

G.S.A. (GENERAL SERVICES ADMINISTRATION)

NEGOTIATION - AICUZ

BUREAU OF PLANNING

JULY 19, 1985



GOVERNMENT OF GUAM
AGANA GUAM 96910

GOVERNMENT OF GUAM FINAL OFFER FOR
GSA SURPLUS LAND
JULY 19, 1985

General Terms and Conditions:

- A. Purchaser agrees to field survey the subject properties and easements. If discrepancies of over \$10,000, based on a unit price analysis of the parcel or easement area, are found to exist, a price adjustment, on a per square meter basis, will be made. Such adjustment shall be treated as a liability of the government which the discrepancy favored and shall be refundable, including such interest has may have been paid or may be due upon the error, to the requesting government upon demand.

- B. Terms of the sale shall be:

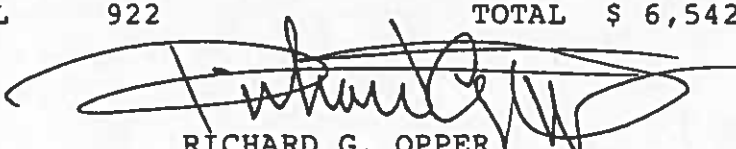
Deposit of a 10% earnest money payment to GSA to be included with the offer to purchase. Said deposit will be made by use of an irrevocable Letter of Credit.

Title to said properties will pass to the Government of Guam at closing. At purchaser's option, balance will be paid in cash within sixty (60) days of closing or GSA will finance the purchase by taking a security interest in the property and granting purchaser a 10 year note, fully amortizing the principle and such interest as shall be determined to be the legal rate applicable at closing. In the event of GSA providing financing, a down payment of no more than twenty percent (20%) will be required.

- C. All terms and conditions of this offer are subject to and conditional upon approval by the Governor and the Legislature of Guam.
- D. This offer is subject to agreement by the United States to transfer, for nominal value not to exceed \$1.00, all 991 acres of properties previously identified as approved for Public Benefit Discount Conveyances, and, in addition, those properties identified below as Public Benefit Conveyances.

- E. This offer is subject to the provision of a dedicated perpetual easement, of not less than 75 feet in width, or such other dimensions as are mutually agreed upon, to the benefit of the Government of Guam, to provide public and utility access and to the property described as Parcel No. 424, South Finegayan. Said easement to be confirmed by closing.
- F. Sale of these properties subject to an Excess Profits clause which will not limit leasing of these properties.

<u>Specific terms:</u>	<u>PARCEL NO.</u>	<u>ROUNDED ACRES</u>	<u>NAME</u>	<u>COUNTEROFFER</u>
1.	406A	17	Asan Point	\$ 89,950
2.	415B	52	Nimitz Hill 2	290,000
3.	415A	20	Nimitz Hill 1	124,000
4.	416	4	Aceorp	125,000
5.	418	97	Camp Edusa	2,364,850
6.	420	6	Apra Harbor 1	155,650
7.	420 C	33	Apra Harbor 6	-0- PBC
8.	420 A	33	Apra 7	-0- PBC
9.	420 A	14	Apra 8A	-0- PBC
10.	420 A	6	Apra 8B	100,450
11.	420B	41	Apra 9	118,250
12.	421	61	Barrigada	317,200
13.	424	232	S. Finegayan	1,925,000
		162	S. Finegayan	-0- PBC
14.	425	144	Naval Magazine	932,500
TOTAL		922	TOTAL	\$ 6,542,850


RICHARD G. OPPEP



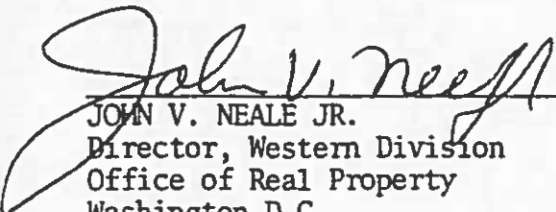
July 19, 1985

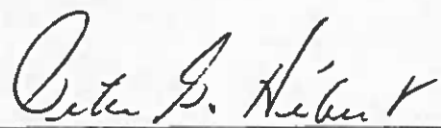
Although no final agreement was reached, the General Services Administration negotiation team agrees to consider the July 19, 1985 final offer by the Government of Guam negotiation team. Approval of a final agreement is subject to:

Potential future military requirements.

Consideration of recently introduced legislation to allow GSA to convey the surplus Federal properties to Guam at no cost.

Approval of the proposed additional public benefit conveyances; submission by Guam of formal offers to purchase the sale parcels, and approval of the Administrator of General Services Administration, and committees of the United States Congress as appropriate.


JOHN V. NEALE JR.
Director, Western Division
Office of Real Property
Washington D.C.


PETER G. HEBERT
Director, Real Property Disposal Division
Region 9
San Francisco, California

BUREAU OF PLANNING

JAN 30 1985

Memorandum

To: Special Assistant for Federal Programs

From: Director, Bureau of Planning

Subject: Surplus Federal Lands

On January 16, 1985, the U.S. General Services Administration (GSA) presented the Government of Guam Surplus Notices for 1,918 acres of federal land. Roughly, GSA identified 50 percent of the land to be conveyed to GovGuam at no cost while the remainder is to be sold to GovGuam at today's fair market value. The Government of Guam must send to GSA by Monday, February 4, 1985, Notices of Intent to acquire these parcels. These notices must be sent for both those parcels to be conveyed at no cost and for those to be purchased.

Before these notices can be finalized for the Governor's signature, an overall policy direction with regard to these parcels is essential. Specifically, the following policy directions are required:

1. With regard to those lands available to GovGuam at no cost, is it the continued policy that GovGuam shall proceed to acquire all of them? It should be noted that GovGuam will incur development and maintenance costs as a result of acquisition, in addition to restrictions on the use of the properties.
2. With regard to those lands to be purchased, is it GovGuam's policy to: a) purchase all of the lands which are for sale; b) purchase some of the lands and allow GSA to sell the remainder to the highest bidder; or c) allow all of the lands to be sold by GSA to the highest bidder?

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With specific regard to those lands identified to be sold, each of the policy alternatives have advantages and disadvantages, as outlined below.

a. Purchase all of the lands

- . GovGuam has the greatest flexibility in utilizing purchased lands. GovGuam could pass through (either by selling or leasing) the lands it desires to private developers or former owners, in order to finance the purchase or it could use lands for public purposes. However, should GovGuam sell any of the lands it would be required to pay the U.S. the difference between the purchase and selling price if the property is sold for an exorbitant profit within three years after land conveyance to GovGuam.
- . Purchase of these lands will place great financial strain upon the General Fund even though GSA can give a ten year repayment term at 12% interest, and 20% down payment, unless some of the lands are "pass through" to developers or former owners.

b. Purchase some lands and allow GSA to sell the rest to the highest bidder

- . Total acquisition cost is reduced.
- . Some tax revenues would be generated from those parcels sold by GSA.
- . Allowing GSA to sell those lands with high development potential will assist to stimulate economic development.
- . Depending upon which lands are sold, GovGuam could lose valuable conservation areas or not be able to utilize developable lands for legitimate public purposes.

c. Allow GSA to sell all of the lands to the highest bidder

- . In the hands of private developers, land development will stimulate the territory's economy.
- . Valuable conservation areas could be lost.

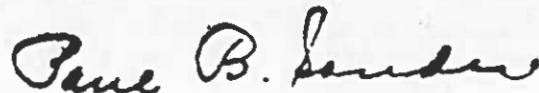
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As GSA has required that notices of GovGuam's intent regarding each parcel be transmitted to GSA by February, 1985, GovGuam could notify GSA that it desires to acquire all of the property. Simultaneously GovGuam could work with Congress to get the lands at no cost as specified in Resolution 151 passed by the 16th Guam Legislature. This approach however, may negatively impact upon future land dealings with GSA especially if GovGuam is unsuccessful in not only obtaining current surplus lands at no cost but future ones as well.

Former owners of these parcels may oppose any option that does not afford them an opportunity to reacquire their lands. Any position taken on the concerns of former landowners should recognize the following:

1. Numerous land parcels for schools, parks and administrative offices have already been turned over to GovGuam. Former landowners never had the opportunity to reacquire these parcels.
2. Many former landowners may not have the financial capability to compete with others to repurchase their lands in the public bidding process.
3. GovGuam would not be able to utilize surplus properties for reasonable public purposes.
4. Unless new Congressional Legislation is passed, GSA currently cannot deed properties directly to former owners.

As time is of the essence, a decision on the Government of Guam's overall policy with regard to surplus lands is needed immediately. Please contact me should you require any further information on this complex issue.



PAUL B. SOUDER

MCLEONGUERRERO/MJCRUZ:epb

cc: Chrono/SPP
Subject/Federal Lands
Reading File

NOTES

- We need to establish that GSA is responsible for disposition of surplus federal lands. (Quote)

GSA has negotiating power not the Navy , GSA can receive recommendations from the navy, however, final say is with GSA

- Establish that the Navy has not been authorized by GSA to dispose of the land therefore, the Navy cannot negotiate. (Quote REG/Law)

Because the navy has no negotiating power, it can't require govguam to implement AICUZ in exchange for federal lands.

- GSA has not taken an official position to withdraw these surplus lands therefore, they are still available to local government.
- No final decisions were made in the 1985 negotiations pending outside factors: Congressional legislation/DOD changing role in the Pacific.

While GSA must take the navy's needs into consideration, it is also responsible for making its requirements as reasonable/appropriate to the issue at hand.(Quote)

- * It would not be unreasonable for the navy to request for the withdrawal of surplus land if it determines that some of these lands are needed for specific DOD projects. However, it does seem unreasonable for the navy to hold these lands as a bargaining tool in exchange for local implementation of AICUZ. This would in essence be a form of blackmail.

This is particularly unreasonable as the lands to be transferred are mostly for conservation. In addition, prices for these lands have already been negotiated.

- * In considering the navy's position, GSA should be aware that AICUZ does not tie in specifically with the surplus lands. How does the navy justify requiring GovGuam to implement AICUZ when a majority of the surplus lands are not even in the AICUZ zone?
- * At this point, the local government is waiting for GSA to make a decision.

101-47 201-2 (d) Utilization of Excess Real Property

In every case of a proposed transfer of excess real property, the paramount consideration shall be the validity and appropriateness of the requirement upon which the proposal is based.

- * It does not seem appropriate that GovGuam should be required to implement AICUZ legislation as a condition for the transfer of some 1,900 acres of land. The requirement is not comparable to the amount of lands that are to be transferred. Moreover, most of the lands to be transferred do not fall in the AICUZ zone. These lands are mostly for conservation.
- * GSA must take the navy's needs into consideration however, GSA should be aware that AICUZ does not tie in specifically with the surplus lands. How does the navy justify requiring GovGuam to implement AICUZ when a majority of the surplus lands are not even in the AICUZ zone?
- ✓ * Prices for these lands have already been negotiated.
The Administrator is authorized in his discretion to transfer....
 - | In the case of surplus personal property held by the Department of Defense, if the lands are not needed for educational purposes they
 - | should be disposed of. Transfer to the state/territory.

FEDERAL REGULATION QUOTES:

101-47.202-1

Each executive agency shall report to GSA, pursuant to the provisions of this section. All excess real property except as provided in 101-47.202-4. Reports of excess real property shall be based on the agency's official real property records and accounts.

- * The DOD had to submit to GSA listing of surplus federal property.

40 USC 464 Sec. (c)

Any executive agency designated or authorized by the Administrator to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Administrator deems proper.

- * Thus far, Guam has not received word that the GSA Administrator has authorized the Navy to be responsible for the disposition of these surplus lands. Therefore, as it stands GSA is still the primary agency responsible for the disposition of federal lands and not the Navy.

101-47.203-10

Subject to the approval of GSA, and to such conditions as GSA considers appropriate, reports of excess real property may be withdrawn in whole or in part by the reporting agency at any time prior to transfer to another federal agency or prior to the execution of a legally binding agreement for disposal as surplus property. Requests for withdrawals shall be addressed to the GSA regional office where the report of excess real property was filed.

- * GSA has not taken an official position to withdraw these lands thus these lands are still surplus and can be transferred to the GovGuam.
- * It would not be unreasonable for the navy to request for the withdrawal of surplus land if it determines that some of these lands are needed for specific DOD projects. However, it does seem unreasonable for the navy to hold these lands as a bargaining tool in exchange for local implementation of AICUZ. This would in essence be a form of blackmail.

TO: Attorney General, Department of Law

From: Director, Bureau of Planning

Subject: GSA Disposition of Surplus Federal Lands and AICUZ Requirements

It has been brought to my attention that the navy is attempting to ~~require~~ that the transfer of surplus federal lands be dependent on GovGuam's implementation of Air Installation Compatible Use Zone (AICUZ). It is my understanding that the disposition of surplus federal lands is the responsibility of the General Services Administration.

I would like to request the Attorney General's opinion on the following matters pertaining to GSA negotiations and AICUZ.

1. Does the navy have the statutory authority to negotiate the transfer of surplus lands?
2. Once land has been declared surplus, doesn't GSA have the main responsibility to negotiate the disposal of federal land?

make the ~~requirement~~ of implementation of AICUZ,
by Gov-Guam a requirement for the transfer of
Surplus federal lands.

3)

I. PROBLEM

There has been some talk of requiring GovGuam to implement AICUZ before transferring surplus federal lands back to the Government of Guam. In essence the Navy wants AICUZ legislation passed. On November 12-13, Allan Zussman and Tony Kushner two navy experts on AICUZ will be visiting Guam.

II. ISSUES

1. Does the Navy have the statutory authority to require GovGuam to implement AICUZ in exchange for Surplus federal lands?
2. Once land has been declared surplus, doesn't GSA have the main responsibility to negotiate the disposal of federal land?
3. How does the Navy connect AICUZ with the surplus federal lands to be transferred?
4. Is the Navy just using the transfer of surplus lands as a bargaining tool so that it can free itself from all responsibility for the implementation of AICUZ?
5. To what extent can the navy influence the GSA negotiations?
6. Don't GSA requirements for the disposition of federal surplus lands have to be tied into the specific issues of the lands involved? (AICUZ is not specifically related to the transfer of lands)
7. Negotiation for the transfer of lands occurred in 1965, it is already 1987 and GSA has not taken a position on the negotiations. Is there a time frame in which GSA is suppose to complete the disposition of lands?
8. What are examples of restrictions that GSA has placed on the transfer of surplus federal lands? Are these restrictions comprable to the surplus lands.

GOVGUAM'S POSITION

- GovGuam will negotiate with GSA and not the navy on the transfer of federal surplus lands.
- GovGuam's position on outside factors that have stalled the GSA negotiations
 - 1) Navy's mission in the pacific. The navy's request pertaining to the transfer of lands should be reasonable. Requiring GovGuam to implement AICUZ is not reasonable. AICUZ affects the military as much as govguam, the military should take an active role.
 - 2) Congressional legislation. Legislation has been introduced, GSA should take action and not wait until legislation is passed. This may take lots of time.
- If GSA accepts the navy's recommendation and forces GovGuam to implement AICUZ, GovGuam may decide that it is more feasible not to purchase the lands.
- GovGuam will negotiate with the Navy in the implementation of AICUZ, however, AICUZ negotiations should be completely separate from the disposition of surplus federal lands.
- Implementation of AICUZ should be a joint effort involving the military and govguam. The military has more flights than commercial flights. It would therefore seem logical that the military take an active part in the implementation of AICUZ.
- **THE MILITARY CANNOT ABSOLVE ITSELF FROM ITS RESPONSIBILITY IN THE IMPLEMENTATION OF AICUZ.**