



OFFICE OF THE PEOPLE
SENATOR RÉGINE BISCOE LEE
I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
35TH GUAM LEGISLATURE

January 13, 2020

Via Electronic Mail
law@guamag.org

The Honorable Leevin Taitano Camacho
Office of the Attorney General Guam
ITC Building, Suite 901
590 S. Marine Corps Drive
Tamuning, Guam 96913

Re: Non-Appropriated Funds (NAF) Reimbursements at Agat Mayor's Office

Håfa Adai Attorney General Camacho,

I write today in hopes that the authority of your office will provide clarity on a concerning situation at the Agat Mayor's Office.

Over the course of 2019 an individual has received \$46,138.11 in reimbursements through Non-Appropriated Funds paid to the Agat Mayor's Office. More worrying, an individual of the same name is listed as employed at this office in the Fiscal Year 2019 4th quarter staffing pattern. Their salary at the time was \$28,595.20, far below the funds they reportedly spent. During this same time period, another individual with the same name as an Agat Mayor's Office employee received more than \$10,000 in reimbursements.

Unfortunately, the legally mandated reports which disclosed these reimbursements include little to no details that may justify the frequency or amounts of these payments. But even when descriptions for reimbursements were provided, reasons stated raise red flags, including "Gas for Official," "Official Battery," "Official Tire Repair," "Mango Festival Supplies PI," and "Purchase of (2) Agat Coaches Air Fare Tickets." Many times for these two individuals, unrelated reimbursements are lumped into a single check. No explanation for a payment was given far too often for my comfort.

I have written a similar letter to Senator Jose "Pedo" Terlaje requesting an oversight hearing on the matter. I believe the 35th Guam Legislature must invoke its authority to receive sworn testimony concerning this situation at the Agat Mayor's Office. I have also requested an audit be conducted by the Office of Public Accountability in order to reach a credible determination of compliance or non-compliance, and identify critical areas of risk in order to improve the handling of Non-Appropriated Funds and safeguard NAFs from corruption.

Attorney General Camacho, I write this letter to ask that you join these efforts. I am respectfully requesting that your office review this matter to determine if any actions were taken, expenditures or otherwise, in violation of law or rules and regulations.

As mandated by 5 GCA § 40305, "All cash donations are subject to the rules and regulations governing non-appropriated funds." I believe the Standard Operating Procedures for Appropriated Funds and Non-



Appropriated funds adopted by the Mayor's Council of Guam (MCOG) provides more than enough guidance on how these funds should have been used. According to the relevant sections of this regulatory document:

- When utilizing the "Direct Payment Method" to procure equipment, supplies, or services under Five Hundred Dollars (\$500), "Mayors shall ensure that none of the purchases under this Section shall be artificially divided to meet the requirements of this Section. A violation by any Mayor shall cause that Mayor to lose the right to purchase under this authority." [MCOG Standard Operating Procedures, Appropriated Funds, § 0101 (a)(3)]
- The Mayor is "held responsible and accountable for all NAF funds and ensures that NAF SOP is implemented and followed." Mayor's Council of Guam Standard Operating Procedures, [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0103]
- The Administrative Assistant or Duly Appointed Treasurer is responsible for approving "all vouchers and payments" and ensuring "that it is properly documented." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0104(c)]
- The Administrative Assistant or Duly Appointed Treasurer is responsible for reviewing "all vouchers to ensure that all supporting documents such as receipts, required signatures, meeting minutes, and voucher are complete." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0104(g)]
- The Administrative Assistant or Duly Appointed Treasurer is responsible for providing "Department of Revenue and Taxation Form 1099 after every calendar year (by January 31) for all payments to individuals, vendors, contractors, businesses for payments from the NAF of Six Hundred Dollars (\$600) and above." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0104(i)]
- The Mayor and Municipal Planning Council are responsible for "final approval of all expenditures over Five Hundred Dollars (\$500) from NAF." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0105(b)]
- "If expenditure of funds is required, a payment request form must be completed and submitted to the Mayor for approval." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0106(1)(a)]
- "If buying goods or paying for services, Administrative Assistant acquires one (1) price quote (if expenditure is less than \$500) or three (3) price quotes (if more than \$500)." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0106(1)(b)]
- If the disbursement is over One Hundred Dollars (\$100), the "Municipal Planning Council (MPC) approves and returns the approval with corresponding meeting minutes to the Mayor for processing with the Administrative Assistant." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0106(1)(g)]
- The "Administrative Assistant pays and acquires original receipt from vendor, individual, contractor, or business." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0106(1)(i)]



Re: Non-Appropriated Funds (NAF) Reimbursements at Agat Mayor's Office
January 13, 2020

- The "Administrative Assistant compiles receipt with the paid invoice, approved Request for Payment form, price quotes, and meeting minutes." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0106(1)(k)]
- "If buying goods or paying for services, individual acquires one (1) price quote (if expenditure is less than \$500) or three (3) price quotes (if more than \$500)." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0106(1)(m)]
- "Administrative Assistant ensures all records are accurate and complete; and signs voucher." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0106(1)(p)]
- "Municipal Planning Council (MPC) approves disbursements over \$1,000. Otherwise, Mayor approves." [MCOG Standard Operating Procedures, Non-Appropriated Funds, § 0106(1)(q)]

Attorney General Camacho, the people of Guam must trust that Non-Appropriated Funds received by their public servants will not be used as a slush fund to corruptly enrich government employees. Although I have not seen or received evidence to prove this is the case in Agat, the appearance of this impropriety is enough justification in my mind for our government to respond with multilateral action.

Reimbursing personal funds used to cover purchases with NAFs is "highly discouraged," according to the MCOG manual of standard operating procedures on the use of Non-Appropriated Funds. It is unfortunate that in this instance, these reimbursements seem to be the normal—or even preferred method of procuring goods and services for the Agat Mayor's Office.

Finally, my office can also furnish any documents or research that will help move this effort forward expeditiously. I hope to hear a favorable response on this important search for truth.

Put Respetu,



Senator Régine Biscoe Lee

cc: All Senators, 35th Guam Legislature
Hon. Benjamin J.F. Cruz, Public Auditor
Mr. Angel Sablan, Executive Director, Mayor's Council of Guam

