



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.



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