



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

3 DEC 2010

2010 DEC 15 PM 3:26

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Hafa Adai! Enclosed you will find the proposed, "Rules and Regulations Governing the Contracting of an Independent Environmental Health Inspection Company to Conduct the Inspection of Temporary Workforce Housing", which is transmitted to *I Liheslatura Guahan* pursuant to P.L. 30-64. The proposed rules outline the certification and operating parameters of the independent environmental health inspection company that may be contracted in the event the department is unable to hire environmental health personnel to conduct inspections of temporary workforce housing.

Should you have any questions regarding this matter, please contact Mr. J. Peter Roberto, ACSW, the Director of the Department of Public Health and Social Services, at 735-7101.

Sins eru yan Magåhet,

FELIX P. CAMACHO
I Maga'lahaen Guahan
Governor of Guam

Enclosures

30-10-1076

Office of the Speaker
Judith T. Won Pat, Ed.D.
Date: _____
Title: _____
Received: _____
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GOVERNMENT OF GUÅHAN



DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
(DEPATTAMENTON SALUT PUBLEKU YAN SETBISION SUSIAT)
#123 Chalan Kareta
Mangilao, Guåhan 96913-6304



FELIX P. CAMACHO
GOVERNOR

J. PETER ROBERTO, ACSW
ACTING DIRECTOR

MICHAEL W. CRUZ, M.D.
LIEUTENANT GOVERNOR

NOV 19 2010

MEMORANDUM

TO: Governor of Guåhan

ATTN: Mr. Ray C. Haddock, Esq.
Assistant Legal Counsel

FROM: Acting Director, Department of Public Health and Social Services

SUBJECT: Resubmission of Revised Rules and Regulations for P.L. 30-64

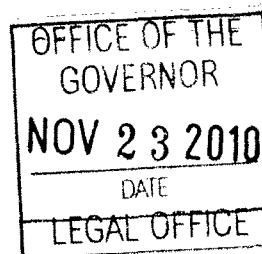


Hafa Adai! Attached your review and onward transmittance to the 30th Guam Legislature is the revised "Rules and Regulations Governing the Contracting of an Independent Environmental Health Inspection Company to Conduct the Inspection of Temporary Workforce Housing." This proposal is submitted pursuant to P.L. 30-64, which requires DPHSS to promulgate rules and regulations for the certification and contracting of independent inspection company.

For any questions, you may contact me at 735-7102, or Mr. Tom Nadeau, Administrator of the Division of Environmental Health, at 735-7221. *Dangkolo Na Si Yu'us Ma'ase!*

J. PETER ROBERTO, ACSW

Attachments



CFI 1210 03735

1 GOVERNMENT OF GUÅHAN
2 DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES
3 DIVISION OF ENVIRONMENTAL HEALTH
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10
11 **REGULATIONS GOVERNING THE**
12 **CONTRACTING OF**
13 **INDEPENDENT ENVIRONMENTAL HEALTH**
14 **INSPECTION COMPANY**
15 **TO CONDUCT THE INSPECTIONS OF**
16 **TEMPORARY WORKFORCE HOUSING**

17
18 (aka "Regulations for Third Party Inspection of Temporary Workforce Housing")
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41 These rules and regulations are established pursuant to Public Law 30-64 (enacted on
42 November 27, 2009)

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DIV. 1 – DIRECTOR OF PUBLIC HEALTH & SOCIAL SERVICES

Article 17

Independent Environmental Health Inspection Company

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- §41701. Purpose
- §41702. Title
- §41703. Definitions
- §41704. Contracting of Services
- §41705. Authority to Terminate Contract
- §41706. Certification Requirements of EH Company
- §41707. Employee Qualifications
- §41708. Business Qualifications
- §41709. Equipment, Transportation, and Dress Code
- §41710. Certification Eligibility Review
- §41711. Inspections by an Independent EH Company
- §41712. Notification
- §41713. Inspections, Training, and Meetings
- §41714. Performance Review and Evaluation
- §41715. Potential EH Company to Enter Permitted Facility
- §41716. Inspections and Renewal of Sanitary Permit
- §41717. Severability

§41701. Purpose. The purpose for these rules and regulations is to provide the parameters required to certify and contract a private business to conduct inspections of temporary workforce housing on behalf of the Department of Public Health and Social Services, Division of Environmental Health pursuant to P.L. 30-64.

§41702. Title. These rules and regulations shall be known and cited as the *Regulations Governing the Contracting of an Independent Environmental Health Inspection Company to Conduct the Inspection of Temporary Workforce Housing*, or its short title, *“Regulations for Third Party Inspection of Temporary Workforce Housing.”*

§41703. Definitions. As used in these rules and regulations, the following definitions shall be applied:

(a) *Change of temporary workforce housing status* means any variances to temporary workforce housing in relation to the most recent inspection, including but not limited to, the number of occupants, structure, ownership, and any other changes or deficiencies that impact the operation of the facility, safety or welfare of the occupants, or otherwise contradicts the purpose of these rules and regulations and other Department regulations that govern temporary workforce housing.

(b) *Department* or *DPHSS* means the Guam Department of Public Health and Social Services, or its succeeding department.

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1 (c) *Division of Environmental Health* or *DEH* means the division of the
2 DPHSS established through Title 10 GCA, Chapter 20, §20103.

3
4 (d) *Environmental Health Specialist* or *Environmental Public Health Officer*
5 means an individual who has been hired to perform inspections in accordance with
6 established DPHSS environmental health inspection procedures, or its succeeding
7 position.

8
9 (e) *Independent Environmental Health Inspection Company* or *Independent*
10 *EH Company* means an association, a corporation, individual, other legal entity or agency
11 that is duly licensed to do business on Guam and has been certified and contracted by
12 DPHSS as being competent and capable to conduct sanitary inspections in accordance
13 with established DPHSS environmental health inspection procedures.

14
15 (f) *Potential Environmental Health Inspection Company* or *Potential EH*
16 *Company* means an association, a corporation, individual, other legal entity or agency
17 that is duly licensed to do business on Guam and has been certified, but not contracted,
18 by DPHSS as being competent and capable to conduct sanitary inspections in accordance
19 with established DPHSS environmental health inspection procedures.

20
21 (g) *Sanitary Permit* means the official document issued by DPHSS permitting
22 a duly licensed entity to conduct activities as stated within the “Sanitary Permit” issued.

23
24 (h) *Satisfactory rating* means the letter grade “A” issued by the Department or
25 the Independent EH Company to a temporary workforce housing as result of an
26 inspection.

27
28 (i) *Temporary workforce housing* means any enclosures of living spaces,
29 reasonably contiguous, together with the land appertaining thereto, established, operated
30 or used as living quarters and, at a minimum, fifty-one percent (51%) of the residents are
31 temporary workers, including, but not limited to, facilities known by varying
32 nomenclatures or designations as dormitories, hotels, motels, travel lodges, or tourist
33 homes.

34
35 (j) *Temporary workforce housing operator* or *Operator* means a person, or
36 business entity, who owns, leases or manages, or proposes to own, lease or manage, a
37 temporary workforce housing, and herein shall be referred to as an operator.

38
39 **§41704. Contracting of Services.** Contracting of services for the inspection of
40 temporary workforce housing by an Independent Environmental Health Inspection
41 Company shall be done in accordance with the Government of Guam procurement
42 procedures. Contracts to inspect temporary workforce housing shall only be awarded to
43 those businesses and firms that have been certified with the DPHSS to conduct such
44 inspection. Additional requirements may be identified by the DPHSS during the
45 procurement process for the services.

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1 **§41705. Authority to Terminate Contract.** The Department of Public Health
2 and Social Services has the authority to issue Sanitary Permits for temporary workforce
3 housing, regulate and enforce such facilities, certify a Potential Environmental Health
4 Inspection Company, and contract the service of an Independent Environmental Health
5 Inspection Company to conduct inspections of these facilities. Service contract with an
6 Independent EH Company shall be terminated by DPHSS if the department finds the
7 company to be ineffectual, as determined by the DPHSS.

8
9 **§41706. Certification Requirements of EH Company.** To qualify as a
10 Potential EH Company, all private businesses and individuals shall meet the minimum
11 requirements outlined in this section. A business or an individual shall be officially
12 identified as a Potential Environmental Health Inspection Company only upon receiving
13 certification from DPHSS to conduct inspections of temporary workforce housing. Upon
14 receiving a contract from DPHSS, the Potential EH Company shall be designated as an
15 Independent EH Company. The DPHSS shall certify as many Potential EH Company
16 necessary to ensure compliance to P.L. 30-64.

17
18 **§41707. Employee Qualifications.** Independent Environmental Health
19 Inspection Company shall:

20
21 (a) Authorize only those individuals who possess, at a minimum, the
22 following to conduct inspections of temporary workforce housing:

- 23
24 1. Same qualifications as the Environmental Public Health Officer of DEH
25 that perform inspections of temporary workforce housing; and
26 2. Pass both instruction and field evaluation administered by the DEH.

27
28 (b) Have at least one employee with the same minimum qualifications as the
29 Environmental Public Health Officer of supervisory position of DEH. The individual
30 shall possess the following:

- 31
32 1. The ability to provide guidance to less experienced inspector, conduct
33 complex inspections, possess the knowledge and experience to identify all
34 potential environmental health hazards that may be found at temporary workforce
35 housing, and possess two years experience in conducting sanitation inspections of
36 residential and commercial structures independently; and
37 2. Pass both instruction and field evaluation administered by the DEH.

38
39 (c) Not authorize an individual to conduct inspections of temporary workforce
40 housing who has been convicted of a felonious crime or misdemeanor crimes of moral
41 turpitude, as determined by DPHSS;

42
43 (d) Provide to DPHSS, when requested, documents attesting to the
44 qualifications of its employees conducting inspection of temporary workforce housing;
45 and
46

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1 (e) Comply with any changes in the qualification standards noted above,
2 provided the company is provided at least 45 days of notice in advance by DPHSS.

3
4 **§41708. Business Qualifications.** A Potential Environmental Health Inspection
5 Company shall:

6
7 (a) Be legally created and recognized, whether independently or within a
8 larger organization;

9
10 (b) Meet and comply with all other requirements of the Government of Guam
11 to conduct business as an Independent EH Company;

12
13 (c) Be subject to background evaluation by local and federal regulatory and
14 enforcement entities of the business and its principle managers and owners;

15
16 (d) Not conduct inspections of a temporary workforce housing which may
17 pose a conflict of interest;

18
19 (e) Immediately disclose any potential conflict of interest to DPHSS in
20 writing; and

21
22 (f) Not employ Government of Guam employees to conduct inspections of
23 temporary workforce housing.

24
25 **§41709. Equipment, Transportation, and Dress Code.** Excluding official
26 DPHSS forms provided and/or required by the Department, the Independent EH
27 Company shall possess and utilize its own equipment, supplies, vehicles, and any other
28 materials necessary to properly and effectively conduct inspections of temporary
29 workforce housing. The DPHSS shall issue an official badge to all individuals of the
30 Independent EH Company identified to conduct inspections. The Department shall
31 indicate the appropriate dress code and hygiene standards of individuals of an
32 Independent EH Company conducting inspections of temporary workforce housing
33 during the procurement process of services.

34
35 **§41710. Certification Eligibility Review.** (a) The DPHSS will review the
36 eligibility of an Independent Environmental Health Inspection Company at least once
37 very quarter, and as often as necessary, through the examination of applicable documents.

38
39 (b) An Independent Environmental Health Inspection Company shall provide
40 any and all supporting documents requested by the DPHSS during the department's
41 review of the company's eligibility.

42
43 (c) The DPHSS is to only request from the Independent Environmental Health
44 Inspection Company those supporting documents relevant to the certification eligibility
45 of the company.

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1 (d) An Independent Environmental Health Inspection Company shall submit
2 all documents requested by the DPHSS within 5 working days of the request. The
3 DPHSS may extend the due date of such submission at its discretion.
4

5 (e) Failure to timely submit requested documents to the DPHSS by the
6 Independent Environmental Health Inspection Company may result in the company's loss
7 of certification, thus becoming ineligible to conduct inspections on behalf of the DPHSS
8 until such time all requirements are satisfactorily met as determined by the Department.
9

10 **§41711. Inspections by an Independent EH Company.** Independent
11 Environmental Health Inspection Company under certification by DPHSS shall conduct
12 sanitary inspections only on behalf and at the direction of DPHSS. As mandated in P.L.
13 30-64, the DPHSS shall contract with an Independent Environmental Health Inspection
14 Company only as a last resort, after attempting to hire environmental health personnel
15 pursuant to the merit system, and only if unable to fill the positions after utilizing all local
16 potential sources of recruitment, including the University of Guam, Guam Community
17 College, and other entities.
18

19 **§41712. Notification.** (a) The DPHSS shall allocate inspection contracts to
20 Potential EH Companies, which shall be based upon, but not limited to, the following
21 criteria in no particular order:
22

- 23 1. Qualification and capability of each company;
- 24 2. Size of the temporary workforce housing; and
- 25 3. Available funding.
26

27 (b) All notification by DPHSS to Independent EH Company to conduct an
28 inspection and re-inspection of temporary workforce housing shall be in writing, which
29 may be transmitted through electronic medium, such as facsimile and email. An
30 Independent EH Company shall not conduct inspections of any kind without the written
31 request from the DPHSS.
32

33 (c) The DPHSS shall notify in writing all temporary workforce housing
34 operators the names of all Independent EH Companies.
35

36 **§41713. Inspections, Training, and Meetings.** (a) The Independent
37 Environmental Health Inspection Company shall:
38

- 39 1. Attend the initial orientation presented by the Division of Environmental
40 Health prior to conducting any inspections on behalf of DPHSS;
- 41 2. Administer the regulations governing the operation of temporary
42 workforce housing;
- 43 3. Conduct its inspections in accordance to the policies and procedures
44 developed by DPHSS;
- 45 4. Ensure that inspection phases outlined in §26304 of P.L. 30-64 are
46 followed;

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1 5. Transmit all inspection reports and supporting documents to DPHSS
2 within 24 hours of the completion of the inspection;

3 6. Immediately notify DEH of inspections resulting, or potentially resulting,
4 in the suspension of the operator's Sanitary Permit;

5 7. Attend all training and meetings requested by DPHSS, provided the
6 company is notified at least 48 hours in advance;

7 8. Provide the name and 24-hour contact number of the person identified as
8 the company's point-of-contact. The point-of-contact shall be available to respond
9 to the call of DPHSS 24-hours a day, 7 days a week;

10 9. Notify DPHSS of any temporary workforce housing which requires, or
11 may have undergone, change of temporary workforce housing status;

12 10. Have the duty to notify DPHSS of any facility meeting the definition of a
13 temporary workforce housing which does not possess a current Sanitary Permit
14 when it so becomes aware, or gains knowledge, of such un-permitted facility;

15 11. Immediately cease any inspection it is conducting when so directed by
16 DPHSS; and

17 12. Cooperate with DPHSS when the Department conducts its periodic review
18 and evaluation of the company's performance and eligibility.

19
20 (b) EH Company shall be responsible for the work quality and the conduct of
21 its employees during inspections of temporary workforce housing, and

22
23 1. Notify DPHSS in writing, within 24 hours after the event, of any
24 complaint or significant incident relevant to any inspection conducted by the EH
25 Company on behalf of the department; and

26 2. Cooperate with DPHSS in responding to any complaints submitted by an
27 operator, and others, relating to activities performed by the EH Company on behalf
28 of the department.

29
30 **§41714. Performance Review and Evaluation.** The DPHSS shall review and
31 evaluate the performance of an Independent Environmental Health Inspection Company
32 at least once every quarter through the observations of its sanitation inspections of
33 temporary workforce housing, assessments of its inspection reports, and any other means
34 deemed necessary by the DPHSS.

35
36 **§41715. Potential EH Company to Enter Permitted Facility.** If instructed by
37 the DPHSS, a temporary workforce housing operator shall authorize the entry and
38 presence of businesses or individuals in the process of obtaining certification as a
39 Potential EH Company during their training and evaluation, provided:

40
41 (a) A representative of DPHSS is present and accompanying the individual or
42 business attempting to become a Potential EH Company, and

43
44 (b) Their presence is limited to the scope of DPHSS's authorization to inspect
45 the facility.

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1 **§41716. Inspections and Renewal of Sanitary Permit.** (a) Pursuant to §26304
2 of Title 10 GCA, Chapter 26A, all temporary workforce housing are to be inspected in
3 the following three phases.
4

5 1. Primary Inspection Phase: Temporary workforce housing shall be
6 inspected quarterly upon the issuance of the initial Sanitary Permit. A temporary
7 workforce housing must receive four consecutive satisfactory ratings before
8 classified into the Secondary Inspection Phase.

9 2. Secondary Inspection Phase: Temporary workforce housing shall be
10 inspected semiannually upon the successful completion of the Primary Inspection
11 Phase. A temporary workforce housing must receive two consecutive satisfactory
12 ratings before classified into the Tertiary Inspection Phase, and any non-satisfactory
13 rating in this phase will result in the facility to be reclassified into the Primary
14 Inspection Phase.

15 3. Tertiary Inspection Phase: Temporary workforce housing shall be
16 inspected annually upon the successful completion of the Secondary Inspection
17 Phase. A temporary workforce housing that fails to obtain a satisfactory rating shall
18 be reclassified into the Primary Inspection Phase.
19

20 (b) An inspection of a temporary workforce housing within any of the three
21 phases that does not result in a satisfactory rating shall cause that facility to be inspected
22 in accordance to the provisions of the Primary Inspection Phase.
23

24 (c) Pursuant to §26305 of Title 10 GCA, Chapter 26A, an operator shall pay a
25 fee for every inspection conducted by the DPHSS or an Independent Environmental
26 Health Inspection Company.
27

28 1. The cost of the inspection fee shall be based on the floor space of the
29 temporary workforce housing.

30 2. Temporary workforce housing having the following floor space shall be
31 assessed accordingly:

- 32 a. 600 square feet or less: \$30.00
- 33 b. 601 – 1,200 square feet: \$60.00
- 34 c. 1,201 – 1,800 square feet: \$90.00
- 35 d. 1,801 – 2,400 square feet: \$120.00
- 36 e. 2,401 – 3,000 square feet: \$150.00
- 37 f. 3,001 – 3,600 square feet: \$180.00
- 38 g. 3,601 – 4,200 square feet: \$210.00
- 39 h. 4,201 – 4,800 square feet: \$240.00
- 40 i. 4,800 – 5,400 square feet: \$270.00
- 41 j. 5,401 – 6,000 square feet: \$300.00
- 42 k. More than 6,000 square feet: \$0.05 per square foot.

43 3. Upon the completion of an inspection, the Department or the Independent
44 EH Company shall provide an invoice to the temporary workforce housing operator
45 or his/her representative.

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1 4. Within 7 calendar days of receipt of the invoice from the Department or
2 the EH Company, the operator or his/her representative shall make the appropriate
3 payment to the Department so to be issued its renewal Sanitary Permit. Failure to
4 make such payment within the required allotted time shall cause the Sanitary Permit
5 to become suspended, at which time the operator must cease the operation of the
6 temporary workforce housing immediately.

7 5. In addition to all other required fees, and before the initial Sanitary Permit
8 is issued, the operator shall provide to DPHSS an “inspection security deposit”
9 which shall equal to that of the facility’s applicable inspection fee cited in
10 §41716(c).2. This non-refundable inspection security deposit shall be used as
11 payment to DPHSS in the event the temporary workforce housing operator fails to
12 timely make payment for an inspection conducted by the Department or the
13 Independent EH Company. The use of the inspection security deposit for payment
14 to DPHSS shall not relieve the same operator from resubmitting another inspection
15 security deposit before the suspension of its Sanitary Permit is withdrawn.

16 6. The inspection security deposit may be used by the temporary workforce
17 housing operator as payment for the last inspection required of the operator prior to
18 close of its business, provided the operator submits a written notification to the
19 Department. Such written notification shall include the name and signature of the
20 operator; the official date of the temporary workforce housing’s close of business,
21 which shall be no later than the next required inspection date had the operator
22 remained in operation; and a request for the use of the inspection safety deposit to
23 make such payment. The written notification shall be submitted concurrently with
24 the applicable invoice to the Department.
25

26 (d) All Inspection Reports issued by the Department indicating the letter grade
27 of the most recent inspection, date of such inspection, and the inspection phase of the
28 temporary workforce housing, shall be posted in a conspicuous location.
29

30 (e) The temporary workforce housing operator shall ensure that he/she, or a
31 designee, be present during inspections of temporary workforce housing by the
32 Department or the EH Company.
33

34 **§41717. Severability.** If any provision of these rules and regulations, its
35 application to any person, or circumstance are found to be invalid or contrary to law, such
36 invalidity shall not affect other provisions or applications of these rules and regulations
37 which can be given effect without the invalid provisions or applications, and to this end
38 the provisions of these rules and regulations are severable.