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Attorney General



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Office of the Attorney General

January 11, 2007

Memorandum

To: All Government of Guam Agencies

From: Attorney General

Subject: Restriction against Sex Offenders Employed by Service Providers to Government of Guam from Working on Government Property

On February 7, 2006, a law was enacted to restrict service providers to the government of Guam from using employees who are sex offenders to work on any government of Guam property other than a public highway. See, 5 GCA Section 5253, enacted by P.L. 28-24 and amended by P.L. 28-98.

Ample time has passed for agencies to come into compliance with the notice requirements of Section 5253, but to this date, when we review procurement records and contracts for approval by the Attorney General, we are still finding both without any mention of the restriction.

Hence, we are giving notice hereby to all executive branch agencies that notice about the restriction must be given to bidders and offerors when services are put out to bid, and a written restriction must be placed in the final contract or other document when making an award.

The following is an example of language which should be placed in the invitation to bid or request for proposals:

If a contract for services is awarded to the bidder or offeror, then the service provider must warrant that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated or of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated, or who has been convicted in any other jurisdiction of an offense with the same elements as heretofore defined, or who is listed on the Sex Offender Registry, shall provide services on behalf of the service provider while on government of Guam property, with the

Memorandum

To: All executive branch agencies

Re: Restriction against Sex Offenders on Government Property

January 11, 2007

Page 2 of 3 Pages

exception of public highways. If any employee of a service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction within twenty-four hours of the conviction, and will immediately remove such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service provider fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

The following is an example of language which should be placed in the contract:

The service provider warrants that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated, or who has been convicted of an offense with the same elements as heretofore defined in any other jurisdiction, or who is listed on the Sex Offender Registry shall provide services on behalf of the service provider while on government of Guam property, with the exception of public highways. If any employee of the service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction within twenty-four hours of the conviction, and will remove immediately such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service provider fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action has been taken.

Please note that the statutory restriction does not prohibit service providers from employing sex offenders. The statutory restriction also does not prevent the sex offender employees from providing services under a government contract so long as none of the work is done while on government of Guam property.

By the end of this month, January 2007, all contracts forwarded to the Attorney General for review must contain the appropriate language in the contract, and all invitations to bid and requests for proposals issued subsequent to your receipt of this notice must contain the

Memorandum

To: All executive branch agencies

Re: Restriction against Sex Offenders on Government Property

January 11, 2007

Page 3 of 3 Pages

appropriate language in the invitation or request. For already existing contracts or contracts which are already circulating for signature and approval, please advise your service provider of the restriction and then prepare an appropriate amendment to the contract and circulate for signature by all requisite parties.

If you have any questions about the contents of this memorandum, please call me at 475-3324, extension 141. Thank you.



DEBORAH RIVERA
Assistant Attorney General