

**Guam Ancestral Lands Commission  
Non-Appropriated Funds**

**Performance Audit  
October 1, 2002 through September 30, 2005**

**OPA Report No. 06-16  
December 2006**



OFFICE OF THE PUBLIC AUDITOR

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OFFICE OF THE PUBLIC AUDITOR  
**EXECUTIVE SUMMARY**

Non-Appropriated Funds of the Guam Ancestral Lands Commission  
Report No. 06-16, December 2006

The Office of the Public Auditor initiated a performance audit on the Guam Ancestral Lands Commission (ALC) as part of the overall review of government of Guam agencies with non-appropriated funds. Our audit found that the ALC Executive Director and Board of Commissioners did not provide an effective system of checks and balances to ensure that (1) Land Bank licenses were awarded fairly and equitably in accordance with rules and regulations; (2) all revenues were collected and expenditures were made in accordance with law; and (3) non-appropriated funds from the Land Bank Account, Landowner's Recovery Fund, and the Money Market Account were properly accounted for, expended, and reported in accordance with applicable laws and regulations. Specifically, ALC did not:

- Establish rules and regulations for issuing licenses, resulting in inconsistencies in the issuance of properties and the provision of favorable terms and conditions to certain licensees in the private and public sector, as in the following:
  - Four licenses, involving 445,201 square meters, were issued to private companies at disparate rates, ranging from as low as \$0.01 to as high as \$2.00 per square meter per month. One license (representing over 90% of the total square meters licensed) was charged only \$0.01 per square meter.
  - Government entities, such as the Department of Public Health and Social Services' Women, Infants, and Children's (WIC) Program and the Guam Environmental Protection Agency, were charged license fees, but the Guam Police Department and the Guam Fire Department were not.
  
- Establish a system for collecting and monitoring license revenues to ensure that all licensees were current in their payment obligations. As a result:
  - \$90,245 of revenues due the Land Bank were not collected from licensees;
  - \$10,541 in court-ordered restitution payments based on the misuse of money from the Landowner's Recovery Fund remains to be received.
  
- Establish a system of checks and balances over expenditures. As a result, there is a lack of evidence indicating goods or services totaling \$39,625 were competitively procured.
  
- Establish written policies and procedures for managing and accounting for non-appropriated funds. Basic accounting and internal control policies and procedures, such as segregation of duties, regular financial reporting, bank reconciliation, and record keeping are insufficient or nonexistent, resulting in an increased risk of errors or fraud over the \$327,610 in balances for the three fund accounts.

These deficiencies occurred because the Executive Director did not recognize the need for nor implement sufficient internal controls, such as rules and regulations or policies and procedures, for non-appropriated funds or utilization of Land Bank properties. As a result, the Board failed to provide sufficient oversight in its fiduciary role. The Executive Director stated that he was not informed by legal counsel of such requirements. In addition, the ALC management and Board lacked a basic understanding of its role in accounting for non-appropriated funds, as well as recognizing the need for hiring technically qualified staff in this area. In substance, the Legislature assigned a two-person entity, both untrained in the basics of financial management, complete authority over the ALC financial affairs.

Consistent with our findings in similar OPA audits of small government entities with non-appropriated funds, there continues to be a lack of understanding of the importance of internal control, i.e., checks and balances. We urge that the Legislature reconsider the policy of allowing small entities to manage and control non-appropriated funds and require that all non-appropriated funds be accounted for and controlled by the Department of Administration (DOA).

One recommendation made to the Legislature is to transfer by law the accounting of the non-appropriated funds from ALC to DOA and consolidate the administrative functions with the Department of Land Management (DLM). In the interim, we recommend that the Governor issue an Executive Order to transfer the accounting responsibilities from ALC to DOA.

We made four recommendations to ALC: (1) establish rules and regulations for the fair and equitable use of Land Bank properties; (2) refer to legal counsel for collection on entities that fail to pay their license fees and initiate immediate contact with the Superior Court of Guam to identify the status of the repayments and speed up collection efforts; (3) management should establish policies and procedures for managing and accounting for ALC's non-appropriated funds while under their control; and (4) suspend the license with the construction company until the Guam Land Use Commission has given its approval as required by 21 G.C.A. § 60410 and the Attorney General has reviewed this license to determine whether it was issued pursuant to Guam law.

One recommendation made to DOA was to identify whether ALC's use of the government of Guam's EIN is proper and if proper financial reporting is being done. Additionally, DOA should identify other government entities that are utilizing the government of Guam's EIN, determine whether their use is authorized, and ensure that they are properly reporting to DOA.

A draft copy of this report was transmitted to the Executive Director and Chairperson of the Board of the Guam Ancestral Lands Commission. Overall, the ALC Executive Director and most of the Board generally concurred with the findings and with six out of the original eight recommendations of this report. ALC disagreed with our recommendation to transfer the non-appropriated funds to DOA and consolidate the administrative functions with DLM.



Doris Flores Brooks, CPA, CGFM  
Public Auditor



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# Contents

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	<b>Page</b>
Introduction.....	1
Background.....	1
Results of Audit .....	4
Ancestral Land Commission Property Licenses .....	5
Land Bank Account .....	10
Money Market Account .....	11
Landowner’s Recovery Fund.....	12
Management and Accountability of Non-Appropriated Funds .....	15
Transfer ALC Functions to the Department of Land Management.....	18
Conclusion .....	20
Recommendations.....	21
Management Response & OPA Reply.....	22
Appendices	
Appendix 1: Classification of Monetary Impact.....	23
Appendix 2: Scope and Methodology.....	24
Appendix 3: Prior Audit Coverage .....	25
Appendix 4: Land Bank Account Financial Activity .....	26
Appendix 5: Money Market Account FY 2003-2005 Financial Activity.....	27
Appendix 6: Landowner’s Recovery Fund FY 2003-2005 Financial Activity.....	28
Appendix 7: Days Lapsed Before Deposit.....	29
Appendix 8: ALC Management Response .....	30
Appendix 9: Status of Audit Recommendations.....	31



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# Introduction

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This report represents the results of our audit of the non-appropriated funds of the Guam Ancestral Lands Commission (ALC) for fiscal years 2003 through 2005. This audit was initiated as part of our ongoing review of government of Guam agencies with non-appropriated funds.

The audit objectives were to determine whether:

- Checks and balances were in place to ensure that Land Bank licenses were evaluated and fairly and equitably issued for the highest and best use of the lands with consistent terms and conditions;
- Non-appropriated accounts were authorized by law;
- Internal controls over the receipt and disbursement of non-appropriated funds were sufficiently designed and implemented; and
- Non-appropriated funds collected and expended by ALC were properly accounted for, expended, and reported in accordance with applicable laws and regulations.

The audit scope, methodology, and prior audit coverage are detailed in Appendices 2 and 3.

## Background

In 1993, the United States federal government established the Guam Land Use Working Group to do a comprehensive review of military mission related land requirements on Guam. As a result of this study, a master plan known as the Guam Land Use Plan 1994 (GLUP '94) was created. The GLUP '94 recommended consolidation of military activities in the northern and southern parts of the island and it identified more than 8,000 acres of releasable Air Force and Navy properties.

In 1994 and 1997, Public Law (P.L.) 22-145 and 23-141, respectively, recognized the need to develop certain land-use policies and plans for the lands condemned by the federal government and deemed excess to the federal government's needs. Although the Legislature recognized the mandate under which the properties were released from the federal government was to be used, namely, for public purposes, it was felt that the original landowners and their heirs possess the drive, the know-how, the motivation, and the capacity to develop these lands to their best and highest use. Therefore, pursuant to P.L. 22-145 and 23-141, the government of Guam identified 3,200 acres and 6,500 acres released from the federal government that shall be returned to original land owners and their heirs.



Image 1: Guam Ancestral Lands Commission office in Anigua

In June 1999, P.L. 25-45 established the Ancestral Lands Commission to investigate, record, file, and report claims for ancestral lands, and to respond to requests for remedy from claimants, including the government of Guam, for lands taken by the U.S. or by the government of Guam on or after January 1, 1930. The ALC is comprised of seven board members who, by law, must be descendants or heirs of ancestral landowners or claimants. These board members, who are appointed by the Governor, and the Executive Director, who is appointed by the Board, are responsible for ALC's management and operation. Currently, ALC employs only the Executive Director<sup>1</sup> and a land agent, and are assisted by two other employees<sup>2</sup> from the Commission on Decolonization.

The government of Guam mandates the return of land to original landowners, except under the following circumstances:

1. Lands under existing public use, for which the government of Guam shall make good faith efforts to provide a means of compensation for the continued use;
2. Spanish Crown Lands and lands that passed directly into possession of the U.S. under provisions of the Treaty of Paris ending the Spanish-American War;
3. Lands condemned or otherwise acquired by the U.S. prior to January 1, 1930; and
4. Lands originally owned by organizations, not by individuals or families.

As mandated by Chapter 80, Title 21 of the Guam Code Annotated (G.C.A.), the ALC maintains five separate registries to record information in the settlement of ancestral claims as follows:

1. **Original Landowners Registry** – A listing of the names of owners of record when properties were confiscated or condemned by the U.S. or by the government of Guam on or after January 1, 1930. This registry confirms an applicant's property claim for future extinguishment upon receipt of just compensation;
2. **Excess Lands Registry** – A listing of lands already declared excess by the federal or local government, and lands that may be declared excess by the government of Guam in the future. This registry identifies specific lots which ALC may use as just compensation to extinguish claims;
3. **Claims Registry** – A listing of all claims to ancestral title filed by applicants;
4. **Conditional Awards Registry** – A listing of conditional compensation awards;
5. **Ancestral Title Registry** – A listing of applicants granted land title in return for the surrender of their property claims.

The 3,200 acres of land identified in P.L. 22-145 and the additional 6,500 acres identified in P.L. 23-141 are divided into three categories:

- Category 1 - Property deemed releasable to ancestral landowners without restrictions;
- Category 2 - Property deemed releasable, but held in abeyance due to the land return process; and
- Category 3 - Property that cannot be released due to easements or other necessary government functions.

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<sup>1</sup> The ALC Executive Director also serves as the Executive Director for the Commission on Decolonization.

<sup>2</sup> One employee of the Commission on Decolonization is the spouse of an ALC board member.

Based on ALC's inventory, there are 448 releasable lots, or 5,929 acres.<sup>3</sup> As of July 2006, ALC has deeded 234 lots<sup>4</sup> back to original owners. The remaining 214 lots have not been deeded, either because original owners remain unidentified or the lands are deemed Spanish Crown Lands.

The ALC's Board of Commissioners (Board) is responsible for administering the Guam Ancestral Lands Act in order that ancestral landowners and their heirs or descendants may exercise their land rights expeditiously; for establishing a Land Bank to provide just compensation for dispossessed ancestral landowners; and for assuming the role of Claims Facilitator to assist ancestral landowners in pursuit of just remedies.<sup>5</sup> The Board created a subcommittee to oversee the establishment of the Land Bank and its administrative and legal requirements, and to review applications for Land Bank properties with recommendations to the Board for action.

Appropriations to ALC from the Legislature were \$198,421 in FY 2005 and \$198,000 in FY 2006. The ALC administers three non-appropriated savings accounts: (1) Land Bank Account; (2) Landowner's Recovery Fund; and (3) Money Market Account.

### **Land Bank Account**

The Land Bank Account was created by P.L. 25-45 to administer all assets and revenues of the Land Bank, which consists of former Spanish Crown Lands and other non-ancestral lands conveyed by the federal government to the government of Guam. The Land Bank Subcommittee, in its capacity as the Land Bank Trustee, "act[s] as the developer of the lands, if necessary, to the highest and best use...The resulting income shall be used to provide just compensation for those dispossessed ancestral landowners" whose properties cannot be returned. ALC opened the Land Bank savings account as the depository of Land Bank revenues.

### **Landowner's Recovery Fund**

According to P.L. 25-45, the Landowner's Recovery Fund (LRF) was created to further the purposes of Chapter 80, Title 21 of the Guam Code Annotated, to grant loans, loan guarantees or grants-in-aid to landowners, or to defer costs or fees for professional services required by those landowners or class of landowners who have ancestral land claims.

### **Money Market Account<sup>6</sup>**

This Money Market Account was created by the previous ALC administration and is a repository for license revenues from a construction company. We did not find legislation authorizing the creation of this account.

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<sup>3</sup> Releasable properties comprise of categories 1 and 2.

<sup>4</sup> ALC is unable to determine the equivalent acreage of these lots.

<sup>5</sup> P.L. 25-178.

<sup>6</sup> This bank account is named after a private construction company. It is OPA's policy not to release names of individuals or companies in its reports, therefore, we used the term "Money Market Account" in lieu of this.



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# Results of Audit

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Our audit found that the ALC Executive Director and the Board of Commissioners did not provide an effective system of checks and balances to ensure that (1) Land Bank licenses were awarded fairly and equitably in accordance with rules and regulations, (2) all revenues were collected and expenditures were made in accordance with law, and (3) non-appropriated funds from the Land Bank Account, Landowner's Recovery Fund, and the Money Market Account were properly accounted for, expended, and reported in accordance with applicable laws and regulations. Specifically, ALC did not:

- Establish rules and regulations for issuing licenses, resulting in inconsistencies in the issuance of properties and favorable terms and conditions to certain licensees in the private and public sector, as in the following:
  - Four licenses, involving 445,201 square meters, were issued to private companies at disparate rates, ranging from as low as \$0.01 to as high as \$2.00 per square meter per month. One license (representing over 90% of the total square meters licensed) was charged only \$0.01 per sq. meter.
  - Government entities, such as the Department of Public Health and Social Services' Women, Infants, and Children's (WIC) Program and the Guam Environmental Protection Agency, were charged license fees, but the Guam Police Department (GPD) and the Guam Fire Department (GFD) were not.
- Establish a system for collecting and monitoring license revenues to ensure that all licensees were current in their payment obligations. As a result:
  - \$90,245 of revenues due to the Land Bank were not collected from licensees;
  - \$10,541 in court-ordered restitution payments based on the misuse of money from the Landowner's Recovery Fund have not been received.
- Establish a system of checks and balances over competitive bidding. As a result, there is a lack of evidence indicating goods or services totaling \$39,625 were competitively procured.
- Establish written policies and procedures for managing and accounting for non-appropriated funds. Basic accounting and internal control policies and procedures, such as segregation of duties, regular financial reporting, bank reconciliation, and record keeping were insufficient or nonexistent, resulting in an increased risk of errors or fraud over the \$327,610 in balances for the three fund accounts.

These deficiencies occurred because the Executive Director did not recognize the need for nor implement sufficient internal controls, such as rules and regulations or policies and procedures for non-appropriated funds or utilization of Land Bank properties. As a result, the Board failed

to provide sufficient oversight in its fiduciary role. The Executive Director stated that he was not informed by legal counsel of such requirements. In addition, the ALC management and Board lacked a basic understanding of its role in accounting for non-appropriated funds and recognizing the need for hiring technically qualified staff in this area. In substance, the Legislature assigned a two-person entity, untrained in the basics of financial management, complete authority over the ALC financial affairs.

## **Ancestral Land Commission Property Licenses**

ALC inherited or entered into license agreements with private companies and public entities to generate revenue and utilize Land Bank properties. Its authority to do so is contained in P.L. 25-45, which directs ALC to manage Land Bank properties and “act as the developer of the lands, if necessary, to the highest and best use.”<sup>7</sup> ALC is also tasked to administer all assets and revenues of the Land Bank and provide just compensation for dispossessed ancestral landowners. The revenues derived from license fees are deposited into the Land Bank Account, which was opened in September 2004.

ALC inherited a license agreement from the Guam Economic Development and Commerce Authority (GEDCA) after the property was transferred to ALC pursuant to P.L. 23-141 and P.L. 25-45. The existing license allowed a construction company to occupy 40,469 square meters (10 acres) for \$60,000 annually for “open storage of crushed rock, sand, materials, and equipment related to secondary lot crusher operations...” This breaks down to \$5,000 a month, or \$0.12 per square meter, from April 1, 2001 to March 31, 2004. The revenues derived from this license are deposited into the Money Market Account which was opened in November 2001.

### **Lack of Established Rules and Regulations**

Pursuant to 21 G.C.A. Chapter 80, ALC “shall establish rules and regulations pursuant to the Administration Adjudication Law for the Guam-based trust.” Rules and regulations would ensure that licenses were awarded fairly and equitably, and were legally scrutinized beforehand. We found that the ALC Executive Director and the Board did not establish any formal rules and regulations for the issuance of licenses. Subsequently, licenses were issued arbitrarily and inconsistently, with certain licensees receiving relatively favorable terms and conditions.

Both the Executive Director and the Land Bank Subcommittee Chairman stated that it was their understanding that rules and regulations needed to be developed only for the compensation of dispossessed ancestral landowners once money was collected into the Land Bank. We disagree with their contention, since the law is not specific to the development of rules and regulations only for dispossessed landowner’s compensation. According to the Subcommittee Chairman, the undocumented process for issuing a license is as follows:

- Unsolicited letters are received from various businesses and government departments to lease Land Bank property.
- Letters are then referred to ALC’s Subcommittee for review and a public hearing.
- The Subcommittee’s decision to approve or reject a proposal is then forwarded to the Board for disposition. Another public hearing is held for further input.

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<sup>7</sup> 21 G.C.A. §80104 (e).

- Upon Board approval, a license agreement is executed.
- License fees are determined on the basis of the licensee’s proposal.

We found that the ALC’s license issuing process was not consistent. Between FY 2003 through FY 2005, 16 “unsolicited letters” of interest were received. We found public announcements for three Land Bank Subcommittee meetings; however, we were unable to ascertain which letters of interest were discussed during these meetings. We also reviewed five awarded licenses for evidence of public hearings prior to Board approval where we found two of the five licenses were included in the public announcements. We were unable to determine whether the other three licenses were reviewed because other public announcements did not specify these as agenda items. There were only five license agreements issued by ALC during FY 2003 through FY 2005. Our review of correspondence revealed that only three were reviewed by legal counsel, but none were signed by the legal counsel for approval as to legal form.

### Favorable Terms and Conditions

Even without rules and regulations for developing Land Bank properties, ALC started issuing licenses to private companies and government departments in July 2004. Although the ALC did not publicly announce that Land Bank properties were available for licensing, ALC accepted unsolicited letters. According to the Land Bank Subcommittee Chairman, the licensees proposed the fees for their agreement and were reviewed and approved by the Board. These conditions allowed disparities in the rates charged to private and government licensees to occur.

### Licenses to Private Companies

As of September 30, 2005, the ALC issued four licenses to private companies for 445,201 square meters. One license was issued to a construction company for the use of 404,686 square meters (representing over 90%) at \$0.01 per square meter, while another license was issued for 46 square meters for an advertising display at \$2.00 a square meter. We were unable to determine whether the Land Bank licenses were issued at fair market value as these properties were not appraised. See Table 1 for a listing of these licenses and rental rates.

**Table 1: Licenses and Rental Rates**

	<i>Nature of License (Purpose)</i>	<i>Effective Date</i>	<i>Terms</i>	<i>Square Meters</i> <sup>8</sup>	<i>Acres</i>	<i>Fixed Rental Rate (Monthly)</i>	<i>Fixed Rental Value per Month (per square meter)</i>
<b>Land Bank Licenses</b>	Production center, pits, quarrying	7/1/2004	One (1) year <sup>9</sup>	404,686	100	\$5,000.00	\$0.01
	LED Advertising Display	12/21/2004	One (1) year	46	0	\$92.90	\$2.00
	Abandoned Vehicle Program Storage and Processing of metal debris	12/21/2004	One (1) year	20,234	5	\$2,500.00	\$0.12
	Abandoned Vehicle Program Storage and Processing of metal debris	4/1/2005	One (1) year	20,234	5	\$2,500.00	\$0.12
<b>Land Bank Totals<sup>10</sup></b>				<b>445,201</b>	<b>110</b>	<b>\$10,092.90</b>	<b>\$0.02</b>

<sup>8</sup> The sizes of the properties were stipulated in the license agreements and were either in square meters or acres. OPA converted the equivalent square meters or acres as necessary.

<sup>9</sup> This term eventually expired and was renewed for 30 years.

<sup>10</sup> Totals may not add up due to rounding.

	<i>Nature of License (Purpose)</i>	<i>Effective Date</i>	<i>Terms</i>	<i>Square Meters<sup>8</sup></i>	<i>Acres</i>	<i>Fixed Rental Rate (Monthly)</i>	<i>Fixed Rental Value per Month (per square meter)</i>
<b>Money Market Account</b>	Open storage of crushed rock, sand, materials and equipment related to secondary lot crusher operation (Licensed issued by GEDCA and transferred to ALC)	4/1/01 to 03/31/04	Three (3) years	40,469	10	\$5,000.00	\$0.12
<b>Money Market Account Totals</b>				<b>40,469</b>	<b>10</b>	<b>\$5,000.00</b>	<b>\$0.12</b>

We compared the first Land Bank license with the Money Market Account license, which ALC inherited from GEDCA, since both were issued to construction companies. The Money Market Account license was issued at a rate of \$5,000 per month for 40,469 square meters, which equates to \$0.12 per square meter. The Land Bank license also was issued for \$5,000 per month; however, the land size involved was 404,686 square meters -- 364,217 square meters or nine times more than in the Money Market Account license. Based on this comparison, the Land Bank's license rate of one-cent per square meter for 100 acres is woefully inadequate and should be considered a lost opportunity for the compensation of dispossessed landowners. We estimate that ALC could have received as much as \$48,562 a month, or about \$582,747 annually if licensing rates were consistent. However, we cannot confirm this estimate because the Board did not obtain an appraisal for the 404,686-square-meter property. The property under the Money Market license was appraised prior to execution.

The Land Bank license, granting use of the largest amount of property, was issued in July 2004. In a September 2004 letter to the Executive Director, ALC's legal counsel indicated several concerns relating to the issuance of this license. The first concern was that "this agreement appears to be more in the nature of a lease or a granting of mining rights." The second concern was that "because of the nature of the privilege that ALC proposes to extend to 'private company', the plan must be submitted to the Guam Natural Resources Board for its review." Specifically, 21 G.C.A. § 60410 provides that "all proposals for the use, lease or purchase of government land for the purpose of commercial mining or removing therefrom any minerals, rocks or sand for processing shall be presented to the Guam Natural Resources Board," including the statutory requirement to seek approval from the Guam Natural Resources Board. The legal counsel recommended that ALC allow them to submit an application for permission to enter into the agreement with 'private company' to avoid ALC from violating the law. However, we were unable to determine whether ALC had sought permission from the Guam Natural Resources Board since they were unable to provide any documentation; therefore, the issuance of this license may be in violation of 21 G.C.A. § 60410.



Image 2: The largest license issued by ALC was for 100 acres for \$0.01 per square meter. The property is located in Yigo.

We recommend ALC suspend the license with the construction company until the Guam Land Use Commission has given its approval as required by 21 G.C.A. § 60410 and the Attorney General has reviewed this license to determine whether it was issued pursuant to Guam law.

The licensing term was for one year, with the option to renew. The license expired in July 2005, but was subsequently renewed in January 2006 at the same monthly rate. It appears that, between the expiration and the renewal, the construction company may have enjoyed free use of the land for six months. If such is the case, ALC lost the opportunity for earning \$30,000 of potential revenue for the compensation of dispossessed landowners.

Based on the low rental rate of \$0.01 per square meter for 404,686 square meters (or 100 acres) of ALC property, the renewal of the license at the same rates, and the lack of a public advertisement about the availability of property, we determined that favorable terms were given to this licensee.

We found no evidence that the construction company ceased operating on the property or that ALC conducted any site inspections prior to renewing the license. We did find evidence that the Department of Agriculture had conducted site visits to determine whether endangered or potentially endangered species of flora or fauna were present on the property. As a result of the site visit, the Department of Agriculture stated that they cannot approve the plan submitted by the construction company to utilize the 100- acre property.

### **Licenses and Agreements with Government Entities**

In December 2004, ALC issued a license to the Department of Public Health and Social Services' Women, Infants, and Children Program (WIC) for the use of an 8,000-square-foot office space in Tiyan for \$8,000, or \$1.00 per square foot per month. The license agreement was entered into for 10 years and is part of the Land Bank inventory. Although a license agreement was entered into, we found that WIC has not remitted any payments to ALC.

The Guam Environmental Protection Agency (GEPA) was occupying a building in the same area in Tiyan. ALC informed GEPA that it would need to pay for a license to continue to use the property, as "all properties within [the] Land Bank Program are to be utilized by ALC to generate revenue for the compensation of original landowners whose lands are being utilized for public purposes." GEPA signed a 30-year license agreement in October 2005 for 8,000 square feet of office space at \$8,000, or \$1.00 per square foot, per month. This license was excluded from our testing because it was outside of our scope, but it should be noted that, like WIC, GEPA has yet to pay ALC for leasing the property.

Aside from the licenses issued to WIC and GEPA, we found that ALC entered into a Memorandum of Agreement (MOA) with GPD and GFD for the use of 3 ½ acres of Land Bank property for the construction of police and fire stations. The MOA was set for 10 years with no monetary consideration. Although Board minutes did not indicate why these entities were treated differently, one Board member stated that the MOA between GFD and GPD were for the "benefit of the public."

In our review of the two licenses and one MOA, we noted inconsistencies in what was being charged to government entities utilizing Land Bank properties. We maintain that all government

entities be treated equally. Table 2 lists ALC’s licenses and memorandum of agreement with government entities.

**Table 2: Agreements with Government Entities**

	<i>Department/Agency</i>	<i>Effective Date</i>	<i>Terms</i>	<i>Size of Property<sup>11</sup></i>	<i>Fixed Rental Rate (Monthly)</i>	<i>Fixed Rental Value per Month (per square foot)</i>
<b>Government Licenses</b>	Department of Public Health and Social Services- Women, Infants, and Children	December-04	10 years	8,000 sq. ft. (746 sq. m)	\$8,000.00	\$1.00
	Guam Environmental Protection Agency <sup>12</sup>	October-05	30 years	8,000 sq. ft. (746 sq. m)	\$8,000.00	\$1.00
<b>Memorandum of Agreement</b>	Guam Fire Department <sup>13</sup>	Unknown <sup>14</sup>	10 years	6,070 sq. m (1.5 acres)	None	None
	Guam Police Department	Unknown	10 years	8,094 sq. m (2 acres)	None	None

An ALC Board member stated that the licenses were only meant to be temporary until a Request for Proposal (RFP) process was established. Based on the length of years awarded to WIC (10 years) and GEPA (30 years), we disagree with the contention that the licenses are temporary. The practice of issuing “temporary” licenses for 10 or 30 years speaks directly to the lack of rules and regulations. Established rules and regulations would have addressed the length of time a government entity may have, as well as guidelines as to who and how much they would have to pay.

In August 2003, ALC entered into a Memorandum of Understanding (MOU) with GEDCA to help develop the Land Bank properties through an RFP process. The agreement was “for GEDCA to provide support and services to ALC in ALC’s effort to lease Spanish Crown properties to prospective developers to satisfy ALC’s mandate set forth in P.L. 25-45, P.L. 25-178, and P.L. 26-36 of generating revenues to pay those original landowners who will not be able to regain their original land holdings due to continued federal or local public use of those landholdings.” The first license was issued in July 2004, but the RFP process has yet to be approved by ALC’s Board of Commissioners.

We recommend the Board of Commissioners establish rules and regulations pursuant to the Administrative Adjudication Act for the utilization of Land Bank properties to include, at a minimum, independent appraisals; rate schedules consistent with appraisals; legal counsel reviews; uniform application forms, and required submission of applicants’ business plans and financial statements; and Board approval for the utilization of Land Bank properties.

<sup>11</sup>The government licenses were for office space; the two government Memoranda of Agreement were for raw land.

<sup>12</sup> This license is for informational purposes only as GEPA entered into the agreement after our scope.

<sup>13</sup> There was only one MOA found in the files with GPD; however, this MOA also identified GFD to utilize a portion of the property for no monetary contribution.

<sup>14</sup> Several requests have been made by OPA to provide a signed copy of the MOA. To date, ALC has not been able to provide a signed copy which would indicate the effective date of the agreement.

## Land Bank Account

The Land Bank Account had an ending balance of \$80,237 on September 30, 2005.<sup>15</sup> Although ALC's income is to be used to provide just compensation to dispossessed ancestral landowners, no funds have been disbursed because the Board of Commissioners has yet to determine a compensation schedule for eligible recipients since the Land Bank Account was opened in September 2004. See Appendix 4 for the Land Bank Account's monthly deposit and ending balance summary.

### Loss of Projected Revenue for the Land Bank Account

There were no internal controls designed and in place over the Land Bank Account's funds to ensure that all revenues were collected and financial activities were monitored. While reviewing the license agreements to determine rental rates and terms and conditions, we determined that ALC should have received a total of \$170,336 (\$98,336 from four private companies and \$72,000 from WIC) between July 2004 and September 2005. The Executive Director stated that certain licenses were terminated as a result of non-payment. We requested written communication between ALC and the licensee, as required by the license agreement, indicating that the license had been terminated; however, ALC was unable to provide such documents.

ALC did not consistently issue pre-numbered receipts to all licensees when payments were received; therefore, we reviewed bank statements and other supporting documentation to determine which entities paid. We projected<sup>16</sup> that the ALC did not collect license revenues of \$90,245 to which they were entitled (\$170,336 in projected revenues less \$80,091 in license fees collected). See Table 3 for the variance between actual deposits and projected revenues.

**Table 3: License Fee Collections vs. OPA Projected Revenues  
from July 2004 to September 2005**

<i>Utilization of Land Bank Property</i>	<i>Land Bank License Fees Collected</i>	<i>OPA Projected License Fees</i>	<i>Variance</i>
<i>Private Licenses</i>			
LED Advertising Display	\$91	\$836	(\$745)
Production center, pits, quarrying	\$60,000	\$60,000	\$ -
Abandoned Vehicle Program Storage and Processing of metal debris	\$5,000	\$22,500	(\$17,500)
Abandoned Vehicle Program Storage and Processing of metal debris	\$15,000	\$15,000	\$ -
<i>Total Private Licenses</i>	<i>\$80,091</i>	<i>\$98,336</i>	<i>(\$18,245)</i>
<i>Government Licenses</i>			
WIC	\$ -	\$72,000	(\$72,000)

<sup>15</sup> As of June 30, 2006 the balance of the Land Bank Account was \$114,766. This information was derived from the June 2006 bank statement. No testing was performed on transactions occurring from October 2005 through June 2006.

<sup>16</sup> We calculated projected revenues by multiplying the established rental rate by the starting date of the license until September 2005, then comparing the amounts with the actual deposits recorded in the bank statements.

<i>Utilization of Land Bank Property</i>	<i>Land Bank License Fees Collected</i>	<i>OPA Projected License Fees</i>	<i>Variance</i>
<i>Total Government Licenses</i>	\$ -	\$72,000	(\$72,000)
<b>Totals</b>	<b>\$80,091</b>	<b>\$170,336</b>	<b>(\$90,245)</b>

These conditions occurred because the Executive Director and Board of Commissioners did not establish a monitored rent collection system to ensure licensees remained current in their payment obligations. We recommend the Executive Director design and implement a collection system for Land Bank revenues to include a database containing, at a minimum, the names of licensees, monthly rental payments, commencement and termination dates of agreements, payment due dates, and actual payment dates with the corresponding pre-numbered receipt. The Executive Director should also regularly monitor the system to make sure licensee obligations remain current and that past due notification letters are sent in a timely manner. In addition, we recommend that the names of entities who fail to pay after sufficient notification be forwarded to ALC's legal counsel for collection.

## Money Market Account

The Money Market Account had a balance of \$90,675 prior to our audit scope period and received \$64,094 in revenues from FY 2003 through 2005, including restitution payments from a former ALC employee who diverted \$15,000<sup>17</sup> into the Landowner's Recovery Fund to cover up unauthorized withdrawals in 2002. See Table 4 for a breakdown of revenues from October 1, 2002 to September 30, 2005.

**Table 4: Revenues by Type from FY 2003 to FY 2005**

<i>Revenue Type</i>	<i>Total Revenues</i>
License fees	\$ 60,000.00
Interest	\$ 1,694.31
Restitution payments	\$ 2,400.00
<b>Total</b>	<b>\$ 64,094.31</b>

No disbursements were made from this account as distribution of its funds is under litigation. Although the lands being licensed were returned to original landowners, ALC holds the position that the funds derived while the lands were in ALC's possession belong to ALC. The Money Market Account had a \$154,770 ending balance as of September 30, 2005<sup>18</sup>. See Appendix 5 for a monthly summary of financial activity of the Money Market Account.

<sup>17</sup> Total unauthorized withdrawals totaled \$13,843; however, the former employee diverted a check in the amount of \$15,000 to cover-up the withdrawals.

<sup>18</sup> As of June 30, 2006 the balance of the Money Market Account was \$156,753. This information was derived from the June 2006 bank statement. No testing was performed on transactions occurring from October 2005 through June 2006.



## Employee Defalcation

Between September and November 2002, an ALC employee made six unauthorized withdrawals totaling \$13,843 from the Landowner's Recovery Fund. After being indicted by the Attorney General in February 2003, the employee pled guilty to five counts of monetary theft (as second<sup>nd</sup> and 3<sup>rd</sup> degree felonies) and official misconduct as a misdemeanor. The former employee was ordered to repay the \$13,843 in three years and was barred from ever seeking full-time employment in the government of Guam. Since the plea agreement was signed in October 2003, restitution payments should have been completed by October 2006. As of May 2006, however, the former employee has repaid only \$3,301.<sup>19</sup> This payment was received by the courts and forwarded to ALC, which deposited them into the Money Market Account.

The former employee failed to meet the October 2006 payment deadline. We found no indication that there were repercussions for this failure. The Executive Director did not monitor or make any appropriate follow-up to ensure that restitution payments were made. As a result, \$10,541 remains outstanding. This matter should be referred to ALC's Legal Counsel for follow-up with the Superior Court of Guam to expedite collection.

## Landowner's Recovery Fund

In 2001, pursuant to 12 GCA § 74105, GEDCA transferred \$170,000 to ALC of which \$100,000 was used to open a time certificate of deposit (TCD); however, we could not substantiate how the remaining \$70,000 was used by ALC because complete bank statements were not available for our review. ALC uses the LRF to subsidize its operations, as P.L. 25-178 allows the fund to be utilized to "further the purposes of Chapter 80 Title 21 of the Guam Code Annotated."

### LRF Deposits

Our review of the LRF showed \$117,279 in deposits and \$82,038 in disbursements from October 2002 to September 2005. The account had an ending balance of \$92,603 as of September 30, 2005.<sup>20</sup> In June 2004, the ALC closed the TCD and deposited \$100,000 into the LRF, which are funds originally received from GEDCA; smaller deposits come from counter fees and interest. See Appendix 6 for a monthly summary indicating deposits, disbursements, and ending fund balance in the LRF. See Table 5 for a breakdown of deposits by type.

**Table 5: Deposits by Type**

<i>Deposit Type</i>	<i>Total Deposits</i>
TCD from GEDCA funds	\$ 100,000.00
Diverted funds from Money Market Account	\$ 15,000.00 <sup>21</sup>
Interest	\$ 1,555.18 <sup>22</sup>
Counter Fees (checks)	\$ 380.00

<sup>19</sup> This amount includes the \$2,400 restitution payment received as of September 2005.

<sup>20</sup> As of June 30, 2006 the balance of the Landowner's Recovery Fund was \$77,508. This information was derived from the June 2006 bank statement. No testing was performed on transactions occurring from October 2005 through June 2006.

<sup>21</sup> To cover the unauthorized withdrawals from Landowner's Recovery Fund, the former ALC employee diverted \$15,000 from the Money Market Account into the LRF.

<sup>22</sup> This amount includes the interest earned on the TCD.

<i>Deposit Type</i>	<i>Total Deposits</i>
Unknown	\$ 344.00 <sup>23</sup>
Total	\$ 117,279.18

Most of the counter fees were paid in cash, which ALC did not deposit, but instead held for miscellaneous disbursements. The nature of \$344 is unknown due to the lack of documentation. A license fee deposit of \$15,000, which should have been deposited into the Money Market Account was used to cover up the former employee's unauthorized withdrawals totaling \$13,843.

### **Cash Not Deposited**

According to ALC staff, few large payments are made in cash. Most cash payments are from counter fees for copies of documents, maps, or tapes and are not deposited into any of the bank accounts. Instead, the cash is used for in-office purchases. Based on the receipt book, cash received from October 2002 through September 2005 amounted to \$974; however, we found receipts for in-office purchases totaling \$1,055, suggesting that receipts were not written for all cash payments.

### **LRF Disbursements**

From 2003 through 2005, the LRF Account had 25 disbursement transactions totaling \$82,038. Of these disbursements, \$11,740<sup>24</sup> was categorized as "payroll services" a term used by ALC's former employee to disguise unauthorized withdrawals and \$2,008 was categorized as "unknown" because we were unable to ascertain the nature of these disbursements due to the lack of supporting documentation. See Table 6 for disbursements by type.

**Table 6: LRF Disbursements by Type**

<i>Disbursement Type</i>	<i>Total Disbursements</i>
Legal Services	\$ 50,709.50
Payroll Services (Defalcation by Employee)	\$ 11,740.14
Computer Supplies	\$ 4,973.37
GEDCA/MOA Support Services	\$ 4,616.50
Professional Services	\$ 3,008.00
Advertisements	\$ 2,282.00
Unknown	\$ 2,008.00
Copy Machine	\$ 1,773.00
Abstract	\$ 408.00
Printing Expenses	\$ 221.96
Reimbursement	\$ 208.00
Correction of Deposit	\$ 90.00 <sup>25</sup>

<sup>23</sup> This deposit was miscalculated by ALC and should have been \$254; therefore, the banking institution debited the account for \$90 to correct this deposit shown on the bank statement.

<sup>24</sup> This amount does not include \$2,143 (includes \$40 bank fee) of unauthorized withdrawals that occurred in a period that is not under our audit scope.

<sup>25</sup> This amount was a debit memo made by the banking institution to correct ALC's miscalculation of a deposit.

<i>Disbursement Type</i>	<i>Total Disbursements</i>
Total	\$ 82,038.47

### **New Disbursement Policy as a Result of Defalcation**

As a result of the former employee’s misappropriation, the Board changed the disbursement process in May 2003. The following requirements now apply for withdrawals from the LRF:

- Minutes of Board approval of such withdrawal;
- Executive Director’s written Withdrawal Directive, numerically noted per fiscal year;
- All other documentation supporting the request;
- Physical presence of authorized signers at the bank to submit withdrawal request;
- Naming of authorized staff to pick up completed checks as issued by Bank of Hawaii, if applicable;
- No verbal, facsimile, telefax, or email request of any kind is authorized.<sup>26</sup>

Despite the design of this elaborate disbursement policy, we found these requirements were not always followed. We found that one disbursement did not have minutes of Board approval. In eight other disbursements, the Board unilaterally authorized ALC to “use the account for administration and operations,” as evidenced by the use of the same excerpt from the minutes of a February 2004 meeting. There were two other disbursements where the Executive Director did not certify the excerpts of minutes; three disbursements did not have supporting documents, such as receipts or invoices; and one disbursement package was submitted by fax. Seventeen disbursements were not accompanied by a written Withdrawal Directive numerically noted per fiscal year, but rather with an unnumbered memorandum of request. Numerical documents ensure accountability, as they allow reviewers to easily account for all numerical documents and investigate reasons for missing documents.

Based on these findings, we concluded that ALC did not implement a sufficient system of checks and balances to ensure that all LRF revenues were deposited in a timely manner and disbursements were made in accordance with policy.

### **Noncompliance with Procurement Laws and Regulations**

According to 5 G.C.A. § 5004 (b), procurement shall apply to every expenditure of public funds irrespective of [its] source. Guam Procurement Law and Regulations provide guidance for the government’s procurement of goods and services for effective and broad-based competition. Pursuant to Title 2 of the Guam Administrative Rules and Regulations (GAR) § 3111 (c)(1), no less than three written quotations from businesses are to be solicited, recorded, and placed in the procurement file for small purchases between \$500 and \$15,000. For purchases less than \$500, §3111 (e) requires procurers to provide adequate and reasonable competition, to keep records to properly account for the funds, and to facilitate auditing.

ALC did not follow Guam procurement regulations for 14 of the 16 disbursements subject to procurement. We found no evidence to indicate that goods or services, such as legal services,

<sup>26</sup>The former employee used electronic communication to commit defalcation.

computer supplies, and professional services, totaling \$39,625 were competitively procured. See Table 7 for a summary of the 14 disbursements that were not competitively procured:

**Table 7: Disbursements Not Competitively Procured**

<i>Disbursement Type</i>	<i>Amount</i>
Legal Services	\$ 27,366.50
Computer Supplies, Maintenance, and Repairs	\$ 4,973.37
Professional Services	\$ 3,008.00
Advertisements	\$ 2,282.00
Printing Expenses	\$ 221.96
Copy Machine	\$ 1,773.00
Total	\$ 39,624.83

Of the six disbursements that were less than \$500, five did not have documentation to indicate reasonable competition. We did not find three written quotes for all eight transactions ranging from \$500 to \$15,000. For one transaction totaling \$25,859 for Legal Services, ALC was unable to provide a copy of the RFP.<sup>27</sup> Also due to a lack of documentation, we were unable to determine the nature of one disbursement.

## **Management and Accountability of Non-Appropriated Funds**

It is management's responsibility to establish and maintain checks and balances (i.e., internal controls), the first line of defense against fraud and abuse. These are key to safeguarding assets and preventing and detecting errors and fraud. We provided ALC management with a set of guidelines for internal controls in October 2006.

During our review, we found that ALC did not have written policies or procedures for the management and accounting of ALC's non-appropriated funds. Because there were no written policies or procedures, employees were not provided with the proper guidance on how to manage, account for, and report the non-appropriated funds. Subsequently, this resulted in the following deficiencies:

- Lack of Financial Reports
- Lack of Separation of Duties
- Lack of Bank Reconciliations
- Insufficient Record Keeping

### **Lack of Financial Reports**

Accountability is the cornerstone of all financial reporting in government. Financial reporting plays a major role in fulfilling the government's duty to be publicly accountable. On a day-to-day basis, these reports are useful in making operating decisions, monitoring performance, and allocating resources.

<sup>27</sup> Title 2 of the Guam Administrative Rules and Regulation Division 4 §3114(b) states that competitive selection procedures shall be used for all procurement of services, which includes legal services, in excess of \$5,000.

ALC did not prepare and submit financial reports to the Board or the Department of Administration (DOA) for inclusion into the basic financial statements of the government of Guam. We found that the Board of Commissioners did not require or request financial reports from ALC management. Instead, copies of bank statements were provided to the Board upon request. As a result, \$327,610 in fund balances was not consistently reported to the Board of Commissioners or DOA.

### **Lack of Separation of Duties**

A good system of checks and balances spreads responsibility for a transaction or series of related transactions over two or more individuals or departments. The work of one acts as a check on the other. This is the principle behind separation of duties. Separating incompatible duties ensures that no employee can be in a position to commit an irregularity and to conceal it. Ideally, no single individual should be able to (1) authorize a transaction, (2) record the transaction in the books of the account, and (3) have custody or access to the asset resulting from the transaction.

During our review, we found that the responsibility for collecting funds is not assigned to a specific individual; anyone available collects funds. Due to staff limitations, the Executive Director utilized the staff of the Commission on Decolonization to assist in the administration of ALC's non-appropriated funds.

We recognize that complete segregation of duties may not be feasible with only two ALC employees; therefore, to provide a compensating control, the Board should monitor the receipt and use of non-appropriated funds by requiring the preparation of financial reports, developing written policies and procedures, and rotating responsibilities among employees.

### **Lack of Bank Reconciliation**

The independent review and reconciliation of monthly bank statements is an important internal control activity used to ensure the validity and accuracy of financial transactions. We found no evidence that bank statement reconciliations were prepared for management review. When reconciliations are not properly performed, accountability over financial resources is greatly diminished and the risk for errors and irregularities greatly increases.

As an example, we found that a board member utilized the receipt book for \$1,600 unrelated to ALC. The figure was misinterpreted as revenue to ALC, resulting in an overstatement of ALC revenues. When we approached the board member about the nature of this receipt, he admitted an oversight on his part. The receipt was written for a permit fee for Paseo Stadium.

Additionally, we found that revenues were not deposited in a timely manner. We found deposits as late as 463 days after the revenues were collected. See Appendix 7 for the lapsed days between collections and deposits.

### **Insufficient Record Keeping**

All documentation and records should be properly managed, maintained, and periodically updated. ALC has not established a formal record-keeping and documentation process to

encourage consistent application. If records are not complete and kept up to date, errors and discrepancies are more likely to escape detection and correction.

As an example, a total of six bank statements from FY 2003 to FY 2005 were missing from the files. Four were missing from the LRF and two from the Money Market Account. We requested ALC to obtain copies of the missing statements from the banks to complete their records; however, to date, the requested bank statements have not been received. We also observed that there was a lack of supporting documents for the issuance of licenses and disbursements.

We recommend ALC establish a record keeping system to ensure that there are sufficient accounting records to identify, assemble, classify, record, and report transactions.

5 G.C.A. § 8113 states, “The minutes of every meeting of each public agency shall be promptly and fairly recorded, shall be open to public inspection and shall include but not be limited to a record of all motions, proposals and resolutions offered, the results of any votes taken....” Minutes are official records of meetings and should contain important information about items or requests presented to the Board, discussions among Board members regarding the items or requests, and decisions made by the Board, either by written resolution, voice vote, or show-of-hands. Minutes should always include the date and time of the meeting and the names of members present. Detailed minutes serve as tracking devices for the course of Board activity over time. We were unable to review the history of ALC Board activity because approved minutes were not consistently prepared for Board meetings and excerpts were inadequate. Furthermore, we recommend ALC improve its record keeping with regard to minutes of Board meetings.

The lack of financial reporting, bank reconciliations, separation of duties, and insufficient record keeping, provides evidence of ALC’s insufficient basic accounting knowledge and lack of technical expertise. As evidenced by the former employee’s defalcation, ALC made efforts to change its disbursement process, but did not monitor its subsequent financial performance for potential fraud or errors. Due to the internal control deficiencies found, and the lack of staff to maintain the accounting of non-appropriated funds, we recommend the Governor, through Executive Order, transfer the accounting of ALC’s non-appropriated funds to the Department of Administration.

### **Utilization of EIN Number**

An Employer Identification Number (EIN) is a nine-digit number that the Internal Revenue Service (IRS) assigns to employers, sole proprietors, corporations, partnerships, nonprofit associations, trusts, estates of decedents, government agencies, certain individuals, and other business entities. The Internal Revenue Service uses the EIN to identify taxpayers that are required to file various business tax returns.

DOA has the authority to monitor accounts utilizing the government of Guam’s EIN. The ALC used the government of Guam’s EIN to open its non-appropriated fund bank accounts. Although DOA has no direct involvement in the management of ALC’s non-appropriated funds, ALC is required to submit financial reports to DOA. ALC has not done so, and the Executive Director has said he was unaware of this requirement. The fact that DOA did not detect the existence of the ALC accounts with the government of Guam EIN suggests that DOA does not properly monitor the use of the EIN.

Without the proper monitoring on DOA's part and ALC's failure to report such accounts and related activity to DOA, the \$327,610 in ALC's fund balances were not included in the annual financial statements of the government of Guam. There may be other government entities utilizing the EIN without reporting to DOA on a quarterly basis.

We recommend ALC prepare quarterly financial reports to be submitted to DOA. We also recommend that DOA determine whether other government entities are utilizing the EIN and are duly submitting quarterly financial reports.

## **Transfer ALC Functions to the Department of Land Management**

Based on our review of the ALC's non-appropriated funds, we concluded that the management and Board of Commissioners did not fulfill their responsibilities to account for its resources nor meet other fiduciary obligations, such as control over non-appropriated funds and providing appropriate office hours opened to the public.

As mentioned throughout this report, ALC lacked a basic understanding of internal controls and accounting knowledge in managing its non-appropriated funds. ALC exhibited a lack of prudence in not maximizing Land Bank properties and authorizing licenses for a penny per square meter per month.

After deeding a considerable number of properties back to original landowners, ALC's functions have dwindled to being the recipient of money for dispossessed landowners, yet ALC has not developed and implemented a payment schedule for them. In its seven-year existence, ALC has accumulated \$327,610 in cash with minimal activity in its three bank accounts. Of this amount, \$170,000 was received from GEDCA through public law; another \$60,000 came from a lease negotiated by GEDCA; and \$3,396 came from interest earned during the period of our review.



Image 3: ALC's hours are posted at the entrance to their office.

With only two employees, an Executive Director and a land agent on staff, ALC has had to rely on the employees of the Commission on Decolonization to take over some administrative functions. ALC's posted office hours are from 9:00 am to 12:00 pm and 1:00 pm to 4:00 pm Monday through Friday, indicating that the office is open to the public only six hours a day, or 30 hours a week. According to the land agent, employees would arrive at 8:00 am and open their doors at 9:00 am, close their doors to the public at 4:00 pm, but stay until 5:00 pm.

In 2003, the Governor recommended the consolidation of ALC with the Department of Land Management (DLM), in an effort to reduce the cost and size of the government. The Legislature, however, took no action to merge the ALC with DLM.

While we acknowledge ALC is fulfilling its responsibility to return excess lands to original owners or their descendents, ALC has not maximized its resources. In response to their

insufficient management of Land Bank properties and non-appropriated funds, i.e., the overall lack of accountability for resources -- inequitable land distribution, employee allocation, or hours this office is available to the public, the Governor's recommendation that ALC be transferred as a division within DLM has merit. As a division of DLM, ALC will receive administrative support to identify, survey, and deed current and future properties to original landowners or descendents. The Board of Commissioners would continue in their role in providing policy and oversight over this division.



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# Conclusion

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Overall, our audit disclosed that ALC management and the Board did not provide sufficient oversight to ensure accountability over the administration of its non-appropriated funds. Consistent with our findings from OPA audits of similar small entities with non-appropriated funds, there appears to be a continued lack of understanding of the importance of internal control, i.e., checks and balances. Each entity's personnel were found to lack sufficient accounting knowledge, including the ability to prepare monthly or annual financial reports. We consistently found with ALC and other similar entities a lack of sufficient oversight by management to properly account for, report, and monitor the non-appropriated funds activities.

As it relates to our audit objectives, specifically we conclude that:

- Checks and balances were not sufficiently designed or in place to ensure that Land Bank licenses were properly evaluated and fairly and equitably issued for the highest and best use of the lands with consistent terms and conditions;
- Non-appropriated accounts were properly established as authorized by law, except one;
- Internal controls over the receipt and disbursement of non-appropriated funds were not sufficiently designed and implemented; and
- Non-appropriated funds collected and expended by ALC were not properly accounted for, expended, and reported in accordance with applicable laws and regulations.

In addition, the activities of ALC's non-appropriated funds have not been reported to DOA for inclusion in the government of Guam's annual audit, nor have they been reported to the Governor or the Legislature. While we recognize it is the prerogative of the Legislature to authorize entities to have bank accounts, we have found a consistent lack of accountability and transparency among these entities; therefore, we urge the Legislature reconsider the policy of allowing small entities to manage and control non-appropriated funds and require that all non-appropriated funds be accounted for and controlled by the Department of Administration.

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# Recommendations

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## **Recommendations to the Executive Director of the Guam Ancestral Lands Commission:**

1. Establish rules and regulations for the fair and equitable use of Land Bank properties.
2. Refer to legal counsel for collection on entities that fail to pay their license fees; and initiate immediate contact with the Superior Court of Guam to identify the status of the repayments and speed up collection efforts.
3. ALC management should establish policies and procedures for managing and accounting for ALC's non-appropriated funds while under their control.
4. Suspend the license with the construction company until the Guam Land Use Commission has given its approval as required by 21 G.C.A. § 60410 and the Attorney General has reviewed this license to determine whether it was issued pursuant to Guam law.

## **Recommendations to the Department of Administration:**

5. Identify whether ALC's use of the government of Guam's EIN is proper and if proper financial reporting is being done. Additionally, DOA should identify other government entities that are utilizing the government of Guam's EIN and determine whether their use is authorized and that they are properly reporting to DOA.

## **Recommendations to the Governor of Guam:**

6. Transfer through Executive Order the accounting of ALC's non-appropriated funds to the Department of Administration.

## **Recommendations to the Guam Legislature:**

7. Enact through public law the permanent transfer of non-appropriated funds to DOA and consolidate the administrative functions of the ALC into the Department of Land Management.

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# Management Response & OPA Reply

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A preliminary draft report was transmitted to the Executive Director and Board Chairperson on November 30, 2006. We met with the Executive Director, Board Chairperson, and other members of the Board on December 12, 2006 to discuss the preliminary draft report. Appropriate revisions were made to the report, including the consolidation of recommendations seven and eight.

On December 14, 2006, ALC's Executive Director submitted an official response indicating concurrence with six out of eight recommendations. See Appendix 8 for ALC's official management response. The response stated that ALC is "repudiating both seven (7) and eight (8) that recommends dissolving GALC entirely." The recommendations were to enact through public law the permanent transfer of non-appropriated funds to DOA and consolidate the administrative functions of the ALC into the Department of Land Management. Our recommendation to permanently transfer the non-appropriated funds to DOA remains as ALC does not have the technical staff capability to manage the non-appropriated funds.

To clarify our recommendation of the transfer of ALC to DLM, we do not advocate the dissolution of ALC. The transfer is so that DLM can provide administrative support and other expertise given that ALC has only two staff. We understand the vital role ALC serves to the people of Guam as the Board is responsible for investigating, recording, filing, and reporting claims for ancestral lands, and responds to remedies from claimants for lands taken by the U.S. or by the government of Guam. The Board would continue in its capacity to develop policies and provide proper oversight to ALC.

The legislation creating the Office of the Public Auditor requires agencies to prepare a corrective action plan to implement audit recommendations, to document the progress of implementing the recommendations, and to endeavor to have implementation completed no later than the beginning of the next fiscal year. Accordingly, our office will be contacting the Guam Ancestral Lands Commission to establish the target date and title of the official responsible for implementing the recommendations.

We appreciate the cooperation shown by the Guam Ancestral Lands Commission's Executive Director, Chairperson of the Board, and staff.

OFFICE OF THE PUBLIC AUDITOR



Doris Flores Brooks, CPA, CGFM  
Public Auditor

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## Appendix 1: Classification of Monetary Impact

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<u>Finding Area</u>	<u>Lost/Potential Revenues<sup>1</sup></u>	<u>Unsupported Costs<sup>2</sup></u>	<u>Total</u>
<b>Ancestral Land Commission Property Licenses</b>			
Lack of Established Rules and Regulations	\$ -	\$ -	\$ -
Favorable Terms and Conditions	\$ -	\$ -	\$ -
Licenses to Private Companies	\$ 18,245	\$ -	\$ 18,245
Licenses and Agreements with Government Entities	\$ 72,000	\$ -	\$ 72,000
<b>Land Bank Account</b>			
Loss of Projected Revenue for the Land Bank Account	\$ 30,000	\$ -	\$ 30,000
<b>Money Market Account</b>			
Employee Defalcation	\$ 10,541	\$ -	\$ 10,541
<b>Landowner's Recovery Fund (LRF)</b>			
LRF Revenues	\$ -	\$ -	\$ -
Cash Not Deposited	\$ -	\$ -	\$ -
LRF Disbursements	\$ -	\$ 2,008	\$ 2,008
New Disbursement Policy as a Result of Defalcation	\$ -	\$ -	\$ -
Noncompliance with Procurement Laws and Regulations	\$ -	\$ 39,625	\$ 39,625
<b>Management and Accountability of Non- Appropriated Funds</b>			
Lack of Financial Reports	\$ -	\$ -	\$ -
Lack of Separation of Duties	\$ -	\$ -	\$ -
Insufficient Record Keeping	\$ -	\$ -	\$ -
Lack of Bank Reconciliation	\$ -	\$ -	\$ -
Utilization of EIN Number	\$ -	\$ -	\$ -
<b>Transfer ALC Functions to the Department of Land Management</b>			
	\$ -	\$ -	\$ -
<b>TOTAL:</b>	<b>\$ 130,786</b>	<b>\$ 41,633</b>	<b>\$ 172,419</b>

1- These are funds that could have been collected as additional revenues if corrective actions had been taken by the auditee.

2- These are expenditures that may be allowable, but accounting records did not provide adequate support for the costs.

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**Appendix 2:**  
**Scope and Methodology**

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The audit scope included a review of the Guam Ancestral Lands Commission's enabling legislation, applicable public laws, bank accounts and bank related documents, disbursements, commercial licenses, other periods as warranted, and other relevant documents for fiscal years 2003, 2004, and 2005 (a 36-month period from October 1, 2002 through September 30, 2005). The audit was conducted at the ALC's office in Anigua. While on site, we interviewed the staff who oversee the non-appropriated fund accounts and collect non-appropriated fund monies, the collateral staff of the Commission on Decolonization, and the ALC Executive Director.

The audit methodology included gaining an understanding of the policies, procedures, and applicable laws and regulations pertaining to the non-appropriated funds handled by ALC. We tested revenue generated from ALC's licenses and reviewed its controls over cash transactions (i.e., receipts and disbursements) and procurement of goods and services.

We determined that from October 1, 2002 through September 30, 2005, the Commission had 119 receipts totaling \$214,524 and 25 disbursements totaling \$82,038. Since the number of receipts and disbursements were small, we tested all of them to determine whether they were accurately accounted for, recorded, deposited, and documented. We also selected all five licenses issued by ALC to determine whether the revenues they should have generated were received, and whether they were independently evaluated and issued fairly in accordance with rules and regulations.

Our audit was conducted according to the Standards for Performance Audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Accordingly, we obtained an understanding and performed an evaluation of the internal controls of the Guam Ancestral Lands Commission. We included tests of records and other auditing procedures considered necessary under the circumstances. Internal control weaknesses were identified and discussed in the Results of Audit section of the report.

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**Appendix 3:**  
**Prior Audit Coverage**

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The Landowner's Recovery Fund (LRF) has been included in the Guam Economic Development and Commerce Authority's financial audit. As of September 30, 2005, the LRF has \$9,525 in net assets.<sup>28</sup>

**Office of the Inspector General (OIG)****March 2002**

The Office of the Inspector General issued OIG Audit Report No. 2002-I-0016, Bond Services, Lease Operations, Trust Fund Activities of the Guam Economic Development Authority (GEDA) stating that contrary to the requirements of the Guam Code, GEDA:

1. Did not execute promissory notes and assignments to ensure repayment of legal fees paid on the behalf of landowners;
2. Did not file notices in the Guam courts to safeguard the interests of the Authority and the government of Guam;
3. Did not ensure that any single loan to landowners exceeded the \$220,000 limit; and
4. Had entered into a noncompetitive contract for a special Litigator.

The OIG recommended that the Board of Directors of the Guam Economic Development Authority reverse all loan write-offs, execute promissory notes and assignments with landowners, and file applicable notices in the Guam courts to ensure repayment of loans for legal fees under the Landowners Recovery Fund program. This recommendation is no longer applicable since the administration of the LRF has been transferred to ALC as mandated by P.L. 25-178.

**Single Audit Reports****FY 2005**

In the Schedule of Findings and Questioned Costs of the government of Guam, the auditors found that although ALC is immaterial to the government of Guam's financial statements, it should be included for a full and complete presentation.

The auditors recommended that government of Guam conform to GASB Statement No. 14 by obtaining audited financial statements of the entities, including ALC, for inclusion in the financial statements.

As of September 30, 2005, the non-appropriated funds of ALC have not been audited or included in the annual report of the government of Guam.

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<sup>28</sup> In January 2001, P.L. 25-178 transferred the administering authority of the LRF from the Board of Commissioners of GEDCA to ALC.

**Appendix 4:**  
**Land Bank Account Financial Activity**

	Statement Date	Beginning Balance	Receipts	Disbursements	Ending Balance
<b>FY 2004</b>	September 1 - 30, 2004	\$ -	\$ 10,000.90	\$ -	\$ 10,000.90
	October 1 - 31, 2004	\$ 10,000.90	\$ 1.27	\$ -	\$ 10,002.17
<b>FY 2005</b>	November 1 - 30, 2004	\$ 10,002.17	\$ 15,002.54	\$ -	\$ 25,004.71
	December 1 - 31, 2004	\$ 25,004.71	\$ 5,004.70	\$ -	\$ 30,009.41
	January 1 - 31, 2005	\$ 30,009.41	\$ 5,005.40	\$ -	\$ 35,014.81
	February 1 - 28, 2005	\$ 35,014.81	\$ 5,005.78	\$ -	\$ 40,020.59
	March 1 - 31, 2005	\$ 40,020.59	\$ 5,007.29	\$ -	\$ 45,027.88
	April 1 - 30, 2005	\$ 45,027.88	\$ 7,599.40	\$ -	\$ 52,627.28
	May 1 - 31, 2005	\$ 52,627.28	\$ 15,016.92	\$ -	\$ 67,644.20
	June 1 - 30, 2005	\$ 67,644.20	\$ 7,520.10	\$ -	\$ 75,164.30
	July 1 - 31, 2005	\$ 75,164.30	\$ 2,522.55	\$ -	\$ 77,686.85
	August 1 - 31, 2005	\$ 77,686.85	\$ 2,523.08	\$ -	\$ 80,209.93
	September 1 - 30, 2005	\$ 80,209.93	\$ 27.19	\$ -	\$ 80,237.12
		<b>FY 2005 Total</b>		<b>\$ 70,236.22</b>	<b>\$ -</b>

**Appendix 5:**

**Money Market Account FY 2003-2005 Financial Activity**

	Statement Date	Beginning Balance	Receipts	Disbursements	Ending Balance
FY 2003	October 1 - 31, 2002	\$ 90,675.27	\$ 72.84	\$ -	\$ 90,748.11
	November 1 - 30, 2002	\$ 90,748.11	\$ 51.04	\$ -	\$ 90,799.15
	December 1 - 31, 2002	\$ 90,799.15	\$ 34.64	\$ -	\$ 90,833.79
	January 1 - 31, 2003	\$ 90,833.79	\$ 34.64	\$ -	\$ 90,868.43
	February 1 - 28, 2003	\$ 90,868.43	\$ 31.30	\$ -	\$ 90,899.73
	March 1 - 31, 2003	\$ 90,899.73	\$ 33.93	\$ -	\$ 90,933.66
	April 1 - 30, 2003	\$ 90,933.66	\$ 29.84	\$ -	\$ 90,963.50
	May 1 - 31, 2003	\$ 90,963.50	\$ 30,044.96	\$ -	\$ 121,008.46
	June 1 - 30, 2003	\$ 121,008.46	\$ 47.47	\$ -	\$ 121,055.93
	July 1 - 31, 2003	\$ 121,055.93	\$ 38.60	\$ -	\$ 121,094.53
	August 1 - 30, 2003	\$ 121,094.53	\$ 15,038.01	\$ -	\$ 136,132.54
	September 1 - 31, 2003	\$ 136,132.54	\$ 39.16	\$ -	\$ 136,171.70
<b>FY 2003 Total</b>			<b>\$ 45,496.43</b>	<b>\$ -</b>	
FY 2004	October 1 - 31, 2003	\$ 136,171.70	\$ 40.49	\$ -	\$ 136,212.19
	November 1 - 30, 2003	\$ 136,212.19	\$ 15,042.19	\$ -	\$ 151,254.38
	December 1 - 31, 2003	\$ 151,254.38	\$ 44.97	\$ -	\$ 151,299.35
	January 1 - 31, 2004	\$ 151,299.35	\$ 44.98	\$ -	\$ 151,344.33
	February 1 - 29, 2004	\$ 151,344.33	\$ 41.27	\$ -	\$ 151,385.60
	March 1 - 31, 2004	\$ 151,385.60	\$ 38.57	\$ -	\$ 151,424.17
	April 1 - 30, 2004	\$ 151,424.17	\$ 37.34	\$ -	\$ 151,461.51
	May 1 - 31, 2004	\$ 151,461.51	\$ 38.60 <sup>29</sup>	\$ -	\$ 151,500.11
	June 1 - 30, 2004	\$ 151,500.11	\$ 37.36	\$ -	\$ 151,537.47
	July 1 - 31, 2004	\$ 151,537.47	\$ 38.62	\$ -	\$ 151,576.09
	August 1 - 31, 2004	\$ 151,576.09	\$ 38.62	\$ -	\$ 151,614.71
	September 1 - 30, 2004	\$ 151,614.71	\$ 37.39	\$ -	\$ 151,652.10
<b>FY 2004 Total</b>			<b>\$ 15,480.40</b>	<b>\$ -</b>	
FY 2005	October 1 - 31, 2004	\$ 151,652.10	\$ 38.65	\$ -	\$ 151,690.75
	November 1 - 30, 2004	\$ 151,690.75	\$ 37.40 <sup>30</sup>	\$ -	\$ 151,728.15
	December 1 - 31, 2004	\$ 151,728.15	\$ 39.92	\$ -	\$ 151,768.07
	January 1 - 31, 2005	\$ 151,768.07	\$ 58.01	\$ -	\$ 151,826.08
	February 1 - 28, 2005	\$ 151,826.08	\$ 52.42	\$ -	\$ 151,878.50
	March 1 - 31, 2005	\$ 151,878.50	\$ 58.06	\$ -	\$ 151,936.56
	April 1 - 30, 2005	\$ 151,936.56	\$ 2,460.97	\$ -	\$ 154,397.53
	May 1 - 31, 2005	\$ 154,397.53	\$ 72.14	\$ -	\$ 154,469.67
	June 1 - 30, 2005	\$ 154,469.67	\$ 69.84	\$ -	\$ 154,539.51
	July 1 - 31, 2005	\$ 154,539.51	\$ 72.21	\$ -	\$ 154,611.72
	August 1 - 31, 2005	\$ 154,611.72	\$ 75.20	\$ -	\$ 154,686.92
	September 1 - 30, 2005	\$ 154,686.92	\$ 82.66	\$ -	\$ 154,769.58
<b>FY 2005 Total</b>			<b>\$ 3,117.48</b>	<b>\$ -</b>	

<sup>29</sup>Missing Bank Statement, receipts derived from previous and subsequent bank statements.

<sup>30</sup>Missing Bank Statement, receipts derived from previous and subsequent bank statements.



**Appendix 6:  
Landowner's Recovery Fund FY 2003-2005 Financial Activity**

	Statement Date	Beginning Balance	Receipts	Disbursements	Ending Balance
FY 2003	October 1 - 31, 2002		Missing Bank Statement		
	November 1 - 30, 2002		Missing Bank Statement		
	December 1 - 31, 2002	\$ 60,622.27	\$ 93.26	\$ -	\$ 60,715.53
	January 1 - 31, 2003	\$ 60,715.53	\$ 93.30	\$ -	\$ 60,808.83
	February 1 - 28, 2003	\$ 60,808.83	\$ 20.95	\$ -	\$ 60,829.78
	March 1 - 31, 2003	\$ 60,829.78	\$ 88.48	\$ -	\$ 60,918.26
	April 1 - 30, 2003	\$ 60,918.26	\$ 85.77	\$ -	\$ 61,004.03
	May 1 - 31, 2003	\$ 61,004.03	\$ 86.45	\$ -	\$ 61,090.48
	June 1 - 30, 2003	\$ 61,090.48	\$ 73.26	\$ 49,201.50	\$ 11,962.24
	July 1 - 31, 2003	\$ 11,962.24	\$ 59.29	\$ -	\$ 12,021.53
	August 1 - 30, 2003	\$ 12,021.53	\$ 45.89	\$ -	\$ 12,067.42
	September 1 - 30, 2003	\$ 12,067.42	\$ 41.44	\$ -	\$ 12,108.86
	<b>FY 2003 Total</b>		<b>\$ 688.09</b>	<b>\$ 49,201.50</b>	
FY 2004	October 1 - 31, 2003	\$ 12,108.86	\$ 385.54	\$ 90.00	\$ 12,404.40
	November 1 - 30, 2003	\$ 12,404.40	\$ 41.50	\$ -	\$ 12,445.90
	December 1 - 31, 2003	\$ 12,445.90	\$ 41.57	\$ -	\$ 12,487.47
	January 1 - 31, 2004	\$ 12,487.47	\$ 41.57	\$ -	\$ 12,529.04
	February 1 - 29, 2004	\$ 12,529.04	\$ 41.38	\$ -	\$ 12,570.42
	March 1 - 31, 2004	\$ 12,570.42	\$ 142.06	\$ -	\$ 12,712.48
	April 1 - 30, 2004	\$ 12,712.48	\$ 41.03	\$ -	\$ 12,753.51
	May 1 - 31, 2004	\$ 12,753.51	\$ 41.08 <sup>31</sup>	\$ -	\$ 12,794.59
	June 1 - 30, 2004	\$ 12,794.59	\$ 100,041.50	\$ 4,516.00	\$ 108,320.09
	July 1 - 31, 2004	\$ 108,320.09	\$ 27.61	\$ -	\$ 108,347.70
	August 1 - 31, 2004	\$ 108,347.70	\$ 27.49	\$ 658.90	\$ 107,716.29
	September 1 - 30, 2004	\$ 107,716.29	\$ 25.65	\$ 4,616.50	\$ 103,125.44
	<b>FY 2004 Total</b>		<b>\$ 100,897.98</b>	<b>\$ 9,881.40</b>	
FY 2005	October 1 - 31, 2004	\$ 103,125.44	\$ 26.28	\$ -	\$ 103,151.72
	November 1 - 30, 2004	\$ 103,151.72	\$ 115.46 <sup>32</sup>	\$ -	\$ 103,267.18
	December 1 - 31, 2004	\$ 103,267.18	\$ 26.81	\$ 1,539.87	\$ 101,754.12
	January 1 - 31, 2005	\$ 101,754.12	\$ 38.85	\$ 208.00	\$ 101,584.97
	February 1 - 28, 2005	\$ 101,584.97	\$ 35.07	\$ -	\$ 101,620.04
	March 1 - 31, 2005	\$ 101,620.04	\$ 38.84	\$ -	\$ 101,658.88
	April 1 - 30, 2005	\$ 101,658.88	\$ 220.80	\$ 5,027.90	\$ 96,851.78
	May 1 - 31, 2005	\$ 96,851.78	\$ 37.02	\$ -	\$ 96,888.80
	June 1 - 30, 2005	\$ 96,888.80	\$ 35.85	\$ -	\$ 96,924.65
	July 1 - 31, 2005	\$ 96,924.65	\$ 37.05	\$ -	\$ 96,961.70
	August 1 - 31, 2005	\$ 96,961.70	\$ 38.33	\$ 1,626.00	\$ 95,374.03
	September 1 - 30, 2005	\$ 95,374.03	\$ 42.75	\$ 2,813.66	\$ 92,603.12
	<b>FY 2005 Total</b>		<b>\$ 693.11</b>	<b>\$ 11,215.43</b>	

<sup>31</sup>Missing Bank Statement, receipts derived from previous and subsequent bank statements.

<sup>32</sup>Missing Bank Statement, receipts derived from previous and subsequent bank statements.

**Appendix 7:**  
**Days Lapsed Before Deposit**

	Description/Activity	Amount	Date of Activity	Date of Deposit	Days Lapsed Before Deposit
1	Copies	\$ 24	27-Nov-02	4-Mar-04	463 days
2	Copies	\$ 17	22-Oct-03	4-Mar-04	134 days
3	Copies	\$ 45	24-Oct-03	4-Mar-04	132 days
4	Deed documents	\$ 15	04-Nov-03	4-Mar-04	121 days
5	Copies	\$ 40	15-Jul-04	12-Nov-04	120 days
6	Copies	\$ 50	07-Oct-04	12-Nov-04	36 days
7	Copies	\$ 189	23-Feb-05	12-Apr-05	48 days
8	License Fee	\$ 5,000	09-Jul-04	8-Sep-04	61 days
9	Royalty Income	\$ 5,000	03-Aug-04	8-Sep-04	36 days
10	Royalty Income	\$ 5,000	03-Sep-04	12-Nov-04	70 days
11	Royalty Income	\$ 5,000	05-Oct-04	12-Nov-04	38 days
12	Royalty Income	\$ 5,000	08-Nov-04	13-Nov-04	5 days
13	Royalty Income	\$ 15,000	08-Nov-02	21-Nov-02	13 days
14	Royalty Income	\$ 15,000	29-Apr-03	9-May-03	10 days
15	Royalty Income	\$ 15,000	09-May-03	14-May-03	5 days
16	Royalty Income	\$ 15,000	04-Aug-03	13-Aug-03	9 days
17	Royalty Income	\$ 15,000	21-Oct-03	5-Nov-03	15 days
18	Restitution Payments	\$ 2,400	04-Mar-05	12-Apr-05	39 days
Totals		\$ 102,780			5 to 463 days

**Appendix 8:  
ALC Management Response**



**GUAM ANCESTRAL LANDS COMMISSION**



Felix P. Camacho  
Governor

Kaleo S. Moylan  
Lieutenant Governor

Eddie L.G. Benavente  
Executive Director

588 West Marine Drive, Suite 101 - Anigua / P.O. Box 2950, Hagåtña, Guam 96932 / Tel: (671) 473-5263 / Fax: (671) 475-9165

December 13, 2006

Doris Flores Brooks  
Public Auditor  
Suite 401 Pacific News Building  
238 Archbishop Flores Street  
Hagåtña, Guam 96910

Ref.: Management Response to Performance Audit  
October 1, 2002 to September 30, 2005

Hafa Adai yan Ha'änen Minagof!

Pursuant to our discussions regarding the preliminary draft audit, the following plan of action based on your recommendations to implement as follows:

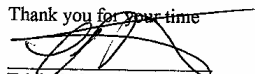
The Guam Ancestral Lands Commission within the scope of audit was diligent in their efforts to expedite the return of lands back to the original landowners. To date, GALC has returned over seventy-five percent (75%) of all lands under its inventory affecting thousands of Chamorro families. Much through the commitment and passion, Commissioners possess in providing justice and a final closure to the long-standing injustice that occurred to the Manamko' over fifty years ago. Because of legislation passed in 2003, GALC members do not receive any stipend for their work. They have volunteered many hours throughout the years to insure that the policies and mission of GALC is realize and implemented.

In response to Recommendations raised by OPA;

1. OPA's concerns on the establishment of rules and regulations; The GALC recently recruited through an MOA between both agencies; GEDCA to assist in the implementation of all land bank properties.
2. GALC will comply with OPA by referring all delinquent accounts to legal council for collection.
3. Directives implemented to establish internal controls.
4. GALC will address this concern in their next schedule public hearing.
5. GALC will be meeting with DOA officials to clear this matter.
6. During the scope of audit, GALC lost two employees that handled all accounts. The recommendation needed for additional staff.

We are repudiating both seven (7) and eight (8) that recommends dissolving GALC entirely.

Thank you for your time

  
Eddie L.G. Benavente  
Executive Director

**BOARD  
OF  
COMMISSIONERS**

Anita F. Orfino  
Chairman

Ronald T. Laguana  
Vice Chairman

Maria G. Cruz  
Secretary/Treasurer

James C. Matanane  
Commissioner

Lydia M. Tyner  
Commissioner

Ronald F. Eclavea  
Commissioner

Mark C. Charfauros  
Commissioner

**LAND BANK  
TRUSTEES  
COMMISSIONERS**

Mark C. Charfauros  
Chairman

Antonio A. Sablan  
Vice Chairman

Anthony J.P. Ada  
Secretary

Pete San Nicolas  
Treasurer

Ronald F. Eclavea  
Commissioner

Lydia M. Tyner  
Commissioner

Rufo J. Lujan  
Commissioner

**RECEIVED**  
DATE: 12/14/06  
9:00 AM ac

Email: [ancestrallandsguam@yahoo.com](mailto:ancestrallandsguam@yahoo.com)

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**Appendix 9:  
Status of Audit Recommendations**

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<b>Finding/ Recommendation Reference</b>	<b>Status</b>	<b>Action Required</b>
1	Management Concur; additional information needed.	Provide supporting documentation indicating recommendation has been implemented.
2	Management Concur; additional information needed.	Provide supporting documentation indicating recommendation has been implemented.
3	Management Concur; additional information needed.	Provide supporting documentation indicating recommendation has been implemented.
4	Management Concur; additional information needed.	Provide supporting documentation indicating recommendation has been implemented.
5	Unresolved.	Provide supporting documentation indicating a review of government entities that are utilizing the government of Guam's EIN and determination whether their use is authorized and reporting is properly submitted to DOA.
6	Unresolved.	Provide Executive Order indicating the transfer of accounting of ALC's non-appropriated fund to the Department of Administration
7	Unresolved.	Provide public law indicating the transfer of accounting of ALC's non-appropriated fund to the Department of Administration and the consolidation of the administrative functions of the ALC into the Department of Land Management.

**Do you suspect fraud, waste, or abuse in a government agency or department? Contact the Office of the Public Auditor:**



- **Call our HOTLINE at 47AUDIT (472-8348);**
- **Visit our website at [www.guamopa.org](http://www.guamopa.org);**
- **Call our office at 475-0390;**
- **Fax our office at 472-7951;**
- **Or visit us at the PNB Building, Suite 401  
In Hagåtña**

**All information will be held in strict confidence.**