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I Mina'trentai Unu Na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

April 8, 2011

Mr. Leonardo M. Rapadas
Attorney General of Guam
Office of the Attorney General
287 West O'Brien Drive
Hagåtña, Guam 96932

**RE: Updated Request for Reduction in Federal Management Team (FMT)
Plan of Action Request for Funding for FY 2011**

Håfa Adai Mr. Rapadas,

Please find attached the original analysis performed by the Office of Finance and Budget, submitted to the court at the most recent hearing and additional analysis based on information discussed at that District Court hearing.

At the hearing, Judge Marshall noted that if the government desires a modification of the scheduled amounts as ordered by the Court, it needs to do so by filing a motion with the Court.

I believe it would be in the best interest of the government to reduce the scheduled payment amounts and request your review of our analysis and file a motion with the court for such a reduction. Please consider this analysis in your pursuit of a modification of the scheduled court ordered deposits according to need rather than the initial plan. As it was expressed in the aforementioned hearing, the Plan of Action is a living document, subject to adjustments. Your assistance in reducing the deposits for FY 2011 would not harm implementation of the plan or reduce the plan's intended benefits, and would greatly alleviate Guam's inability to provide other critical services. If there is any other information or analysis that the Office of Finance and Budget could assist with in furtherance of this modification, please do not hesitate to let me know.

I look forward to your reply and hope that this analysis and request leads to the reduction of this unbudgeted obligation for FY 2011.

Si Yu'os Ma'åse`,

Vicente (ben) Cabrera Pangelinan
Senator

Cc: Governor Edward J. B. Calvo
All Senators

Enclosed: Office of Finance and Budget paper: *Estimated Costs of Plan of Action: Analysis and Request for Reduction in Court Ordered Scheduled Payments*

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**Estimated Costs of Plan of Action:
Analysis and Request for Reduction in
Court Ordered Scheduled Payments**

to the

Federal Management Team

Department of Mental Health and Substance Abuse

Department of Integrated Services for Individuals with Disabilities

Fiscal Year 2011

March 31, 2011

Summary and Background

The court ordered Federal Management Team’s (FMTs) Plan of Action (POA) for the Department of Mental Health and Substance Abuse (DMHSA) and the Department of Integrated Services for Individuals with Disabilities (DISID), which was approved on September 8, 2010, includes estimated costs toward fulfilling the needs of the Amended Permanent Injunction (API) of which is in excess of approximately \$24 million. On November 9, 2010, the District Court ordered a payment schedule for the government of Guam to begin paying on November 2010. The payment schedule ordered the deposit of \$2 million on November 30, 2010 and \$2 million on January 3, 2011. The government of Guam deposited \$4 million to the Clerk of the Court in the first quarter of FY 2011. At the recommendation of the Guam Legislature, the Governor of Guam requested the District Court for a suspension of the next payment of \$1 million, due on February 1, 2011. The suspension of the next payment for 60 days was granted by the court. On January 31, 2011, the continuing payment schedule is as followed:

FISCAL YEAR 2011	
April 1, 2011	\$1,000,000
May 2, 2011	\$2,000,000
June 1, 2011	\$500,000
July 1, 2011	\$3,200,000
September 1, 2011	\$1,000,000
SUBTOTAL	\$7,700,000
FISCAL YEAR 2012	
November 1, 2011	\$500,000
December 1, 2011	\$1,500,000
March 1, 2012	\$1,000,000
SUBTOTAL	\$3,000,000
FISCAL YEAR 2013	
October 1, 2012	\$1,000,000
July 1, 2012	\$250,000
SUBTOTAL	\$1,250,000
GRAND TOTAL	\$11,950,000

On March 30, 2011, the Judge Consuelo Marshall held another quarterly status hearing. The parties present were the FMT, the defendants represented by Assistant Attorney General of Guam David Highsmith and the Governor’s legal counsel James Canto, and the plaintiff’s counsel. No request or motion was made by the defendants to reduce the next installment payment due on April 1, 2011.

Purpose

The court ordered scheduled payments represent unbudgeted expenditures of the government of Guam. As an unbudgeted expenditure, the scheduled payments affect the ability of the government of Guam to meet its current operating expenses by diverting resources from budgeted expenditures. Therefore, the rationale and basis of the scheduled payment need to be thoroughly analyzed.

The purpose of the following paper by the Office of Finance and Budget (OFB) is to analyze the estimated costs associated with the POA provided by the FMT. This analysis seeks to determine the reasonableness of the estimated costs associated with the POA including the basis of those estimates.

Issue

Estimated costs associated with the FMT’s POA need to be reasonable. Any unsubstantiated or unreasonable cost need to be reduced.

Analysis

Based on the analysis below, approximately \$3.5M of the costs associated with scheduled payments for FY 2011 may not be reasonable, are unnecessary, or may not be reasonably incurred within FY 2011. Therefore, the OFB recommends a reduction in the scheduled payments by the \$3.5M for FY 2011.

Personnel Costs

Approximately 29% of the funds requested in the FMT’s payment schedule for FY 2011 are intended for salaries and benefits of personnel that are expected to be hired. As a large percentage of the requested funds, salaries and benefits were analyzed. It was found that a portion of the requested funds by the FMT for employees is no longer needed since many positions have remained vacant; 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 to be filled by October 2010. However, only 4 Psychiatric Technicians and 1 Clinical Psychologist have been hired or contracted by the DMHSA since October based on the GG-1s provided to the OFB by the Bureau of Budget Management and Research. Therefore, \$1.28M of salaries and benefits budgeted for personnel from December to March have lapsed and funding for the following would no longer be needed for the year.

Fiscal Year 2011 Payment Schedule Request			
Difference in POA Estimated Personnel Hiring Costs to Actual			
Month	Estimated	Used	Difference
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
Total	1,391,238	(107,999)	1,283,239

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.

Furthermore, the FMTs POA Estimates of Costs include an adjustment for the recently cancelled Hay Study Pay increases. This amount includes approximately \$573,379, which were cancelled on January 30, 2011.

Fiscal Year 2011 Payment Schedule Request			
Hay Pay Study Increase Analysis			
Month	Hay	No Hay	Difference
* 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
Total	3,440,272	(2,866,893)	573,379

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.

In the quarterly status court hearing held on March 30, 2011, the FMT expressed difficulty in filling the positions planned in its POA. If these positions continue to be vacant, the estimated potential average of every month of personnel costs in FY 2011 between April 2011 and September 2011 is approximately \$332,506.

Estimated Potential Lapse in Personnel Costs FMTs POA for FY 2011	
Month	Est. Amount
April	325,830
May	325,834
June	335,837
July	335,841
August	335,844
September	335,848
Total	<u>1,995,034</u>

As the FMT hires for these positions, the estimated costs will align with the POA. These funds requested and scheduled will continue to lapse and should reduce the scheduled payments the government of Guam is required to deposit to the Court.

Non-Personnel Costs

Consultants

During the March 30, 2011 court hearing for the quarterly status update from the FMT, Dr. James Kiffer of the FMT mentioned that there were possibilities that certain consultants were not necessary.

Estimated Costs of Consultants - FMTs POA	
Description	Amount
Clinical Management	500,000
Construction	700,000
Training	200,000
Vocational Rehabilitation	300,000
Total	<u>1,700,000</u>

These consultants that Dr. Kiffer mentioned were the Construction and Training consultants. Additionally, with the appointment of Mr. Benito Servino as Acting Director of the DISID during the court hearing, it was mentioned that his expertise in vocational rehabilitation may negate the further need of the Vocational Rehabilitation consultant. The cost savings to the government of Guam if these consultants were not necessary to implement the POA is approximately \$1.2 million.

Main Facility Repair

Dr. Kiffer mentioned that they are working on receiving American Recovery and Reinvestment Act (ARRA) grant funds toward the replacing of the aging air conditioners at and the painting of the Main Facility of the DMHSA in Tamuning, Guam. In the POA, these costs were as follows:

Estimated Costs of Main Facility Repairs - FMTs POA	
Description	Amount
Replace Air Conditioning	350,000
Painting	100,000
Total	<u>450,000</u>

The cost savings to the government of Guam, due to the decrease in need for the FMT to implement the POA, through the expected subsequent receipt of ARRA grant funds is approximately \$450,000.

Other Miscellaneous Expenses

The FMTs POA includes funding for training opportunities for its personnel through Distinguished Lecture Series. As of the end of March 2011, no such workshops have been held. Additionally, at the March 30, 2011 court hearing, Dr. Kiffer mentioned that the FMT could possibly receive ARRA grant funds to pay for vehicles which were estimated in the FMTs POA.

Estimated Costs Miscellaneous - FMTs POA	
Description	Amount
Distinguished Lecture Series (Dec 2010 - March 2011)	12,000
1 Van and 1 Car	60,000
Total	<u>72,000</u>

Total Request for Reduction in Court Ordered Scheduled Payments

The FMTs POA is a living document which can be updated and changed as events and circumstances permit such changes, as approved by the District Court. The above estimated costs in the original POA that are potentially unnecessary and/or have lapsed in fiscal year 2011 should be adopted as changes in the Court Ordered Scheduled Payments by the government of Guam. The total request for reduction is:

Request for Reduction in Estimated Costs of the FMTs POA for FY 2011	
Description	Amount
Lapsed Personnel Costs (Oct. 2010 - Mar 2011)	1,283,239
Cancellation of Hay Study Costs	573,379
Planned Unnecessary Consultant Costs	1,200,000
ARRA Funded Main Facility Repairs	450,000
Other Miscellaneous Costs	72,000
Total	3,578,618
POA Fiscal Year 2011 Total Scheduled Payment	(7,700,000)
New Estimated Fiscal Year 2011 Scheduled Payment	<u>(4,121,382)</u>