



SENATOR JUDITH P. GUTHERTZ DPA

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31st Guam Legislature • *I Mina'trentai Unu na Liheslaturan Guåhan*

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March 1, 2012

The Honorable Leonardo M. Rapadas
Attorney General of Guam
Office of the Attorney General
287 West O'Brien Drive
Hågatña, Guam 96910

Buenas General Rapadas:

I write this letter to request a complete review of the contract for the new John F. Kennedy High School in Tamuning, Guam.

Many concerns regarding the contract and completion of the project are coming to light as the contractor has apparently failed to meet numerous expectations of the government of Guam and the JFK Community.

A new school should foster academic excellence and enthusiasm for all stakeholders and serve as a source of pride for the constituency. However, given the litany of concerns expressed by the Department of Education, the Department of Public Works, and affirmed by officials, including stakeholders from JFK during a roundtable meeting at the Legislature on February 27, 2012, this is not the case.

Many concerns have been expressed and many more are coming to light. These include but are not limited to the following:

- The failure to complete the project in its entirety;
- The integrity of areas and that have been reported to be completed, i.e. hardware, paint, electrical finishing and plumbing;
- Maintenance issues and delineations between the contractor and DOE;
- A lack of working coordination, since the contractor reportedly has not advised school officials of ongoing projects on the campus; and
- The absence of or a very loosely defined "liquidated damages" penalty clause.

As well, in reviewing the contract's project development agreement, I found no record of a signature by the Attorney General of Guam. Is this not required to effectuate a valid contract? And if so, absent any signature by the AG, is the contract in fact, valid?

Do we have any recourse in effectively stopping or reducing payment on the debt service given the performance and responsiveness - or rather a lack thereof; that we've experienced from the parties awarded the contract?

General, the condition of the new JFK is a travesty and does not serve the best interest of our students, staff, faculty and parents at JFK or the island community as a whole.

With the millions of dollars invested and now obligated by the government of Guam, there has to be some recourse available to mediate and address all concerns satisfactorily. We need to impress upon the contractor, who was invited but sent no representative to the recent meeting at the Legislature that he/ she should act expeditiously to address the concerns of stakeholders and act in a forthright and proper manner.

If they will not do it voluntarily or expeditiously, then perhaps a complete review of this contract by the Office of the Attorney General will highlight areas that may be leveraged to the benefit of the government and most importantly our students who continue to suffer through the school year without the promised facilities in place. A brand new facility should hardly have as many issues as are being reported. Moreover, the project should have been completed by now. The good folks at DOE and DPW have been attempting in good faith to bring this situation to resolution for many months.

In light of the latest revelations of the conditions at our newest education facility, it is time to hold some feet to the fire. A full scale review by your office will help to ensure the people of Guam get what they paid for and nothing less.

Thank you in advance for considering this matter. I look forward to your review of the JFK contract in its entirety and any future findings that may be produced. Your guidance and findings will help the government of Guam ensure higher standards and quality for this facility and for future capital improvement initiatives by this government.

Senseramente,



Judith P. Guthertz, DPA

Enclosure: Documents from GEDA

Cc: The Honorable Eddie B. Calvo, Governor of Guam
Lt. Governor Ray Tenorio
Ms. Doris F. Brooks, Office of Public Auditor
Ms. Taling Taitano, Superintendent, DOE
Chairperson & Members, Board of Education
Ms. Joanne Brown, Director, Dept. of Public Works
All Senators