



# JUDICIARY OF GUAM

Administrative Office of the Courts

Guam Judicial Center • 120 West O'Brien Drive • Hagåtña, Guam 96910

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F. PHILIP CARBULLIDO

Chief Justice

ALBERTO C. LAMORENA III

Presiding Judge

PERRY C. TAITANO

Administrator of the Courts

January 23, 2006

Mr. Joseph M. Diego  
Area Director Rural Development  
USDA Rural Development  
Western Pacific Area  
First Hawaiian Bank Building  
400 Route 8  
Hagatna, Guam 96910-2003

**RE: Request for reconsideration to expend \$100,000 from the Judicial Building Fund Account for a Forensic Science Laboratory Project Officer to initiate the design, planning and construction of a Forensic Science Laboratory**

Dear Mr. Diego:

Recently, under the Fiscal Year 2006 Judicial Building Fund (JBF) budget request, the Judicial Council of Guam identified an expenditure of \$100,000 for a Forensic Science Laboratory Project Officer. However, on ~~November 23, 2005~~ <sup>12/16/05</sup>, you wrote to have this expense item deleted from our 2006 JBF budget request, indicating it was not an allowable expense. This letter is being written to request the reconsideration of your decision on denying this critically needed funding.

Before appealing your reconsideration for funding, a brief history needs to be established on the past and present efforts to construct a modern Forensic Science Laboratory facility on-island, in order to provide quality laboratory services for all of the criminal justice agencies on Guam and in our region of Micronesia.

Back in 2002, then Chairman of the Committee on Power, Public Safety and the Judiciary, Senator Joseph F. Ada authored the passage of Public Law 26-124 (Section 9509), authorizing the Judicial Council to provide for the design, construction and collateral equipment of a forensic science laboratory by entering into a financing arrangement with the U.S. Department of Agriculture, or other financing source, with a lower cost of funds, not to exceed \$5,900,000 for a term not to exceed forty (40) years.

Pursuant to this mandate, on May 3, 2002, the Judicial Council passed Resolution No. 2002-04: Relative to renegotiating the Judicial Building Fund Loan with the Farmer Home Administration (Rural Development Authority/USDA). The attached resolution specifically provided for the following: "Whereas, it would be in the best interests of the Judicial Branch to renegotiate the interest rate on the Judicial Building Fund loan to the current market rate and to permit use of the Fund for other needs such as a Forensic Laboratory."

**Letter to Mr. Joseph M. Diego dated January 23, 2006**

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Subsequently, on May 6, 2002, my predecessor transmitted the Judicial Council Resolution formally requesting for the refinancing of the Judicial Building Fund and construction of the Forensic Laboratory, in compliance of PL 26-124.

On May 31, 2002, your office responded with reference to the Loan Resolution's Item 2, which states, in essential part: "To refinance the unpaid balance ... if at any time it shall appear to the Government that the borrower is able to refinance its bond by obtaining a loan from responsible cooperative or private credit sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333 (c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983 (c))."

The Judicial Council of Guam subsequently sought refinancing . However, due to the Attorney General's opposition and pending appeal with the 9<sup>th</sup> Circuit Court of Appeals (i.e., regarding the legal issuance of Government of Guam bonds versus an updated land appraisal for all Guam properties for tax assessment purposes), our efforts have been put on hold pending the outcome of the appeal.

This "holding pattern" predicament has been further aggravated by the passage of the FY06 Budget Act. Public Law 28-68, Section 14, has placed the added burden on the Judicial Council to undertake due diligence to commence the planning, designing and construction of the Forensic Laboratory, by imposing a deadline of reporting not later than 180 days from enactment of P.L. 28-68, on the progress made and expected date of completion of the Forensic Laboratory and further, to post such report on the Judiciary's website. The Judicial Council's only recourse is to hire the Project Officer to undertake the necessary services discussed herein, such that prospective lending institutions will have all requisite supporting documentation for their deliberation, upon the reaffirmation of the appeal.

Without your favorable reconsideration, the Judiciary cannot finance the services needed below in order to get this mandated project underway because our current fiscal year budget is underfunded by \$925,000. Consent from RDA would allow us to undertake the legislative mandate immediately with rendered services from the Project Officer, resulting in accordance with the following:

- Commencement of coordination of principal parties for project development, facility planning, budget programming, and execution wherein requisite activities include formulation and acquisition of necessary documentation (e.g., maps, titles, permits, certifications, etc.) and/or specifications from comparable jurisdictions with similar operations (e.g., forensic laboratory design, site design, general building design, security

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design, mechanical systems design, plumbing systems design, electrical systems design, general laboratory design, administrative workspace design, including all technical section designs), that would greatly assist in preparation for the project's planning/ facility development, design and construction;

- Exploration of financing options to design, develop and construct the facility;
- Develop the A/E "statement of work" for the design of the facility and assist the Administrator of the Courts in seeking qualified firms for the design and construction of the project in compliance with the Judiciary's procurement policies;
- Serves as the Judiciary's lead agent for the project from inception to completion by working closely and in concert with the Construction Management Administrator and A&E, insuring compliance with specifications and owner's expectations;
- Assists the Judiciary in responding to legislative inquiries and on occasion, may participate in legislative public hearing, and
- Reporting orally and in written form all phases of the project on behalf of the Judiciary until project's completion and post completion activities during warranty period, usually one (1) year following final acceptance.

Your support and approval would initiate an immediate action plan on this greatly needed and long overdue capital improvement (community) project to assist us in realizing a modern state of the art Forensic Science Laboratory that will service and benefit all local, federal and regional criminal justice entities representing Guam, Northern Marianas and Micronesia and others needing such services not just in the public sector but in the private sector as well. The benefits include the following:

- The establishment of a modern state of the art forensic science laboratory that would play a critical role in the criminal justice system, providing vital services such as DNA and toxicological examination and analysis, which currently have to be conducted off-island. This is a costly process and usually results in the delays in examining, evaluating evidence, and increasing the chances of evidence contamination;
- Built within the confines of the Guam Community College campus, the crime lab would assist as a training facility for forensic specialists to train technicians in the scientific analysis of crime scene evidence, not just on Guam, but for the whole region, thus improving the

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criminal justice system in all of Micronesia. Criminal justice agencies would receive training in: crime scene investigation, death investigation, controlled substance's identification, sexual assault evidence, physical evidence recognition and handling, latent fingerprint processing, arson investigation, rape evidence collection, processing persons sent to hospital emergency room, documents, traffic scene investigation, crime scene reconstruction and crime scene photography;

- The crime lab would also provide a full range of technical services for law enforcement agencies on Guam and the Pacific region to include a variety of tests concerning: firearms, tool-marks, controlled substances, questioned documents, fingerprints, biochemistry, chemical analysis, micro-analysis(trace evidence), crime scene assistance/processing, clandestine laboratory assistance and processing computer evidence;
- The facility will provide quality laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime;
- Provide training assistance for local law enforcement and as requested by other jurisdictions, and
- Provide all necessary toxicology services requested by all medical examiners, and prosecuting attorneys.

The Forensic Science Laboratory will play a vital role in the criminal justice process for this Territory and the Pacific Basin Region by incorporating curriculum for criminalistic technicians to include certifications covering: forensic serology, general criminalistics, and crime scene reconstructions, etc..

Mr. H. Delos Santos, Ed. D., President of the Guam Community College (stakeholder), said it best in a recent letter written on November 16, 2005, to Senator Edward J. B. Calvo, Chairman on Finance, Taxation & Commerce, expressing: "Often times, due to the limitations here on-island, we either have to send criminal evidence off-island or bring in an outside expert to provide the evidentiary expertise or interpretation of forensic evidence collected at the scene... If we were to total the cost to send evidence off-island or bring experts to Guam, I am certain the cost-benefit-analysis will show the economic advantage of having a facility of our own." We too echo these sentiments.

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Your consent to access available funds in the amount of \$100,000 from the Judicial Building Fund Account for a Forensic Science Laboratory Project Officer is the needed catalyst to fulfill the mandates of Public Law 26-124 and Public Law 28-68.

Your kind reconsideration would be greatly appreciated. If you should have any questions or require further information or clarifications, please do not hesitate to contact Mr. Raymond Taimanglo, Procurement and Facilities Management Administrator at 475-3433 or myself at 475-3330.

Sincerely,

  
PERRY C. TAITANO

Attachments

cc: Lorraine P. Shin, State Director, Rural Development, Hilo, Hi.  
Chief Justice F. Philip Carbullido, Chairman, Judicial Council of Guam  
Senator Edward J. Calvo, Chairman on Finance, Taxation & Commerce

BEFORE THE JUDICIAL COUNCIL

RESOLUTION NO. 2002-004

RELATIVE TO RENEGOTIATING THE JUDICIAL BUILDING FUND LOAN WITH FARMERS HOME ASSOCIATION (FmHA)

WHEREAS, in 1989, the Judicial Building Fund was created as a result of an Eleven Million Dollar loan from Farmers Home Association (FmHA) at the interest rate of 7.75% per year;

WHEREAS, continuation under this percentage rate will result in an amortized bill of approximately twenty-five million dollars to settle the loan;

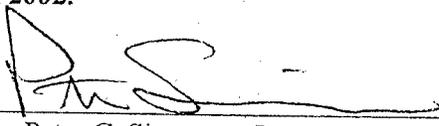
WHEREAS, it would be in the best interests of the Judicial Branch to renegotiate the interest rate on the Judicial Building Fund Loan to the current market rate and to permit use of the Fund for other needs such as a Forensic Laboratory;

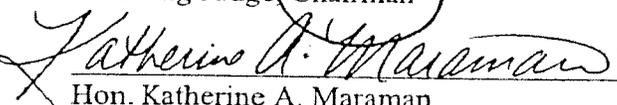
WHEREAS, pursuant to 7 GCA § 9504, the Judicial Building Fund is under the stewardship of the Judicial Council and the Judicial Council is the only entity with the authority to expend funds from the Judicial Building Fund;

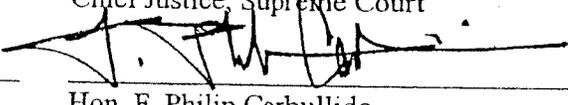
NOW, THEREFORE, BE IT RESOLVED, that the Administrator of the Superior Court shall contact Farmers Home Association (FmHA) to renegotiate the terms of the Judicial Building Fund Loan at the current favorable market rates, or to pay off the current loan and borrow an additional sum for purposes to be identified by the Judicial Council and Guam Legislature, and report back to the Judicial Council by its next scheduled meeting regarding the options available to the Judicial Council.

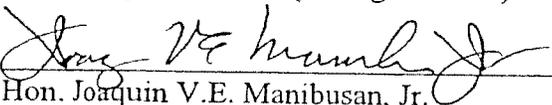
DULY ADOPTED ON THIS 3<sup>RD</sup> DAY OF MAY, 2002.

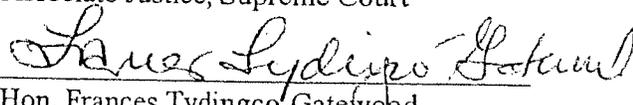
  
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Hon. Alberto C. Lamorena II  
Presiding Judge, Chairman

  
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Hon. Peter C. Siguenza, Jr.  
Chief Justice, Supreme Court

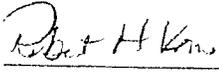
  
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Hon. Katherine A. Maraman  
Judge, Superior Court (Acting Member)

  
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Hon. F. Philip Carbullido  
Associate Justice, Supreme Court

  
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Hon. Joaquin V.E. Manibusan, Jr.  
Judge, Superior Court (Acting Member)

  
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Hon. Frances Tydingco-Gatewood  
Associate Justice, Supreme Court

  
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Hon. Joseph F. Ada  
Senator and Chairman, Committee on Power  
Public Safety and the Judiciary

  
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Robert H. Kono  
Attorney General of Guam (Acting)