



## **EXECUTIVE SUMMARY**

### **Liberation Day Committee Funds and Activities**

Report No. 10-09, December 2010

For the past six years, from 2004 to 2009, the Guam Island Fair Committee, better known as the Liberation Day Committee (LDC), was not held accountable for the funds raised during the annual Liberation Day festivities. Since committee membership is subject to change annually, each LDC is distinct from its predecessor. Without oversight and continuity, the LDCs were lax about accountability and transparency. We found no evidence that proper financial reports were prepared and submitted to any oversight body. Thus, our review was hampered by incomplete and missing financial records. The lack of oversight has allowed for poor record-keeping, negligence regarding tax-exempt filing requirements, and failure to comply with orders to establish a special textbook fund.

Since OPA Report No. 03-04, Liberation Day Committee Funds and Activities, accountability among the LDCs has not changed substantially. The LDCs remain without oversight and are not held responsible for reporting their activities or the funds they raised. The lack of continuity from one committee to the next deprives the members of institutional knowledge. Although the 2003 LDC implemented our audit recommendations, those internal controls were not passed on and subsequent LDCs repeated the deficiencies and ended with questioned costs of \$2 million (M) due to lack of supporting invoices and documentation, and unsubstantiated revenues of \$1.6M.

Accountability is the cornerstone of all financial reporting. Transparency is the means to achieve accountability. In not being accountable to higher authority, the LDCs were lax about recordkeeping and cash management; fell short of their fiduciary duty to file tax returns and protect their tax-exempt status; and they neglected to at least make known the Liberation Day Textbook Fund.

#### ***Lack of Financial Statements***

No evidence of financial statements was found for 2006, 2007, and 2009. Only the LDCs of 2004, 2005, and 2008 yielded enough financial information to allow us to determine their financial position at year end. Inconsistent accounting and unreasonable balances, however, cast doubt on the accuracy of the data. The LDCs of 2004 and 2005, for instance, reported losses of \$57,135 and \$105,264, respectively, reporting on an accrual basis. The 2008 LDC's financial statements, which appeared to have been prepared on a cash basis, indicated the committee ended with exactly \$5,000. Missing, incomplete or inaccurate records and supporting documents made these figures not auditable. As of the date of this report the Mayors' Council of Guam (MCOG) has yet to provide an accounting of the 2010 LDC.

#### ***Lack of Compliance with Non-Profit Filing Requirements***

Under federal and local laws, tax-exempt entities that fail to file returns (Form 990) for three consecutive years automatically lose their tax-exempt status and are subject to income and gross receipts taxes. Donations and contributions to them would not be tax deductible. We found no

evidence that LDC returns were filed for 1995 through 1997. Thus, succeeding LDCs may not have had tax-exempt status. The LDC of 2004 filed a return, but the LDCs of 2005 through 2009 did not.

### ***Liberation Day Textbook Fund not Established***

By annual Executive Orders since 2004, 50% of the net proceeds should go to the Liberation Day Textbook Fund, but the Fund was never established and no deposits were ever made. As late as October 2010, neither the Department of Education nor the Department of Administration was aware of such a fund. According to past LDC chairpersons, no donations were made either because their year ended with a deficit or with only enough for start-up costs for the next LDC.

### ***Lack of Continuity***

The LDC of 2003 implemented the recommendations for effective financial accounting contained in OPA Report No. 03-04, but succeeding committees did not maintain them. The chairman of the 2009 LDC did not know about the 2003 improvements and said incoming LDCs simply rely on whatever the outgoing committee leaves behind. Instead of improving, the LDCs of 2004 through 2009 were susceptible to the deficiencies cited in OPA Report No. 03-04. Many of those deficiencies stem from the lack of internal controls over recordkeeping, cash receipts, disbursements, and bank reconciliations, as follows:

- Recordkeeping: Each LDC's records were not easily accessible, organized, or complete.
- Cash receipts: Cash receipts were not accurately recorded and deposit documentation was missing, leaving \$1.6M in question.
- Disbursements: 15 checks, amounting to \$27,797, lacked dual signatures. Dual signatures help prevent disbursement errors, omissions, or abuse. We found that 170 vendors and individuals were not issued a Form 1099-MISC for the total of \$963,666 paid to them, increasing the likelihood that this income would go untaxed. Cash disbursement questioned costs amounted to \$2M.
- Bank reconciliations: No LDC consistently conducted bank reconciliations or maintained complete bank statements.

Due to the lack of disbursement controls, the 2009 LDC alone had questioned costs of \$344,343. The deficiencies noted include:

- Three checks totaling \$6,661 were made out to "Cash", without supporting invoices and were purportedly for the following:
  - \$4,163 for the reimbursement of tickets and lunch meeting;
  - \$1,650 for per diem of two committee members (signed by the members themselves); and
  - \$848 for travel reimbursement.
- A review of the check register revealed that a check for \$3,000 was written for four committee members for per diem at \$750 each. Three of the four members were authorized signatories of the account. According to the chairman, the members went to the Philippines to purchase materials and other supplies at lesser cost. We found no receipts to substantiate the cost benefit of the trip.

## **Recommendations**

We recommend the Legislature amend the laws regarding Liberation Day activities to require that: (1) all proceeds be duly and accurately recorded and reported to the Legislature, the Governor and/or appointing authority within 120 days of the close of the Liberation Day Carnival; (2) designate the Department of Administration (DOA) to perform the accounting functions of LDC; (3) records be maintained in connection with the Liberation Day activities and submitted to DOA; and (4) revenues derived from the Liberation Day festivities and activities be subjected to an annual audit.

As each LDC operates independently, we recommend that future LDCs comply with tax reporting and filing requirements to legally operate as tax-exempt entities. With better operating and accounting procedures and prudent financial management, the LDCs could well enhance revenues and better control expenditures. With keen oversight and monitoring, the LDCs may be more practical in donating to “worthy public causes,” such as the Textbook Fund, which exists for the sole purpose of purchasing books for Guam’s school children.

On December 22, 2010, OPA met with officials from the MCOG to discuss the findings and recommendations of our audit. Both the Executive Director and the President generally concurred with the findings and recommendations and provided their official response on December 28, 2010. See Appendix 17 for MCOG’s management response.

Senseramente,



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