOE to embrace such a program as a business practice versus a temporary exercise. This includes promotion by the Superintendent and her Management Team at the highest levels of the organization to the principals and consequently, to the school staff within each school building. As noted in the CCAP report, the IAO has worked with the USDOE program staff (as noted below under the IDEA Parts B and C program

discussions) for the past two years to resolve many old and repeat Single Audit Findings covering a 9-year period.

During this visit, the IAO staff were not able to provide evidence that their office has been able to validate the consistency or reliability of the information reported in the biannual CCAP reports in terms of implementation of the SOPS. Instead, there appears to be an accepted practice within GDOE to request "management overrides" to existing SOPS as a means to expedite the use of local and Federal funds. The USDOE considers this as counterproductive to the CCAP process, and concurs with the recommendation included in the Evergreen Audit, that the function of the IAO can only provide value to GDOE as an independent office that does not report directly to the Superintendent.

GDOE RESPONSE: The following training has been conducted for GDOE personnel on the MIC Program:

Date	Participants	Total Participants
4/17/09	Management Team plus principals	10
7/9/09	All Deputies and Division Heads	17
7/22/09	C&I Staff	13
7/23/09	Middle and Elementary Principals	9
7/28/09	Middle and High School Principals	7
10/2/09	All Principals	24
	GRAND TOTAL	80

To date nine schools and eight support divisions submitted the initial vulnerability assessment. Analysis conducted by the Internal Auditors will be completed by November 21, 2009. Full implementation will be achieved by May 2010.

USDOE: The USDOE concurs with the recommendation included in the Evergreen Audit that the function of the IAO can only provide value to GDOE as an independent office that does not report directly to the Superintendent.

GDOE RESPONSE: Discussions with the Chief Auditor, Mr. Lester Kuykendall, regarding this recommendation had occurred soon after the audit was released. In his professional capacity he stated that the IAO could better function in the existing structure. Following is the Chief Auditor's statement:

"Contrary to the Evergreen report, independence of the IAO cannot be judged by the GDOE organizational structure. The IAO reports to the Superintendent, however, the auditors are independent of the activities they audit. We adhere to a code of ethics and professional auditing standards. Our objectivity is achieved by an appropriate mind-set. Although we may not appear to be independent in the organizational reporting structure, we are independent in fact. The IAO provides objective assurances and consulting activity that adds value to the GDOE operations. The IAO helps GDOE to accomplish its mission by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of our internal controls and governance processes."

Moreover, the Government Auditing Standards – Organizational Independence for Internal Audit Functions (GAO-07-731G) states that a government internal audit function can be presumed to be free from organizational impairments to independence for reporting internally if the head of the audit organization meets all of the following criteria:

- a. is accountable to the head or deputy head of the government entity or to those charged with governance;
- b. reports the audit results both to the head or deputy head of the government entity and to those charged with governance;
- c. is located organizationally outside the staff or line-management function of the unit under audit;
- d. has access to those charged with governance; and
- e. is sufficiently removed from political pressures to conduct audits and report findings, opinions, and conclusions objectively without fear of political reprisal.

The Superintendent acknowledges the importance of IAO's independence but concurs with the Chief Auditor's opinion about maintaining the IAO's current position within the GDOE organizational structure. Analysis of the number of internal audits that the IAO conducted over the past year, combined with those audit findings that reveal weaknesses in GDOE financial management, clearly reveal that the auditors are provided wide latitude to perform their duties independently.

USDOE: Failure to Sustain Consistent Senior Management within GDOE.

The USDOE has expressed great concern over the past few years about the management instability within GDOE. After its visit in August 2008, a Management Team consisting of Deputy Superintendents was to be pursued, in addition to hiring a Chief Internal

Auditor, which would provide needed segregation of duties as well as a process of checks and balances for the organization. The composition of this Management Team continues to be a very fluid and ambiguous function within GDOE, as three Deputies have left the organization in less than a year. The inability to maintain a qualified team of Deputy Superintendents is a primary challenge to the stability of the organization and, consequently, to its ability to institute and implement internal controls necessary for proper financial management of Federal Funds. The existing Deputies vary in their understanding of their roles and responsibilities, and outside of the Deputies, there seems to be uncertainty about who actually comprise GDOE's senior leadership. GDOE has been made aware that the Department views the Superintendent's Management Team and its stability as critical to the successful implementation of the CCAP; however, GDOE has not been successful in maintaining the composition of this team.

GDOE RESPONSE: The issue of management stability has been raised as a source of major difficulties in the operation of the GDOE. As previously stated, we felt that we needed to balance the desire for stability with the need for professional performance and accountability. We simply could not sacrifice the latter in the name of the former. Had we kept the same team in place, the Department would be at greater risk today. Accordingly, personnel decisions were made that removed one Deputy Superintendent. There were a series of discoveries about book orders, financial accounts, the timely processing of purchase orders that required counseling sessions and stricter measures of accountability for those individuals. That resulted in resignations and retirements, although a straight line connection may not necessarily be drawn between identifying a lack of performance, public pressure and resignation.

The GDOE was given a new structure of Deputy Superintendents in October 2008 to provide a fluid and more accountable approach to top management. This is the first time that GDOE has established a Superintendent's management team that is on a performance contract. As with other organizational change, difficulties and even resistance to the new management structure is inevitable during transition. During an organizational transition period there may even be an appearance of confusion as both incumbent and new employees adjust expectations and assumptions regarding new roles, responsibilities and lines of authority within the new organizational structure.

USDOE: The Federal Programs Administrator, a primary contact for the USDOE with respect to Department grants, and the Chief Internal Auditor do not appear to be members of the Superintendents Management Team.

GDOE RESPONSE: The GDOE's Senior Management Team is clearly comprised of the Superintendent of Education, Deputy Superintendent of Finance and Administrative Services, Deputy Superintendent of Education Support and Community Learning, and the Deputy Superintendent of Curriculum and Instructional Improvement. To ensure that school leaders are provided an opportunity to directly address issues with the

Senior Management Team as well as provide input, regular meetings are held that include Principal Representatives from the four regions. Evergreen Consultants commended the Superintendent for establishing this structure.

The Chief Auditor, given the need to maintain objectivity and independence, is called to participate in the management team meetings on a consultative, “as needed” basis. In fact, USDOE stated in this report, “The USDOE concurs with the recommendation included in the Evergreen Audit that the function of the IAO can only provide value to GDOE as an independent office that does not report directly to the Superintendent”.

The Federal Programs Administrator’s role as the primary contact to the USDOE does not in itself warrant inclusion in the Senior Management Team. Similar to the Chief Auditor, the Federal Programs Administrator participates in the management team meeting when issues specific to federally funded programs are addressed. Both positions report directly to the Superintendent and therefore are provided access to address critical issues.

P.L. 29-108, which established the Superintendent’s Management Team was designed to streamline more than 20 support divisions that at one time reported directly to the Superintendent. The Superintendent should be given the latitude to determine the composition of her Senior Management Team.

PROGRAMMATIC CORRECTIVE ACTIONS AND OBSERVATIONS (CONSOLIDATED GRANT, SPECIAL EDUCATION, DISCRETIONALLY GRANTS)

Overarching Programmatic Concerns

USDOE: Programmatically, the recent decision to implement three reform programs throughout the school district—to include a combination of both new and existing programs (PREL, ESP, Direct Instruction, and Success For All) – does not in and of itself present problems, but could have implications for both regular and special needs students if not implemented properly. For example, at the time of this visit, schools did not appear to be fully prepared to effectively implement the various reform programs (funded with Department grant funds) in time for the start of a new school year, i.e., school leadership and staff thoroughly trained; necessary materials and supplies procured; student needs assessed in advance to appropriately design instructional plan for the school year. According to the Deputy Superintendent of Curriculum and Instruction, GDOE plans to establish a baseline of student performance across the three reform programs, which is in the absence of obtaining SAT 10 student performance data from last year. As stated earlier in this report, the lack of current students performance data hinders the school’s ability to make informed decisions.

GDOE RESPONSE: The Guam Department of Education started preparations for the implementation of the three reform programs as early as September 2008. The procedures for selecting and implementing the reform programs were clearly articulated in the District Action Plan, which was approved by the Guam Education Policy Board in March 2008 and submitted to the USDOE with the 2009 Consolidated Grant application.

Since USDOE's July 2009 site visit, the Success for All and Direct Instruction Reform Programs have hired key personnel and provided professional development for all teachers and support staff. Six schools under Effective Schools Reform Program were also provided training in using the adopted textbooks, differentiated instructional strategies, effective lesson planning and teaching to content standards prior to the opening of the school year. All these occurred even though the full funding for this program has yet to be released through the FY 2010 Consolidated Grant.

Although SAT10 results for SY 2008-2009 were not available during USDOE's Site Visit, the SAT10 results were available in early September. Moreover, the SAT10 data is not the sole source of student information teachers use to design appropriate instruction. Teachers also use results of assessment prescribed by the respective reform programs.

Summary

Although the Superintendent cannot realistically make assurances for management stability as required by USDOE, we are confident that the stability of the Department can be achieved by the team we have in place and actions that have already been taken to implement the Manager's Internal Control program. The capacity of Guam Department of Education to institutionalize internal controls has already been demonstrated with the positive reports that USDOE cited regarding the programmatic management of the Special Education Grants, Consolidated Grant and discretionary grants.

The GDOE is prepared to go down any road to upgrade the skills of key personnel, transform our procedures and provide effective and efficient management of resources to fulfill our educational mission. We are mindful of the problems that continue into the present but we are also proud of the progress that we have made. We are prepared to accelerate change and make improvements. We have articulated a new relationship with Government of Guam agencies and we believe that recent and anticipated key personnel changes will allow GDOE to not only have a stable management team, but a competent team that can be held accountable to the highest standards of performance.

This road to systemic change is made possible only by external partnerships and by an internal willingness to make changes where required. We accept and support this. We also understand the need to ensure that such changes are understood by everyone

entrusted to make decisions inside GDOE. We are fully prepared to go down this road. The choice ahead is not whether to change, but the process that we utilize to simultaneously cause change as well as accelerate it.

In light of the "show cause" letter, the available paths to systemic change appear to be difficult and onerous. Some wish to confront the process and accuse federal partners of over stepping their bounds. Others wish to engage in a series of internal finger pointing about how GDOE arrived at this point in time. GDOE doesn't see this process in either light. We see it as an opportunity to accelerate improvements and bring about transformational change. We see our system as one system that brings together federal and local resources for an individual child in a unified school system. This is why we are excited about the prospect of change across the board.

However, we want to ensure that this path to change is based upon a meaningful partnership with identified steps and responsibilities. We believe that we have outlined such a path involving local and external assistance. If our proposed path is ignored because there is a clearer path, then we are ready to proceed. If a path is suggested in which the GDOE is ordered to change under a restrictive structure, this approach will not lead to transformational change. We are concerned that this type of approach will generate even more disruption of services and itself create instability. We believe that we can work together to move forward. We remain hopeful and we retain faith in the goodwill of all the participants in this process.

Thank you for your consideration.



NERISSA BRETANIA UNDERWOOD, Ph.D.
Superintendent of Education



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October 13, 2009

Philip A. Maestri
Director, Risk Management Service
Office of the Secretary
United States Department of Education

Dear Director Maestri:

Thank you for the opportunity to respond to your September 28, 2009 letter and corresponding report regarding U.S. Department of Education's (USDOE's) site visit to the Guam Department of Education (GDOE) in July 2009. The enclosed response entitled October 2009 GDOE Show Cause Report provides an explanation and clarification for the concerns that were raised in the report. We believe our response accurately portrays our existing situation and satisfactorily deals with the major concerns that you and your team have outlined. We provide this response in the *spirit of partnership* and the sincere desire to re-establish a system of financial management that is capable and professional, earns the confidence of the Guam public and federal partners, and most importantly, facilitates the timely provision of services for Guam's children.

Digesting your letter and findings has resulted in a deep sense of disappointment as we are and always have been very mindful and serious about good stewardship of local and federal funds. But we also know that it is important for GDOE to be open and willing to receive input and even criticism from "the outside looking in" given our shared goals of overall system improvements that ultimately eliminates our high-risk status. As such, I want to make clear my earnest desire to go down any road, which will bring effective instructional programs and efficient financial management services for both federal and local funds. To this end, I want to ensure that we are actually *building the capacity of GDOE* as we consider new relationships and strategies. The end goal must be the systemic improvement of GDOE's internal financial management structure and the improvement of financial procedures and practices that build confidence rather than raise questions.

It is inevitable that a discussion of your September 28 notice will call into question GDOE's capacity and the ability of *individuals* to make the changes that are necessary. Doubts about professional competence, inappropriate tasking of responsibilities for key individuals, and lack of understanding of individual roles, are implied or directly stated in the September 28 notice. This is particularly the case in discussing the lack of stability in the management team. But it must be emphasized that while the objective of having a stable senior management team is important, management stability cannot overshadow the need for accountability and competence to perform the job. There simply has to be a balance between the two.

The financial twists and turns of the past year, particularly with respect to the management of local funds, have exposed weaknesses, which were not tolerable. If stability of personnel had taken precedence, the situation we face today would be even more serious. Moreover, there is a certain lack of coherence in making a critique of the financial management and at the same time giving us counsel relative to management team stability when personnel changes occur among those responsible for the financial services that is the subject of criticism. This is discussed in greater detail in the response that is enclosed.

In our response, we do not attempt to *refute* conclusions, we only attempt to *clarify and bring a more balanced view* to the existing issues and situation. Some of the criticisms cited in the report, such as those relative to procurement, have already been dealt with and the progress that has been made will be maintained. Our people are committed and we recognize the challenge and we are eager to take on the challenge in partnership with you. We do not agree with the concept of *receivership*, although we accept the need for external assistance. We do not see our efforts as *false starts*, but as *good faith efforts* to resolve long standing problems. We do not see ourselves as lacking management team stability, but as a fluid body confronted with the realities of bringing about a fundamental change in departmental culture—a paradigm shift—while managing a system in constant crisis ranging from double sessions to regulatory reviews by agencies that can actually close down schools.

In recognition of the situation that we face and based on your September 28 notice, we feel that guided practice in partnership with existing Government of Guam resources and a mutually agreed upon external partner will help us achieve the goal, which I know we both desire. We ask that you consider the following as the benchmarks for a plan that will meet our common concerns:

1. GDOE will enter a time-certain relationship with selected Government of Guam agencies such as the Department of Administration (DOA) and Bureau of Budget Management Research (BBMR) to take on financial management operations via an MOU that requires the utilization of GDOE personnel.
2. GDOE is willing to sign a contract with an external partner (selected mutually) that will provide fiscal/management expertise, training and guided practice for GDOE financial management personnel and all administrators in GDOE.
3. These agreements will be carried out for 15 months and periodically (quarterly) overseen by a team consisting of two individuals from USDOE, the Superintendent of GDOE, a representative of the Guam OPA, Director of Department of Administration, Director of the Bureau of Budget Management Research. At the end of six months, if there is no meaningful progress, then steps will be taken to consider other options.

We also hope that USDOE will consider the following that DOE has accomplished since the site validation visit:

1. A highly qualified Deputy Superintendent of Finance and Administrative Support has been hired. Copy of her resume is attached.
2. Procurement services staff have been provided intensive training in procurement procedures through General Services Agency (GSA), which has resulted in the processing of more than 800 requisitions in a one month period.
3. A draft MOU between DOE, BBMR and DOA is being finalized to provide immediate assistance in upgrading the technological support and providing training to the financial services staff. The MOU with GSA will include supply and warehouse management.

4. In-depth study of the DOE food service program was completed in July 2009, which resulted in the recent approval of the increase in meal prices.
5. GDOE has published a Request for Proposal to begin steps to hire a private architect and engineering firm to conduct a comprehensive assessment of school facilities and develop a five-year Capital Improvement Plan. The evaluation of proposals was started on October 8, 2009 and this is in line with Evergreen's recommendation to fully outsource that maintenance.

We share the common goal of providing high quality direct and support services to all students through federally funded programs. We know that further delay in the release of federal funds will adversely affect the achievement of that goal. As such we look forward to a favorable consideration of our efforts.


NERISSA BRETANIA UNDERWOOD, Ph.D.

Enclosures

cc: GEPB Chairman and Members
Governor of Guam
Speaker, 30th Guam Legislature
Congresswoman Madeleine Bordallo
Attorney General
Office of Public Accountability