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# I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

March 29, 2011

Honorable Consuelo B. Marshall  
District Judge  
United States District Court  
U.S. Courthouse  
312 North Spring Street  
Los Angeles CA 90012

## **RE: Request for Reduction in Federal Management Team Plan of Action Request for Funding**

Håfa Adai Judge Marshall,

I write to you on behalf of the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land (Committee), the Guam Legislature, and the people of Guam.

The U.S. District Court has found it necessary to step forward and compel actions required of the government of Guam to ensure individuals receive legally sufficient services to the clients of the Department of Mental Health and Substance Abuse (DMHSA). The Committee certainly understands and appreciates the importance and gravity of this action. Acting through a Federal Management Team, whom developed a Plan of Action (POA) to meet this requirement, the Court has imposed funding requirements to implement the POA.

It is equally important to the Committee that such requests for funds be necessary and valid, as it does have detrimental effects on our government further constraining the availability of funds for other governmental services and operations.

As the Court has graciously recognized, the government of Guam has demonstrated good faith efforts in meeting the funding requirement, despite the financial challenges it faces.

Therefore, the Guam Legislature's Office of Finance and Budget (OFB) has analyzed and dissected the details of the funding necessary for the FMT's POA (approved September 2010) as well as the payment schedule for the FMT's POA (approved November 2010) using the resources, data, and information available to it.

In the OFB's analysis of the "Plan of Action Estimated Costs" spreadsheet (attached to the POA), there were several issues that were focused

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on regarding the approved payment schedule for FY 2011. Such issues include the nature and substance of the requested funds for the POA as well as the lapse of funds for personnel costs.

Through its analysis, the OFB discovered that approximately \$3.5M (29%) of the funds requested in the FMT's payment schedule for FY 2011 were intended for the salaries and benefits of personnel that were expected to be hired. Because it makes up a large percentage of requested funds, the salaries and benefits were further analyzed, and it was found that a portion of the requested funds by the FMT for employees is no longer necessary since many positions have remained vacant thus creating a lapse in funding requirements.

Based on the POA Estimated Costs provided by the FMT, the amount of salaries and benefits requested by the FMT between December 2010 and March 2011 for personnel costs is approximately \$1.39M. According to the POA, approximately 78 positions were planned and expected to be filled by October 2010, but according to the Personnel Action forms (GG-1) provided to the OFB from the current administration, only 4 Psychiatric Technicians and 1 Clinical Psychologist have been recruited or contracted by the DMHSA to date. Therefore, the amount of \$1.28M in salaries and benefits for personnel yet to be recruited has lapsed and is no longer required of the government of Guam for this fiscal year.

<b>Fiscal Year 2011 Payment Schedule Request</b>			
<b>Difference in POA Estimated Personnel Hiring Costs to Actual</b>			
<b>Month</b>	<b>Estimated</b>	<b>Used</b>	<b>Difference</b>
December	332,809	27,000	(305,809)
January	352,810	27,000	(325,810)
February	352,810	27,000	(325,810)
March	352,810	27,000	(325,810)
<b>Total</b>	<b>1,391,238</b>	<b>107,999</b>	<b>(1,283,239)</b>

Approximate figures taken from the FMT's POA Estimated Costs and Actual Positions Hired by DMHSA according to the GG-1s submitted to the OFB by the Calvo Administration. "Used" amount includes the salary and benefits of the 4 Psychiatric Technicians and the 1 Clinical Psychologist that were hired.

Additionally, the FMT's POA Estimates of Costs include the adjustment for the recently cancelled Hay Study Pay increases, including \$573,379 that was cancelled and reversed as of January 30, 2011.

<b>Fiscal Year 2011 Payment Schedule Request Hay Pay Study Increase Analysis</b>			
<b>Month</b>	<b>Hay</b>	<b>No Hay</b>	<b>Difference</b>
* December	305,809	254,841	(50,968)
* January	325,810	271,508	(54,302)
* February	325,810	271,508	(54,302)
* March	325,810	271,508	(54,302)
April	352,830	294,025	(58,805)
May	352,834	294,028	(58,806)
June	362,837	302,364	(60,473)
July	362,841	302,368	(60,474)
August	362,844	302,370	(60,474)
September	362,848	302,373	(60,475)
<b>Total</b>	<b>3,440,272</b>	<b>2,866,893</b>	<b>(573,379)</b>

Approximate figures taken from the FMT's POA Estimated Costs

\*These figures are adjusted to include Hay Study Pay increases to positions that were filled as of October 2010. The remaining amounts are for positions that were not filled through March 2011.

If the trend of being unable to fill the positions for which funding has been requested and provided as planned in the FMT's POA, the funds requested and scheduled will lapse thus reducing the scheduled payments required of the government of Guam for deposit to the Court.

Conservatively, the Committee requests for the Court's consideration to reduce the scheduled payments amount by \$1.8 million due to the lapse in the need for personnel costs associated with personnel yet to be recruited between the period of October 2010 and March 2011.

As the government of Guam diligently continues to address these unbudgeted obligations, I humbly request that you continue to thoroughly review the FMT's current and future requests for funding in this area.

I look forward to your favorable response.

Si Yu'os Ma'åse',

  
**Vicente (ben) Cabrera Pangelinan**  
Senator

Cc: Governor Edward J.B. Calvo  
Leonardo M. Rapadas, Attorney General of Guam  
Benita Manglona, Director – BMR  
All Senators