



Professional Engineers, Architects
and Land Surveyors Board

OFFICE OF THE ATTORNEY GENERAL

Date: 11-8 SEP 2007

September 17, 2007

Time: 11:33am

By: [Signature]

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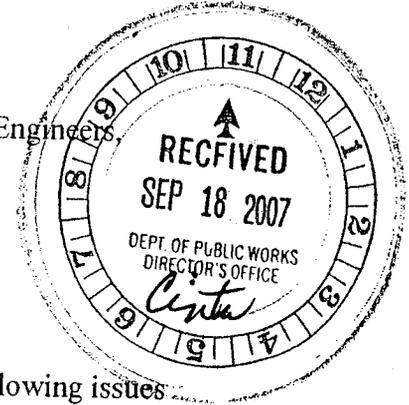
INFORMATION AND GUIDANCE

MEMORANDUM

TO: Chairman, The Guam Board of Registration for Professional Engineers,
Architects & Land Surveyors

FROM: Assistant Attorney General

Subject: Certificate of Authorization



On August 14, 2007, you wrote to this Office requesting assistance on the following issues pertaining to a Certificate of Authorization ("COA"):

1. Whether engineering sub-consultants are required to have their own COA prior to submission of their proposals.
2. Whether all sub-consultants will be able to work as subs under the prime's COA provided that the sub-consultants will not certify or stamp on anything.
3. May an off-island firm not registered with the [PEALS] Board (but registered in another jurisdiction) associate or work with a Guam registered firm to assist in performing services on a project on Guam when the Guam firm will take responsible control over all aspects of the project including certifying or stamping on documents?

Your Office has indicated that the sub-consultant at issue is a firm, as opposed to an individual, and will be performing work on-island.

LAW AND DISCUSSION

22 GCA §32102 outlines the intent in regulating the profession of engineering, architecture and land surveying on the Island of Guam. Specifically, 22 GCA §32102 provides in part:

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§ 32102. General Provisions.

In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering, architecture and land surveying in this territory is hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice, or to offer to practice, engineering, architecture or land surveying in this territory as defined in the provisions of this Title, or to use in connection with his name or otherwise assume, or advertise any title or description tending to convey the impression that he is an engineer, an architect or land surveyor, unless such person has been duly registered or exempted under the provision of this Title....

Thus, for the purpose of promoting public welfare, the Legislature has concluded that all engineers, architects, and land surveying individuals and entities must be registered or exempted. The Legislature has imposed penalties upon individuals and businesses that practice or offer to practice engineering, architecture or land surveying in Guam without being registered in accordance with Guam Code. Specifically, 22 GCA §32122 provides that it a misdemeanor to do so.

Furthermore, 22 GCA §3213 requires that corporations and other business entities, such as the one in this case, must obtain a certificate of authorization. 22 GCA §32123 provides in part:

A corporation, partnership, proprietorship or limited liability company holding itself out or performing any of the services involved in the practice of engineering, architecture or land surveying must be issued a certificate of authorization by the Board....

Thus, the subcontracting corporation at issue that will be offering services on Guam must obtain a Certificate of Authorization prior to practicing or offering to practice engineering in Guam. There are some exceptions to the general rule, however. 22 GCA §32123(a) provides in part as follows:

The requirements of this Title shall *not* prevent the employees of such corporations, partnerships, proprietorships or limited liability companies from performing engineering, architecture or land surveying services; provided, that all technical submissions involving the practice of engineering, architecture or land surveying as defined in this Title when issued, or filed for public record, shall be dated, and bear the seal and signature of the professional engineer, architect or professional land surveyor under whose responsible control it was prepared.

In this particular case, this exception would not be applicable to the corporation itself. However if the corporation obtained a Certificate of Authorization, then under this exception its employees would be able to practice engineering services provided that all other statutory requirements were met.

Finally, the statute also provides for the issuance of temporary permits in which to practice engineering. 22 GCA §32124(a) provides:

This Act shall not be construed to prevent the practice by:

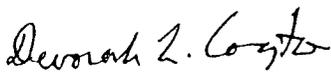
(a) Temporary Permits.

(1) Professional Engineer/Architect. The practice or offer to practice engineering or architecture by a person not a resident of or having no established business in Guam, provided such person is legally qualified by registration to practice engineering or architecture as defined in § 32103 of this Title, in his own state or territory and, in the case of a person seeking to practice architecture, who has a current certificate of registration issued by the National Council of Architectural Registration Boards. Such person shall make application to the Board in writing and after payment of a fee as prescribed in the By-Laws may be granted written permit for a definite period of time not to exceed one (1) year to do a specific job, provided, however, that no right to practice engineering or architecture shall accrue to such applicant with respect to any other work not set forth in said permit.

Based upon the facts provided, the temporary permit exception is not applicable. Such permit is available to individuals only, and in this case, the applicant is a corporation.

CONCLUSION

The corporation at issue that seeks to provide engineering services in Guam must obtain a Certificate of Authorization prior to practicing, or offering to practice such services in Guam. While there are some exceptions to that requirement, the exceptions are for individuals and do not apply to corporations and other business entities.


DEVORAH COVINGTON
Assistant Attorney General

cc: *Director, Department of Public Works*