



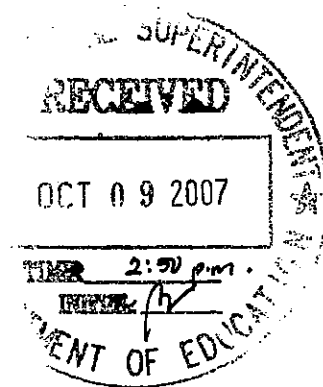
OFFICE OF THE PUBLIC AUDITOR

October 9, 2007

Fred Nishihira, Esq.
Legal Counsel, Guam Public
School System
Hagatna, Guam 96910

Re: OPA-PA-07-008

Dear Mr. Nishihara:



This is to respond to your letters dated September 17 and October 4, 2007 concerning that the contractor JRN, be permitted to resume work regarding preventative maintenance and repair of split type and central air conditioning units for Guam Public School System facilities.

I regret the delay in responding to your letter. It was referred to newly hired Legal Counsel Robert Cruz, who has been working on other pressing matters, including litigation on behalf of the office. However, he has been able to complete his review as well as consult with the Office of the Attorney General on the area of concern.

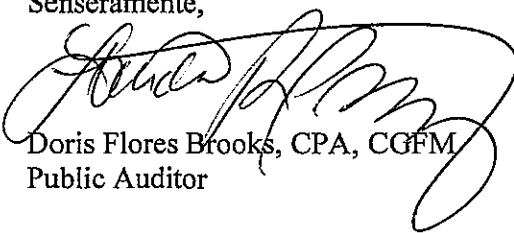
The main issue of our office has been that once a timely appeal has been filed, the Guam Procurement Law requires that the appeal run its course, even when a Certificate of Emergency is issued by the Superintendent, unless the Attorney General or specified Deputy Attorney General signs a written determination that the award of the contract without delay is necessary to protect substantial interests of the territory, etc. 5 GCA Section 5425 (g). There is nothing in the file or correspondence from your agency that indicates such clearance has been obtained.

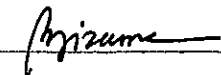
The procurement appeal by Advance Management Inc. is focused upon the GPSS paying the prevailing wage for any services provided by any contractor. It would seem that the procurement could be resolved if GPSS can provide assurances to OPA and the Attorney General from the contractor that it will pay the prevailing wages required under Guam law, as well as following up with the Wage and Hour Division of our Department of Labor to ensure that they do.

Realize that if the written determination is not provided by the Office of the Attorney General, we will require that that matter go through the Procurement appeal process. It is anticipated a Pre-hearing conference will be scheduled within the next few weeks.

Senseramente,

RECEIPT ACKNOWLEDGED:


Doris Flores Brooks, CPA, CGFM
Public Auditor

By: 
Date: 10-09-07

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