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November 14, 2014

LEGAL MEMORANDUM

Ref: LEG 14-0413

TO: Honorable Rory J. Respicio
Senator, 32nd Guam Legislature

FROM: Attorney General 

SUBJECT: **Applicability of Open Government (Sunshine) Law to Subcommittees**

INTRODUCTION

This is to acknowledge receipt of your request for a legal opinion on the question whether the work of subcommittees of boards, councils, and commissions created by the government of Guam as agencies and instrumentalities of the government are subject to the Open Government Law. We have decided to address your question in general terms without focusing on any one particular public agency, board, council, or commission or fact scenario.

DISCUSSION

“[I]t is the policy of this Territory that the formation of public policy and decisions is public and shall not be conducted in secret,” 5 GCA § 8102. The Legislature has as a general rule determined that “[e]very meeting of a public agency *shall* be open and public, and any person *shall* be permitted to attend any public agency meeting, *except* as otherwise provided in this Chapter,” 5 GCA § 8103(a) (emphasis in original). The question presented here is whether or under what circumstances meetings of subcommittees or work groups comprised of fewer members than the whole of a commission, board, council, or other publicly created entity must also observe the notice and publication requirements of the Open Government Law.

With only certain limited statutory exceptions, all regular or special meetings of any “public agency” must be conducted in public or in the “sunshine.” The term “public agency” is defined very broadly.

(a) (1) *Public agency* includes any board, commission or comparable unit of government, any of whose members are elected, appointed by *I Maga'laha*
