

May 31, 2013

VIA EMAIL (dfbrooks@guamopa.org)

Doris Flores Brooks, CPA CGFM
Public Auditor
THE OFFICE OF PUBLIC ACCOUNTABILITY – GUAM
Suite 401 DNA Building
238 Archbishop Flores Street
Hagatna, Guam 96910

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
PROCUREMENT APPEALS

DATE: 6/4/13
TIME: 12:10 AM PM BY: Thye
FILE NO OPA-PA: 13-0006

Re: NOTICE OF PENDING JUDICIAL PROCEEDING
APPEAL NO: OPA-PA-13-0006

Dear Ms. Brooks:

This letter supplements my letter of earlier today on behalf of the A.B. Won Pat International Airport Authority, Guam (“GIAA”) notifying your office that the Appellant in this matter, DFS Guam L.P. (“DFS”) has filed in the Superior Court of Guam a complaint against GIAA and others (the “Complaint”) arising out of the same facts alleged in the above-referenced appeal (the “Appeal”). A copy of the Complaint was attached to my prior letter.

Please note the following clarification:

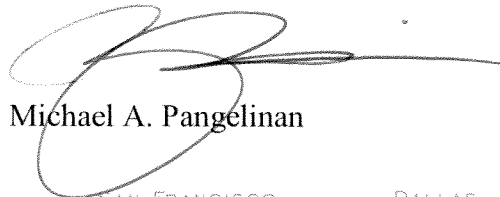
DFS indicates as follows in its Complaint: “In accordance with 2 GAR, Div. 4. Chap. 12 § 12103(b) . . . DFS expects that the OPA will indefinitely stay [the Appeal] in light of the now-pending judicial review of this controversy.” (Complaint, ¶ 3.)

However, 2 GAR, Div 4. Chap. 12 § 12103(b) does not provide for an indefinite stay. The pertinent language of Section 12103(b) is as follows: “If an action concerning the procurement under Appeal has commenced in court, the Public Auditor shall not act on the Appeal except to notify the parties and decline the matter due to Judicial involvement.” (2 GAR, Div 4. Chap. 12 § 12103(b) (emphasis added)).

GIAA respectfully request that the Public Auditor issue an order regarding whether it will or will not decline the Appeal pursuant to 2 GAR, Div 4. Chap. 12 § 12103(b) due to the near contemporaneous Complaint filed by DFS.

Very sincerely,

CALVO FISHER & JACOB, LLP


Michael A. Pangelinan