



OFFICE OF THE PUBLIC AUDITOR

July 17, 2006

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By: TSU  
Date: 7/18/06  
Time: 2:05 pm

Honorable Mark Forbes  
Speaker  
I Mina' Bente Ocho Na Liheslaturan Guahan  
155 Hesler Place  
Hagatna, Guam 96910

Office of the Speaker

MARK FORBES

Date: 7/17/06  
Time: 4:40  
Big H.

Honorable Edward J. B. Calvo  
Secretary of the Legislature  
I Mina' Bente Ocho Na Liheslaturan Guahan  
155 Hesler Place  
Hagatna, Guam 96910

Senator Edward J.B. Calvo  
**ACKNOWLEDGEMENT RECEIPT**

Rcv'd by: Nike  
Print Name & Initial

Time: 4:40  
Date: 7-17-06

Dear Speaker Forbes and Legislative Secretary Calvo:

In accordance with the Administrative Adjudication Law, transmitted herewith to the 28th Guam Legislature are the Rules of Procedure for Procurement Appeals, promulgated by the Office of the Public Auditor pursuant to the Administrative Adjudication Law, Public Law 28-68, and Article 12 of 5 G.C.A. Ch. 5. Enclosed herewith are the original approval copy; one (1) duplicate; an economic impact statement; one (1) copy of all comments submitted via letter, electronic mail, or facsimile; and one (1) copy of the entire record of the public hearing held on May 31, 2006, including a transcript and an audio file on compact disc.

Notices for the public hearing were published on May 21 and May 26, 2006, in both the Pacific Daily News and the Marianas Variety. Notices were delivered to the Governor; the Lt. Governor; the Speaker and all Senators of the 28th Guam Legislature; the Guam Bar Association; all heads of the Government of Guam departments, autonomous agencies, and public corporations; the Office of the Attorney General; the Compiler of Laws; the Guam Contractors License Board; and the Policy Office. Notice was also posted on the OPA website, [www.guamopa.org](http://www.guamopa.org), and the public had the opportunity to review the rules at the OPA office or on the website since May 17, 2006. Over forty individuals utilized the website to obtain a copy of the rules.

Prior to the hearing, testimony was submitted by Senator Antonio Unpingco; Assistant Attorney General Philip Isaac; Ms. Sandra Cruz of Mair, Mair, Spade and Thompson; Ms. Dana Gutierrez-Reyes of Mair, Mair, Spade and Thompson; Mr. Sergio Quenga, Compiler of Laws; and Ms. Victorina Renacia of the University of Guam. Testimony

was presented at the hearing by Mr. Anthony Camacho on behalf of the Consolidated Commission on Utilities (CCU), the Guam Waterworks Authority (GWA), and Guam Power Authority (GPA); Ms. Claudia Acfalle, Chief Procurement Officer of the General Services Agency, Government of Guam; and Ms. Lourdes Perez Director of the Department of Administration, Government of Guam. Full consideration was given to all comments presented at the hearing or in other form. Many of the suggestions were incorporated in the rules now transmitted to you. There was no testimony against passage of the proposed rules.

In drafting and revising the rules after the hearing, we surveyed the American Bar Association Model Procurement Regulations, federal procurement regulations, and various jurisdictions, including the Commonwealth of the Northern Marianas (CNMI), California, Hawaii, and others. We also looked at hearing procedures throughout the government of Guam and in other jurisdictions. Naturally, Guam case law involving procurement was also reviewed and incorporated as required. We believe the rules promote both efficiency and fairness, and request your expeditious and favorable consideration of these Rules in order that the Procurement Appeals process may commence, preferably by October 1, 2006 if not sooner.

Also transmitted herewith for your consideration are suggested changes to the *existing* procurement laws and rules that remain problematic despite adoption of the proposed rules, and require the immediate attention of the Guam Legislature. Many of these either were highlighted in our preparation of the proposed procedures, or were submitted as comments during our rulemaking process. We recommend adoption of the proposed changes concurrently with the new appeals rules and respectfully submit that the success of the appeals process will be greatly hindered without resolution of these problematic areas.

Due to technical difficulties, the written hard copy transcript of the public hearing held on May 31, 2006 is not attached to this transmittal and will be forwarded to your office at a later date. The audio file of the public hearing is attached and is also available on the OPA website.

We look forward to the public hearing on the Rules of Procedure for Procurement Appeals, and are available at any time to discuss these further with you. You may also contact Therese M. Terlaje, our Hearing Officer for Procurement Appeals and Legal Counsel, for questions or additional information on either the Rules or the suggested changes to existing law or rules.

Senseramente,



Doris Flores Brooks, CPA, CGFM  
Public Auditor

Enclosures:

Enclosures:

1. Rules (revised after 5/31/06 hearing) with Appendices A, B, C, D
2. Economic Impact Statement
3. Recommendations for Changes to Procurement Law (with letter of Sandra Cruz as attachment)
4. Original Rules
5. Notices of Hearing (newspaper ads or other)
6. Letters soliciting comments
7. Written comments received by OPA
8. Audio file of 5/31/06 hearing

Cc with proposed rules and recommended legislation but *sans* other enclosures:

Governor of Guam  
All Senators  
Attorney General of Guam  
Chief Procurement Officer, GSA  
Procurement Policy Office, c/o Director, Department of Administration  
Director, Department of Public Works  
Compiler of Laws (with evidence of receipt by Legislative Secretary)

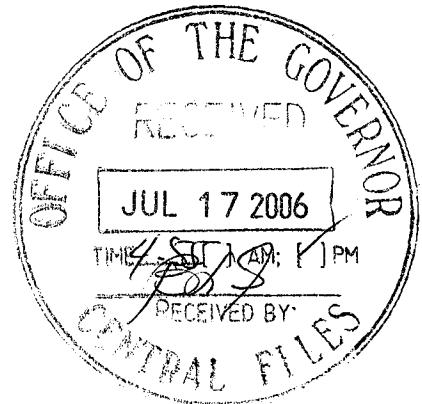
Receipt Acknowledgement:

Bernie Salas 7/17/06

Signature Date

BERNIE SALAS

Print Name



GUAM LEGISLATURE  
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TIME: 4:45 ( ) AM; (X) PM  
RECEIVED BY: J. Goz

7/17/06

RECEIVED  
DEPT. OF ADMINISTRATION  
M. Salas  
2006 JUL 17 PM 12:20  
DIRECTOR'S OFFICE