



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: Oct 21, 1998

Time: 11:50am

Rec'd by: [Signature]

Print Name: P. Roberts

Refer to
Legislative Secretary

OCT 21 1998

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuáttro na Liheslaturan Guåhan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>3:09 pm</u>
Date	<u>10-21-98</u>

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 738 (COR), "AN ACT TO AMEND §§12000(a), 12020, 54103, 50117 AND 58143, TO REPEAL §12015.2, TO RENUMBER §12015.3, TO ADD §12015.3, 58128.6, 58104(11), 58104(12), 58104(13), 64102(h)(4) AND 64102(h)(5), AND TO REPEAL AND REENACT §14112, ALL OF TITLE 12 OF THE GUAM CODE ANNOTATED; TO ADD §§26203(k)(28) AND 26203(k)(29) TO ARTICLE 2, CHAPTER 26, DIVISION 1 OF TITLE 11 OF THE GUAM CODE ANNOTATED; AND TO ADD CHAPTER 14 TO TITLE 1 OF THE GUAM CODE ANNOTATED, RELATIVE TO ALLEVIATING THE ECONOMIC IMPACTS OF THE MILITARY'S "A-76 PERFORMANCE OF COMMERCIAL ACTIVITIES" PRIVATIZATION PLAN BY PROVIDING TAX INCENTIVES TO LOCAL BUSINESSES TO MAINTAIN THE MILITARY'S WATER AND WASTE WATER DISTRIBUTION SYSTEMS AND TO CREATE THE "GUAM - U.S. MILITARY ADVANCEMENT ('GUMA') COMMISSION"", which I have signed into law today as Public Law No. 24-295.

This legislation amends various code sections relative to the Guam Waterworks Authority, the Guam Economic Development Authority, and the Guam Tax Code. The purpose of this legislation is to encourage private business to enter the water and wastewater business and to provide assistant to local businesses attempting to obtain contracts with the military.

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These amendments provide for the possibility of private concerns entering the picture to provide and distribute water and sewer services to the people of Guam. They also provide for the possibility of private companies assuming the activities now undertaken by the U. S. Navy, whether under a Base Operating Service contract or as a subcontractor or operating on a military base. The amendments to the Guam tax laws allow for those small businesses who obtain a Base Operating Service contract, or a subcontract or operate on a military base, or businesses who operate community-wide water production and distribution systems or wastewater disposal systems to be exempt from the application of the Gross Receipts Tax.

Additionally, this legislation provides for the creation of a Guam - U. S. Military Advancement Commission (GUMA), composed of members from the Executive and Legislative Branches, as well as the private sector, the military and veterans, to interact very closely with officials of Military Commands and prepare a plan to broaden the economic base of Guam and to develop a mutually satisfying strategy for both military and Guam activities. This plan is to be filed by the GUMA Commission by April 30, 1999.

Finally, and unrelated, this legislation provides the \$5.4 Million appropriation for the lump sum Cost of Living Allowance for our retirees and survivors.

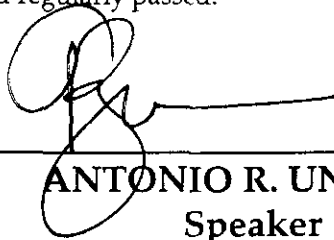
There are several technical amendments to keep in mind:

- 1) Page 10, lines 5-6: repeals §12015.2 of Title 12, Guam Code Annotated. This section was already repealed in Public Law No. 23-119.
- 2) Page 14, Line 24: §58128.6 should read §58128.7. §58128.6 was already added in Public Law No. 24-266,
- 3) Page 21, Line 11: §26203(k)(28) should read §26203(k)(34). §26203(k)(28) was already added in Public Law No. 24-12 and again in Public Law No. 24-156. A §26203(k)(30) was added in Public Law No. 24-12. What should be numbered §26203(k)(31), but instead is numbered §26203(k)(28), was added in Public Law No. 24-156.

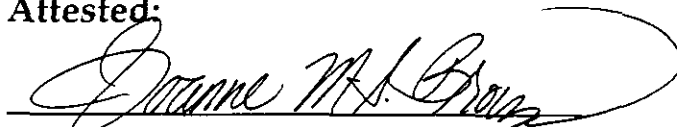
MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN


This is to certify that Substitute Bill No. 738 (COR), "AN ACT TO AMEND §§12000(a), 12020, 54103, 50117 AND 58143, TO REPEAL §12015.2, TO RENUMBER §12015.3, TO ADD §§12015.3, 58128.6, 58104(11), 58104(12), 58104(13), 64102(h)(4) AND 64102(h)(5), AND TO REPEAL AND REENACT §14112, ALL OF TITLE 12 OF THE GUAM CODE ANNOTATED; TO ADD §§26203(k)(28) AND 26203(k)(29) TO ARTICLE 2, CHAPTER 26, DIVISION 1 OF TITLE 11 OF THE GUAM CODE ANNOTATED; AND TO ADD CHAPTER 14 TO TITLE 1 OF THE GUAM CODE ANNOTATED, RELATIVE TO ALLEVIATING THE ECONOMIC IMPACTS OF THE MILITARY'S "A-76 PERFORMANCE OF COMMERCIAL ACTIVITIES" PRIVATIZATION PLAN BY PROVIDING TAX INCENTIVES TO LOCAL BUSINESSES TO MAINTAIN THE MILITARY'S WATER AND WASTE WATER DISTRIBUTION SYSTEMS AND TO CREATE THE "GUAM - U.S. MILITARY ADVANCEMENT ('GUMA') COMMISSION," was on the 2nd day of October, 1998, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 9th day of October, 1998,
at 3:20 o'clock P.M.


Assistant Staff Officer
Maga'laha's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 10-21-98

Public Law No. 24-295

**MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session**

Bill No. 738 (COR)

Substituted by the Author,
further substituted by the
Committee of the Whole,
further substituted and
amended on the Floor.

Introduced by:

A. C. Blaz
A. C. Lamorena, V
J. M.S. Brown
T. C. Ada
F. B. Aguon, Jr.
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
C. A. Leon Guerrero
L. A. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. T. Won Pat

**AN ACT TO AMEND §§12000(a), 12020, 54103, 50117
AND 58143, TO REPEAL §12015.2, TO RENUMBER
§12015.3, TO ADD §§12015.3, 58128.6, 58104(11),
58104(12), 58104(13), 64102(h)(4) AND 64102(h)(5), AND
TO REPEAL AND REENACT §14112, ALL OF TITLE 12
OF THE GUAM CODE ANNOTATED; TO ADD**

§§26203(k)(28) AND 26203(k)(29) TO ARTICLE 2, CHAPTER 26, DIVISION 1 OF TITLE 11 OF THE GUAM CODE ANNOTATED; AND TO ADD CHAPTER 14 TO TITLE 1 OF THE GUAM CODE ANNOTATED, RELATIVE TO ALLEVIATING THE ECONOMIC IMPACTS OF THE MILITARY'S "A-76 PERFORMANCE OF COMMERCIAL ACTIVITIES" PRIVATIZATION PLAN BY PROVIDING TAX INCENTIVES TO LOCAL BUSINESSES TO MAINTAIN THE MILITARY'S WATER AND WASTE WATER DISTRIBUTION SYSTEMS AND TO CREATE THE "GUAM - U.S. MILITARY ADVANCEMENT ('GUMA') COMMISSION."

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds
3 that as a result of the decisions by the United States Department of Defense, over
4 which decisions Guam has no control, the military forces on Guam, both Navy
5 and Air Force, are going through both a substantial downsizing and a major
6 restructuring of their continuing missions. The downsizing has consisted of
7 giving up certain local military activities and bases on Guam, such as the Naval
8 Air Station Agaña and the U.S. Naval Ship Repair Facility, while the restructuring
9 of their missions consists, in addition to the downsizing, of determining that
10 much of the work for these military activities, traditionally carried out by military
11 personnel and Federal civil servants, should be "outsourced" to one (1) or more
12 larger companies which can carry out these housekeeping missions effectively
13 and more cheaply than as is certainly done. The net result of both these
14 Department of Defense activities downsizing and outsourcing will be a
15 substantial reduction in the employment of local residents by the military

1 commands, throwing over two thousand (2000) local workers out of work.

2 *I Liheslaturan Guahan* finds that Guam's fragile economy, dependent upon
3 tourism and defense spending, over neither of which does it have any control,
4 cannot easily absorb so many additional workers without special steps being
5 taken to encourage their reemployment on Guam. *I Liheslaturan Guahan* further
6 finds that within the downsizing plans of the Department of Defense is the desire
7 to give up title to and control of the Navy and Air Force water and waste water
8 systems, as well as the intent, with respect to outsourcing the prime contractor,
9 to require that a certain minimum number of activities be subcontracted to local
10 companies and personnel.

11 For the aforementioned, the purposes, then, of this Act are: (i) to assist in
12 arranging for the transfer of the Navy and Air Force water systems to the control
13 of the Guam Waterworks Authority ("GWA") by giving substantial incentives to
14 the civilian operator of such a combined system to work under the authority and
15 direction of GWA, and (ii) to give such tax incentives to the main contractor, as
16 well as small business entity, as defined by the U.S. Small Business
17 Administration, of the Base Operating Service ("BOS") contract to encourage it
18 to use the maximum number of local companies and employees in carrying out
19 its responsibilities under such BOS Contract.

20 Furthermore, as a matter of historical perspective on the U.S. Military's
21 presence on Guam, before March 6, 1521, when Portuguese explorer Ferdinand
22 Magellan, sailing under the Spanish flag, stopped in Guam while
23 circumnavigating the World, Guam was a "free" island community inhabited by
24 indigenous Chamorros for more than three thousand (3,000) years. Guam and
25 her fourteen (14) sister islands in the Marianas archipelago were a colony of

1 Spain from 1668 to 1898, when Guam was ceded by Spain to the United States,
2 at no cost, as a consequence of the Spanish-American War. This year, 1998, marks
3 one hundred (100) years of the United States administration of Guam, first as a
4 possession and, as of August 1, 1950, as an unincorporated territory of the United
5 States.

6 Historically, when Americans make reference to Guam, the Island is
7 portrayed merely as a "military installation" in the Western Pacific, although the
8 Island, primarily, was a civilized Christian community long before the American
9 Revolutionary War. This "military base" image came about as a consequence of
10 World War II, when Guam was seized and occupied by Japanese forces for more
11 than thirty (30) months, and the massive military build up immediately following
12 the World conflict.

13 So that it is absolutely clear as to who and what everyone is talking about,
14 globally or geographically, Guam is an island with a total land mass of two
15 hundred twelve (212) square miles, about the size of Maui in the Hawaiian
16 Islands; with nearly one hundred sixty thousand (160,000) inhabitants; and
17 situated at approximately 145 degrees east longitude by 13 degrees north latitude.

18 By air, Guam is three (3) hours from Japan; four (4) hours from South Korea; four
19 (4) hours from Taiwan; five (5) hours from Hong Kong; three (3) hours from the
20 Philippines; five (5) hours from Beijing; and six (6) hours from Sydney and
21 Vladivostok. On the other hand, Guam is seven (7) hours from Honolulu; twelve
22 (12) hours from San Francisco; and seventeen (17) hours from Washington, D.C.
23 and New York City.

24 Compared to the Commonwealth of the Northern Marianas ("CNMI"),
25 which comprises the other fourteen (14) Marianas Islands, Guam's land mass is

1 almost twice as large, and its population is about three (3) times that of the
2 CNMI. While Guam has been a United States possession for a century, the CNMI
3 has enjoyed a commonwealth status in political union with the United States
4 since the mid 1970s. For some thirty (30) years prior to World War II, the CNMI
5 was part of the overseas Japanese Empire.

6 From this description, one can easily conclude that Guam is more Asian-
7 Pacific than American, notwithstanding the fact it is the westernmost possession
8 of the United States, the farthest removed from the Nation's capital. Strategically,
9 Guam today is a vibrant and dynamic gateway to the Asia-Pacific Region.

10 Since acquiring Guam a century ago, the U.S. government has invested
11 billions of dollars and will, no doubt, continue to invest more. Except for the
12 thirty (30) month period when Guam was under the control of Japanese military
13 forces during World War II, the U.S. Government has ruled the Island. Guam
14 was the only U.S. soil invaded and occupied by enemy forces. Although the
15 Philippine Islands were also occupied by the Japanese during the War, the
16 country was in transition towards independence since 1934. A few isolated
17 islands in the Aleutian chain were briefly occupied by Japanese forces, but none
18 lasted for more than a few weeks. History tells us that when Japan seized Guam
19 in 1941, the Island was to become an integral part of the Greater East Asia Co-
20 Prosperity Sphere, which would have made Japan the greatest nation on Earth.
21 The concept was nobly conceived, but evilly pursued.

22 During World War II, the United States expended a great deal of money
23 and the lives of more than one thousand two hundred (1,200) American soldiers
24 and sailors were lost during the recapture of Guam in 1944. On the other hand,
25 hundreds of Chamorros were either killed or brutalized during the Japanese

1 occupation.

2 After the war Guam was placed at center stage of the strategic military
3 buildup, in anticipation of possible conflict against Communist China or the
4 Soviet Union, or both. Guam's Andersen Air Force Base became the home of
5 dozens of B-29s and later B-52s equipped with conventional and nuclear
6 capabilities.

7 With the advent of the "Cold War," Guam continued its strategic military
8 importance and was utilized as the Pacific military command during "police
9 action" in the Korean Peninsula in the early 1950s. As in World War II, Guam's
10 sons were called upon to defend the United States during the Korean conflict,
11 and later during the prolonged Vietnam War. Seventy-one (71) Guam soldiers
12 perished in Vietnam, which, on a per capita basis, was the highest than any other
13 community in the Nation. At the same time Andersen Air Force Base was among
14 a few Air Force bases utilized for daily bombing raids over Vietnam. On any
15 given day during the height of the Vietnam War, as many as sixty B-52s were
16 based at Andersen Air Force Base.

17 Upon closure of the Vietnam War in 1975, Guam again played a critical
18 strategic military role in the evacuation and processing of more than one hundred
19 fifty thousand (150,000) Vietnam refugees during "Operation New Life" and
20 "Baby Lift." Many of these Vietnamese chose to remain on Guam and, in general,
21 have become excellent citizens.

22 Whenever there is a military need, such as during the eruption of Mount
23 Pinatubo causing the closure of Clark Air Base in the Philippines; the Gulf War
24 during the Desert Storm multi-national engagement; and the evacuation of the
25 Kurds from Iraq, Guam continued to play a critical strategic military role in the

1 protection of the National security interests of the United States. All these global
2 events underscore the need for the United States to establish a clear and lasting
3 policy on the military presence on Guam as a matter of protecting and insuring
4 American National interest in the Region. Guam, because of its location and its
5 people's proven loyalty and patriotism, will always be of great military and
6 economic value to the United States.

7 To express this differently, one can visualize Guam as an "aircraft carrier,"
8 an economic vessel permanently and securely anchored, within this region which
9 will herald in one (1) of the greatest economic booms in the next millennium; a
10 global market where one half (1/2) the World population resides; a Region where
11 virtually unlimited raw materials and human resources are located; and where
12 the build up of capital appears limitless.

13 *I Liheslaturan Guahan* finds that it is crucial for the United States to have a
14 continued physical presence in this Region through Guam. There is no assurance
15 that friendly Asian allies today will remain so in the future. The U.S. government
16 will not only secure greatly its world superpower presence entrenched in the
17 continental boundaries of the United States, but also with a physical presence in
18 Asia and the Western Pacific, particularly on Guam. In a matter of a few decades,
19 it has been projected that there will be nearly two billion (2,000,000,000) people
20 in China, and this Region will support over one-half (1/2) of the World's
21 population.

22 *I Liheslaturan Guahan* also finds that within a matter of a few decades, this
23 Region will boast a per capita disposable personal income equal to at least half
24 of the world's disposable personal income. The level of affluence in this Region
.5 will surpass those of Europe, Africa and South America. It has been said by

1 global economists that the 21st Century will be the “Pacific and Asian Century.”
2 It can also be said that this Region will support a global market equal to two-
3 thirds (2/3) of the World’s total market within the first century of the next
4 millennium.

5 *I Liheslaturan Guahan* further finds that a majority of global economists have
6 predicted that the gross national product of the People’s Republic of China, with
7 over two billion (2,000,000,000) population, will equal the gross national product
8 of the United States within the next fifty (50) years. This nation alone will
9 support a massive market never experienced by any other nation on earth, with
10 a level of affluence that will be second only to those truly industrialized nations
11 like the United States and Japan. The European Common Market will not
12 compare, nor be able to compete with, the single market in China.

13 *I Liheslaturan Guahan* finally finds that it is of high National security interest
14 for the United States to have as its westernmost landmass, the Island of Guam,
15 U.S.A., with its laws, courts, government, currency and economy right in the
16 midst of this Region. It is the intent of *I Liheslaturan Guahan* to secure all benefits,
17 both National, as well as global interest, for the United States, in addition to those
18 benefits enjoyed within its continental boundaries. With all of the benefits the
19 United States is currently enjoying as a World superpower, one can imagine how
20 much better and easier if an integral part of the United States is situated right in
21 the middle of all these economic activities.

22 It is also the intent of *I Liheslaturan Guahan* to support the growth and
23 development and enhancement of the United States’ economic interest so that its
24 National security interests will be protected as well. It is through this strategy
25 that *I Liheslaturan Guahan* can insure the growth, development and enhancement

1 of Guam's economic interest by being a stable, resilient and integral part of the
2 United States' National security interest. Quite simply, without continued
3 economic health, a nation will not and cannot secure the needed resources to
4 protect its national security interests.

5 Guam has more than demonstrated its legal, moral and political
6 justification to develop a closer political relationship with the United States and
7 live up to the proclamation: "Guam, U.S.A., Where America's Day Begins."
8 Guam has, indeed, been very good to "Uncle Sam" throughout the 20th Century,
9 from the early years at the turn of the century when the Island served as a coaling
10 station for military and merchant ships plying the Pacific to the rich Asian
11 continent; to utilization of the Island as a communication center, undersea cable
12 system; to transportation hub, including the famed Pan Am Clippers; to the
13 extensive use of the Island during the latter stages of the campaign to defeat
14 Japan, and the subsequent bombing raids on Vietnam.

15 It should also be pointed out that some fifteen thousand (15,000) military
16 veterans reside on Guam, and almost every other home has a military veteran or
17 someone currently serving in the U.S. armed services. Thus, it can be said that
18 the military forces of the United States and Guam have been partners for at least
19 four (4) generations. Provisions addressing Guam's policy and direction on the
20 U.S. Military's presence are contained in §§19 and 20.

21 **Section 2.** Section 12000(a) of Chapter 12, Division 1 of Title 12 of the
22 Guam Code Annotated is hereby *amended* to read as follows:

23 "(a) 'Public Utility' means the Guam Power Authority, the Guam
24 Telephone Authority, the Guam Waterworks Authority or any duly
.5 licensed private contractor operating: (i) a facility or subsystem of the

1 community-wide water production and distribution system or (ii) a facility
2 or subsystem of the community-wide waste water disposal system, or both,
3 or any private golf course management corporation leasing public property
4 providing preferential golf rates and reservations to Guam residents.”

5 **Section 3.** Section 12015.2 of Chapter 12, Division 1 of Title 12 of the Guam
6 Code Annotated is hereby *repealed*.

7 **Section 4.** Section 12015.3 of Chapter 12, Division 1 of Title 12 of the Guam
8 Code Annotated is hereby *renumbered* to §12015.2 of Chapter 12, Division 1 of
9 Title 12 of the Guam Code Annotated.

10 **Section 5.** Section 12015.3 is hereby *added* to Chapter 12, Division 1 of Title
11 12 of the Guam Code Annotated to read as follows:

12 **“Section 12015.3. Charges Authorized for Private Contractors If**
13 **Their Systems are Integrated with GWA’s.** The Guam Waterworks
14 Authority (‘GWA’) may permit private contractors to operate community-
15 wide water production and distribution systems, or wastewater disposal
16 system(s), or both, and shall refer recommended rates to the PUC to
17 establish rates for such water and wastewater systems *if* such systems are
18 fully integrated within GWA’s Island-wide water and wastewater systems.
19 Such integration, including, but not limited to, rates, charges, assessments
20 and costs, shall be set out in written joint operating agreements, approved
21 by the PUC, between GWA and such private contractors.”

22 **Section 6.** Section 12020 of Chapter 12, Division 1 of Title 12 of the Guam
23 Code Annotated is hereby *amended* to read as follows:

24 **“Section 12020. Penalty.** (a) Any public utility violating or
25 neglecting or failing in any particular way to conform to or comply with

1 this Chapter or any lawful order of the Commission shall forfeit to the
2 Public Utilities Commission not more than Five Hundred Dollars (\$500.00)
3 for every violation, neglect or failure per day.

4 (b) Any private contractor producing and distributing water or
5 disposing of wastewater, as is regulated under §12015.3 of this Chapter,
6 which does *not* have a written joint operating agreement with GWA, or
7 otherwise violates, neglects or fails in any particular way to conform to or
8 comply with the provisions of this Chapter, or any lawful order of the PUC,
9 shall forfeit to the PUC Five Thousand Dollars (\$5,000.00) for every
10 violation, neglect or failure per day until such time as its permit and
11 license, if any, are cancelled, or it otherwise ceases operations. All fines
12 collected are to be deposited to the GWA.”

13 **Section 7.** Section 14112 of Article 1, Chapter 14, Division 2 of Title 12 of
14 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

15 **“Section 14112. General Operations. (a) Rates for Services.**

16 The Authority shall apply to the Public Utilities Commission (‘PUC’) for
17 approval for its rates for its services. In order to obtain such approval, the
18 Authority must demonstrate to the PUC that: (1) there is a public need for
19 the services being provided, and (2) the Authority’s provision of said
20 services benefits the community.

21 (b) **Integration and Inter-operation of Systems.** It shall be the
22 aim of the Authority to provide Guam with a fully integrated inter-
23 operating water and wastewater system by combining all U.S. Military
24 systems in use on Guam to be thereafter administered under civilian
25 authority for both the military and civilian communities. Accordingly, the

1 Authority shall develop a proposal for acquiring full ownership in and
2 operation of existing U.S. Military water and wastewater utility systems
3 situated on Guam for submission to *I Liheslaturan Guahan* for its prior
4 approval, as well as full ownership and use of all Guam fresh water
5 resources, surface and/or subsurface, within Federal lands and property
6 deemed appropriate for this purpose.

7 **(1) Joint Operating Agreements.** The Authority shall
8 enter into one (1) or more joint operating agreements with private
9 contractors operating U.S. Military water production and distribution
10 systems or wastewater disposal systems, or both, regulated under the
11 Federal Clean Water Act and Safe Drinking Water Act, in
12 conformance with its rules and regulations and with the statutory
13 authority contained in this Chapter. Under such a joint operating
14 agreement, the Authority and the private contractor's joint operations
15 shall be integrated into the Authority's Island-wide waterworks and
16 wastewater disposal systems.

17 **(2) Regulation of Such Private Contractors.** The
18 Authority shall duly promulgate new or expanded rules and
19 regulations, in coordination with the Guam Environmental
20 Protection Agency, concerning the operational monitoring,
21 surveillance and reporting of such a private contractor or contractors
22 operating a U.S. Military water production and distribution system
23 or wastewater system, or both, which are being operated under a
24 joint operating agreement with the Authority. No permit or license
.5 shall be issued until the operator is in full compliance with Federal

1 and Guam statutes and rules, and the PUC has approved the
2 operator's operation and its joint operating agreement with the
3 Authority."

4 **Section 8.** Section 54103 of Chapter 54, Division 2 of Title 12 of the Guam
5 Code Annotated is hereby *amended* to read as follows:

6 **"Section 54103. Same: Use of Fund Money.** (a) The money in
7 the Fund is to be used by the Guam Economic Development Authority to
8 encourage, assist, develop and expand the small business private sector in
9 Guam's economy. The money is to be used in the form of loans to
10 individuals who are U.S. citizens who have resided on Guam for a
11 minimum of two (2) consecutive years, small corporations and
12 partnerships, a majority of whose company equity ownership is held in
13 majority by U.S. citizens who have resided on Guam for a minimum of two
14 (2) consecutive years, for the purpose of stimulating and promoting small
15 business growth. Additionally, the Authority shall be authorized to use
16 money from this Fund for equity participation in a new company, or in an
17 existing company, for the purpose of such company's expansion. The
18 Authority shall base its decisions regarding equity participation on the
19 merits of the project, and on other factors which the Authority may
20 determine warrants participation by the Authority.

21 (b) The Authority shall place special emphasis on assisting local
22 companies in the proposed outsourcing of Navy functions on Guam,
23 U.S.A., which program conforms to the Federal policy of performing
24 recurring commercial activities in the manner established by the '*The*
25 *August 1983 Office of Management and Budget (OMB) Circular No. A-76,*

1 known as the A-76 Performance of Commercial Activities. Consequently,
2 pursuant to the powers, duties and responsibilities given the Authority in
3 Division 2 of Title 12 of the Guam Code Annotated, the Authority is
4 directed to insure that those small business concerns participating in the A-
5 76 Performance of Commercial Activities as subcontractors, or otherwise,
6 are granted special consideration, without necessarily compromising the
7 credit-worthiness of each specific project in granting them loans or in
8 taking equity interests therein to encourage, assist, develop and expand
9 this particular aspect of the small business private sector in Guam's
10 economy."

11 **Section 9.** Section 50117 of Chapter 50, Division 2 of Title 12 of the Guam
12 Code Annotated is hereby *amended* to read as follows:

13 **"Section 50117. Rules and Regulations.** The Corporation shall
14 review and revise its existing standard operating procedures, and create
15 rules and regulations ('Rules'), for the Corporation regarding loans, tax
16 qualifying certificates, and all other functions and operations of the
17 Corporation in accordance with the provisions of the Administrative
18 Adjudication Law. Such Rules shall include procedures for assisting those
19 small business concerns participating in the A-76 Performance of
20 Commercial Activities, as authorized in §54103 of Title 12 of the Guam
21 Code Annotated. The Corporation shall complete this process of revising
22 its Rules within thirty (30) days from the enactment of this provision into
23 law."

24 **Section 10.** Section 58128.6 is hereby *added* to Chapter 58, Division 2 of Title
.5 12 of the Guam Code Annotated to read as follows:

1 **"Section 58128.6. Assistance in Military Outsourcing and**
2 **Downsizing. (a) Definitions.** For purposes of this Section,

3 (1) **A-76.** '*A-76*' means the policy of the United States
4 government to perform recurrent commercial activities in the manner
5 established by '*The August 1983 Office of Management and Budget*
6 *(OMB) Circular No. A-76,*' known as the '*A-76 Performance of*
7 *Commercial Activities.*'

8 (2) **BOS.** '*BOS*' means the Base Operating Service
9 contract issued to perform such recurring commercial activities on
10 the military bases on Guam in the manner established by the A-76
11 policy.

12 (3) **BOS Contractor.** '*BOS Contractor*' means the
13 company awarded the BOS operation selected pursuant to the A-76
14 policy.

15 (4) **BRAC.** '*BRAC*' means the process and procedure
16 whereby military bases on Guam are realigned and closed in
17 conformance with Federal law.

18 (5) **Extraneous Capacity.** '*Extraneous capacity*' means
19 extraneous or excess capacity within the military or BOS system that
20 could be used to compete with local businesses, including local
21 public utilities.

22 (6) **GWA.** '*GWA*' means the Guam Waterworks
23 Authority, a utility agency of the government of Guam which
24 distributes water and disposes of wastewater.

25 (7) **Outsourcing.** '*Outsourcing*' means the contracting-out

1 of commercial activities on military bases, permitting Federal
2 managers to make sound business decisions by making cost
3 comparisons.

4 (8) **Private Water Contractor.** *'Private Water Contractor'*
5 means a beneficiary which operates in a joint operating agreement
6 with GWA a community-wide water production and distribution
7 system, or a wastewater disposal system, or both such systems.

8 (9) **SBA.** *'SBA'* means the U.S. Small Business
9 Administration.

10 (b) **Rebates on the Income of a BOS Contractor.** A rebate of the
11 percentages hereinafter set out of all income tax paid to the government of
12 Guam by a Beneficiary on all income received from being the BOS
13 Contractor on a military base on Guam, except that income, if any, received
14 from operating a water distribution system, or a wastewater disposal
15 system, or both, may be issued for the BOS ten (10) - year term, and may be
16 extended for an aggregate period *not* to exceed twenty (20) consecutive
17 years from the effective date of a Qualifying Certificate therefor, if
18 beneficiary's BOS operations are duly extended for an additional ten (10)
19 years. The percentage of rebate shall depend on the amount of work
20 subcontracted by the BOS Contractor to duly licensed Guam
21 subcontractors. The percentages of rebate shall be as follows:

22 **Percentages BOS Contractor**

23 <u>Percentages of Rebate:</u>	24 <u>Subcontracts to Local Subcontractors:</u>
25 25%,	20%,
50%,	30%,

1 75%, 40%,
2 100%, 50%.

3 Such BOS Contractor Qualifying Certificates may be renewed for
4 additional periods of up to an aggregate of another twenty (20) years at the
5 conclusion of the second or later periods, so long as the beneficiary remains
6 the BOS Contractor in good standing under the laws of Guam and the
7 United States, and under the rules and regulations of the Authority. The
8 Authority requires the BOS Contractor: (i) to give first consideration for
9 employment to former civil service employees employed in those activities
10 taken over by the BOS Contractor and that their salaries shall be consistent
11 with the Mainland U. S. wages in the same positions; (ii) to avoid utilizing
12 extraneous capacity in competition with Guam businesses or with Guam
13 public utilities; (iii) to require all employees and persons working on the
14 project, including its subcontractors and their employees, to be U.S.
15 Citizens or resident aliens, and (iv) to require at least seventy-five percent
16 (75%) of the BOS Contractor and its subcontractors to be former civil
17 service employees employed in full-time positions in those activities taken
18 over by the BOS Contractor. In the event the BOS Contractor develops
19 extraneous capacity, the Authority as the Local Redevelopment Agency
20 ('LRA') under the BRAC process shall endeavor to have such extraneous
21 capacity processed through BRAC and transferred to the LRA. In the event
22 the BOS Contractor fails to cooperate with the Authority in limiting or
23 eliminating the adverse effect of such extraneous capacity on local
24 businesses, such failure may constitute grounds for suspending or revoking
25 the Qualifying Certificate of such BOS Contractor pursuant to §58111 of

1 this Chapter.

2 (c) **Rebate on Income Received by Private Water Contractors.**

3 A rebate of up to one hundred percent (100%) of all income tax paid to the
4 government of Guam by a beneficiary on income received from operations
5 as a private water contractor may be issued for a period to run with the
6 term of the joint operating agreement between the beneficiary and GWA,
7 and any extensions of such term, for a maximum period *not* to exceed
8 twenty (20) consecutive years from the effective date of a Qualifying
9 Certificate therefor, which period may be extended in the event the
10 beneficiary maintains its joint operating agreement for additional periods
11 not to exceed in the aggregate an additional twenty (20) years.

12 (d) **Rebate on Income Received by Small Business Entity.**

13 A rebate of up to one hundred percent (100%) of all income tax paid to the
14 government of Guam by a beneficiary on income received exclusively from
15 A-76 operations, as a direct contractor on a military base on Guam or a sub-
16 contractor to a BOS Contractor, may be issued for the small business entity
17 for the period covered under the BOS Contractor, or such independent
18 contract as the small business entity may have, and may be extended for an
19 aggregate period *not* to exceed twenty (20) consecutive years from the
20 effective date of a Qualifying Certificate therefor, if beneficiary's operations
21 are duly extended accordingly."

22 **Section 11.** Section 58104(11) is hereby *added* to Chapter 58, Division 2
23 of Title 12 of the Guam Code Annotated to read as follows:

24 "11. producing water or disposing of wastewater, or both, jointly
25 with the Guam Waterworks Authority;"

1 **Section 12.** Section 58104(12) is hereby *added* to Chapter 58, Division 2
2 of Title 12 of the Guam Code Annotated to read as follows:

3 “12. operating on a military base on Guam a Base Operating Service
4 contract;”

5 **Section 13.** Section 58104(13) is hereby *added* to Chapter 58, Division 2
6 of Title 12 of the Guam Code Annotated to read as follows:

7 “13. a small business entity operating on a military base on Guam,
8 a Base Operating Service contract, or as a subcontractor to a BOS
9 Contractor.”

10 **Section 14.** Section 58143 of Chapter 58, Division 2 of Title 12 of the
11 Guam Code Annotated is hereby *amended* to read as follows:

12 “**Section 58143.** Fees. On the effective date of this Chapter, and
13 until modified pursuant to §58145 of this Chapter, the following fees shall
14 be assessed against each applicant or Beneficiary of a Qualifying
15 Certificate:

	ANNUAL	SURVEILLANCE
	<u>FILING FEES:</u>	<u>FEES:</u>
18 agriculture, aquaculture and		
19 mariculture:	\$ 150.00,	\$ 500.00,
20 home manufacturing:	\$ 100.00,	\$ 100.00,
21 manufacturing:	\$ 750.00,	\$ 2,000.00,
22 commercial fishing:	\$ 250.00,	\$ 1,000.00,
23 services:	\$ 750.00,	\$ 2,000.00,
24 leasehold services:	\$ 750.00,	0.75%,
25		of annual lease

1			payments,
2	tourism:	\$ 1,000.00,	\$ 3,000.00,
3	insurers:	\$ 750.00,	\$ 1,000.00,
4	export trading companies:	\$ 750.00,	\$ 1,000.00,
5	motels per motel:		
6	under construction:	\$ 750.00,	\$ 2,000.00,
7	in operation:	\$ 750.00,	\$ 25.00,
8			per room,
9	hotels per hotel:		
10	under construction	\$ 1,500.00,	\$ 3,000.00,
11	in operation:	\$ 1,500.00,	\$ 45.00,
12			per room,
13	construction of		
14	affordable housing:	\$ 750.00,	\$ 1,000.00,
15	producing water or disposing		
16	of wastewater jointly with the		
17	Guam Waterworks Authority:	\$ 750.00,	\$ 10,000.00,
18	a small business entity operating		
19	the Base Operating Service Contract		
20	or as a subcontractor to a		
21	BOS Contractor	\$ 750.00,	\$ 1,000.00,
22	operating the Base Operating		
23	Service Contract:	\$ 750.00,	\$ 100,000.00."

24 **Section 15.** Section 64102(h)(4) is hereby *added* to Title 12 of the Guam
25 Code Annotated to read as follows:

1 “(4) ‘Project’ also means provision of financing for any expense
2 incurred in the ordinary course of business, or in the acquisition of an
3 equity interest in any corporation by private contractors conducting water
4 production and distribution, or wastewater operations, jointly with the
5 Guam Waterworks Authority.”

6 **Section 16.** Section 64102(h)(5) is hereby *added* to Title 12 of the Guam Code
7 Annotated to read as follows:

8 “(5) ‘Project’ also means provision of financing for any expense
9 incurred in the ordinary course of business by a Base Operating Service
10 Contractor, or a Subcontractor, at any military base on Guam.”

11 **Section 17.** Section 26203(k)(28) is hereby *added* to Article 2, Chapter 26,
12 Division 1 of Title 11 of the Guam Code Annotated to read as follows:

13 “(28) Any amounts received by small business concerns, as defined
14 by the U.S. Small Business Administration, participating in the A-76
15 Performance of Commercial Activities, defined in §54103 of Title 12 of the
16 Guam Code Annotated, as a BOS Contractor, or subcontractors of the BOS
17 Contractor.”

18 **Section 18.** Section 26203(k)(29) is hereby *added* to Article 2, Chapter 26,
19 Division 1 of Title 11 of the Guam Code Annotated to read as follows:

20 “(29) Any amounts received by a private water contractor having a
21 joint operating agreement with the Guam Waterworks Authority to operate
22 a community-wide water production and distribution system, or a
23 wastewater disposal system, or both such systems.”

24 **Section 19.** Chapter 14 is hereby *added* to Title 1 of the Guam Code
25 Annotated to read as follows:

1 "CHAPTER 14.

2 GUAM - U.S. MILITARY ADVANCEMENT COMMISSION.

3 §1400. Short Title.

4 §1401. Guam - U.S. Military Advancement Commission Created.

5 §1402. Composition of GUMA Commission.

6 §1403. Development of Guam – U.S. Military Advancement Plan.

7 §1404. Development of Economic Enhancement and Growth Plan.

8 §1405. Duties and Powers of Officers.

9 §1406. Powers of GUMA Commission.

10 §1407. Negotiation Powers Authorized.

11 §1408. Report Required.

12 Section 1400. Short Title. This Act shall be cited and known
13 as the '*Guam - U.S. Military Advancement ('GUMA') Commission Act of 1998.*'

14 Section 1401. Guam - U. S. Military Advancement Commission
15 Created. The '*Guam - U.S. Military Advancement ('GUMA') Commission*'
16 ('*GUMA Commission*') is created, as an integral part of the Office of *I*
17 *Maga'lalen Guåhan*, for the purpose of studying, investigating and
18 developing a mutually satisfying strategy for the enhancement and growth
19 of the U.S. Military's activities, involvement, participation and integration
20 within the social, political and economic fabric of Guam, consistent with
21 U.S. Military strategic national security doctrines, policies and missions.

22 Section 1402. Composition of GUMA Commission. (a) The
23 GUMA Commission shall be composed of nine (9) members to be
24 appointed by *I Maga'lalen Guåhan*, with the advice and consent of *I*
25 *Liheslaturan Guåhan*.

1 (b) The chairperson of the GUMA Commission shall be
2 elected by a majority of the members.

3 (c) The term of the GUMA Commission members shall be for
4 five (5) years, which shall be the life of the GUMA Commission.

5 (d) The composition of the GUMA Commission shall include
6 two (2) representatives from *I Liheslaturan Guåhan*, one (1) each from
7 the majority and minority parties represented in *I Liheslaturan*
8 *Guåhan*; one (1) representative from the Office of *I Maga'lahaen Guåhan*;
9 one (1) representative from the *Mayor's Council*; one (1) representative
10 from the *Guam Chamber of Commerce*; one (1) representative from the
11 *National Association of Uniform Services ('NAUS')*; one (1)
12 representative from *Veteran's* organizations on Guam; and the
13 remaining two (2) members shall be selected from the *general public*.

14 At least one (1) member of the GUMA Commission shall be a *female*.

15 (e) Members of the GUMA Commission shall be
16 compensated in the amount of Fifty Dollars (\$50.00) for attendance
17 at each meeting, such compensation *not* to exceed One Hundred
18 Dollars (\$100.00) per month. Each member of the GUMA
19 Commission shall be authorized for reimbursement of reasonable
20 expenses, including, but not limited to, travel and per diem
21 allowances.

22 **Section 1403. Development of Guam - U.S. Military**
23 **Advancement Plan.** Within ninety (90) days from the enactment of this
24 Act, the GUMA Commission shall develop a '*Guam - U.S. Military*
25 *Advancement Plan*' addressing, but not limited to, development, growth and

1 enhancement of the U.S. Military's activities, involvement, participation
2 and integration within the social, political and economic fabric of Guam
3 that is compatible with the U. S. Military defense mission.

4 **Section 1404. Development of Economic Enhancement and**
5 **Growth Plan.** Concurrent with the development of the '*Guam-US*
6 *Military Advancement Plan,*' as mandated in §1405 herein, the GUMA
7 Commission shall develop an '*Economic Enhancement and Growth Plan,*'
8 addressing, but not limited to, the stabilization and diversification of the
9 economic base of Guam from that of a single base economy to that of a
10 diversified, multi-based economy.

11 **Section 1405. Duties and Powers of Officers.** The chairperson
12 of the GUMA Commission shall preside at all meetings of the GUMA
13 Commission; shall sign all documents for, and on behalf of, the GUMA
14 Commission, *unless* said GUMA Commission delegates that power in any
15 case, or cases, to the chief executive officer; and shall generally be
16 responsible for the manner in which the studies, strategies and
17 investigations of the GUMA Commission are carried out, and the reports
18 thereof made to *I Liheslaturan Guåhan,* as required.

19 **Section 1406. Powers of GUMA Commission.** The GUMA
20 Commission may: contract for equipment, rental space and all other
21 property and facilities necessary, or desirable, to carry out its functions;
22 obtain personal services as may be required, in the judgment of the GUMA
23 Commission; contract for the conduct of the studies, strategies and
24 investigations referred to in this Act, either in whole or in part; and employ
.5 legal counsel, consultants and other personnel to the extent desired to assist

1 in carrying out the GUMA Commission's duties and responsibilities.

2 **Section 1407. Negotiation Powers Authorized.** The GUMA
3 Commission, represented by the chairperson or a member designated by
4 a majority vote of the GUMA Commission at a duly called and authorized
5 meeting, is hereby authorized to negotiate with officials of the Federal
6 government, as well as officials of the Military Commands for the
7 successful pursuit of the intent of this Act.

8 **Section 1408. Report Required.** No later than April 30, 1999,
9 the GUMA Commission shall prepare, and file with *I Liheslaturan Guåhan*,
10 its final '*Guam - U.S. Military Advancement Plan*' and '*Economic Enhancement*
11 *and Growth Plan*' mandated in this Chapter to study, investigate and
12 develop a mutually satisfying strategy for the enhancement and growth of
13 the U.S. Military's activities, involvement, participation and integration
14 within the social, political and economic fabric of Guam that is compatible
15 with the U.S. Military defense mission for presentation to the President and
16 the U.S. Congress, the Military Commands and through these channels,
17 which may be expected to be interested in the issues involved. Interim
18 reports shall likewise be made to *I Liheslaturan Guåhan* detailing, from time
19 to time, the progress of the development of the plans."

20 **Section 20. Appropriation.** Five Hundred Thousand Dollars (\$500,000.00)
21 is hereby authorized and appropriated from the General Fund to the "*Guam - U.S.*
22 *Military Advancement ('GUMA') Commission*" for all expenditures, which shall
23 cover cost of personnel and benefits, equipment, travel and any other
24 miscellaneous expenses, in carrying out the intent of this Act.

25 **Section 21. Amendment to COLA Appropriation.** Section 16(a) of

1 Chapter III of Public Law Number 24-59 is hereby *amended* to read as follows:

2 **“Section 16. Appropriation for COLA.** Five Million Four
3 Hundred Thousand Dollars (\$5,400,000) is appropriated from the General
4 Fund to the Government of Guam Retirement Fund for the purpose of
5 funding a One Thousand One Hundred Dollar (\$1,100.00) lump sum Cost
6 of Living Allowance (‘COLA’) for the retired employees and survivors of
7 the Line Agencies of the government of Guam. Retirees and survivors of
8 the Line Agencies as of October 1, 1997, for COLA paid in Fiscal Year 1998,
9 and as of October 1, 1998 for COLA paid in Fiscal Year 1999, shall receive
10 a lump sum COLA payment in the full amount of One Thousand One
11 Hundred Dollars (\$1,100.00) per retiree, or survivor thereof, to be paid no
12 later than December 31, 1997 and 1998.”

13 **Section 22. Appropriation.** One Hundred Fifty Thousand Dollars
14 (\$150,000) is hereby appropriated from the General Fund to the Guam Economic
15 Development Authority (“GEDA”) to be used by GEDA to assist local small
16 businesses to qualify as certified companies under section 8(a) of the Minority
17 Enterprise Development program of the U.S. Small Business Administration,
18 which certification allows such companies certain preferential treatment when
19 a Federally funded contract is awarded. Such appropriation shall be used at the
20 discretion of GEDA’s Board of Directors and is not subject to *I Maga’lahi’s* transfer
21 authority.

22
23 **Section 23. Severability.** If any provision of this Law or its application
24 to any person or circumstance is found to be invalid or contrary to law, such
25 invalidity shall not affect other provisions or applications of this Law which can

- 1 be given effect without the invalid provisions or application, and to this end the
- 2 provisions of this Law are severable.



MINA' BENTE KUATTRO NA LIHESLATURAN GUAHAN
TWENTY-FOURTH GUAM LEGISLATURE
155 Hesler Street, Agana, Guam 96910

MINA' BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

I, Antonio R. Unpingco, Speaker of *I Mina' Bente Kuattro Na Liheslaturan Guahan*, hereby certify, in conformance with Title 2 Guam Code Annotated §2103, *Public Hearings Mandatory*, that an emergency condition exists involving danger to the public health and safety and therefore waive the statutory requirements for a public hearing on Bill Number 738 (COR), "AN ACT TO AMEND §54103 OF TITLE 12 TO EXPAND THE LENDING AUTHORITY OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY WITH RESPECT TO THE OUTSOURCING OF FEDERAL FUNCTIONS IN GUAM AND TO REVISE GEDA'S RULES AND REGULATIONS TO TAKE INTO ACCOUNT OUTSOURCING ACTIVITIES, TO AMEND §58104 OF SAID TITLE TO ADD ADDITIONAL ACTIVITIES TO THOSE QUALIFYING FOR TAX RELIEF, TO ADD §58128.6 TO SAID TITLE TO AWARD QUALIFYING CERTIFICATES TO BOS CONTRACTORS, TO AMEND §58143 OF SAID TITLE, TO ADD FILING FEES WITH RESPECT TO OUTSOURCING BENEFICIARIES, TO AMEND §64102 OF SAID TITLE TO DEFINE "PROJECT" AS INCLUDING BOS CONTRACTORS, TO AMEND §26203, TITLE 11, GUAM CODE ANNOTATED, BY ADDING NEW SUBITEMS 28 AND 29 TO SUBSECTION (K) OF SUCH SECTION TO EXEMPT FROM THE GROSS RECEIPTS TAX THOSE SUBCONTRACTORS PARTICIPATING IN OUTSOURCING ACTIVITIES AND TO APPROPRIATE FUNDS TO THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO ASSIST IT IN CARRYING OUT ITS

RESPONSIBILITIES UNDER THIS ACT,” which was introduced on September 4, 1998 and therefore waive the statutory requirements for a public hearing on Bill Number 738 (COR).

Dated: September 16, 1998



ANTONIO R. UNPINGCO
Speaker



September 15, 1998

LEGISLATIVE
COMMITTEE
MEMBERSHIP

Chairman
Finance & Taxation

Vice-Chairman
Rules,
Government Reform
& Federal Affairs
Education

Natural Resources

Health &
Human Services

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Development & Cultural
Affairs

Judiciary,
Public Safety &
Consumer Protection

Transportation,
Telecommunications, &
Micronesian Affairs

MEMBERSHIP

Guam Finance
Commission

Commission on Self
Determination

Honorable Antonio R. Unpingco
Speaker
I Liheslâturán Guåhan

Subject: Request for Declaration of Emergency, Title 2, GCA, §2103

Dear Speaker Unpingco:

Bill 738, "AN ACT TO AMEND §54103 OF TITLE 12 TO EXPAND THE LENDING AUTHORITY OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY WITH RESPECT TO THE OUTSOURCING OF FEDERAL FUNCTIONS IN GUAM AND TO REVISE GEDA'S RULES AND REGULATIONS TO TAKE INTO ACCOUNT OUTSOURCING ACTIVITIES, TO AMEND §58104 OF SAID TITLE TO ADD ADDITIONAL ACTIVITIES TO THOSE QUALIFYING FOR TAX RELIEF, TO ADD §58128.6 TO SAID TITLE TO AWARD QUALIFYING CERTIFICATES TO BOS CONTRACTORS, TO AMEND §58143 OF SAID TITLE, TO ADD FILING FEES WITH RESPECT TO OUTSOURCING BENEFICIARIES, TO AMEND §64102 OF SAID TITLE TO DEFINE "PROJECT" AS INCLUDING BOS CONTRACTORS, TO AMEND §26203, TITLE 11, GUAM CODE ANNOTATED, BY ADDING NEW SUBITEMS 28 AND 29 TO SUBSECTION (K) OF SUCH SECTION TO EXEMPT FROM THE GROSS RECEIPTS TAX THOSE SUBCONTRACTORS PARTICIPATING IN OUTSOURCING ACTIVITIES AND TO APPROPRIATE FUNDS TO THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO ASSIST IT IN CARRYING OUT ITS RESPONSIBILITIES UNDER THIS ACT.", was introduced on September 4, 1998.

COFAT has been officially informed by the Base Realignment and Closure (BRAC), Office of *I Maga'lahi* and the Guam Waterworks Authority that the dateline for the closing of the "Request for Proposal" for the A-76 is October 14, 1998.

Listed below are the highlights of Bill 738 and what it hopes to accomplish.

- The Base Realignment and Closure (BRAC) '93 and '95 were efforts by the federal government and the Department of Defense to "downsize" military bases and activities throughout the world in an effort to reduce waste and excessive spending. In 1988, prompting the need for this downsizing was the real world condition, after the free world, led by the government of the United States of America, won the "Cold War" which started immediately after World War II.

- ❑ In 1990, the federal government announced the bases identified to be closed, realigned or reorganized.
- ❑ The former U. S. Naval Air Station (NAS) Agana was identified as one of the bases to be closed and the government of Guam embarked on a mission to have all of the land on this base returned to the government, at no cost, for use in the development and expansion of the Guam International Air Terminal and for other purposes. This effort culminated into the BRAC '93 which closed NAS Agana among other facilities of the U. S. Navy on Guam. While a considerable number of federal civil service employees were displaced, dislocated or left unemployed, the government of Guam managed to create other options and employment alternatives which mitigated this downsizing.
- ❑ A "*new federal angle*" has been implemented, covered by the August 1983 Office of Management and Budget (OMB) Circular No. A-76, "Performance of Commercial Activities" which establishes Federal policy for the performance of recurring commercial activities. Guam, because of its "*territorial status*", appears to have been selected as the "*guinea pig*" for this experiment. The 1983 Circular No. A-76 provides updated guidance and procedures for determining whether "*recurring commercial activities should be operated under contract with commercial sources, in-house using Government facilities and personnel, or through inter-service support agreement (ISSAs).*"
- ❑ The efforts focused on Federal policy for the performance of recurring commercial activities were further articulated by Vice President Gore's Third Report of the National Performance Review citing that "Americans want to get their money's worth and want a Government that is more businesslike and better managed."
- ❑ The report went further to state that the reinvention of Government begins by focusing on core mission competencies and service requirements. Thus, the reinvention process must consider a wide range of options, including; the consolidation, restructuring or reengineering of activities, privatization options, make or buy decisions, the adoption of better business management practices, the development of joint ventures with the private sector, asset sales, *the possible devolution of activities to State and local governments* and the termination of obsolete services or programs.
- ❑ Circular A-76 is not designed to simply contract out. Rather, it is designed to: (1) balance the interest of the parties to a make or buy cost comparison, (2) *provide a level playing field between public and private offerors to a competition*, and (3) encourage competition and choice in the management

and performance of commercial activities. It is designed to empower Federal managers to make sound and justifiable business decisions.

- In this respect and following the "*spirit*" and "*letter*" of the Federal government's intention in proceeding with their A-76 decision which will affect the jobs, livelihood, welfare and future existence of nearly 2,300 employees currently employed by these activities, I Liheslaturan Guåhan intends to make available all necessary incentives possible and within its powers to offer to those specific *local small business concerns* participating or willing to participate in bidding for these A-76 activities as well as to those *large, mega-business, multi-national corporations awarded certain A-76 activities*.
- Outsourcing certain commercial activities include, but not limited to, everything and every services that are listed in the Yellow Pages of the telephone book, except those commercial activities run by the Navy Exchange through their Non-Appropriated Fund activities.
- By virtue of the U. S. Small Business Administration, \$18 million has been agreed by the U. S. Military to be set aside for women, minorities and small business concerns.
- In addition to this \$18 million, Bill 738 proposes to give BOS contractors the incentives of GEDA's benefits by increasing their subcontracting to Guam's small business concerns up to as much as 50% of their contract (estimated at \$65 million) for as much as 100% tax rebate provided that a minimum of 85% of the employees are from those actually displaced who are U. S. citizens or permanent resident aliens.
- Bill 738 provides GEDA's tax rebate incentives to both BOS contractors as well as all SBA, 8(a) women, minority and small business concerns and all other small business concerns with an approved subcontract from a BOS contractor.

In the event *I Liheslaturan Guåhan* failed to declare that an emergency condition exist, it may not be possible to have Bill 738 added to this session agenda for discussion and debate and the *fate of those 2300 civilian civil service employees* affected by the proposed U. S. Military A-76 Outsourcing of Commercial Activities would have been foregone, i. e., they would have lost their jobs and any opportunity to mitigate this disastrous situation would have been foregone because of a non-proactive legislative body. It is imperative that Bill 738, which will provide GEDA's incentives to both BOS contractors subcontracting these activities to small business concerns as well as our own small business concerns, if they employ at least 85% of their employment requirements from those affected by this action.

Mr. Speaker, after October 14, 1998, the optimum advantage of Bill 738 would be less than if we act proactively now and the potential benefits to those affected by the A-76 action of the U. S. Military would have mean that much more.

The principal justification for the declaration of a state of emergency is the potential loss of 2,300 civilian civil service employees due to the A-76 Outsourcing of Commercial Activities by the U. S. Military and what such action will do to the general health and welfare of these 2300 individuals including the economic devastation such loss of jobs will have on the entire economy of Guam and the disastrous impact on the collection of revenue needed to run this government this action will have.

For the sake of our people affected by this action, I urge you to consider declaring a state of emergency immediately so that Bill 738 can be discussed and debated and acted upon to help our people.

Sincerely,



Senator Anthony C. Blaz
Vice Speaker



Senator A. "Tony" C. Lamorena, V
Chairman
Committee on Tourism, Economic
Development and Cultural Affairs

I MINA' BENTE KUATTRO NA LIHESLATURAN GUAHAN

198
1998 (SECOND) Regular Session

Date: 11/11/98

VOTING SHEET

Bill No. 138

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, Frank B., Jr.	✓			
BARRETT-ANDERSON, Elizabeth				
BLAZ, Anthony C.	✓			
BROWN, Joanne M. S.	✓			
CAMACHO, Felix P.	✓			
CAMACHO, Francisco P.	✓			
CHARFAUROS, Mark C.	✓			
CRUZ, Edwardo J.	✓			
FLORES, William B.S.M.	✓			
FORBES, Mark	✓			
KASPERBAUER, Lawrence F.	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta A.	✓			
LEON GUERRERO, Lou	✓			
PANGELINAN, Vicente C.	✓			
SALAS, John C.	✓			
SANTOS, Angel L.G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WON PAT, Judith T.	✓			

TOTAL _____

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

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Co./Dept.		Co	COL		
Phone #	472-3414	Phone #	472-3465		
Fax #	477-3048	Fax #	472-3524		

OFFICE OF THE
LEGISLATIVE COUNSEL

Douglas B. Maylan
Legislative Counsel

155 Haglar
Guam, 961



GUAM LEGISLATURE

FLOOR AMENDMENT

Bill No. 738 (COR)

Senator Proposing Amendment: **SENATOR FRANCIS SANTOS**

ADD BEFORE SEVERABILITY CLAUSE IN BILL THE FOLLOWING:

"Section _____. **Appropriation for COLA.** Five Million Four Hundred Thousand Dollars (\$5,400,000) is hereby authorized and appropriated from the General Fund to the Government of Guam Retirement Fund for the purpose of funding a One Thousand One Hundred Dollar (\$1,100.00) lump sum Cost of Living Allowance ("COLA") for the retired employees and survivors of the line agencies of the government of Guam. Retirees and survivors of the line agencies as of October 1, 1997, for COLA paid in Fiscal Year 1998, and as of October 1, 1998 for COLA paid in Fiscal Year 1999, shall receive a lump sum COLA payment in the full amount of One Thousand One Hundred Dollars (\$1,100.00) per retiree, or survivor thereof, to be paid no later than December 31, 1998 and 1999."

(Please only for Clerk of Legislature's use and processing)

Date 9/21, 1998

Floor Amendment No. 1 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

[Signature]
AUTHOR OF AMENDMENT

Concur (initial)

[Signature]
Clerk of Legislature

Speaker

STATEMENT BY
MANUEL G. CRUZ
PRESIDENT
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
LOCAL 1689, INC.

BEFORE THE
COMMITTEE ON RULES, GOVERNMENT REFORM
AND FEDERAL AFFAIRS

ON

THE PERMANENT EXEMPTION OF GUAM
FROM THE REQUIREMENTS OF
OMB CIRCULAR A-76
(RESOLUTION #292)

LEGISLATIVE HEARING ROOM

1 APRIL 1998

Mr. Chairman and Members of the Committee:

My name is Manuel G. Cruz. I am the President of the American Federation of Government Employees (AFGE), Local 1689, Inc. - the largest Federal employee's Union on Guam, representing over 4,000 civilian government employees in the Navy, the Air Force, the Navy Exchange, the Army & Air Force Exchange Service, the Defense Commissary Agency, the Defense Printing Office, and the Defense Reutilization and Marketing Office.

I come before you and your Committee in support of Resolution #292, relative to requesting the Secretary of the U. S. Department of Defense and the Chief of Naval Operations to permanently exempt Guam from the requirements of OMB Circular A-76.

Introduction:

At the very outset, it is important for me to point out for the record that AFGE is not categorically opposed to each and every instance of contracting

out and outsourcing. Because we are all conscientious employees, patriotic Americans, and hard-working taxpayers, we are determined to see that the Federal Government's dollars are spent wisely and well. Quite simply, Federal employees should not be performing work if they cannot do it more effectively, more efficiently, and more reliably than private contractors.

As a Union, we support open and fair competition in the workplace. We believe that full and fair competition spurs both Federal employees and contractors to be more productive and ensures that taxpayers and customers receive high-quality services at low costs. As the General Accounting Office (GAO) concluded in a recent report, "...competition is the key to realizing some savings, whether the function is outsourced or remains in house" (GAO/NSIAD-97-86, Mar. 11, 1997). However, we must again emphasize that the competition must be open and fair. Federal employees must be given greater involvement in the competitive process.

Some of our critics may insist that AFGE's relentless determination to ensure full and fair public-private competition in the CA Study is nothing but parochialism - that we are only interested and concerned with saving Federal jobs and keeping the Union alive. Unfortunately, this is not the case. As you may not know, AFGE, as a Union, has a long-standing policy to follow outsourced work into the private sector, once a decision is made to contract out and/or outsourced. By us organizing outsourced workers, this allows AFGE to be a calm and constructive player in the debate over public-private competitions. After all, our workers are taxpayers too.

Mr. Chairman, let me now explain and state for the record why we do not support the CA Study as it is currently being implemented on Guam. Why the very CA Study may be purposely used to work against the Federal employees on Guam.

Background:

When the first major announcement of outsourcing competitions was made by the Chief of Naval Operations (CNO) on January 1997, approximately 50 functions and 1,200 positions in Guam were identified and listed to be studied under the provisions and procedures of the OMB Circular A-76 (Commercial Activities). These numbers were later re-visited and scrubbed by the affected Navy Commands to show true and more realistic numbers. In October 1997, a new list was developed and re-issued showing 65 functions and 2,300 positions for Guam. See attachments #1 and #2.

For those of you who are not familiar or knowledgeable of OMB Circular A-76, please permit me to explain. OMB Circular A-76 is a policy document that was issued by the Office of Management and Budget (OMB) in 1966 to establish a Federal policy for the government's performance of commercial activities. It serves as a guide for Federal agencies in determining the most economical way to carry out their commercial activities, such as custodial services, data processing, and vehicle maintenance.

The Circular requires agencies to review their commercial activities to determine whether it is more economical to retain the work in-house or to contract it out to the private sector. This review consists of the following major segments:

- a. preparation of a performance work statement (PWS) that, among other things, describes the work required and serves as the basis for contractor bids;
- b. a management study containing the government's estimate of the lowest number and types of employees required to do the functions described in the work statement - generally referred to as the "most efficient organization" (MEO) - that, along with other estimated costs associated with in-house performance, will allow an agency to develop a total estimated cost for in-house performance.

The agency then compares the estimated in-house cost with private-sector contractor bids. A-76 cost studies call for awarding a contract to the contractor who is judged by the agency to be more capable of meeting all the government's quality, timeliness, and quantity standards, provided that (1) the total cost of the contract performance is less than the in-house bid, and (2) the margin of difference between the total cost of the contract performance and the in-house bid is equal to or exceeds 10 percent (or \$10 million, whichever is less) of the personnel costs of the in-house bid. When a contract is awarded, the government work force is to be reassigned or terminated.

If the above conditions are not met, the activity is to be retained in-house and done by government civilian workers. Affected parties can file an appeal as a safeguard to help ensure that the decisions is equitable and in accordance with A-76 procedures. OMB's Cost Comparison Handbook and DoD Instruction 4100.33 furnish guidance for implementing the A-76 program. See attachment #3 for frequently asked questions on OMB Circular A-76.

Over time, several legislation has affected DoD's A-76 program. For example, a provision in the National Defense Authorization Act for fiscal years 1988 and 1989 (P.L. 100-180, Dec. 4, 1987) decentralized A-76 authority in the military services. The provision gave individual military installation commanders the authority and responsibility to determine, without approval from the services' headquarters A-76 officials, which A-76 commercial activities at their installations would be studied. Because of disruptions to their workplace, the cost of conducting studies without proper funding, and a desire for more direct control of their workforce, commanders often chose not to pursue outsourcing. This law, which was known as the "Nichols Amendment" and codified at 10 USC 2468, was effective through September 30, 1995. Another law, the DoD Appropriations

Act for 1991 (P.L. 101-511, Nov. 5, 1990), provided that funds appropriated under the Act could not be used for single-function A-76 cost studies exceeding 2 years in duration and multi-function studies in progress over 4 years. The provision took effect on May 5, 1991. Finally, the National Defense Authorization Acts for Fiscal Years 1993 and 1994 contained provisions that prohibited DoD from entering into contracts resulting from cost studies done under OMB Circular A-76, from October 23, 1992 to April 1, 1994. These prohibitions, along with the Nichols Amendment, had the effect of limiting outsourcing in most military services until 1996. Since then, except for the Air Force, the services have completed few A-76 studies. In 1996, OMB revised its Supplemental Handbook in an effort to stream line and improve the outsourcing study process. See attachment #4.

As of fiscal year 1996, DoD employed about 449, 000 military and civilian personnel to do support activities, such as base support, health services, and equipment repairs in-house. This was significant at the time.

After a lull in DoD outsourcing efforts due to administrative and legislative constraints, in August 1995, the Deputy Secretary of Defense directed the services to make outsourcing of support activities a priority and chartered a Privatization Integrated Policy Team (PIPT) to identify opportunities for outsourcing. In doing so, he was reacting to the reports recommending outsourcing of support activities, increasing budget pressures, and the need to free up funding for weapons modernization. Consequently, DoD and the services initiated a review of six support areas, including base support, to determine where outsourcing could generate savings.

Guam Situation:

As part of the CNO announcement in January 1997, Guam and Pensacola, Florida, were selected to be the model study locations because of their similar or same base support functions across the regional area. See attachment #5. However, Pensacola requested for and was granted a two-

year delay for their study until their regionalization or consolidation efforts are completed.

Guam, however, was not so lucky. In fact, the Navy in Guam had already been planning to consolidate its bases since the base closures of the U. S. Naval Air Station (NAS) in BRACC '93, and the U. S. Naval Ship Repair Facility (SRF) and the U. S. Fleet and Industrial Supply Center (FISC) in BRACC '95. In May 1997, the Commander U. S. Naval Forces Marianas (COMNAVMAR) merged with the U. S. Naval Activities (NAVACTS), and solidified the military structures on Guam, creating an environment where people report directly to a Regional Commander instead of an off-island Chain of Command. See attachment #6. Supposedly, the end result is a departmentalized Naval Base organization.

With the new COMNAVMARIANAS now in place, it was anticipated that the U. S. Navy Public Works Center (PWC), the U. S. Naval Computer and Telecommunications Station (NCTS), and the U. S. Naval Hospital (NAVHOSP) will be consolidated next. Unfortunately, the consolidation efforts became a little complicated. There were certain "stovepipe" resistance from the major Navy claimants as to their mission and ownership of assets. However, certain common command support functions in those activities, such as galley, security and MWR, were readily identified and agreed to for consolidation with COMNAVMARIANAS. NCTS functions were merged in February 1998 and NAVHOSP functions are scheduled for merger in October 1998. See attachment #7. As for PWC-Guam, it has been determined that it will continue to provide public works services as a separate command under the so-called Navy Capital Working Fund (NCWF) program, while common command functions, such as public affairs, legal, and human resources, will be transferred to COMNAVMARIANAS as mission-funded functions. See attachment #8. No date has yet been set for the actual transfer.

According to the Navy's own solicitation package in the Commerce Business Daily (CBD), Guam's A-76 Study is supposed to be the first and the largest of its kind to be undertaken by the Navy. See attachments #9 and #10. It encompasses 2,300 full-time equivalent (FTE) positions and crosses over four (4) major claimants: CINCPACFLT, NAVFAC, NAVTEL, and BUMED. The estimated value of the contract, should it be awarded to a private sector bidder, is estimated at \$100 million a year, with seven (7) one-year contract renewable annually. The current timeline is very ambitious projecting a most efficient organization to be in place on 1 October 1999. \$2.7 million has been budgeted for the two-year study. It has also been determined that the 65 or so commercial activity functions will be "bundled" together as an integrated whole to maximize cost savings and flexibility. This is commonly called "omnibus contracting" which means a single contract for multiple base operations support services, or better known as a "BOS" contract.

To begin the A-76 Study, a team of military and civil service PACDIV employees, based in Pearl Harbor, was tasked to prepare and write the Performance Work Statement (PWS) which describes the functions being studied. As of the last monthly report to the employees (March), the PWS is in the final draft phase. See attachment #11. The employees have minimal to no input in the PWS development. There is a concern that the PWS may be "flawed" since the information may have reflected pre-Typhoon Paka conditions. The workplaces were intact then, and not damaged or demolished.

The MEO or the government bid is being developed locally by another Team Guam with the assistance of the KPMG Peat Marwick as consultants. Again, we must point out that certain innovative business practices, such activity base costing (ABC), business process re-engineering (BPR), and benchmarking are being used in the development. See attachment #12. Just like the PWS, there is minimal to no direct employee involvement in the MEO development.

It is public knowledge that the A-76 Study on Guam is not like the traditional way of commercial activity study as provided in the OMB Circular. For example, this study has a WEB Page seeking private industry assistance and recommendations. See attachment #13. Up to three (3) procurement actions will be required to complete the study. The contract type is different. It will be a combination of Fixed Price/Indefinitely Quantity with significant Award Fee provisions.

You can also note that only Fortune 500 or world-class companies (recognized service industry leaders with an established international track record) are being solicited to bid. Past work performance will play an important factor in the proposed "best value" source selection. These companies must also hold an ISO-9000 certification with a proven quality control program. This is new and it is intended to further eliminate needed positions in the workplace.

The expected procurement timeline for first proposals in the Study has been already changed and modified due to Supertyphoon Paka in December 1997. It was again further modified for an additional 90 days at the request of Guam Congressman Robert Underwood. See attachment #14. The Pre-Paka Request for Proposal (RFP), scheduled for issuance in early February 1998, has been delayed and will now be issued no earlier than 4 May 1998. You will note, however, that the 90-day extension which was requested by Congressman Underwood did not in any way change the implementation date of 1 October 1999. See attachment #15.

The solicitation package will incorporate some new contractual concepts (not the traditional A-76 concepts) will be incorporated. It will introduce the concept of "Outcome-Oriented Contracting". Outcome-oriented specifications represent the next logical step beyond "performance-based" specifications in service contracting. Note that in this instance, the government will only state the outcomes or requirements desired, but will

not provide a complete listing of specific contract requirements. For example, it will be up to the contractor to determine the details of what he will do and how he will meet the stated outcomes (i.e., cut the grass when it reaches 6 inches, replace the grass with something else, etc.). This approach has never been attempted before by the Navy and Guam will be the first case. See attachment #16.

It is also noteworthy that even though the single BOS contract may have a greater potential to yield large savings than other outsourcing efforts, the single BOS contract is not without problems. See attachment#17. Because the single BOS contract can exclude the participation of small and disadvantaged businesses, the "bundling" of smaller existing contracts runs contrary to an existing DoD policy to provide contracting opportunities to small and disadvantaged businesses. There are currently 23 small business contracts that are doing business with the Navy. See attachment #18. The single BOS contracting issue has also been noted and is being challenged by the U. S. Small Business Administration (SBA). See attachments #19 and 20. It appears that the Small Business Administration Reauthorization Act for Fiscal 1997 added new provisions to Section 15 (a) of the Small Business Act, which require Federal agencies to consider the effect on small businesses when requirements currently being performed by small businesses are considered for consolidation. The Reauthorization Act, among other things, instructs agencies, to the "maximum" extent practicable - to avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors".

Under the scenario of the single BOS contracts, the prime contractors must provide a broad range of services and may subcontract out individual functions to specialty firms. These subcontractors are usually design-spec contracts, extremely complex with excessive and unneeded oversight. It is not clear whether the current businesses on Guam have the capability and

capacity to be considered for subcontracting. See listing of contractors in attachment #21. Also, these subcontractors, if already established on Guam, will probably have their own work force, negating any opportunity for additional workers.

It is apparent that the Guam Chamber of Commerce has reversed their position in opposing the "bundled" approach of the single BOS contract. They believed that a "bundled contract" would save the Navy \$48 million. The Chamber is now lobbying SBA, the Governor of Guam, and Congressman Underwood to proceed with the CA Study on Guam and approve a single BOS contract for Guam. See attachment #22.

Adverse Impacts of A-76 Study:

Without the benefit of any further exceptions and/or exclusions, as provided by OMB Circular A-76, all 2,300 positions are targeted for the study (approximately 500 of these are non-appropriated positions, with local wages and benefits). Because of this, there are some concerns that certain "inherently-governmental" positions are still needed to provide budgetary and accounting support, safety support, environment support, etc.

Also, the "right of first refusal" provisions for affected employees are applicable under OMB A-76, should a private contractor wins the competition, but may not be fully implemented. Subcontractors with a ready workforce may not be required to offer the "right of first refusal" and may not have any room in their workforce for additional workers.

Furthermore, even though alien workers (H-2's) have been excluded from the single BOS contract because of a Congressional amendment in the FY 1998 DoD Authorization Act (see attachment #23), there is no guarantee that the BOS contractor will not again solicit the U. S. Congress for another off-setting amendment. See listing of Guam contractors with H-2 workers in attachment #24.

Despite the requirements of 5 USC Section 2467 for a better cost comparisons and a level playing field (attachment #25), it is a fact that Federal employees on Guam are earning more money than their private sector counterparts.

Because of limited employment costs comparisons in the private sector, prevailing wages have been depressed since 1977. Also, Davis-Bacon provisions are not applicable to Guam. See attachments #26 and #27. With very few exceptions in the airline and communications industry, there are no union-negotiated contracts in the private sector which make any wage study and wage comparisons more difficult and thus favors private sector wages. Compared to other stateside wage determinations, you can see how Guam fits in the wage comparisons. See attachment #28.

There is also the cost-of-living allowance (COLA) that the U. S. Government has given to overseas Federal employees as a benefit to ensure job security and retention. See attachment #29. The current 22.5% COLA rate over General Schedule (GS) base pay will definitely play a major negative factor in the A-76 study. The private sector does not have a COLA Program. Guam is also a U. S. Territory that still has a Non-Foreign Post Differential for stateside hires employees. The rate is currently 20 % over base pay.

The "blue collar" wages in the Federal Wage Grade (FWS) for Guam were set by the Department of Defense (DoD), but were not based on wage comparisons locally in Guam. There are 125 different jurisdictions in the Continental U. S. that were used in the wage comparisons in 1987. Because of this, blue collar wages are much higher since the wages do not reflect local Guam conditions. See attachment #30.

The average Federal civilian pay in the Navy amounts to more than double that in the largely services civilian economy. In terms of pay, skills and long-term earning potential, Guam's services-dominated economy needs to

create 2.5 jobs for each job lost in the military to generate the same income benefits according to the latest Bank of Hawaii Economic Study. See attachment #31.

You should also note that the 2,300 positions make up almost 25% of the total households on Guam who can afford to purchase homes. In the event that a private contractor is awarded the BOS contract, there is no guarantee that the Federal employees will be offered comparable positions with comparable wages. Consequently, their livelihood will be affected in terms of mortgage payments, car payments, etc. The Navy has not performed any socio-economic studies addressing the adverse impacts on the Guam Community, the Guam's tax base, etc. As such, Guam's financial, social, and economic stability will be seriously threatened. Furthermore, with Guam's current unemployment rate of about 9.2%, this will surely increase to double digit by year's end. See attachment #32.

Even though the Navy insists that the latest reduction-in-force (RIF) of 103 positions at COMNAVMARIANAS is not related to the CA Study, a case can be made that the budget reductions were deliberate. At the first All Hands meeting with the employees, the COMNAVMARIANAS Chief of Staff publicly stated that a 30% budget cut has been planned for Guam to cover Fiscal Years 1997, 1998, and 1999. See attachments # 33, #34 and #35. It is not a coincidence that the CA Study is ongoing at the same time and in the same timetable. The RIF is scheduled to go into effect on 29 May 1998 and 40 employees will be separated and many others will be downgraded or reassigned. The final RIF notices were mailed out on 26 March 1998. See attachments #36, and #37.

It is also not unplanned that the Navy's workforce has been dwindling since 1993 to make the workforce smaller, easier to consolidate, and easier to outsource. See attachment #38. Contrary to the Navy's claim that the

Human Resources Office (HRO) did a fantastic job in placing people in various jobs after the closure of SRF and FISC, this is not true. In the 1997 report of the Agency for Human Resources Development (AHRD), only 231 employees were ever placed in the Priority Placement Program (PPP). See attachment #39. Also, it was never reported that about 200 employees (45 from SRF and 155 from FISC) were transferred to NAVACTS (COMNAV Marianas). And now, these same people are being RIF'd because of the lack of budget. This is unconscionable.

Conclusion:

Based on the above, you can see that there is no way that we as Federal employees can ever compete fairly with any private sector contractor on Guam. On personnel costs alone, the numbers on the balance sheet will indicate that it is cheaper to contract out. Not that the private sector worker has a better work ethic. Not that the private sector work procedures are more efficient. Not that the competition insure lower costs. The private sector proponents would like us to believe that this is the case, but the facts show otherwise. The so-called "savings" that the private sector contractor will achieve will be through low wages, inadequate benefits, creative accounting methods, and a host of questionable business practices that earn profits simply by cutting corners on quality and placing a large burden on their employees.

As Federal employees, we are proud of what we do, and what we do, we do very well. We love Guam and we do not want Guam to be the model, to be the show case of the Navy's relentless pursuit to outsource its workforce. Our future, our livelihood, our children will suffer as a result of the CA Study. The people of Guam will suffer too. With the economic down turn now at hand, we cannot afford to add on to the bleak picture of the future on Guam.

Mr. Chairman and members of the Committee, we urge your consideration of Resolution #292. Exempting Guam from the requirements of the OMB Circular A-76 is not new to Guam. The Department of Defense (DoD) had exempted Guam before as a result of an A-76 Study in 1980. In fact, the exemption resulted in a moratorium that lasted for several years, ending only in 1997. See attachment #40. As directed by the House Armed Services Sub-Committee and on the urging of the then Guam Delegate Antonio Won Pat, Guam was exempted from the provisions of the OMB Circular A-76 for almost the very same reasons we have been enumerating above. See attachments #41, 42, and 43. We want the Navy to continue the moratorium, to continue the exemption from the provisions of OMB Circular A-76, but this time on a more permanent basis.

On behalf of the thousands of Federal employees on Guam, thank you for the opportunity to testify before your Committee in support of Resolution #292. Si Yuus Maase. I have signed petitions from affected employees to show you that we are unified in this support of Resolution #292, which I am happy to present to you.

At this time, I will be happy to answer any questions you and the other Committee members may have.

UNCLASSIFIED

PWC PENSACOLA	FL ADMIN SUPPORT & SVC	4	0
PWC PENSACOLA	FL ADVERTISING & PR SVC	1	0
PWC PENSACOLA	FL AIR COND/REFR PLANTS	5	0
PWC PENSACOLA	FL ARCHITECT ENG SVCS	30	0
PWC PENSACOLA	FL BLD/STRUCT - FAM HSG	38	0
PWC PENSACOLA	FL BLD/STR - NONFAM HSG	415	0
PWC PENSACOLA	FL COMMAND AND STAFF	147	10
PWC PENSACOLA	FL ELEC PLANTS & SYS	17	0
PWC PENSACOLA	FL FINANCIAL & PAYROLL	5	0
PWC PENSACOLA	FL HEATING PLANTS & SYS	27	0
PWC PENSACOLA	FL MOTOR VEHICLE MAINT	8	0
PWC PENSACOLA	FL MOTOR VEHICLE OPS	31	0
PWC PENSACOLA	FL OTHER INSTALLATION SVC	20	0
PWC PENSACOLA	FL OTHER SVCS/UTILITIES	1	0
PWC PENSACOLA	FL PEST MANAGEMENT	7	0
PWC PENSACOLA	FL SEWAGE/WASTE SYS	19	0
PWC PENSACOLA	FL SPECIAL EQUIPMENT	8	0
PWC PENSACOLA	FL SPEC STUDIES & ANLYS	2	0
PWC PENSACOLA	FL STORAGE & WAREHOUSING	10	0
PWC PENSACOLA	FL WATER PLANTS & SYS	17	0
NAVHOSP PENSACOLA	FL ADP	12	1
NAS ATLANTA	GA BASE OPS SUPPORT	43	15
NAS ATLANTA	GA BERTHING BOQ/BEQ	0	11
NAVMEDCLINIC KINGS BAY	GA ADP	1	0
SUBBASE KINGS BAY	GA BULK LIQUID STORAGE	4	1
TRIREFFAC KINGS BAY	GA CRANE OPS	101	3
TRIREFFAC KINGS BAY	GA MOTOR VEHICLE OPS	17	0
DFSP GUAM	GO FUEL SUPPORT	19	7
NAVACTS GUAM	GO ADMIN SUPPORT SVCS	4	2
NAVACTS GUAM	GO BASE SUPPLY OPS	12	9
NAVACTS GUAM	GO BERTHING BOQ/BEQ	2	20
NAVACTS GUAM	GO BLD/STRUCT-NONFAM HSG	2	12
NAVACTS GUAM	GO CUSTODIAL SVCS	10	0
NAVACTS GUAM	GO FAMILY SVCS	17	1
NAVACTS GUAM	GO FOOD PREP & ADMIN	45	22
NAVACTS GUAM	GO MOTOR VEHICLE OPS	0	19
NAVACTS GUAM	GO OTHER MWR SVCS	52	0
NAVACTS GUAM	GO REC LIBRARY SVCS	3	0
NAVACTS GUAM	GO WAREHOUSE & PUB DISTR	4	2
NAVCAM WESTPAC GUAM	GO BERTHING BOQ/BEQ	0	22
NAVHOSP GUAM	GO ADP	4	7
NAVHOSP GUAM	GO OCCUPATIONAL HEALTH	8	5
PWC GUAM	GO ADMIN SUPPORT SVCS	3	0
PWC GUAM	GO ADVERTISING/PR	2	0
PWC GUAM	GO AIR COND -NONFAM HSG	45	0

182

515657/013

5 OF 13

082326Z JAN 97
CND WASHINGTON

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PWC GUAM	GQ	AIR COND/REFR	14	0
PWC GUAM	GQ	ARCHITECT ENGR SVCS	38	0
PWC GUAM	GQ	BODY REPAIR & PAINTING	8	0
PWC GUAM	GQ	BLD/STRUCT - FAM HSNB	12	0
PWC GUAM	GQ	BLD/STRUCT-NONFAM HSNB	29	0
PWC GUAM	GQ	MATL CARE/REWAREHOUS	29	0
PWC GUAM	GQ	CONST EQUIP MAINT	13	0
PWC GUAM	GQ	CONST EQUIP OPS	12	0
PWC GUAM	GQ	CRANE OPS	20	0
PWC GUAM	GQ	ELECT PLANTS &SYSTEMS	137	0
PWC GUAM	GQ	EMER/SERV WK-FAM HSNB	23	0
PWC GUAM	GQ	EXT PAINTING-FAM HSNB	6	0
PWC GUAM	GQ	ELECT RPR-NONFAM HSNB	57	0
PWC GUAM	GQ	EM/SVC WK-NONFAM HSNB	24	0
PWC GUAM	GQ	EXT PAINT-NONFAM HSNB	21	0
PWC GUAM	GQ	INT PAINT-NONFAM HSNB	9	0
PWC GUAM	GQ	PLUMBING - NONFAM HSNB	43	0
PWC GUAM	GQ	OTHER WK - NONFAM HSNB	89	0
PWC GUAM	GQ	GEN REPAIRS/MAINT	20	0
PWC GUAM	GQ	GROUNDS & SURF AREAS	8	0
PWC GUAM	GQ	HEATING PLANTS & SYS	64	0
PWC GUAM	GQ	HEAVY TRUCK OPS	19	0
PWC GUAM	GQ	MAIL MESSENGER SVCS	2	0
PWC GUAM	GQ	MAINT OF ADP EQPT	1	0
PWC GUAM	GQ	MAT HNDLG EQUIP MAINT	13	0
PWC GUAM	GQ	MOTOR POOL OPS	8	0
PWC GUAM	GQ	MOTOR VEHICLE OPS	6	0
PWC GUAM	GQ	OTHER ADP OPS	9	0
PWC GUAM	GQ	OTHER STORAGE/WAREHSNG	15	0
PWC GUAM	GQ	PEST MANAGEMENT	12	0
PWC GUAM	GQ	RECEIPT	7	0
PWC GUAM	GQ	REF AND TECH LIBRARIES	1	0
PWC GUAM	GQ	REFUSE COLL & DISP SVC	14	0
PWC GUAM	GQ	RHAB-TNT CHG FAM HSNB	21	0
PWC GUAM	GQ	RHAB-TNT NONFAM HSNB	20	0
PWC GUAM	GQ	SEWAGE/WASTE PLANTS	13	0
PWC GUAM	GQ	SPEC STUDIES & ANALYSES	3	0
PWC GUAM	GQ	SYS DESIGN/DEVELOP SVC	8	0
PWC GUAM	GQ	TIRE MAINT AND REPAIR	4	0
PWC GUAM	GQ	WATER PLANTS & SYS	32	0
PWC GUAM	GQ	W P CENTERS	3	0
CMD & CONT SYS PEARL HBR	HI	ADP SPECIALIST	0	8
FACSFAC PEARL HARBOR	HI	AIR TRAFFIC CONTROL	0	29
FISC PEARL HARBOR	HI	MOTOR VEHICLE MAINT	8	0
NAVDCNCLINIC PEARL HBR	HI	ADP	2	0

1937

GUAM WATERWORKS AUTHORITY
BOARD OF DIRECTORS

facsimile transmittal sheet

To:	HONORABLE ANTHONY BLAZ	from:	JOHN GILLIAM
CC:	HONORABLE THOMAS ADA HONORABLE JOANNE BROWN		
COMPANY:		date:	September 15, 1998
fax number:	472-3562 472-4090 477-7281	Total no. of pages including cover:	4 PAGES TOTAL
Phone number:		sender's reference number:	G-142
re:	BILL 738	your reference number:	

urgent for review please comment please reply please recycle

MESSAGE: ATTACHED IS A LETTER DATED SEPTEMBER 15, 1998, WITH AN ATTACHMENT.

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**Board of Directors
Guam Waterworks Authority
Government of Guam
Post Office Box 3010
Agana, Guam 96932
Telephone: 671-479-7812
Facsimile: 671-477-0684**

September 15, 1998

VIA FACSIMILE TRANSMISSION

The Honorable Vice Speaker
Anthony A.C. Blaz, Senator
TWENTY-FOURTH GUAM LEGISLATURE
155 Hesler Place
Agana, Guam 96910

RE: BILL 738

Hafa Adai Senator Blaz:

As a result of last Friday's public hearing on Bill 738, I requested GWA's legal counsel to examine Section 2 of Bill 738 in light of current law and the concern expressed by Senator Tom Ada that Bill 738 may diminish the people's exclusive ownership rights in Guam freshwater resources. Indeed, legal analysis confirms Senator Ada's concern bears substantial merit. Please find enclosed (attached with fax) David W. Dooley, Esq.'s September 14, 1998 opinion on this subject. Mr. Dooley recommends GWA request deletion of Section 2, allowing current law to remain as is. Accordingly, I respectfully request Section 2 of Bill 738 be deleted in its entirety as introduced.

On behalf of the Guam Waterworks Authority, please accept our personal thanks for your continued cooperation.

Respectfully,

GUAM WATERWORKS AUTHORITY



John Gilliam
Board Advisor

JG/LS F#G142.16 D#GWA736L1 DIR#GWA

CC: Honorable Thomas Ada, Senator
Honorable Joanne Brown, Senator

DOOLEY LANNEN KEELER & ROBERTS LLP
ATTORNEYS AT LAW

DAVID W. DOOLEY
THOMAS J. LANNEN
THOMAS P. KEELER
THOMAS L. ROBERTS
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Of Counsel:
Melinda C. Swavely

Writer's Direct E-mail:
ddooley@dlkr.com

September 14, 1998

**CONFIDENTIAL/VIA FACSIMILE
TRANSMISSION AND HAND DELIVERY**

Mr. John Gilliam
Board Advisor
GUAM WATERWORKS AUTHORITY
GOVERNMENT OF GUAM
Post Office Box 3010
Agana, Guam 96932

CONFIRMATION

**RE: BILL PROPOSED BY SENATOR A.C. BLAZ RE:
CHANGES TO 12 G.C.A. AFFECTIVE GUAM WATERWORKS
AUTHORITY ("GWA")**

Dear Mr. Gilliam:

This letter will supplement this office's letter of September 10, 1998. In that letter, we commented upon the effect of various amendments to GWA's enabling legislation which have been proposed by Senator Blaz.

However, we did not comment upon Section 2 of the bill. Section 2 will amend 1 G.C.A. Section 404. The amendment to 1 G.C.A. Section 404 is totally unrelated to the main purpose of the bill which is to allow GWA to work with private sector companies in the production of water for the territory of Guam. Because the amendment to 1 G.C.A. Section 404 is unrelated to this underlying purpose, we did not feel that it was necessary to provide comment concerning this portion of the bill. On second thought, it appears that there are numerous issues which arise from the proposed amendment to 1 G.C.A. Section 404. This letter will address those issues.

First, the amendment to 1 G.C.A. Section 404 is totally unrelated to the underlying purpose of the bill which has been proposed by Senator Blaz. The purposes of the bill can be accomplished without amending 1 G.C.A. Section 404. We therefore fail to understand the reason for the amendment.

Second, the amendment to 1 G.C.A. Section 404 simply does not add anything to the statutory framework which currently exists in the territory of Guam. To the contrary, 1 G.C.A. Section 404 may actually be in conflict with existing water rights statutes. See Public Law 20-06, Section 7. The proposed amendment apparently sets aside from the public domain water which is used by riparian landowners. The proposed amendment states that any water which is "reasonably needed for application for useful and beneficial purposes upon . . . riparian land" is to be used by riparian landowners. This is directly contradictory to Public Law 20-06, Section 7, which states, in relevant part, "There shall be no riparian water rights in Guam." It is our belief that the proposed amendment to 1 G.C.A. Section 404 will directly contradict Public Law 20-06, Section 7. If the amendment is passed, there will be inherently contradictory legislation. It will be difficult to predict which statutory scheme should be followed by GWA.

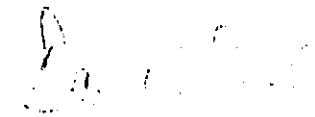
In addition, this amendment may create private ownership rights in the water. This is directly contrary to current law. Again, we can see no reason for making this change in the law at this time.

Before the Legislature undertakes the complete overhaul of the law regarding ownership of water in the territory of Guam, great care should be taken to ensure that the changes are beneficial and are not contradictory to the existing scheme. Given the underlying fact that the amendment to 1 G.C.A. Section 404 is unrelated to the purpose of the bill which is being proposed by Senator Blaz, it is our belief that GWA should ask that Section 2 of the bill be deleted.

Should you have any questions, please feel free to contact me.

Sincerely,

DOOLEY LANNEN KEELER & ROBERTS LLP



David W. Dooley

DWD/ps

F#G142 D=GWA133 DIR.#GWA

CC: Mr. Richard A. Quintanilla
Ms. Frances Tydingco



James C. Alexander
Vice President
Development Engineering

Enron Engineering
& Construction Company
P.O. Box 1188
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(713) 646-7162
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Jalexan@ei.enron.com

September 14, 1998

Vice Speaker Anthony C. Blaz
Twenty-fourth Guam Legislature
155 Hessler Street
Agana, Guam 96910

Re: Guam Waterworks Authority Island Wide Water Management Plan.

Dear Vice Speaker Blaz,

With this letter I would like to confirm Enron's interest in working with Guam Waterworks Authority (GWA) to provide an Island-wide water and wastewater management plan for the island of Guam. Enron has been working closely with GWA since early 1998 on this concept and feels certain that private sector investment in water and wastewater infrastructure is vital to a strong economic future for Guam.

Enron has pledged a great deal of time and money toward working with GWA to understand the issues and how private industry can be joined into the solution for water on Guam. The existing Build-Own-Transfer Legislation has already identified six hundred million dollars of Capital Improvements Projects (CIP) which are required to meet Guam's future needs. The department of Defense (DOD) has also stated a desire to privatize all water and wastewater facilities on the island. The cost of acquiring the DOD facilities and providing the capital improvements required by the DOD will also involve significant capital investment. Enron has a very strong opinion that the only way for GWA to accomplish their CIP objectives, acquire the DOD assets and establish an Island-Wide Water Management Plan is for there to be a strong and consolidated involvement from a qualified private company.

Guam is at a crossroad of the future for water and wastewater infrastructure planning for the island. A piecemeal approach may satisfy the immediate symptoms but will fracture the operation so as to preclude Island-Wide Water Management Plan.

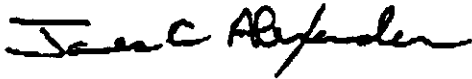
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Legislative Bill 738 will provide GWA the latitude to structure a business plan that can attract private sector investment in water projects on Guam.

Enron is very interested in GWA's proposed direction and how GWA will attract private investors. Enron has offered an opinion as to a feasible approach to structuring an Island-Wide Water Management Plan. Enron feels that one of the most important issues for GWA is the selection of a strong and qualified private sector partner.

We appreciate your continued interest in Enron and we look forward to considering another business opportunity in Guam.

Very truly yours,



James C. Alexander

BRAC GOV GUAM STEERING COMMITTEE

Office of the Governor

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Carl T.C. Gutierrez
Governor of Guam

Madeline Z. Bordallo
Lt. Governor of Guam

Joe T. San Agustin
Administrator

Mike Cruz
Project Director

**TESTIMONY OF MR. JOE T. SAN AGUSTIN,
ADMINISTRATOR, BRAC GOV GUAM STEERING COMMITTEE
BEFORE THE COMMITTEE ON FINANCE AND TAXATION
ON BILL 738**

September 11, 1998

Good Morning Mr. Chairman and members of the Committee on Finance and Taxation. My name is Joe T. San Agustin, Administrator of the BRAC GovGuam Steering Committee. At your invitation, I am testifying on Bill 738 which provides incentives for local small businesses to compete in the U. S. military's outsourcing efforts and for utility operators to coordinate with the Guam Waterworks Authority in order to create efficiencies in the provision of water and wastewater services.

It is my strong belief that the military is making a serious mistake in releasing existing employees, whose worth cannot be measured just in dollars resulting from questionable cost savings to the military. Guam, with its continued strategic value and the presence of a skilled workforce as evidenced by our federal civil service employees, will continue to serve the national interest. Their retention under federal employment is in the national as well as local interest and the Navy is creating a serious breach in their commitment to these vital employees. As indicated in the bill however, the Navy has decided to pursue outsourcing of functions currently performed by civil service personnel and we must position ourselves to make the best of this potentially serious economic situation.

In March 1993, total federal civilian employment on Guam was 7,690 employees. By September 1997 after the BRAC decisions and military downsizing were implemented, total federal civilian employment stood at 5,010. Today, civil service employment associated with the military accounts for only 2,612 jobs or just over half of the total number of federal civil service jobs in Guam. The Navy's outsourcing effort is anticipated to affect 2,300 Navy civil service employees. The recently announced A-76 study for the Naval Computer and Telecommunications Area Master Station (NCTAMS) may affect an additional 100 employees while the anticipated outsourcing at Andersen Air Force Base next year may affect another 66 employees. Over the next three years, outsourcing may reduce total military civil service jobs to only 200 jobs island-wide.

Any effort to ensure job retention and job creation should be fully supported. It is for this reason that the Governor, through the BRAC Office and Congressman Underwood pursued efforts to "unbundle" functions proposed by Navy for consolidation under competitive sourcing. As a result of these efforts, the U. S. Small Business Administration and Navy have agreed to the following:

- allow the Navy to move forward with the BOS Guam A-76 competition which will include

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Governor of Guam

Madeleine Z. Bordallo
Lt. Governor of Guam

Joe T. San Agustin
Administrator

Mike Cruz
Project Director

the right of first refusal to existing employees for any jobs that are outsourced (including subcontracted work);

- Keep all recurring BOS service contractual requirements currently performed by local small business concerns in the small business arena;
- create additional direct contract opportunities for local small business concerns in the housing maintenance and construction repair areas;
- ensure that all "other than service" requirements awarded to local small business concerns will also remain in the small business arena;
- make utilization of small business concerns through subcontracting a significant factor in the source selection criteria of a BOS services contractor;
- include additional evaluation credits to those firms which propose to mentor Guam small disadvantaged business concerns and recognize the quality of the mentoring program in the award fee evaluation of the resultant BOS service contractor;
- ensure that a significant award fee is attached to small business subcontracting achievements above the \$18 Million minimum mandatory goal.

The net result of the SBA/Navy agreement is that \$65 Million out of the total expected BOS contract of \$150 Million per year for ten years is available for small businesses either as prime or subcontractors.

While the SBA/Navy agreement reflects the achievement of a significant milestone in the BRAC Office's effort to promote small business development and the re-employment of displaced civil service employees, actual participation in the outsourcing process is dependent on the capability of local small businesses to perform outsourcing work. Along this line, the BRAC Office secured GEDA Board approval for GEDA to assume the lead in small business development and worked with the SBA to hold a workshop here to assist small businesses become certified as small business disadvantaged companies in an effort to guarantee participation. Bill 738 enhances our efforts by providing additional incentives for small businesses to participate in the outsourcing process and to re-employ displaced federal civil service employees. In this way, monies will remain on-island, small business capabilities will be increased and federal civil service employees as well as local residents will be in a better position to obtain jobs.

With regard to the Navy's outsourcing of water and wastewater services, the Legislature should note that it is DoD policy and a Congressional mandate to privatize military infrastructure, in a fashion similar to the GPA/Navy Customer Service Agreement. Recognizing this fact, the BRAC Office proposed that GovGuam enhance the existing Navy Orote Sewer Treatment Plant to expeditiously provide wastewater services to the residents of Agat and Santa Rita in lieu of building a new GovGuam plant, costing \$21 Million and located just two miles away. This same joint use approach was followed in the development of the Northern Sewer Treatment Plant, the Cabras Power Plant

BILL C GOVGUAM STEERING COMMITTEE

Carl T.C. Gutierrez
Governor of Guam

Madeleine Z. Bordallo
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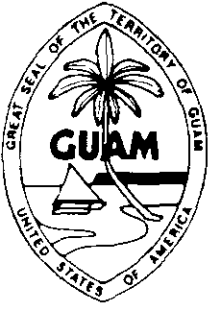
Joe T. San Agustin
Administrator

Mike Cruz
Project Director

and other such facilities. Navy responded to our request in a letter dated June 2, 1997, which indicated that Navy will initiate a study which would assess the transfer of the treatment plant to GWA as an option to provide efficiencies in service and reduce costs. At the present time, Navy has included utilities in its outsourcing request for proposals, but has advised that utilities can be treated separately in the future. It is incumbent upon all of us to continue to pressure compliance with DoD privatization policy and law. The Government of Guam however cannot forego the opportunity to require potential private operators to create efficiencies and thus lower overall costs as provided for by this bill.

Thank you for the opportunity to provide testimony on a matter that will have significant impacts on the economy of Guam in general and our essential federal employees in particular.


JOE T. SAN AGUSTIN



GUAM

ECONOMIC DEVELOPMENT AUTHORITY

An Autonomous Agency of the Government of Guam, USA



TESTIMONY ON BILL 738

Submitted by:
Ed Untalan
Administrator
Guam Economic Development Authority

September 11, 1998

Good morning Vice Speaker Blaz, esteemed members of the Committee on Finance and Taxation, ladies and gentlemen. I am Ed Untalan, the Administrator for the Guam Economic Development Authority (GEDA). I am here on behalf of the Authority to provide testimony on Bill 738.

This proposed legislation has been a joint effort between your office, the office of the Governor, the BRAC Steering Committee, the Guam Waterworks Authority and the Guam Economic Development Authority. Its primary purpose is to offer an incentive to Navy contractors so as to foster growth in Guam's small business sector by proactively responding to the changes made in the Federal Government's spending policies.

The effects of the restructuring of the Federal Government's spending policies have negatively impacted Guam's economy. As part of this federal restructuring, the Office of Management and Budgeting issued Circular A-76, which conducts a study on the cost effectiveness of the Navy to continue to operate certain basic functions on Guam. If it is found to be more cost effective for private industry to operate these functions, the Navy will issue the **Base Operating Service (BOS)** contract.

Destination Guam, USA
Tropical Paradise & Island of Opportunities

Bill 378; Page 1 of 3

This BOS contract is estimated to be worth between 150 million to 200 million dollars. Money that would normally be spent on federal personnel will now be given to the BOS contractor. In drafting this legislation, this Administration established the following objectives:

1. To provide priority placement to military civilian employees displaced as a result of this outsourcing.
2. To ensure the BOS contractor utilizes Guam small businesses to the fullest potential.
3. To ensure the BOS contractor does not utilize military property thus negatively impacting our already soft commercial rental market.
4. To ensure the BOS contractor maintains a minimum level of employment.
5. To regain control of our water and wastewater system, currently managed by the military and to provide the private contractor working with GWA benefits that can be passed onto the consumer.

All of these objectives can be achieved by effectively utilizing GEDA's tax incentive program known as the Qualifying Certificate Program as outlined in the proposed legislation.

In addition, we do not anticipate any negative impact to our tax base, as these military dollars are not flowing through our economy at the present time. In fact, it will only benefit the economy, as it will require all the subcontractors to be licensed to do business on Guam and pay taxes. In addition, it does not exempt the BOS contractor from GRT, it ensures the utilization of our commercial real estate assets, and it will mandate a minimum level of employment to be maintained by the BOS contractor.

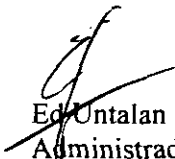
However, I do want to suggest one amendment to the proposed legislation. Section eleven, part "d" (line 19 on page 13), provides incentives to small businesses subcontracted by the BOS contractor. During the initial development of this legislation, aside from the displaced workers, the focus was on trying to ensure that a larger portion of the BOS contract was given to small businesses. It was thought that by giving tax benefits to small businesses it would competitively position them to be selected by the BOS contractor. After explaining the effectively use of the QC Program to accomplish the established objectives of this legislation, it was changed to provide the incentives solely to the BOS contractor.

The final draft before you does not omit the tax benefits to small businesses. It should be noted that small businesses already receive a benefit through the Dave Santos Small Business Act. Providing them a QC will be administratively more costly to the small businesses and GEDA. In exchange for the tax benefits, all QC recipients must provide a benefit to the economy in terms of employment, capital investment, etc. We outline certain terms and conditions in which the recipient must comply with on an annual basis. The cost of complying with the conditions such as maintaining a certain level of employment, providing certain employment benefits, and maintaining and submitting audited financial records on a monthly and annual basis are costs that most small businesses cannot absorb. Additionally, to monitor and track compliance to these requirements is costly and is also passed on to the recipient. Thus, the costs of administering and complying with the requirements of the tax benefits will far exceed the actual tax benefit provided to the small businesses.

Suffice it to say, providing the small businesses the tax benefit will not provide any competitive advantage to the businesses nor any benefit to the island's economy, which is the primary intent of the QC Program. If needed, GEDA can provide small businesses with direct assistance through its financial programs. Therefore, we highly recommend that this section be omitted from the proposed legislation.

On behalf of GEDA and its Board of Directors, we strongly encourage the passage of Bill 738 with the recommended amendment. Si Yu'os Ma'ase.

Put respetu,



Ed Untalan
Administrador
Autoridad Inadilanton Ikunumihan Guahan



GUAM WATERWORKS AUTHORITY

Government of Guam

Board of Directors

Post Office Box 3010, Agana, Guam 96932

Phone: (671)479-7823 Fax: (671)477-0684

September 10, 1998

The Honorable Anthony C. Blaz, Senator
Mina' Bente Kuattro Na Liheslaturan Guahan
Chairman, Finance and Taxation Committee
155 Hesler St.
Hagatna, Guam 96910

Re: Bill No. 738

Hafa Adai Senator Blaz and Members, Finance and Taxation Committee:

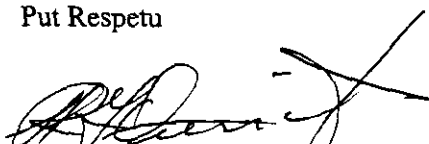
I am Roman L.G. Quinata, Acting Chairman of the Guam Waterworks Authority (GWA) with GWA's Testimony on Bill No. 738. Appearing with me for this purpose is Richard A. Quintanilla, General Manager and John D. Gilliam, Board Advisor.

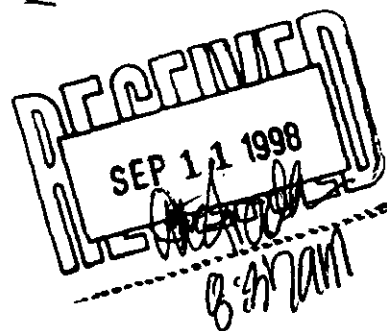
GWA stands in full support of Bill 738 and wishes to commend and thank it's sponsor, Senator Blaz, for his introduction of this measure! As a candidate to acquire soon to be privatized military water and wastewater systems in Guam, GWA requires legislative support. Bill 738 sets forth the mandate required to legitimize our bid for the military systems. Additionally, Bill 738 establishes appropriate water property ownership and use rights.

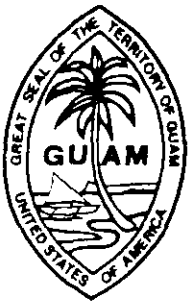
Bill 738 unequivocally endorses establishment of a fully integrated island-wide water and wastewater system for Guam under civilian control. Bill 738 reminds all, of our people's senior claim to the fresh waters of Guam. Also, Bill 738 creates the essential companion legislation which is required to make Build-Operate-Transfer type partnerships viable on the scale required to completely address the communities' need for system improvements, expansion and maintenance through long term capital investment.

So far our small scale experiment with the BOT partnership is working well. We look forward to expanding the program with enactment of Bill 738.

Put Respetu


ROMAN L.G. QUINATA
Chairman (Acting)
GWA Board of Directors





GUAM

ECONOMIC DEVELOPMENT AUTHORITY



Carl T.C. Gutierrez
Governor

ATURIDAD INADILANTON IKUNUMIHAN GUAHAN

An Autonomous Agency of the Government of Guam, USA

Madeleine Z. Bordallo
Lieutenant Governor

July 23, 1998

Mr. Jesse Perez
Office of Senator Tony Blaz
Agana, Guam 96910

RE: PROPOSED LEGISLATION ON A-76 OUTSOURCING

Dear Mr. Perez,

I have reviewed the draft of the proposed legislation on the Navy outsourcing issue and would like to provide comments on the segments that address GEDA's scope of work.

The bill leaves out any mention of Guam's small businesses and how much they will be affected by any possible outsourcing resulting from the A-76 study. It doesn't address the approximately 2400 jobs that could be lost if the Base Operating Support (BOS) route is found to be more cost effective. The Air Force is re-commencing their cost effectiveness study on their transportation and supply sections, possibly affecting 450 Air Force jobs.

The legislature needs to address the following issues and provide a comprehensive plan to ensure that Guam businesses have increased opportunity in securing contractual work for the federal government, not only as prime contractors but as subcontractors to the BOS contractor.

Which businesses will be protected? What measures can be taken to ensure compliance from the Navy and the BOS contractor? Any business that is promoted by the Government of Guam should be licensed to do business on Guam by the Department of Revenue and Taxation. They must also be able to document that a majority of their employees are locally hired and the active majority in the company's ownership is of local origin and/or U.S. citizenship.

It has been a longstanding struggle between the federal and local government in the area of enforcement. By addressing these issues in the law, the legislature will send a firm message to the Navy and Air Force that promotion of Guam's businesses is a major priority.

Funding and support for this operation. Approximately \$150,000 is needed to provide continual emphasis on the Navy's relations with island industries. This will also cover costs incurred from promoting SBA's disadvantaged minority business status 8(a) and the hiring of additional personnel, if it is warranted. 8(a) certification is handled only by SBA, but the complexity of the application process requires the applicant to seek help in completing it. GEDA, in providing base support for Guam small businesses, and the Small Business Development Center can provide needed assistance in areas that include general business planning, strategic planning, and capital financing and compliance.

GUAM, USA
THE ULTIMATE DESTINATION

GUAM

ECONOMIC DEVELOPMENT AUTHORITY

An Autonomous Agency of the Government of Guam, USA

GEDA securing primary contracts with the federal government. GEDA, a public corporation is authorized to enter into any contract with the federal government as a primary contractor then subcontracting the performance of the work. In this manner the Government of Guam is able to directly help local businesses better compete for A-76 work.

What programs GEDA can offer to businesses or federal employees affected by the A-76. In addition to the many loan programs that GEDA currently offers, special attention will be given to companies or individuals that are adversely affected by any actions resulting from the A-76 outsourcing. Priority handling will be given to any individual who was displaced as a result of the study and is looking to start or support a business that is directly related to his/her former line of work. The businesses and individuals which take advantage of GEDA's services must comply with all the guidelines established through agreements made with GEDA.

GEDA shall be responsible for leading and coordinating activities related to participating small businesses in A-76 activities. Assistance provided by the other Government of Guam agencies most especially the Department of Commerce and the University of Guam is appreciated and necessary for GEDA to carry out these responsibilities in the most expeditious manner possible.

Navy's Extraneous Capacity Policy. The Navy's policy on extraneous (excess) capacity is that any extra facilities that are not used by the BOS or any prime contractor will be reverted back to the Navy's control. This issue needs to be presented in the law simply as a statement of policy in agreement with the Navy's decision not to allow their contractors to sublease these facilities on the open market.

These issues will provide GEDA with the proper direction and authority to take the lead role in continued support of Guam's small businesses. Please keep me advised on the progress of this proposed legislation.

If I can be of any further help, please contact me directly.

Sincerely,


T. Ann Perez
Acting Administrator

TAP/des

cc: Carl T.C. Gutierrez, Governor of Guam
Joe T. San Agustin, BRAC Administrator
Ken Lujan, SBA Administrator
Ed Untalan, Administrator

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The Watergate, Suite 600, 2800 Virginia Avenue, N.W., Washington, D.C. 20007
(202) 333-2919 Fax: (202) 338-5950

Legislative & Government Relations
National Security & International Affairs

TELECOPIER TRANSMITTAL FORM

TO: Gov. Carl Gutierrez
Phone: 671-477-3200

FROM: Wayne Army

DATE: June 16, 1998

SUBJ: Proposed Legislative Changes effecting Guam's Utilities

Number of pages (including cover sheet): 1

Governor,

I have been thinking about the issue of acquiring the Orote Sewage Treatment Plant for the Government of Guam and the potential threat posed by the Navy's talk of "privatizing" it. Unfortunately, I suspect from what I hear that their idea of privatization is to A-76 it, keep it under Navy management, and let some outside contractor run it. That is not much different from what they are doing now, except that our civil servants lose their jobs.

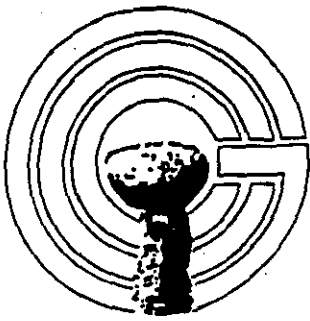
My thoughts need to be researched by one of our lawyers, but I would suggest that we work with the Legislature to enact legislation immediately to prohibit that. One thought I had was legislation that prohibited any water treatment plant from being operated by any private firm, unless it was under the (supervision, oversight, etc.) of GWWA and the PUC, or something like that. We would make only one exception: any plant currently operated by a Government agency could continue to operate as it is now. If any changes were made, it would fall under the new law, etc.

Another alternative might be to require that any private corporation operating in Guam be licensed in Guam, and no corporation operating a waste water treatment facility in Guam could be licensed unless they were operating that facility for the Government of Guam, etc.

These are only just two approaches, but I think it is something we need to do immediately. We need to regain control of all the wastewater treatment facilities in Guam. It could bring the Navy's efforts to do a "fake" privatization of Orote to a halt, and it could help in our efforts to fight the A-76 mess. It should also help in solving our Agat/Santa Rita problem. If we don't do this, a "fake-privatized" facility under Navy leadership will have nothing to do with helping us out of the Agat problem, and we will be forced to spend money foolishly.

I hope these thoughts help. The way it is going now just galls me.

Wayne



**GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS**

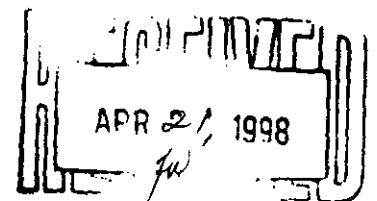
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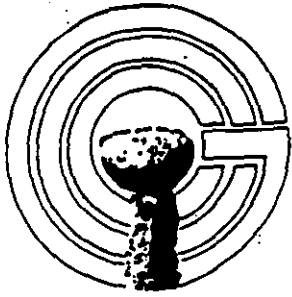
**FROM: ELOISE R. BAZA
President, Guam Chamber of Commerce**

DATE: APRIL 20, 1998

Attached is a copy the Chamber's April 17, 1998 letter addressed to The Honorable John L. Dalton, Secretary of the Navy, requesting that he endorse the Bundling/Omnibus Competitive Approach to the A-76 BOS Study and that he reject SBA's recommendations related to the unbundling of the potential BOS contract. The final decision regarding the SBA's appeal rests with the Secretary of the Navy.

Also attached is a copy of an April 14, 1998 memo from Mr. Jim Gambardella, SBA, to Ms. Linda Wright, NAVFAC, recommending that Guam Navy activities outsourced to private enterprise be "unbundled" and automatically awarded to ALASKA NATIVE CORPORATIONS through preferential procurement source and sole source arrangements. The Chamber is strongly opposed to SBA's recommendations as they totally disregard Guam's existing small businesses.





**GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS**

April 17, 1998

The Honorable John L. Dalton
Secretary of the Navy
1000 Navy Pentagon
Washington, D.C. 20350-1000

Dear Secretary Dalton:

The Guam Chamber of Commerce believes that the Bundling/Omnibus Competitive Approach as it applies to the U.S. Navy's A-76 Study for Guam will provide Guam businesses and Guam small businesses with greatest opportunity to participate in a potential Base Operating Support (BOS) Contract. We strongly recommend expeditious approval of a single contract approach and urge you to reject the U.S. Small Business Administration's recommendations to unbundle the consolidated contract for the reasons stated herein.

The Guam Chamber of Commerce was formed 74 years ago in 1924. Our membership manages sales volumes in excess of \$2 billion that equates to 70% of Guam's Gross Island Product. We represent all sectors of Guam's business community, with small business as our largest component totaling 52% of member companies. We endorse the Navy's plans to mitigate the financial impact on small businesses due to the bundling of the contract under the BOS project as stated in correspondence to the SBA office in San Francisco dated December 16, 1997, as follows:

1. Include in the RFP a mandatory minimum target (in terms of dollar value) for utilization of small business subcontractors. A range of \$10 million to \$15 million, annual minimum for small business has been put forth by the Navy awaiting verification by SBA.
2. The RFP will also include a provision that additional credit under the Navy's source selection criteria will be awarded to prime contractors that maximize the use of Guam-based small businesses.
3. The contractor's small business goals will be incorporated as a contract requirement upon award. To ensure that the contractor continues to promote small business participation during the performance of the project, criteria will be included to reward the contractor for the award fee evaluation.

We believe that these criteria, supported by the prime contractor's proposal on how Guam's economic base can be expanded to new industries that will create more jobs for island residents, will maximize the involvement of our small businesses in Guam as well as facilitate economic diversification for Guam. In light of the Navy's downsizing and Guam's high unemployment rate, job creation as well as job preservation are of utmost concern to us.

We strongly oppose the efforts of the U.S. Small Business Administration (SBA) to unbundle the potential BOS contract as stated in SBA's April 14, 1998 memo to NAVFAC for the following reasons:

Letter to Secretary Dalton
RE: Navy A-76 Study
April 17, 1998
Page 2

1. SBA's recommendations for preferential procurement source awards without cost comparison studies, sole source contract awards, and others related to ANCs will be detrimental to our existing small businesses on Guam. SBA's approach demonstrates a total disregard to our island's small businesses.
2. SBA's recommendations that involve the unbundling of a consolidated contract do not offer any incentive for participation of Guam's small businesses. Small businesses awarded contracts cannot be required to subcontract to Guam small businesses.
3. An unbundled scenario will preclude the inclusion of prime contractor rewards for maximum use of Guam small businesses as subcontractors as a source selection criteria.

The Navy's bundled approach provides more opportunities for Guam small businesses to participate as subcontractors. Interested prime contractors have stated plans to subcontract with Guam companies. Under the one contract approach, whoever is awarded the BOS contract must demonstrate good corporate citizenry by obtaining a Guam business license and paying Guam taxes.

The Navy's recent announcement that the Request for Proposals (RFP) for its A-76 potential BOS contract has been delayed indefinitely pending the settlement of an appeal from the SBA of the Navy's bundled contract proposal concerns us. The aim of the A-76 study is to help the Navy save money. Delays in the process and the Navy's timeline will unnecessarily pose additional costs not only for the Navy, but for private companies desiring to bid on the project.

Recognizing that the military's presence on Guam is a vital part of Guam's economy, we support the Navy's approach of a single BOS contract as it will result in cost savings for the Navy, but more importantly, will provide Guam businesses with greater opportunity to participate in the potential \$200 million annual contract.

Thank you for the opportunity to provide our views on the Navy's approach to the A-76 Study on Guam. We are enclosing a copy of our position statement provided to our members. We are hopeful you will concur with our position and urge you to reject SBA's recommendations. We look forward to your reply.

Sincerely,



LOU SANCHEZ
Chairwoman, Board of Directors



ELOISE R. BAZA
President

Enclosure

cc: Governor Carl T.C. Gutierrez
Congressman Robert A. Underwood
All Senators, 24th Guam Legislature



GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS

CHAMBER BULLETIN [04-02-98]

Bundled approach to Navy A-76 BOS contract better option for Guam small business

After reviewing information provided by Congressman Robert Underwood, the U.S. Navy, and the U.S. Small Business Administration (SBA), the Guam Chamber of Commerce Board of Directors has decided that the Navy's "bundled" (single contract) approach to the A-76 Study of a potential Guam Base Operating Support (BOS) contract, as opposed to the SBA's "unbundled" approach, would provide Guam businesses with greater opportunity to participate in the potential \$200 million annual contract.

We have informed Congressman Underwood and Governor Carl Gutierrez of our position and requested their support and assistance in communicating to the SBA that a bundled approach to the potential BOS contract would be in the best interest of Guam small businesses. We have also expressed concern that any further delay in the A-76 process would be costly to the Navy and to private companies desiring to bid on the proposed project.

The Chamber's scrutiny of the two approaches to the potential Guam BOS contract included the following considerations:

- A bundled contract would save the Navy \$48 million.
- The Navy has stated plans to mitigate the financial impact on small businesses due to the bundling of the BOS contract by:
 - 1) Including a mandatory minimum target in the RFP for small business subcontractors;
 - 2) Including a provision that additional credit under the Navy's source selection criteria will be awarded to prime contractors that maximize the use of Guam-based small businesses;
 - 3) Requiring prime contractors to include in their proposal how Guam's economic base can be expanded to new industries that will create more jobs for residents.
- The single contract will incorporate 27 existing service contracts totaling \$30.2 million this fiscal year, 24 of which are small business contracts with a maximum value of \$11.5

million. Of this amount, over 43% is currently being performed by off-island small businesses.

- In an unbundled scenario, there would be no incentives for prime contractors to subcontract with Guam small business.
- Interested prime contractors have stated plans to subcontract with Guam small businesses.
- Under a bundled scenario, whoever is awarded the BOS contract must demonstrate good corporate citizenry by obtaining a Guam business license and paying Guam taxes.

The Navy is continually under pressure to cut spending. Rather than close more bases in Guam, the Navy's outsourcing study is another approach to potentially reducing its budget. At the Base Realignment and Closure Commission Hearing held in March 1995, the Guam business community took the position to oppose a reduction in Navy presence on Guam and to support collaborative arrangements for use of realigned assets. The Navy's response has been outsourcing of its functions as an alternative to base closures.

Members are encouraged to contact Congressman Underwood to communicate that the single contract approach would be in the best interest of Guam small businesses.

Contact numbers for Congressman Underwood:

Washington Office
Tel: (202)225-1188
Fax: (202)226-0341

Guam District Office
Tel: 477-4272
Fax: 477-2587

Email: guamtodc@mail.house.gov

Members may obtain a copy of the Chamber's letter to Congressman Underwood by calling the Chamber office at: 472-6311/8001.

Quicknote

April 14, 1998

TO: Linda Wright, NAVFAC
FROM: Jim Gambardella, SBA
SUBJ: Areas for Discussions

First of all, please accept our thanks for agreeing to consider some alternative solutions with regard to the BOS services effort on Guam. We hope that our recommendations will provide the basis for a mutually beneficial settlement, thereby negating the need for a secretarial appeal.

BACKGROUND

Subsequent to discussions, PACNAVFAC agreed to remove the 20 small business contracts from the proposed consolidation. The Command is also proposing to restructure some existing contract requirements for housing operations and maintenance, as well as some construction repair and maintenance contracts, into the small business program. The estimated value of these requirements is \$8 million annually. In summary, PACNAVFAC is now proposing that approximately \$20 million be set aside for small business prime contract awards outside the BOS services effort on an annual basis.

Additionally, PACNAVFAC is offering to include a minimum mandatory small business subcontracting goal of \$15-18 million in the resultant solicitation. An offeror's subcontracting goals will form a "significant factor" in the source selection criteria. We estimate that if the Navy ultimately decides to outsource the BOS services on Guam, small businesses could receive approximately \$35-38 million a year in prime and subcontract awards.

SBA RECOMMENDATIONS

- OMB Circular A-76, as implemented by the Department of Defense's Fiscal Year 1996, 1997 and 1998 appropriations acts, allow for the conversion of commercial activities, i.e., BOS services, to be converted without a cost comparison study if the resultant contract is awarded to a "preferential procurement source." One of the designated preferential procurement sources are those small business concerns owned and controlled by Alaska Native Corporations (ANC), ANC's which are 8(a) program participants are eligible for sole sources contract awards under a number of functional areas contained in the BOS services effort. We have identified 13 ANC subsidiaries which can be awarded contracts, without a formal cost comparison study. These functional areas can be separated from the study and awarded to an ANC. See tab S of the accompanying file for a listing of the ANCs and their area(s) of expertise.

- Under the program management portion of the performance work statement (PWS), Annex 1, PACNAVFAC has identified management of automatic data processing equipment (ADPE) as an area that would be outsourced to a commercial entity. We have identified four ANC subsidiaries capable of providing ADPE and Information Management-related services. Additionally, we have identified five ANC subsidiaries with the capabilities to perform buildings, structures and grounds support services as set forth in Annex 5 of the PWS.
- The environmental services section of the PWS (Annex 7) includes requirements for comprehensive remediation efforts in compliance with all applicable laws, statutes, regulations and policies. We have identified two ANCs which could perform environmental services, hazardous and solid waste collections, storage and disposal. For the Annex 9, housing, operations and maintenance services, we have identified three ANC subsidiaries with the capabilities to provide construction and related services.
- Many small businesses responded to public notices, i.e. Commerce Business Daily (CBD) synopses, expressing interest in submitting proposals for a wide array of functional areas of the PWS. We reviewed the submissions and determined that a number of the annexes can be broken out of the study and procured on a small business set-aside basis. The PWS annexes which generated the greatest amount of small business interest and expertise are as follows:

Annex 4 - Engineering & Maintenance Repair Program Management Services	9 small business responses
Annex 5 - Buildings, Structure & Grounds Maintenance	54 small business responses
Annex 7 - Environmental Services	22 small business responses
Annex 9 - Housing Operations & Maintenance	17 small business responses

- We believe that a strong case can be made to breakout Annexes 4, 5, and 9. Based on the number of responses, and the strong capabilities exhibited by small business, the Navy could procure these annexes on a total small business set-aside basis. In addition, based upon our analysis of the response by small businesses to the environmental portion of Annex 7, it should also be solicited as a small business set-aside.
- Accordingly, a combination of ANCs and breakout of *additional* functional areas on a small business set-aside basis will ensure that the role of the small business community on Guam will be important for many years to come. These approaches offer a number of viable solutions to the Navy.

Once you have had an opportunity to review these recommendations, I would like to suggest a conference call between you, Bob Paccione and I sometime later this afternoon or tomorrow to discuss them further.

Jim Gambardella
(202)205-7325

Outline

April 14, 1998

TO: Linda Wright, NAVFAC

FROM: Jim Gambardella, SBA

SUBJ: Areas for Discussion

First of all, please accept our thanks for agreeing to consider some alternative solutions with regard to the BOS services effort on Guam. We hope that our recommendations will provide the basis for a mutually beneficial settlement, thereby negating the need for a second appeal.

BACKGROUND:

Subsequent to discussions, PACNAVFAC agreed to remove the 20 small business contracts from the proposed consolidation. The Command is also proposing to restructure some existing contract requirements for housing operations and maintenance, as well as some construction repair and maintenance contracts, into the small business program. The estimated value of these requirements is \$1 million annually. In summary, PACNAVFAC is now proposing that approximately \$20 million be set aside for small business prime contract awards outside of the BOS services effort on an annual basis.

Additionally, PACNAVFAC is offering to include a minimum, mandatory small business subcontracting goal of \$15-18 million in the next solicitation. An offeror's subcontracting goals will form a "significant factor" in the source selection criteria. We estimate that if the Navy ultimately decides to continue the BOS services on Guam, small businesses could receive approximately \$35-38 million a year in prime and subcontract awards.

SBA RECOMMENDATIONS:

- OMB Circular A-75, as supplemented by the Department of Defense's Fiscal Year 1996, 1997, and 1998 appropriations acts, allow for the conversion of commercial activities, i.e., BOS services, to be awarded without a cost comparison study if the resultant contract is awarded to a "preferred procurement source." One of the designated preferred procurement sources are those small business concerns owned and controlled by Alaska Native Corporations (ANC). ANCs which are 8(a) program participants are eligible for sole source contract awards under a number of functional areas contained in the BOS services effort. We have identified 13 ANC subsidiaries which can be awarded contracts, without a formal cost comparison study. These functional areas can be separated from the study and awarded to an ANC. See tab 5 of the accompanying file for a listing of the ANCs and their area(s) of expertise.

- Under the program management portion of the performance work statement (PWS), Annex 1, PACNAVEAC has identified management of automatic data processing equipment (ADEE) as an area that would be outsourced to a commercial entity. We have identified four ANC subsidiaries capable of providing ADEE and Information Management-related services. Additionally, we have identified four ANC subsidiaries with the capabilities to perform buildings, structures and grounds support services as set forth in Annex 5 of the PWS.
- The environmental services section of the PWS (Annex 7) includes requirements for comprehensive remediation efforts in compliance with all applicable laws, statutes, regulations and policies. We have identified two ANCs which could perform environmental services, hazardous and solid waste collection, storage and disposal. For the Annex 9, housing, operations and maintenance services, we have identified three ANC subsidiaries with the capabilities to provide construction and related services.
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- We believe that a strong case can be made to breakout Annexes 4, 5, and 9. Based on the number of responses, and the strong capabilities exhibited by small business, the Navy could procure these annexes on a total small business set-aside basis. In addition, based upon our analysis of the response by small businesses to the environmental portion of Annex 7, it should also be selected as a small business set-aside.

Page 3

Accordingly, a combination of ANCs and breakout of additional functional areas on a small business set-aside basis will ensure that the role of the small business community on Guam will be important for many years to come. These approaches offer a number of viable solutions to the Navy.

Once you have had an opportunity to review these recommendations, I would like to suggest a conference call between you, Bob Parsons and I sometime later this afternoon or tomorrow to discuss them further.

Jim Gamberella
(302) 225-7225

