



EXECUTIVE SUMMARY
Guam Contractors License Board
Licensing and Investigation Procedures
OPA Report No. 23-09, November 2023

Our audit of the Guam Contractors License Board (CLB) revealed several significant findings related to its standard operating procedures (SOPs) in the areas of licensing and investigation. CLB's licensing procedures revealed weaknesses resulting in the noncompliance of new and renewal applications records, the stoppage of the further issuance of the C-68 classification specialty, dated licensing examinations, and concerns with the sole authority of the CLB Executive Director to issue licenses. CLB's investigation procedures revealed weaknesses resulting from the inconsistent recordkeeping of consumer complaint and CLB complaint documents.

Underlying Deficiencies Amidst CLB's Licensing Processes

Contractors with C-68 Classification Operate While CLB Lacks Licensing Authority

In calendar year (CY) 2021, 240 contractors held the C-68 classification license, a specialized designation for contractors in unique building trades not covered by other classifications. It was found that the CLB has been issuing these licenses while the C-68 classification has not been properly adjudicated in the CLB's rules and regulations. As of CY 2023, 233 contractors hold it, even though the CLB lacks the authority to issue these licenses, revealing a long-standing procedural issue. A CLB board meeting was held in March 2022, highlighting the lack of adjudication for the 2009 Rules and Regulations governing the C-68 classification. This meeting raised concerns about the status of contractors already holding a C-68 classification, as the CLB's legal counsel stated that without duly enacted regulations, the CLB lacks the authority to issue any licenses.

To address the problem, the CLB stopped processing C-68 applications in April 2022, and proposed revisions are under review. In August 2022, a statement was issued allowing those with a Specialty Classification C-68 to continue their work until the CLB finalizes the evaluation of its Rules and Regulations. The decision aimed to serve the public interest and prevent services from being denied while the CLB works on adjudicating the rules and regulations.

License Examinations Require Update with Industry Standards

The CLB is facing a significant issue with its license examinations, as in our analysis, it was found that the two-part examination required for becoming a licensed contractor is outdated in terms of industry standards. Part I of the two-part exam, covering law and related subjects, has not been updated since 2009, lagging behind Guam's transition to the International Building Code (IBC) in 2000, and as of now, it adheres to the 2009 edition of the IBC, which is four editions behind the latest version published in 2021. Part II, assessing specific knowledge in the desired license area, faces even more significant issues, with at least 21 out of 68 sections requiring updates, and all 18 written exams (except the Master Electrician exam) remaining unchanged since the IBC adoption in 2000.

The CLB recognizes the urgency of modernizing exams and has begun discussions on updates, particularly for law and the C-11 classification exam. However, progress is impeded by cost concerns, temporarily halting the proposal to transition to electronic exams. Despite the revenue surplus, the CLB encounters hurdles in accessing funds for updates, and potential solutions, like obtaining a percentage of generated revenue, are beyond its control.

Review of Licenses Reveal Procedural Shortcomings

In Guam, obtaining a contractor's license involves meeting specific requirements outlined in an application packet maintained by the CLB. A review of 158 contractor applications, encompassing various license types and classifications, revealed that 138 (or 87%) of new and renewal applications complied with CLB requirements, while 20 (or 13%) did not. Although the CLB showed instances of adhering to the SOPs in its licensing process, the presence of non-compliant applications highlights significant procedural deficiencies in the first line of defense to ensure construction is carried out in a safe, competent, and professional manner. For new applications, 3 (or 21%) were compliant, while 11 (or 76%) were missing necessary documents, yet were approved. For renewals, 135 (or 94%) were compliant, while 9 (or 6%) displayed deficiencies. Though the renewal application samples did not analyze contractor's applications for when their initial license was obtained, the percentage of new license documentation deficiencies may suggest that these contractors did not meet the initial license qualifications.

Common weaknesses included challenges in recordkeeping, such as missing documents, and quality assurance issues like absent signatures and reviewer signoffs. Variances in documentation processes, particularly in construction contracts and between SOP documents and application information packets, were also noted.

Authority to Issue Licenses Given to CLB Executive Directors

The authority to endorse new and renewal licenses by the CLB Executive Director has been in practice since 2009, and this practice continued with Executive Director A and the Executive Director B. We found that this authority is in line with the Guam Code Annotated (GCA) regulations, which gives the Board the power to grant licenses to contractors and may delegate powers and duties to the Executive Director for effective administration. However, the specific duties and authority of the Executive Director regarding administrative and investigative procedures are not well-defined in the GCA.

In 2019, the Board authorized Executive Director B to approve new and renewal license applications, primarily to address a backlog of applications. The then-acting Executive Director later requested to revoke this authority due to administrative errors. However, the Board decided that the Executive Director should continue to review and approve applications, bringing only those with issues to the Board's attention.

Outside of our analysis, it was noted that there was an incident where Executive Director B issued a "Findings and Decisions" document without Board approval. This was found to be exceeding the Executive Director's authority, leading to its withdrawal. There were no other duties or authority given to the Executive Director that we could test and verify.

CLB Adheres to Investigation Processes Despite Areas of Weaknesses

In terms of investigation process, the CLB showed adherence of its SOPs for investigations, but our examination revealed areas of weakness. Consumer complaints had an 80% compliance rate with requisite (administrative) actions, while CLB complaints had a 100% compliance rate. However, when it came to discretionary (investigative) actions, the compliance rate for consumer complaints improved to 93%, while CLB complaints dropped to 60% due to inadequate documentation.

For consumer complaints, 80% of cases met requisite action requirements, with non-compliance cases primarily missing required stamps on complaint forms or notices to appear. Discretionary actions were followed in 93% of cases, with some lacking proper documentation for closure. CLB complaints had a 100% compliance rate for requisite actions, but compliance dropped to 60% for discretionary actions. This was attributed to unclear separation of CLB complaint procedures and the need for better documentation on all stages of investigation, including reasons for random checks. Overall, while the CLB demonstrated compliance in following its SOPs regarding investigations, we identified weaknesses in its procedures, particularly in the variances of its processes and recordkeeping.

Conclusion and Recommendations

While we recognize the CLB for exerting its best efforts to ensure compliant, effective, and efficient procedures for daily operations and duties, our analysis of the CLB revealed several significant findings related to the SOPs in the areas of licensing and investigation. The procedures for licensing revealed weaknesses resulting in the noncompliance of new and renewal applications records, the stoppage of the further issuance of the C-68 classification specialty, dated licensing examinations, and concerns with the sole authority of the CLB Executive Director to issue licenses. The procedures for investigations revealed weaknesses resulting from the inconsistent recordkeeping of consumer complaint and CLB complaint documents.

To address these issues comprehensively, we recommend the CLB undertake several important actions:

1. Ensure that the C-68 Classification and the updated Rules and Regulations undergo a thorough review and approval process through the Administrative Adjudication Act.
2. Conduct a comprehensive review and update of examinations to align with Guam's adopted 2009 edition of the International Building Code (IBC) and/or current industry practices and regulations.
3. Update and align Standard Operating Procedures and application packets to ensure uniform procedures and eliminate disparities between documents;
4. CLB management ensures appropriate procedures to maintain documents used to support the issuance of contractor's licenses to new applicants in line with statutes. This includes updating the CLB checklists attached to folders, as well as keeping applications collectively together;
5. Creating literature that clearly states the duties and authority the Executive Director should have over licensing and investigation procedures and have such literature approved by the Board;
6. Updating the CLB's Standard Operating Procedures for consumer and CLB complaints; and

7. Create a systematic recordkeeping process similar to procurement files, including documenting all steps and using checklists for consistency to improve organization and tracking of case status during investigations.

By implementing these recommendations, the CLB can enhance its operational efficiency, maintain the integrity of the construction industry, and ensure the safety of Guam's citizens. We recognize the CLB's commitment to addressing these deficiencies and making comprehensive improvements to their daily operations and tasks.



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