



EXECUTIVE SUMMARY
Office of Public Accountability’s Status of Legislative Mandates
OPA Report No. 22-07, December 2022

During the past six years, from October 2016 to September 2022, 79 additional mandates have expanded the Office of Public Accountability’s (the OPA or the Office) primary duties and responsibilities. In total, this increased the number of active legislative mandates to 120. Of these 79 mandates:

- 12 required the OPA to conduct audits;
- 42 required the OPA to provide oversight, approve, or conduct a specific activity;
- One required the OPA to be a member of a committee, group, or task force; and
- 24 required various GovGuam agencies to submit reports and other information to the OPA.

There are 67 (or 85%) of the 79 mandates that have been closed, primarily because (1) the mandates were addressed by the OPA; (2) the agencies submitted the required reports; (3) the mandates were determined to be not the best use of the OPA’s limited resources based on our professional judgment; (4) the deadlines to submit the required audits or conduct the specific activities have lapsed; or (5) the mandate was repealed by the Guam Legislature or became defunct. Seven mandates were determined to be not applicable, in the analysis because while the mandate was passed during the scope, the due date requirement is unable to determine compliance until a later date. For a breakdown of the OPA’s legislative mandates status, see Table 1.

Table 1: Status of Legislative Mandates

	CLOSED	OPEN	N/A	Total
Conduct Audit	9	3	0	12
Member	1	0	0	1
Other	37	0	5	42
OPA-Specific Mandates, Subtotals	47	3	5	55
Mandates that Require Agencies to Submit Reports or Other Information to OPA	20	2	2	24
Grand Total	67	5	7	79

OPA Audit Mandates

Aside from 1 GCA §1908’s requirement that the OPA is to conduct audits of all transactions and accounts of all departments, offices, corporations, authorities, and agencies in all branches of the GovGuam, various public laws during the past six years have required the OPA to conduct 12 specific audits of government activities.

Of the 12 audit mandates, nine have been addressed, and three remain open. In calendar year (CY) 2021, the OPA released nine performance audits, oversaw 28 financial audits, and adjudicated 15 procurement appeals. In addition to these, the Office was mandated to conduct as many as 21

additional audits within the year. The OPA struggles to allocate time, resources, and human resources to address many of these mandates. The OPA recommends that the Guam Legislature revisit these ongoing/periodic mandates, repeal those considered inactive and determine if those not addressed require attention.

Other OPA Mandates

The OPA serves as a watchdog or guardian to ensure the effective and efficient administration and management of public funds and programs. Aside from conducting audits, 42 mandates have expanded the OPA’s roles and responsibilities from October 2016 to September 2022. Mandates include: providing oversight of audits, broadcasting meetings, developing standards, posting to our website, submitting reports, etc.

OPA Membership Mandates

There is one new OPA legislative mandate requiring the Public Auditor (or representative) to be a member of an organization, committee, etc. Public Law (PL) 35-29 requires the Public Auditor to take part in the Appeals Board for schools acknowledged as Charter Schools by the Guam Academy Charter Schools Council. As of October 2022, there are four Charter schools in Guam, 1) Guahan Academy Charter School, 2) iLearn Academy Charter School, 3) Science is Fun and Awesome Academy Charter School, and 4) Career Tech High Academy Charter School. This mandate has been closed, as the Board is currently inactive. The Office reached out to the Guam Academy Charter Schools Council to see if there has been any activity but have not received a response as of the issuance of this report.

The status of OPA membership mandates prior to FY 2017 includes two closed and one open legislative mandate. Mandates that have been closed are PL 29-02 and 30-164, while PL 33-27 remains open. The closed mandates are due to the Public Auditor remaining as a member of the Special Economic Service (PL 29-02), and as far back as October 2016, representatives from the Office of Public Accountability attended the Guam Educational Financial Supervisory Committee meetings monthly (PL 30-164). As for PL 33-27, it remains open because the Public Auditor has not been made aware of any meetings or activities concerning the Guam Tax Commission. The Public Auditor remains an active member of all mandates requiring the OPA’s membership.

Reports Required from GovGuam Agencies & Other Organizations

Of the 24 new mandates, 20 have been closed, two remain open, and two are not applicable to the timeline of this report. Nine of these mandates were periodic, while 14 were one-time instances—effective only during the calendar/fiscal year of when the public law was enacted. One mandate is ongoing or continuous.

As a result, the OPA has 40 total mandates to receive reports from GovGuam agencies and other organizations. In total, the overall compliance of various GovGuam agencies related to reporting requirements was: 96 (or 63%) instances of compliance and partial compliance, 49 (or 32%) instances of non-compliance, and eight (or 5%) instances that are not applicable. See Table 2 for the status of agencies’ compliance.

Table 2: GovGuam Agencies’ Compliance with Reporting Requirements [2001-2022]

Compliance	Partial Compliance	Non-Compliance	N/A	Total
69	27	49	8	153

The top two non-compliant agencies were: [1st] Department of Parks & Recreation and Guam Board of Accountancy; [2nd] Office of the Governor of Guam, the CHamoru Land Trust Commission, The Foundation for Public Education, and the Guam Department of Education. See Table 3.

Table 3: Instances of Non-Compliance from GovGuam Agencies [2001-2022]

	Agency	# of Non-Compliance Instances	# of Total Instances	# of Mandates
T1	Department of Parks and Recreation	7	16	9
T1	Guam Board of Accountancy	7	7	1
T2	Office of the Governor of Guam	6	6	1
T2	CHamoru Land Trust Commission	6	6	2
T2	The Foundation for Public Education	6	6	1
T2	Guam Department of Education	6	7	7
T3	Guahan Academy Charter School Council	4	4	1
T3	Veterans Affairs Office	4	18	1
T4	Guam Environmental Protection Agency	1	18	2
T4	Mayor's Council of Guam	1	7	1
T4	Office of Public Accountability	1	2	2
	Total	49		

Generally, GovGuam entities complied with the various mandates to prepare and submit reports to the OPA. With the many reporting requirements, we suggest the elimination of written report submissions by GovGuam agencies and limiting the reporting requirements to website posting at the agency level and email notifications to the required parties (i.e., Governor, Speaker, Public Auditor, etc.) with attachments. Providing financial information on websites is more efficient and effective in enhancing accountability and promoting transparency in the government. If the OPA is still required to hold oversight or manage these mandates, the Office recommends there be an incentive or way for agencies to comply. At the moment, there is no compelling reason for any other agency to submit these reports on time or at all.

Conclusion

In the six years since the OPA's last review of its legislative mandates, 79 additional mandates have been enacted, expanding the OPA's role and responsibility. The Office addressed 67, or 85%, of these mandates. While the Office recognizes the Legislature's prerogative to expand the OPA and other government agencies' roles and responsibilities, these mandates are difficult to address without time, staffing, and resources. Despite this, the OPA strives to address as many mandates given its current staff complement. Accordingly, the Public Auditor and his management team continue to assess risks and exercise professional judgment when prioritizing mandates to address.



Benjamin J. F. Cruz
Public Auditor