

1 **GUAM DEPARTMENT OF EDUCATION**  
2 Rebecca M. Perez, Legal Counsel  
3 P.O. Box DE  
4 Hagåtña, Guam 96910  
5 Telephone (671) 300-1537  
6 Email: legal-admin@gdoe.net

7 *Attorney for Guam Department of Education*

**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
PROCUREMENT APPEALS

DATE: 4/23/14  
TIME: 3:00  AM  PM BY: LL  
FILE NO OPA-PA: 14-002

8 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**

9 IN THE APPEAL OF

10 FUKUDA ENTERPRISES, LLC,

11 Appellant.

12 APPEAL NO.: OPA-PA-14-002

13 **NOTICE OF FUNDING DEADLINE**  
14 **REQUEST FOR EXPEDITED APPEAL**

15 Guam Department of Education (“GDOE”) Invitation For Bid No. 004-2014 (“IFB 004-  
16 2014” or the “IFB”) is the solicitation that is the subject of this appeal. Funding for the IFB is  
17 available under a FY 2012 grant to GDOE by the U.S. Office of Special Education Programs  
18 (“OSEP”). The deadline for obligation of the FY 2012 OSEP funds (e.g. by execution of a  
19 contract or purchase order) is September 30, 2014. As discussed in the attached declaration of  
20 Yolanda Gabriel, if it appears the funds will not be obligated before that deadline, the Guam  
21 Department of Education (“GDOE”) must take action to re-program the funds or risk returning  
22 the money to OSEP. In order to avoid loss of the FY 2012 funds, should this matter not be finally  
23 decided by June 30, 2014, or an extension be granted by the funding source, GDOE may cancel  
24 this solicitation in order to avoid the loss of the funding by re-programming it for other uses.

25 To avoid having to take such action, GDOE hereby provides notice of the timelines  
26 associated with the OSEP funds as described herein, and requests that the Office of Public  
27 Accountability (“OPA”) set this matter for expedited hearing such that a decision will be issued  
28 no later than June 13, 2014. Given the 14 day period to appeal a decision of the OPA, this

1 schedule would allow GDOE to asses by June 30, 2014 whether re-programming of the funds is  
2 necessary.

3 Dated this 23<sup>rd</sup> day of April, 2014.

4 Respectfully submitted,

5 **GUAM DEPARTMENT OF EDUCATION**

6  
7 By: \_\_\_\_\_



**REBECCA M. PEREZ, ESQ.**

*Legal Counsel*

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8 **BEFORE THE OFFICE OF PUBLIC ACCOUNTABILITY**

9 IN THE APPEAL OF

10 FUKUDA ENTERPRISES, LLC,

11 Appellant.

12 APPEAL NO.: OPA-PA-14-002

13 **DECLARATION REGARDING**  
14 **FUNDING TIMELINES**

15 I, Yolanda Gabriel, declare as follows:

16 1. I am currently employed as an Assistant Superintendent with the Division of  
17 Special Education within the Guam Department of Education.

18 2. To my knowledge and belief, the information herein is true and correct.

19 3. As part of my work duties, I am familiar with the requirements of grant funding  
20 for special education activities approved by the U.S. Department of Education and funded by the  
21 U.S. Office of Special Education Programs ("OSEP").

22 4. As part of its FY 2012 grant from OSEP, GDOE was to purchase mini-buses to be  
23 used for the transportation of students eligible for services under OSEP funding. FY 2012 OSEP  
24 grant funds were identified for the purchase of the mini-buses in GDOE IFB 004-2014.

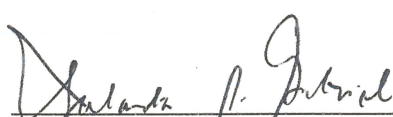
25 5. As part of its grant compliance communications with OSEP, GDOE assured OSEP  
26 in May 2012 that GDOE remained intent on using FY 2012 funds for the purchase of mini-buses.  
27 OSEP approved GDOE's request to purchase five of these buses in its memo to GDOE dated July  
28 1, 2012 and attached herewith as Exhibit 1.

1           6.       The deadline to obligate the FY 2012 grant funds identified for the purchase of the  
2 mini-buses is currently set at September 30, 2014. If GDOE does not obligate or re-program the  
3 funds by that date, the funds will revert to OSEP and no longer be available to GDOE.

4           7.       If it appears obligation of the funds will not occur by the September 30<sup>th</sup> deadline,  
5 GDOE may re-program the funds for use in other grant-approved activities. However, re-  
6 programming may not occur without OSEP approval, and must occur prior to the deadline for  
7 obligation. I have been informed by the Federal Programs Division of GDOE that obtaining  
8 approval to re-program the funds may take several weeks. An internal deadline of June 30, 2014  
9 has therefore been set for the application for re-programming of the FY 2012 OSEP funds.

10           I declare under penalty of perjury under the laws of Guam that the foregoing is true and  
11 correct to the best of my knowledge.

12           Dated this 22<sup>nd</sup> day of April, 2014.

  
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YOLANDA S. GABRIEL

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