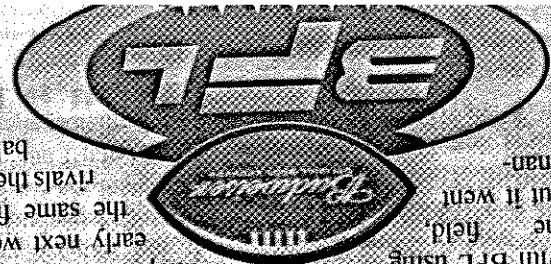


► Alex Tenorio (#80) practices his kick for the upcoming season Ravens football team held practice Tuesday night at the Tivan football field House University's behind the it's located ball League. rivals the Miller Foot- the same field used by early next week. UOG is Ravens (formerly the Island- while the remaining teams - still looking for more players, (formerly the Sharks), who are some teams such as the Titans

are poised to play. —enjoy nearly full rosters and (former) the University of Guam field and the University of Guam field. As of yesterday, the league had narrowed it down to the UOG field and hoped to have it secured by Ravens (formerly the Island- early next week. UOG is the same field used by rivals the Miller Football League. It's located behind the University's Field House



of football (soccer), Tinsal and Media Officer Brent Maluwel- query to CFA Marketing and beach football. Variety sent a Eagles field and the University of Guam field. As of yesterday, the league had narrowed it down to the UOG field and hoped to have it secured by Ravens (formerly the Island- early next week. UOG is the same field used by rivals the Miller Football League. It's located behind the University's Field House

but it went the field, with BFL using menge about possible conflicts Media Officer Brent Maluwel- query to CFA Marketing and beach football. Variety sent a Eagles field and the University of Guam field. As of yesterday, the league had narrowed it down to the UOG field and hoped to have it secured by Ravens (formerly the Island- early next week. UOG is the same field used by rivals the Miller Football League. It's located behind the University's Field House

WORLDWIDE

JAPANESE RICE TO BE TESTED FOR RADIOACTIVE CESIUM Page 12

NATION

REPS OK DEBT; GIFFORDS BRINGS DOWN THE HOUSE Page 13

Marianas Variety

The Local & Regional Newspaper

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www.mvguam.com

75¢

New medical referral contract

Former Calvo-Tenorio lawyer awarded

By Therese Hart
therese@mvguam.com
Variety News Staff

ATTORNEY Tom Fisher, former legal counsel for the Calvo-Tenorio gubernatorial campaign, has won the contract to provide off-island medical services to

Guam residents going off-island to receive medical treatment in California, Hawaii and the Philippines. Fisher was also the former law partner of Lt. Governor Ray Tenorio's wife, Attorney Naoko Shimizu.

Several attempts to contact Atty. Fisher were unsuccessful. The professional services agreement between the Office of the Governor and the Guam Medical Referral Service was signed on July 26 by Fisher and Frank Arriola, the governor's chief of

staff. Rose Ramsey, the certifying officer, signed the contract on July 27. The contract was forwarded to the Attorney General's Office for review yesterday by John Rios, director of the Bureau of Budget and Management Research. Rios signed off on the contract on Monday.

CONTRACT continued on page 2

» **INSIDE**

MISS GUAM WORLD PAGEANT COMING SOON
BEAUTY pageants aren't over yet for Guam this year! One more is on its way by the end of the month.

Page 3

THE SHEEPDOGS WIN ROLLING STONE COVER

Exhibit 8

SPORTS BRIEFS

Indians pitcher is suspended for six games

NEW YORK (Reuters) — Cleveland Indians starting pitcher Carlos Carrasco was suspended for six games and fined for intentionally throwing a pitch at the head of Kansas City's Billy

Team Rambie's takes gold in chess tournament

By Evan Carter
sports@mvguam.com
Variety News Staff

THIRTY-six players began competing in a nine-team tournament hosted by the Guam Echecs Saturday, July 23 dubbed the 2011 Liberation Chess Tournament at the Micronesia Mall center court. After two weekends in a row of



an executive order to keep the school open.
Won Pat said the substituted bill, if passed, will go to the governor, and "it's up to him if he's going to sign the bill into law or not."

Won Pat said if the Guam Education Board continues to stand by its decision to close the school, Governor Eddie Baza Calvo can then exercise his executive authority to sign

for F.O.," said Won Pat. F.O. The budget will go back to GDOE and they will have to decide how to budget for F.O. We're giving them the resources and they will have to come up with alternatives

this deficiency, said a source. "We have to address the entire GDOE budget. We don't budget by individual schools, just like we don't budget for the different divisions within a department. The budget will

would be in violation of the Adequate Education Act. The bill will provide a remedy to

F.O. Sanchez...

continued from page 1

"they weren't even rated acceptable," said the source.
"What qualifications does Atty. Fisher have and what experience does he have to have qualified for this bid," asked the source.
According to BMR's memo to the AG's office, the term of the contract shall be for one year with annual options for renewal for four additional years, not to exceed a total contract period of five years for a total cost of \$540,000 per year. This breaks down to \$188,699.92 for Honolulu; \$188,699.92 for Los Angeles; and \$162,600.16 for Manila.
BMR signed off and cleared \$44,999.99 for the period of Sept. 1 to 30, 2011.

qualified? What about the other bidders?" asked the source.
"Everything is appearance-based. Even if nothing was done wrong, you cannot show an appearance of bias."
In a multi-step invitation to Bid, the first step involves a bench and performance testing of vendors to determine their ability to meet specifications and in the second step invites qualified vendors to submit a price bid for consideration.
Only the vendors who have been performance tested and meet specifications will be invited to submit bids.
The evaluators, in this instance, were Ramsey, Leon Guerrero and Allig. The company that was running the medical referral office was rated so low,

The three evaluators chosen to evaluate the bids could be called into question since the appearance of bias is obvious, said the source.
The three evaluators who evaluated the bids were Rose Ramsey, the governor's deputy chief of staff; Jesse Allig, the governor's constituent services director; and Vince Leon Guerrero, the governor's chief education advisor, said the source.
"In this particular process, we had five or six people who submitted proposals. They all got reviewed, and apparently two of them that were reviewed. Why was it just the governor's people that

Other signatures that have yet to be signed are Claudia Acalle, chief procurement officer; Lenny Rapadas, attorney general; and Governor Eddie Calvo.
Fisher was one of five who responded to the multi-step invitation for bid, said a source who did not wish to be identified. The other two who submitted bids, according to the General Services Agency, were Jerry Calvo, Gov. Calvo's uncle, and Peter Alexis Ada, who ran the last medical referral office during the last administration. Jerry Calvo's proposal was ranked number two.

Contact...

continued from page 1

Pacific Daily News

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VOL. 43 NO. 184 HAGÁTÑA, GUAM, AUGUST 4, 2011

HABA ADAI, IT'S THURSDAY

guampdn.com

75¢ on Guam



■ Don't forget to vote in today's Pacific Daily News poll. Today's question:

What are you most concerned about for the upcoming school year?

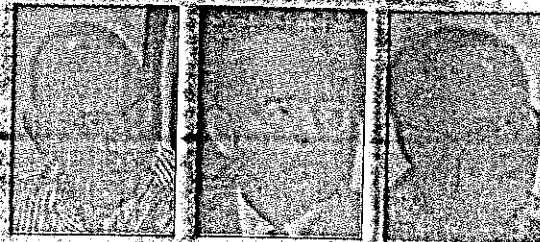
■ Results from yesterday's PDN poll are on **PAGE 2**

\$2.7M contract protested



▲ GovGuam intends to hire an attorney who worked on the governor's campaign for a medical referral contract, drawing a procurement protest from another bidder.

Medical referral bid goes to campaign counsel



Arriola Fisher Ada

By Brett Kelman
Pacific Daily News
bmkelman@guampdn.com

The governor's office intends to award a contract worth up to \$2.7 million to a business owned by a legal counsel for Gov. Eddie Calvo and Lt. Gov. Ray Tenorio's gubernatorial campaign.



InYourVoice
Post your comment on
www.guampdn.com

A business entity owned by Tom Fisher, who also is a former law firm partner with Tenorio's wife, has been

▲ See **Protest**. Page 4

GMH CAPACITY

▲ GMH adult beds were at 96% of capacity and maternal child beds were at 88% of capacity as of 9:15 p.m. yesterday. No

Back to School 2011 School budget passes

awmakers yesterday

Baggage handler

Exhibit 9 (A)

Protest: 'Room for suspicion'

▲ Continued from Page 1

chosen to run the Guam Medical Referral office, according to a proposed contract that has been signed by governor's Chief of Staff Franklin Arriola.

The contract is awaiting signatures from Calvo and Attorney General Leonardo Rapadas, but it has been approved by John Rios, the acting director of the Bureau of Budget and Management Research.

GovGuam's intention to hire Fisher's business has prompted a letter of protest from a former medical referral office director, who said yesterday that the procurement choice leaves "room for suspicion."

The governor's office didn't comment on the proposed contract earlier this week, but spokesman Troy Torres said last night that Fisher's business was selected because it offered the lowest bid amount and is the most qualified bidder.

"The chief of staff signed the contract, but it is still an ongoing procurement matter," Torres said. "The governor has not yet signed the contract. We do know that Fisher and Associates was the lowest bidder. That's to put to rest any concern."

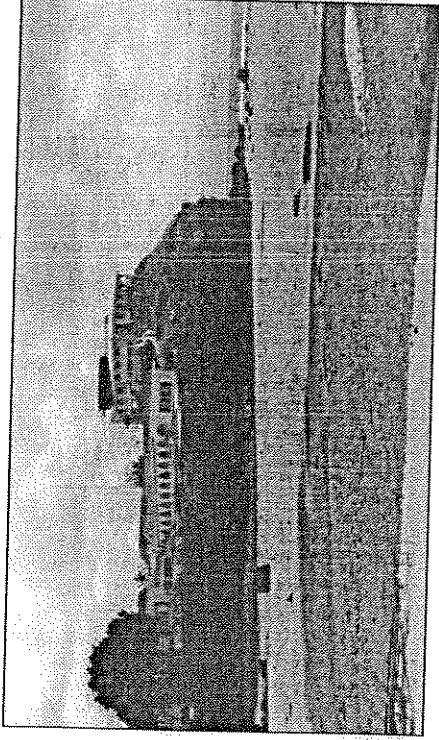
The government of Guam hires a contractor to run its medical referral offices in Manila, Hawaii and Los Angeles to help local residents who must leave island to seek medical attention. The offices help arrange lodging and transportation, among other services.

According to a Bureau of Budget and Management Research memo, the proposed contract is for one year, with a possible extension of four more years, each year costing \$540,000.

That breaks down to:

- ▲ About \$188,000 to send patients to Hawaii;
- ▲ About \$188,000 to send patients to Los Angeles; and
- ▲ About \$162,000 to send patients to Manila.

Before the new administration took office, Fisher provided legal



Adelup: This April 21, 2009, file photo shows the governor's complex near Adelup Beach. The governor's office intends to award a \$2.7 million contract to a business owned by a legal counsel of the governor and lieutenant governor's gubernatorial campaign, which has been protested by another vendor.

Pacific Daily News

representation to the Calvo-Tenorio campaign, including attending regular Guam Election Commission meetings and making statements to local journalists. Fisher also helped the campaign file a Federal Communications Commission complaint against Marianas Media Investors.

Until recently, Fisher's law firm was Shimizu, Canto and Fisher, which has since disbanded. His law partners were Naoko Shimizu, who is the lieutenant governor's wife, and James Canto, who became legal counsel for the governor's office.

Calvo recently nominated Canto to become a Superior Court of Guam judge, but the attorney hasn't been confirmed in the Legislature.

Fisher could not immediately be reached for comment.

Intent to hire

The intention to hire Fisher has prompted a protest from Peter Alexis Ada, who ran the referral office under the administration of former Gov. Felix Camacho.

Yesterday, Ada sent a letter of protest to the General Services Administration, which handles GovGuam

procurement, alleging that his bid price was "jeopardized and tampered with."

Ada wrote in his letter that, during a visit to GSA, he noticed that his bid envelope was opened. It should have remained sealed because his bid was rejected before it reached the phase to open the bid amount, according to Ada. In a statement yesterday, Ada said he wasn't a "sore loser," but his protest is "based on principles."

"I find it very difficult to comprehend that my program design is unacceptable," Ada said. "That just tells me that the Review Panel Team already had their minds set in stone. The best thing to do is get rid of those with experience. Just rate those we don't want below acceptable and it's covered. Their rating just leaves lots of room for suspicion."

Two calls to chief procurement officer Claudia Actfalle weren't returned yesterday.

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OFFICE FURN
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PDN Friday Aug. 5, 2011

Exhibit 9 (cont.) B



Former Guam resident and local dancer Kim "Marko" Gernar is one of six dancers competing in Season 8 of Fox's "So You Think You Can Dance" television dance show. How did he do last night?

● Gernar redeemed himself after an earlier paso doble routine last night that judges felt was lackluster at best, as his later performance with contestant Gailynn Lawson brought back the common cascade of praise, labeling the dancer as "fearless," "murderous" and "sensational."

● Watch the TV show at 8 p.m. Thursday on channel 6 on MCV and GudTV. Also follow Gernar at facebook.com/D8Marko or on Twitter.com/D8Marko.

new, unfinished ponding basin.

Page 2

■ More schools accredited.

Page 9

ON THE NET

To see a list of back-to-school school supplies for your school, go to www.GuampDN.com.



PHOTOS ONLINE

▲ For more photos, go to WWW.GUAMPDN.COM

Repairs: Stephen Sanchez, an air-conditioning technician with contractor GFS, checks wiring while installing a new fan motor in a condenser unit at C.L. Taitano Elementary School, yesterday. Sanchez was repairing an air-conditioning unit for the Sinajana school's cafeteria.

cluding making cuts to pe
"This is not a fun posit

▲ See **Revamp**



AMBULANCE SHORTAGE

For a short time Wednesday, the fire department had only one ambulance hand.

SEE STORY, **PAGE 3**

▲ See **Referral**, Page 4

Contract signatures missing

TO THE POINT

▲ Governor's chief of staff says medical referral services must move forward, despite lack of signatures.



Arriola

By **Brett Kelman**

Pacific Daily News
brkelman@guampdn.com

The signatures of the attorney general and governor on a government of Guam contract are a "formality," so it is proper for a vendor to begin work before getting these approvals, Chief of Staff Franklin P.



In Your Voice

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Arriola said yesterday.

Arriola said this while answering questions about a GovGuam contract for medical referral services, which

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Your Social Net

step it up again Aug. 14 in the second Summer Sprint Race Series sponsored by the Guam Triathlon Federation. All those interested are invited to test their skills alongside Chyo Lombard recently placed in the Top 10 at the recent 31st Hawaii Triathlon triathlon. Peter

the Guam men's 7th-place finish in '07. The players are recovering from recent injuries, which hampered practices and training. Leon Guerrero expects both to be 100 percent as they face such powerhouse as Tahiti, Fiji and host New Caledonia.

followed that with indoor appearances at Tahiti in 1995, and Samoa in 1997. He moved to the beach for the 2003 Games in Fiji and went back indoors at the East Asian Games in Hong Kong in 2009. Matanane played outside hitter

article is next their coach Carlo Leon Guerrero will be a happy man. "As usual, we will be a little smaller than Volleyball and

Matanane ready to volley at the beach

Referral: Company began work on contract July 24

▲ Continued from Page 1

was recently awarded to a new business started by an attorney with ties to Gov. Eddie Calvo and Lt. Gov. Ray Tenorio.

Guam Medical Referral Service, which is owned by attorney Tom Fisher, has been working for the government since July, even without Attorney General Leonardo Rappadas' or the governor's signatures on the contract.

The contract is worth as much as \$2.7 million over five years. The selection process has been protested by another bidder.

Fisher is a former law partner with the lieutenant governor's wife. He also served as a legal counsel for the Calvo-Tenorio gubernatorial campaign.

In response to concerns about the selection, governor's spokesman Troy Torres said Wednesday that Fisher was chosen because he is the most qualified and offered the lowest bid. However, Arriola said yesterday that procurement restrictions left him unable to provide documents or data to verify either of Torres' statements.

Arriola said Fisher began work on July 24. When asked yesterday if the contract was final even without signatures from the attorney general or the governor, Arriola made this statement: "We are moving on. And I think that it would (be) a formali-

ty for the attorney general and the governor to sign (the contract.) It has gone through our process and we need to service our customers."

Arriola said GovGuam was "under the gun" to hire a medical referral company in July so there would be no gap in service for sick or injured residents who need off-island treatment.

Fisher's company already is providing that service, and if the attorney general finds issue with the medical referral contract during an ongoing legal review, "then there is a problem," Arriola said.

"We will take it from there. But we need to move on," Arriola said yesterday during the press conference.

Carlina Charfauros, a spokeswoman for the Office of the attorney General, confirmed that her office received the medical referral services contract for review yesterday.

Despite a request for comment, the AG's office didn't respond to Arriola's statement about how the attorney general's signature was a formality.

Neither did James Canto, the governor's legal counsel, who is a former law partner of Fisher and a current nominee to be a judge in the Superior Court of Guam.

Governor's spokesman Philip Leon Guerrero said Canto would issue a statement about the legality of the contract yesterday afternoon,

however, no such statement had been released as of 7 p.m.

Fisher responds

Fisher yesterday said that Guam Medical Referral Service is fully qualified for the government contract, and it was proper and "necessary" to begin work in July, even when the AG and governor had not signed his contract yet. He said the work for the contract may have begun July 24 or as early July 21.

"The point is to make sure that these people who are going through an inherently stressful time are treated well," Fisher said. "If you are sick and have to travel off island, the last thing you want to worry about is housing, transportation and communication with family back on Guam. We want to make sure that worry is taken off their shoulders."

GovGuam's medical referral service is responsible for coordinating clinical treatment for sick residents who must go off island to receive care. The contract helps arrange lodging and transportation to medical appointments, and generally acts as a "concierge service," Fisher said.

As an explanation of his credentials, Fisher said he has experience as a small business owner who works with deadlines and contracts, and his staff members have decades of administrative experience. His legal background with medical privacy laws also is part of his credentials, Fisher said.

"We were selected and I am capable of fulfilling this contract," he said. "We've got a great team assembled and we are working. We are making sure that all the servic-

es are accomplished and people who are going off island for medical treatment are treated well."

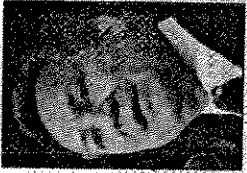
Fisher said he wouldn't respond to any questions about his connections to the Calvo-Tenorio campaign. Fisher said it was inappropriate for him to respond to the allegations in a procurement protest filed by Peter Alexis Ada, who was head of the medical referral office under then-Gov. Felix Camacho.

On Wednesday, Ada sent a letter of protest to the General Services Administration, which handles Gov-Guam procurement, alleging that his bid price was "jeopardized and tampered with."

Arriola said yesterday that he couldn't discuss Ada's letter, however he added that Ada had "every right" to pursue his procurement protest.

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AG to probe contract

By Brett Kelman
Pacific Daily News
bmkelman@guampdn.com

The Office of the Attorney General will investigate "serious concerns" about a new medical referral company that was allowed to begin work before a contract with Gov-

Guam was signed by the attorney general or governor. Governor's Chief of Staff Franklin P. Arriola said Thursday that he signed the contract with Guam Medical Referral Service, and that was the last signature needed to begin work.

The signatures of Attorney General Leonardo Rapadas and Gov. Eddie Calvo are a "formality," Arriola said Thursday.

A press release issued by the AG's office yesterday strongly disagreed. "The Office of the Attorney

▲ See **Contract**, Page 4



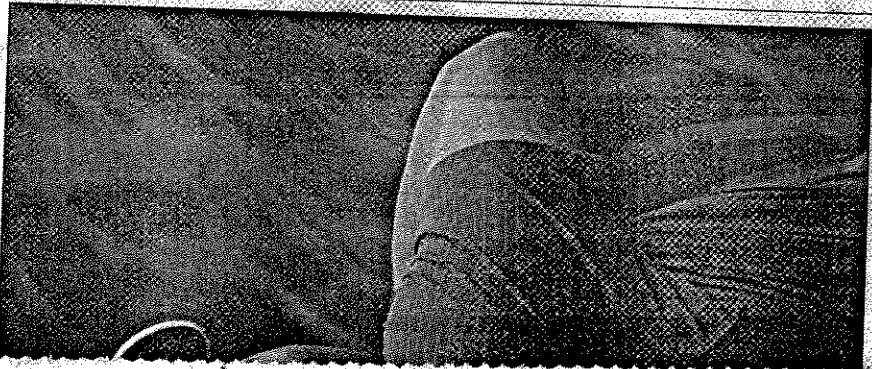
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on hold

notices if he issued the work a report. govern-

▲ See **Layoffs**, Page 5

Jestone



The Associated Press
play in the Bridgestone Invitational, Ohio.

Let it go, let it rip happens."oods

reat that when he stepped onto the first tee, the gallery lined the entire right side of the 401-yard opening hole and wrapped around the green. full Mickelson was wrapping up his round of 67 at No. 9, and when the fans around the green and in the grandstands had their backs turned to watch Woods tee off.

World Cup

over Austria in Cartagena. The Egyptians will face Argentina in the round-of-16.

Brazil's opponent in the second round will be either Saudi Arabia or Nigeria. It will most likely be the Saudis, unless they manage to beat the Africans in their last group game on Saturday.

"We are improving in the competition and hopefully we will play even better in the next round," Brazil coach Ney Franco said. "We can't

HGH tes added to NFL deal

WASHINGTON (AP) — Centerback Donovan McNabb eagerly bounded onto the practice field with his Minnesota Vikings teammates in Mankato, Minn., on Thursday afternoon, before being told he and another NFL player with new contracts still needed to be patient. And then, shortly before 5



EDT, the go news came: I wait was o The NFL o cially was bat in business, CB and all. Tha 1/2-month le out? A thing (the past in every way.

"Were we going to have the opportunity to step on the field today? Was this thing going to linger?" McNabb said, explaining his thought while on hold for word of a completed collective bargaining agreement. "Good thing we got this thing settled. And now, here we are."

Players ratified a new, 10-year CBA on Thursday, hours after it was finalized, and two people familiar with the negotiations told The Associated Press the contract allows the NFL to eventually become the major U.S. professional sports league to use blood testing for human growth hormone.

They spoke on condition anonymity because no formal announcement had been made about the details of the CBA.

Players would be subject to random testing for HGH, in addition to annual checks — as is the case for all banned substances in the league drug-testing program — only after the union is confident in the way the testing and appeals process will work.

"We have to see if we agree with the test," Jacksonville Jaguars cornerback Rashean Mathis said. "If we agree with the test, then it's legit. If not, they have to come up with another one."

High hopes

The aim is to have everything worked out in time to start HGH testing by Week 1 of the regular season, but that is not guaranteed.

"Everyone in this game has championed making sure drugs aren't involved in our game. So we are finding our way through this," said Indianapolis Colts center Jeff Saturday, who was one of the players' key negotiators in recent months. "It hasn't been easy, just understand

PTM Saturday Aug. 6, 2011



Contract: AG says signatures not just formality

▲ Continued from Page 1

WHAT THEY SAID

Chief of Staff Franklin Arriola,
Thursday
 When asked if the Guam Medical Referral Service contract is final, without the signatures of the attorney general and governor: "We are moving on. And I think that it would (be) a formality for the attorney general and the governor to sign it. It has gone through our process and we need to service our customers."
 When asked if it was his signature on the medical referral contract that allowed Guam Medical Referral Service to begin work for Guam:

"As far as I am concerned, I signed that contract and as far as I am concerned, we have a go. ... Yes, at least on the operations side of the house."
Office of the Attorney General,
 In response to Arriola's statements: "The Office of the Attorney General does not agree that the signatures and the Governor of Guam on government contracts are pro forma. Their signatures on contracts are not mere formalities and have legal

significance under the law."
Claudia Acalle, Guam chief procurement officer, yesterday
 Acalle said that Guam Medical Referral Service is working for the government under a purchase order, which does not need the AG's approval, rather than a contract. A proposed contract has been signed by Arriola, but the contract is for next fiscal year.
 "You are talking to the people who actually handled the process, so now you are getting the information you should be getting."
Pacific Daily News interviews

in place. By then, the attorney general and governor should have signed the medical referral contract, she said. However, during a press conference on Thursday, Arriola did not say that the medical referral service was authorized through a purchase order. Arriola said the opposite — that his signature on the contract was what allowed work to begin.
 The Pacific Daily News also spoke on Thursday to Tom Fisher, owner of Guam Medical Referral Service, who did not mention that he's providing a

tion of why Guam Medical Referral Services was already providing work under the contract, the press release states. The Office of the Attorney General considers the circumstances reportedly surrounding the procurement of the Medical Referral Service as raising serious concerns about non-compliance with the law, and we will investigate the matter," the press release states.
 Within an hour of the AG's press release being issued, the explanation of why Guam Medical Referral Services was already providing work under the contract, the press release states. The Office of the Attorney General considers the circumstances reportedly surrounding the procurement of the Medical Referral Service as raising serious concerns about non-compliance with the law, and we will investigate the matter," the press release states.
 Within an hour of the AG's press release being issued, the explanation

General does not agree that the signatures of the Attorney General of Guam and the Governor of Guam on government contracts are pro forma," the press release stated. "Their signatures on contracts are not mere formalities and have legal significance under the law."
 Local law also states that any contract with a value of \$500,000 or more requires involvement of the Office of the Attorney General. The medical referral service contract is worth \$540,000 per year, or as much as \$2.7 million over five years, but the AG's office still hasn't received the contract, the press release states.
 "The Office of the Attorney General considers the circumstances reportedly surrounding the procurement of the Medical Referral Service as raising serious concerns about non-compliance with the law, and we will investigate the matter," the press release states.
 Within an hour of the AG's press release being issued, the explanation

Yamaha Piano \$1400, Clavinova w/lots of voices/styles \$1100, both XLT Cond. 637-2993

Miscellaneous 70

Chicken Coop 5 Compartment \$225, Carry Box \$50, Browder \$50 777-2082/653-1082

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Computers 71

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Household 72

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Yard Sale 79

08/06 & 08/07 105 Nalo St. Barrigada. 7a-12p Everything must go! 734-1020

08/06 8-4pm Rummage Sale to benefit Alee Shelter at parking lot next to old Ben Franklin Bldg in Tamuning.

08/06 Saturday Only 6:30AM-11

Barr.Hghts behind Rev & Tax& Catholic Social Srv. Sat.08/06, 530am-1pmFurn/Clothes /Goods

Big Sale!! Saturday 730 am-10am Route 15 Across Eagle football field

Multi Sale Sat 08/06 7am-2pm Island Girl Power Clubhouse, Ysengsong Rd. Ded 688-4752

Neighborhood Sale 8/6 7a-12p TV, Furn, Clothes, etc @ Pedro Rosan Dongat Ct off Gayinero Rd

Daily 8a-4p 1587 Halsey Dr Nlm Hill. Freezer, bar stool, baby items, household. 477-2929

Multi Family Santa Barbara Circle 7am-2pm Saturday only!! 787-5867

Multi Family Yard Sale SAT 8/6 ONLY 7-11am between Cliff Hotel & Agana heights gym

Sat&Sun 7a-2p 145 Chln Panao St nr Astumbo Fire Stn, Hseware, Furn, Clths, Toys, & Misc items

Sat(8-6pm)-Sun(1-6pm) across yigo mobil mcDnlds Ignacio Chana St. 1st hse on right.

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AG leaves bid protest to public auditor

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8 years experience required

The AG's office because Arriola originally said the company began work under contract, before the final approval had been given.

A day later, GSA chief procurement officer Claudia Acfalle said the company was working under a purchase order because the contract wasn't final. The governor's office's original explanation for the work was incorrect, Acfalle said.

Fisher is a former law partner with Lt. Gov. Ray Tenorio's wife, Naoko Shimizu, and served as legal counsel to the Calvo-Tenorio gubernatorial campaign. He also is a former law partner with the governor's legal counsel, James Canto, whom Calvo recently nominated to be a Superior Court of Guam judge.

"It is not my intention to disrupt the bid amount, according to Ada.

before it reached the phase to open sealed because his bid was rejected opened. It should have remained under contract, before the final approval had been given.

Fisher previously has declined to discuss the procurement protest, but said his company is fully qualified to perform the medical referral services contract.

Fisher's company began medical referral work for GovGuam in July. The selection drew the scrutiny of



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million over five years — is waiting for signatures from the Office of the Attorney General and the governor. The AG's office has been investigating the selection, responding to "serious concerns" that arose when the governor's chief of staff, Franklin P. Arriola, said the remaining signatures on the contract were just "a formality."

Ada said yesterday that his protest was motivated by what he felt was a flawed procurement process.

Ada wrote in a letter of protest after the GSA denied the protest. "However, ... all matters must be stayed until the protest is resolved, which would include our review of the contract for these services."

Protest

to hire a medical referral services contractor has been taken to the next level, prompting the Office of the Attorney General to put an investigation into the decision on hold.

Peter Alexxis Ada, an unsuccessful bidder for the medical referral services contract, confirmed yesterday that he had taken his appeal to the Office of Public Accountability. Ada was one of several bidders who lost to Guam Medical Referral Service, a new company started by attorney Tom Fisher, which has been chosen by GovGuam to help local residents who need off-island treatment.

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Fisher's company is working under a purchase order, but a long-term contract — worth as much as \$2.7

Exhibit 9 (cont.)

Appeal filed on medical referral services contract

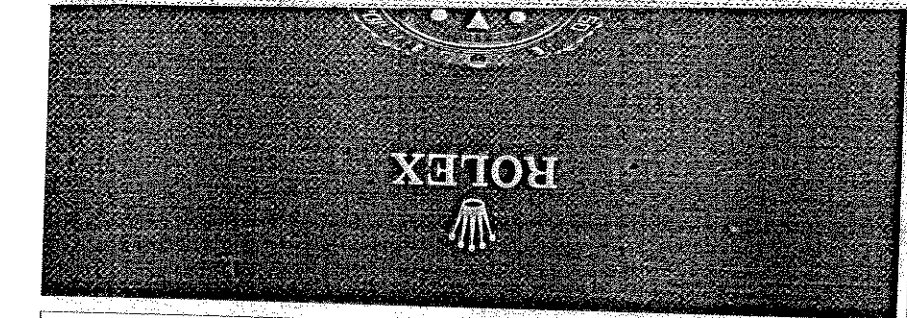
But this procurement process, he said, was opened privately instead of by a panel of reviewers to determine if the bidders would pass phase one. Ada suspected this could have been done to give another potential bidder a chance to offer a lower proposal. "I have nothing against anybody. My aim is to protect health because of politics."

Off to Brazil!



Miss Universe Guam 2011 Sharyn Jo Amlisen poses for a photo during the thank you to the sponsors event held at Tu Re Cafe in Hagåtña. Amlisen is set to travel off-island to represent Guam in the Miss Universe contest in Brazil where online voting will be introduced for the first time. Matt Weiss / Variety

ROLEX



By Janeta Buhani
janeta@myguam.com
Variety News Staff

AN APPEAL was filed last Friday with the Office of Public Accountability over the denial of a protest involving the medical referral services contract awarded to Attorney Tom Fisher, who is the former legal counsel for the Calvo-Tenorio gubernatorial campaign.

The awarding of the \$2.7 million contract had come under scrutiny last week over the lack of two required signatures on the contract — by the governor of Guam and the Attorney General — as mandated by law.

Another controversy surrounding the procurement of the contract was that a bid packet had allegedly been opened during the procurement process.

Peter Alexxis Ada, one of the unsuccessful bidders, yesterday told the Variety he filed an appeal with the OPA regarding the mishandling of his bid packet during the procurement process. He said he received a letter from the General Services Agency confirming that his bid bond was opened — prompting him to file the protest.

According to Ada, any bid packet deemed unacceptable must be returned to the unsuccessful bidder unopened. "[GSA] is not supposed to open it if I fail phase one," Ada said, adding phase one of the procurement process is typically what is referred to as the "program design."

"If you pass program design, then they go to step two and that's when they open it in the presence of the bidders," said Ada.

However, Ada said when he went to retrieve his bid bond after Friday with the Office of Public Accountability, an employee at GSA returned to him his entire bid packet opened.

"In my mind, I was asking myself, 'did they bring out my entire packet, because I was only asking for my bid bond.' Doesn't that explain and say to only give me my bond because that's all I asked for," explained Ada. "But when the lady came out with the bid price, in her own hands — she was holding it — I noticed already that the envelope was opened."

Ada said he then inquired with the employee why his bid packet was opened. "She said she was looking for my bid bond and, when I didn't see it, I went and opened your report in."

Another incident that evoked suspicion over the procurement process was the repeated media inquiries over whether he would file a protest.

"Somebody probably saw there was something unusual or an unusual practice. [The media] knew something was wrong," he said.

The last straw, Ada said, came when the bid packets were opened absent all the bidders.

"I would have thought that any person who submitted a bid, when [GSA] is ready to open it, it would be standard operating procedure that they would open it in the presence of the bidders," said Ada.

Exhibit 9 (cont.) 3

Janeta Buhani
Monday Aug. 22, 2011

Edie Baza Calvo
Governor

GENERAL SERVICES AGENCY
Government of Guam
148 Route 1 Marine Drive Corp
Piti, Guam 96915

Ray Tenorio
Lt. Governor



Enita Manglona
Director, Dept. of Admin. (Acting)

George A. Santos
Deputy Director

June 30, 2011

**Invitation for Multi-Step Bid GSA-063-11
GUAM MEDICAL REFERRAL SERVICES FOR THE OFFICE OF THE GOVERNOR**

AMENDMENT# 2

Amend to change the following "NOTE" on page 2 of the "SPECIAL REMINDER TO PROSPECTIVE BIDDERS"

NOTE: TECHNICAL AND BID COST SHALL BE SUBMITTED IN A SEPARATE ENVELOPE Labeled "TECHNICAL BID" AND "BID COST". ALL REQUIRED FORMS AND AFFIDAVITS SHALL BE SUBMITTED IN THE ENVELOPE Labeled "TECHNICAL BID". REQUIRED BID BOND SHALL BE SUBMITTED IN THE ENVELOPE Labeled "BID COST". SHALL BE SUBM DO NOT INCLUDE BID COST WITH TECHNICAL BID PACKAGE. *NOTE: BID COST IS INCLUDED WITH THE TECHNICAL PROPOSAL IT WOULD BE DEEMED AUTOMATIC QUALIFICATION OR REJECTION.

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Amend to change #9 of the General Terms and Conditions:

BUYER'S PRICE: The Government will consider not more than two (2) (Basic and Alternate) item prices and the bidder shall explain fully each price if supplies, materials, equipment, and/or specified services offered comply with specifications and the products origin. Where basic or alternate bid meets the minimum required specification, cost and other factors will be considered. Failure to explain this requirement will result in rejection of the bid.

BUYER'S PRICE: The Government will consider not more than two (2) (Basic and Alternate).

Amend to include the following verbiage on page 20: "INTENTIONALLY LEFT BLANK"

Amend to "SEALED BID SOLICITATION INSTRUCTIONS" on page 51, Item# 1 "BID FORMS" the first sentence:

- Each bidder shall be provided with two (2) sets of Solicitation forms.
- Each bidder shall be provided with one (1) set of Solicitation forms.

Amend to delete Item# 11 "RECEIPT, OPENING AND RECORDING OF BIDS" on page 52 of IFB package.

And to amend the Submittal Date from: July 5, 2011 at 10:00am to now read: July 13, 2011 at 10:00am

All others remain unchanged.

ACKNOWLEDGEMENT COPY

RECEIVED BY:

DATE:

7/11/11

CLAUDIA S. ACFALLE
Chief Procurement Officer

ENDOR: APM: Guam Med. Referral Services

Exhibit 10

INFORMATION AND GUIDANCE (08-0418)

To: Staff Assistant/Procurement Officer, Office of the Governor

May 8, 2008

Page -2-

In *Fleet Services*, the government had issued a RFP for the operation, management and maintenance of Guam's Mass Transit services, but the process encountered two bid protests which eventually made their way to the lower courts, and then the Supreme Court of Guam. Before addressing the specific arguments raised by the parties, the Supreme Court examined the RFP process, and decided that the wrong procurement process was used in violation of the procurement law. The court used a two-pronged test in looking at the mass transit services, the more significant factor of which was to decide whether the operating, maintaining and repairing of buses required the exercise of professional and significant business judgment. The court found that no professional or significant business judgment was required, and therefore, the services must be non-professional in nature.

In looking at these medical assistance services, we must also question whether they require any professional or significant business judgment. The services mainly involve the transportation of those in need of off-island medical care and their families, and the coordination of all their medical and personal needs. No special education or expertise is needed to provide these medical assistance services. Therefore, these services may not be classified as professional services.

Having decided that the wrong process had been used in *Fleet Services*, the court next considered whether the situation could be remedied in any manner. Apparently, no contract had been signed by the parties in *Fleet Services*, and so the court regarded the situation as pre-award which pursuant to law requires either a cancellation of the solicitation or a revision to comply with the law. Given that the only procurement method therein was the competitive sealed bid process, the court decided that a revision was not possible, and that the solicitation would have to be cancelled.

In the case with medical assistance services, however, the stage of the procurement might be regarded as post-award since the contract has already been signed by the parties.¹ Although the Governor and the Attorney General have not yet approved the contract,² there is an indication in the procurement law that execution by the parties alone gives rise to a contract. See, 5 GCA §5121(c) and comment thereto.

¹ However, please see my first comment above in which I indicated that the government party is the Guam Medical Referral Office, Office of the Governor. Instead, GSA has signed this contract without authority. Therefore, there is an argument that there is no contract yet because the Guam Medical Referral Office has not yet signed the contract, and without a contract, the pre-award remedies would have to be looked at.

² Even if the Governor signs as a party on behalf of the Guam Medical Referral Office, the Governor would sign a second time as the approving authority for all contracts pursuant to 5 GCA §22601, although there is some authority in 5 GCA §5121(c) indicating that the Governor's approval is not necessary for procurement contracts.

Exhibit 11

SECTION XXXI
NOTICES

Notices to either party will be sent to the following:

Office:
Office of the Governor of Guam
Ufifsinan I Maga' Lahen Guahan
P.O. Box 2950
Hagåtña, Guam 96932

Provider:
Guam Medical Referral Service
Suite 102 De La Corte Building
167 East Marine Corps Drive
Hagatna, Guam 96910

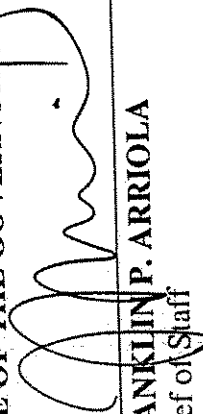
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

OFFICE OF THE GOVERNOR OF GUAM
c/o GENERAL SERVICES AGENCY:

By: 
CLAUDIA S. ACFALLE
Chief Procurement Officer

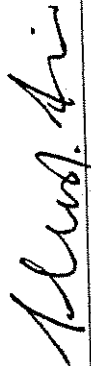
Dated: 03 August 2011

GUAM MEDICAL REFERRAL OFFICE
OFFICE OF THE GOVERNOR OF GUAM:

By: 
FRANKLIN P. ARRIOLA
Chief of Staff

Dated: 7/26/11

GUAM MEDICAL REFERRAL
SERVICE:

By: 
THOMAS J. FISHER
Owner

Dated: 26 July 2011

CERTIFIED FUNDS AVAILABLE:

By: 
ROSE F. RAMSEY
Certifying Officer

Dated: 7/27/11

Contract Period: September 1-30, 2011
Account No.: 5100A1102405E010-230

Amount: \$44,999.99

Exhibit 12