

**General Services Agency  
Blanket Purchase Agreements  
Procurement Function**

**Performance Audit  
October 1, 2001 through June 30, 2003**

**OPA Report No. 04-08  
July 2004**



OFFICE OF THE PUBLIC AUDITOR

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OFFICE OF THE PUBLIC AUDITOR

## **EXECUTIVE SUMMARY**

OPA Report No. 04-08 July 2004

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### **General Services Agency Blanket Purchase Agreements Procurement Function October 1, 2001 through June 30, 2003**

The Office of the Public Auditor (OPA) determined that an audit of the procurement practices of the General Services Agency (GSA) should be conducted, since a majority of the audit findings in the Single Audit Reports of FY 2001 and prior years pertain to procurement. This report focuses on specific findings pertaining to Government of Guam Blanket Purchase Agreements (BPAs). This is the second of a series of reports on GSA's Procurement Function.

The objectives of our audit were to determine whether BPAs awarded to vendors were based on fair and open competition, equally allocated, and in compliance with Guam Procurement Laws and Regulations. The scope of our audit was the 21 months from October 1, 2001 to June 30, 2003. During this period GSA issued 1,663 BPAs worth over \$10 million.

Our audit findings on BPAs indicate that GSA did not consistently comply with Guam Procurement Laws and Regulations to ensure fair, open, and equitable competition was conducted in the procurement process. In this audit, we found BPAs that were not procured based on fair and open competition and unequally awarded to favor a single vendor. We also found excessive and improper procurement of food, inconsistent application of BPA regulations, circumvention of the procurement regulations, lack of procurement monitoring and review, and incomplete documentation of procurement.

Our findings include:

- DOC issued \$2.5 million (70%) of the total food purchases of \$3.5 million to vendor P3351001, whereas the remaining 21 and 15 vendors only received an aggregate of \$1 million in FY 2002 and the nine months ending June 2003, respectively.
- The award process for these purchase orders seem to indicate possible preferential selection toward vendor P3351001 as evidenced by:
  - Questionable disqualification of other bidders and for bid numbers 039-01 and 040-01 vendor P3351001 was awarded \$1.5 million;
  - Eight POs totaling \$460,100 to vendor P3351001 were issued three days prior to the end of the fiscal year although the goods and invoices were received two months earlier than the date of the September purchase orders.
  - Vendor P3351001 received \$84,681 in excess of amount originally awarded; procurement files did not have any documentation as to the rationale;
  - Six POs issued to vendor P3351001 aggregating \$74,996 did not have any written documentation to justify the selection of this vendor.

- DOC did not always receive the best value for food purchased. For example, vendor P3351001 charged 38 cents per pound more for short ribs and 18 cents per pound more for beef stew than retail vendors.
- The average cost to feed inmates in U.S. correctional facilities that house 500 to 1,200 prisoners ranged from \$2.00 to \$3.54 per inmate per day or 250% to 450% less than Guam's cost of \$9.05 per inmate per day to feed 660 inmates in FY 2002.
- Three contracts for medical services to the Department of Public Health and Social Services aggregating \$137,120 were subsequently issued as BPAs when the contracts were rejected by the Attorney General's Office. Public Health improperly circumvented the proper issuance of contracts and purchase orders.
- Incomplete documentation of procurement history. 19 BPAs totaling \$281,045 did not have price quotes in their files; 13 POs totaling \$583,398 did not have documentation of the selection of the winning vendor; lack of running balance logs led to the over issuance of five POs totaling \$130,697 above the maximum bid award of \$165,235.
- Vague or contradicting BPA regulations. Inconsistencies in the application of the \$15,000 threshold for BPA purchases; contradicting regulations as to type of goods or services allowed under BPAs; inconsistent allocation of BPA award to three vendors.
- Possible circumvention of regulations by issuing BPAs of \$14,999 each in a short period of time and for the same type of items that should have required competitive sealed bidding and publication. In the 21 months, there were 52 BPAs (\$779,948) issued in the amount of \$14,999 each.

Some of our recommendations are:

1. For GSA to establish written policies and procedures, to include proper planning of BPA purchases and the performance and documentation of detailed and extensive bid award analysis, negotiation of price especially when amounts being awarded are in the millions, and cease issuance of multiple purchase orders and amendments to bid awards.
2. For DOC to analyze food purchases made by the agency and make efforts to reduce average food cost per inmate to be more in-line with comparable U.S. correctional facilities.
3. For the Attorney General to provide guidance on handling unsigned contracts when services are urgently needed, clarify the \$15,000 limitation for BPA purchases, determine possibility of issuance of BPA to single or two vendors, and to determine whether any illegal activity may have transpired between vendor P3351001, GSA employees, and/or DOC employees.

The GSA Chief Procurement Officer (CPO) disagreed with 10 of the 24 sub-findings, but agreed with all the other findings. We have provided rebuttals on the 10 sub-findings disagreed by the CPO, which can be found in the report. The Directors of DOC and DPHSS generally concurred with our findings and recommendations. Refer to the Management Response section of the report for details.



Doris Flores Brooks, CPA, CGFM  
Public Auditor



OFFICE OF THE PUBLIC AUDITOR

**General Services Agency  
Performance Audit of the BPA Procurement Function**

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OFFICE OF THE PUBLIC AUDITOR

## **Introduction**

Because a majority of the audit findings in the Single Audit Reports of fiscal year 2001 and prior years pertain to procurement, the Office of the Public Auditor (OPA) determined that a performance audit of the procurement practices of the General Services Administration (GSA) should be conducted.

This report focuses on findings pertaining to Government of Guam Blanket Purchase Agreements (BPAs). This report follows OPA **Report 04-05** as the second report released on General Services Agency's Procurement Function.

## **Jurisdiction to Investigate**

The Public Auditor is required to annually audit "all the transactions and accounts of all departments, offices, corporations, authorities, and agencies in all of the branches of the Government of Guam." The Public Auditor may also "conduct or cause to be conducted such other audits or reviews as he or she deems necessary."<sup>1</sup>

## **Background Information**

### **GSA & Procurement Functions**

GSA, a division of the Department of Administration (DOA), is responsible for providing centralized procurement and warehousing activities for the Government of Guam, in accordance with 5 G.C.A. § 5110. GSA is located in Piti.

A Chief Procurement Officer (CPO), who reports directly to the Director of Administration, manages GSA.<sup>2</sup> The CPO is responsible for the procurement of supplies and services of over 40 Government of Guam line agencies (**Appendix A**). The autonomous agencies (e.g. Guam Power Authority, Guam International Airport Authority, and Port Authority of Guam) perform their own procurement function, after issuance of a delegation of authority by the CPO.

### **Procurement Laws and Regulations**

The procurement law states that first preference in all procurement of supplies and services shall be made from among businesses licensed to do business on Guam and

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<sup>1</sup> 1 G.C.A. §1908

<sup>2</sup> 5 G.C.A. §5111

that maintain an office or other facility on Guam.<sup>3</sup> Procurement of supplies and services shall, where possible, be made sufficiently in advance of need for delivery or performance to promote maximum competition and good management of resources.<sup>4</sup>

The Guam Procurement Law [Guam Code Annotated (G.C.A.) Title 1, Chapter 5] and the Guam Procurement Regulations [Guam Administrative Regulations (G.A.R.) Title 2, Division 4] are the major guides for the procurement of goods and services.<sup>5</sup>

Procurement of goods and services are categorized in a variety of ways:

- **Small Purchases of \$500 or less**
- **Small Purchases between \$500 and \$15,000**
- **Competitive Sealed Bidding for Purchases in excess of \$15,000**
- **Purchases in excess of \$25,000 requiring publication**
- **Competitive Selection for Professional Services**
- **Sole Source Procurement**
- **Blanket Purchase Agreements (BPAs)**
- **Emergency Procurement**

### **Blanket Purchase Agreements (BPAs) Regulations**

BPAs are a simplified method of filling anticipated repetitive needs for supplies or services when the quantity and the type of services or supplies required cannot be properly identified.<sup>6</sup> Under 2 G.A.R. § 3112.12(a), circumstances under which BPAs may be approved are:

- There are a wide variety of items in a broad class of goods (e.g. hardware and office supplies) that are generally purchased but the exact items, quantities, and delivery requirements are not known in advance and may vary considerably; and
- Any case in which the writing of numerous purchase orders can be avoided through the use of this procedure.

Other requirements by the Guam Procurement Regulations to issue a BPA include:

- All competitive sources should be given an equal opportunity to furnish supplies or services. To the extent practical, for items of the same type, BPAs should be placed concurrently with at least three separate suppliers to assure equal opportunity to vendors. 2 G.A.R. § 3112.12.
- A BPA is established with a purchase order that shall not exceed \$15,000 for supplies or services. 2 G.A.R. § 3112.13(b).
- BPAs require written determination that a blanket purchase is in the best interest of the Government of Guam. 2 G.A.R. § 3112.11(b).

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<sup>3</sup> 5 G.C.A. §5008

<sup>4</sup> 5 G.C.A. §5010

<sup>5</sup> Procurement law and regulation available at [www.guamattorneygeneral.com](http://www.guamattorneygeneral.com)

<sup>6</sup> 2 G.A.R. §3112.11(a)

- The CPO or the purchasing agency is also required to review a random sample of the BPAs files at least annually to ensure that authorized procedures are being followed. 2 G.A.R. § 3112.14.

## **Objectives**

The objectives of our audit were to determine whether Blanket Purchase Agreements awarded to vendors were based on fair and open competition, equally allocated, and in compliance with Guam Procurement Laws and Regulations.

## **Scope and Methodology**

The scope of our audit was the review of BPAs issued by GSA for the 21 months from October 1, 2001 to June 30, 2003. We did not review the procurement of construction contracts at the Department of Public Works (DPW) or the procurement activities of the Department of Education (DOE).

Our methodology included gaining an understanding of laws and regulations pertaining to BPAs procurement process. We tested procurement records of non-statistically selected BPAs to determine compliance with laws and regulations.

Our audit was conducted in accordance with the standards for performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. Accordingly, we obtained an understanding and performed an evaluation of internal controls of the procurement process at General Services Agency. We included tests of records and other auditing procedures that were considered necessary under the circumstances.

## **Prior Audit Coverage**

### **Audit by External Auditors**

**Single Audit Report.** The Single Audit Reports for fiscal years 2002, 2001, 2000, and 1999 identified repeat findings related to government procurement. The findings indicated purchases worth \$2,362,022 in FY 2002, \$898,239 in FY 2001, \$4,270,754 in FY 2000, and \$8,018,366 in FY 1999 had no significant procurement documentation.<sup>7</sup>

### **Audits of the Office of the Public Auditor**

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<sup>7</sup> FY 2002-Finding Nos. 2002-02, 2002-04, 2002-11, 2002-12, 2002-17, and 2002-32; FY 2001- Finding Nos. 2001-03, 2001-09, 2001-15, 2001-20, 2001-23, 2001-28, 2001-31, 2001-41, and 2001-56; FY 2000- Finding Nos. 2000-04 and 2000-10; and FY 1999- Finding Nos. 99-02 and 99-07.



**OPA Report 02-02 Investigative Letter Report on Guam Mass Transit Authority's (GMTA) Procurement Issues.** In this report, GMTA was artificially dividing its tire requirements into separate Blanket Purchase Agreements and/or purchase orders in order to avoid the \$15,000 threshold, which requires sealed bidding. In FY 2001, GMTA issued three separate BPAs at \$14,500 each and a purchase order of \$14,400 for a total of \$57,900 for the procurement of tires. During FY 2002, GMTA again issued four BPAs for a total of \$17,000, which is above the limit of \$15,000 for BPAs purchases. GMTA should have utilized competitive sealed bidding (required for purchase of goods above \$15,000) and publicized the bids to the general public (required for purchases above \$25,000).

### **Overall Blanket Purchase Agreements Conclusion**

From our audit of Blanket Purchase Agreements procurement files, we found BPAs that were not procured based on fair and open competition; BPAs were unequally awarded favoring a single vendor; excessive and improper procurement of food; noncompliance and circumvention of the procurement regulations; lack of monitoring and review of BPAs; incomplete documentation of procurement; and inconsistencies in the application of BPA procurement regulations. A summary of our findings is listed below.

- **Excessive and improper procurement of food by the Department of Corrections (DOC).** In 21 months, DOC issued \$2.5 million worth of food purchase orders to vendor P3351001. The award process for these purchase orders indicated possible preferential selection toward this vendor as evidenced by:
  - Vendor P3351001 received \$1.5 million or 70% of the \$2.2 million in food purchases in FY 2002 and another \$935,000 or 70% of the \$1.3 million in food purchases for the nine months ended June 30, 2003;
  - Vendor P3351001 received purchase orders of \$84,681 in excess of bid awards even though this vendor did not receive the largest awards;
  - Purchase orders totaling \$460,100 were issued to vendor P3351001 just three days before the expiration of the bid period and the end of the fiscal year;
  - Questionable disqualification of potential bidders for bids 039-01 and 040-01, where vendor P3351001 received \$1.5 million;
  - Insufficient time for potential bidders to respond to bid publications of which vendor P3351001 received \$1.7 million or 73% of the total amount of bids. Only nine days notice given rather than the required 15 days notice;
  - Purchase orders for food of \$74,996 were given to vendor P3351001 without rationale for selecting this vendor;
  - Purchases totaling \$49,999 were issued after the bid expiration dates with approximately half of them issued to vendor P3351001;
  - DOC issued amendments to existing POs above \$15,000; thus, circumventing the requirement to utilize competitive sealed bidding and to advertise the requirements for purchases above \$25,000; and

- DOC did not always receive the best value for food purchased; one retailer charged less on two recurring food purchases made by DOC than the amounts paid as awarded to vendor P3351001.

Other indications of inefficient procurement of food by DOC included:

- The average cost to feed an inmate in U.S. correctional facilities that house 500 to 1,200 prisoners ranged from \$2.00 to \$3.54 per day compared to the \$9.05 per day for Guam inmates during FY 2002;
  - No documentation was available to indicate a broader base of participation from other capable vendors; and
  - The CPO and buyers at GSA failed to monitor the purchases of agencies to ensure that no vendor is given an advantage over others.
- **Rejected Contracts Bypassed by Issuance of POs.** Three initial contracts aggregating \$137,120 were subsequently issued as BPAs when the contracts were rejected by the Office of the Attorney General (OAG).
  - **Noncompliance with BPA Procurement Regulations.** We found evidence of BPAs not concurrently allocated to three vendors, incomplete procurement records that did not provide information as to the history of procurement, and review procedures were not performed. The lack of running balance logs led to the over issuance of POs totaling \$130,697 above the maximum bid award, of which \$39,951 was issued to vendor P3351001. These purchase orders should have been subject to competitive sealed bidding and publication requirements.
  - **Vague or Contradicting BPAs Regulation.** We found inconsistencies in the application of the \$15,000 threshold for BPA purchases, contradicting regulations on the type of goods or services allowed under BPAs, and the possible circumvention of regulation by issuing BPAs of \$14,999 each in a short period of time for the same type of purchases. These purchases should have undergone competitive sealed bidding and publication.

### **Specific Blanket Purchase Agreements Findings**

During the 21 months from October 2001 to June 2003, GSA issued 1,663 BPAs worth \$10,055,618. The nature of items procured under BPAs ranged from supplies (medical, office, construction), rental (heavy equipment), food (meat, dairy, produce, canned goods), and services (auto repair, film processing). As illustrated in **Table 1**, DOC was the top issuer of BPAs issuing 131 BPAs in a 21-month period for a total of \$3,243,188. See **Appendix A** for expanded list of agency names throughout the report.

**Table 1: Top 10 BPA Issuers**

FY 2002			FY 2003 (June 30, 2003)		
Agency	Total Amount	# of BPAs	Agency	Total Amount	# of BPAs
1 DOC	\$1,772,640.00	52	1 DOC	1,470,548.26	79
2 DPW	1,076,215.47	106	2 GSA	1,145,397.00	59
3 GSA	529,000.00	43	3 DOA	823,621.30	85
4 Military Affairs	432,610.23	65	4 DPW	730,452.00	168
5 AHRD	133,195.00	15	5 DPHSS	385,705.50	103
6 DPHSS	105,696.58	58	6 AHRD	196,629.17	30
7 Agriculture	102,019.90	86	7 Governor's Office	134,023.44	110
8 Governor's Office	58,384.17	72	8 GPD	123,940.00	55
9 OAG	46,130.00	24	9 Agriculture	96,968.90	100
10 GPD	42,885.44	17	10 GEPA	74,568.00	15
<b>Top 10 Total</b>	<b>\$4,298,776.79</b>	<b>538</b>	<b>Top 10 Total</b>	<b>\$5,181,853.57</b>	<b>804</b>
<b>18 Agencies Total</b>	<b>201,931.84</b>	<b>120</b>	<b>16 Agencies Total</b>	<b>373,055.76</b>	<b>201</b>
<b>TOTAL</b>	<b>\$4,500,708.63</b>	<b>658</b>	<b>TOTAL</b>	<b>5,554,909.33</b>	<b>1,005</b>

**Finding 1: Questionable Procurement of Food for the Department of Corrections (DOC)**

At DOC, procurement of food for inmates represents a major and recurring purchase. Food purchases by DOC during FY 2002 and the nine months ended June 30, 2003, amounted to a total of \$3.5 million, representing 66% of the total \$5.3 million overall DOC purchases (see **Table 2**). The majority of DOC's \$5.3 million purchases consisted of grocery items, medical supplies, and medical services.



Figure 1: Miscellaneous food items purchased by DOC.

**Table 2: DOC's Overall Purchases**

	FY 2002			Nine Months Ended June 2003			Total, 2002 and 2003		
	Total Amount	%	# of POs	Total Amount	%	# of POs	Total Purchases	%	Total PO
<b>Food Purchases</b>	<b>\$ 2,181,091.67</b>	<b>73%</b>	<b>83</b>	<b>\$ 1,343,513.34</b>	<b>58%</b>	<b>58</b>	<b>\$ 3,524,605.01</b>	<b>66%</b>	<b>141</b>
Other Purchases	819,027.89	27%	160	971,744.09	42%	168	1,790,771.98	34%	328
<b>Total Purchases</b>	<b>\$ 3,000,119.56</b>	<b>100%</b>	<b>243</b>	<b>\$ 2,315,257.43</b>	<b>100%</b>	<b>226</b>	<b>\$ 5,315,376.99</b>	<b>100%</b>	<b>469</b>

Deficiencies found during our audit of DOC food purchases procurement files illustrated evidence indicating a favored vendor, food purchased were not the best value, excessive food purchases, and improper procurement of food. These findings are discussed in further detail below.

## Evidence Indicating a Favored Vendor

- **Majority of Bids Awarded to Vendor P3351001**

In FY 2002, DOC issued \$2,181,092 worth of purchase orders for food. Vendor P3351001 was awarded \$1,537,517 or 70% of these purchases, while the remaining \$643,575 or 30% of food purchases was allocated and awarded to 21 other vendors.

For the nine months ended June 2003, vendor P3351001 was again the dominant vendor and received \$934,993 or 70% of DOC's total food purchases. Overall, for the 21-month period from October 1, 2001 through June 30, 2003 this vendor received 70% of DOC's total food requirements (See **Table 3**).

**Table 3: Summary of DOC Food Purchases**

Vendor(s)	FY 2002			Nine Months Ended June 2003			Overall DOC Food Purchase		
	Purchase Amount	%	PO Count	Purchase Amount	%	PO Count	Total Purchases	%	Total PO
P3351001	\$1,537,517.00	70%	35	\$934,993.00	70%	25	\$2,472,510.00	70%	60
Other Food Vendors <sup>8</sup>	643,574.67	30%	48	408,520.34	30%	33	1,052,095.01	30%	81
<b>Total Food Purchases</b>	<b>\$2,181,091.67</b>	<b>100%</b>	<b>83</b>	<b>\$1,343,513.34</b>	<b>100%</b>	<b>58</b>	<b>\$3,524,605.01</b>	<b>100%</b>	<b>141</b>

On average, vendor P3351001 received at least three purchase orders per month in 2002 and the nine months ended June 2003, while other vendors received one or less purchase order per month. See **Table 4** for the top five vendors issued DOC purchases.

**Table 4: Summary of Top Five Vendors Issued DOC purchases**

FY 2002				Nine Months Ended June 2003			
Vendor #	Total Purchases	# of POs	Average PO Received per Month	Vendor #	Total Purchases	# of POs	Average PO Received per Month
P3351001	\$ 1,537,517.00	35	3	P3351001	\$ 934,993.00	25	3
O0481701	190,000.00	3	0	Q0096512	116,957.88	3	0
Q0321701	110,761.00	4	0	Y0071027	90,300.00	1	0
M0096987	108,525.77	9	1	M0096987	81,497.10	10	1
G2436001	104,462.55	7	1	F0301701	71,949.00	6	1
<b>Top Five Vendors</b>	<b>\$ 2,051,266.32</b>	<b>58</b>		<b>Top Five Vendors</b>	<b>\$ 1,295,696.98</b>	<b>45</b>	
<b>Other Vendors</b>	<b>948,853.24</b>	<b>185</b>		<b>Other Vendors</b>	<b>1,019,560.45</b>	<b>181</b>	
<b>FY 2002 Total</b>	<b>\$ 3,000,119.56</b>	<b>243</b>		<b>FY 2002 Total</b>	<b>\$ 2,315,257.43</b>	<b>226</b>	

For the 21 months, approximately \$2.5 million in purchases were issued to vendor P3351001 alone. We also found that DOC has been purchasing food items from this vendor since 1987.

- **Vendor P3351001 Received Purchases in Excess of Bid Awards**

We found that majority of food purchases were issued to vendor P3351001, even though this vendor did not win the major portion of a bid. GSA staff indicated that a single vendor may be awarded a major portion of the bid award due to lowest bid price offered for various items being purchased by an agency.

<sup>8</sup> There were 21 and 15 vendors other than vendor P3351001 that received food procurement from DOC in FY 2002 and the nine months ending June 2003, respectively.

- **Bid 034-01.** Bid for assorted seafood items was awarded to vendors P3351001 for \$9,740 and Q0321701 for \$106,680. However, our review of procurement files showed that three POs aggregating \$82,450 were issued to vendor P3351001, while vendor Q0321701 was issued only one PO in the amount of \$7,450. For Bid 034-01, vendor P3351001 was issued **\$72,710 more** than what they were entitled to while vendor Q0321701 was short \$99,230 of their award (refer to **Appendix B**).
- **Bid 035-01.** Bid for dairy products was awarded to vendor F0301701 for \$174,986, vendor P3351001 for \$60,376, and vendor Q0321701 for \$25,800. Again, we found that DOC issued a total of eight POs for \$68,667 to vendor P3351001, which was **\$8,291 more** than they were entitled. Vendor F0301701, the highest awarded vendor, only received \$37,622 or \$137,364 less than the bid amount. We found no POs issued to vendor Q0321701 related to this bid. Refer to **Appendix B**.
- **Bid 004-03.** Bid for assorted seafood items was awarded to vendors Q0321701 and P3351001, for \$89,900 and \$11,320, respectively. Vendor P3351001 was again issued **\$3,680 more** than the \$15,000 they were entitled to. We found no POs issued to vendor Q0321701 related to this bid. Refer to **Appendix B**.

Vendor P3351001 received the majority of these awards, even though this vendor did not receive the highest award. Further, **this vendor received \$84,681 in excess of the bid awards**. We found no evidence in the procurement files documenting the reason for the issuance of purchase orders to vendor P3351001 for more than the awarded amount.

• **Competition Eliminated – Food Delivered by Vendor Prior to Issuance of PO**

DOC issued eight consecutive POs (refer to **Table 5**) to vendor P3351001 totaling \$460,100 for the procurement of grocery items, frozen meats, and vegetables on September 27, 2002, just three days prior to the POs' expiration on September 30, 2002. It appears unlikely that DOC needed a major purchase of almost \$500,000 in just three days.

Related to the September 27, 2002 procurement, we randomly selected 14 invoices and discovered that the date of the invoices ranged from July 26 to September 4, 2002, which indicated that the goods were obtained prior to the issuance of the POs, hence were procured without undergoing the competitive process. We found no documentation within the PO files that the GSA Chief Procurement Officer subsequently ratified the POs and determined that the purchases were in the best interest of the government, as required in 2 G.A.R. § 9106. See **Table 5** for illustration.

**Table 5: POs Issued Three Days before end of fiscal year 2002 to vendor P3351001**

Bid Reference	PO #	PO Date	PO Amount	Nature of Purchase	Invoice #	Invoice Date	Invoice Amount	
1	039-01	P026A06065	27-Sep-02	\$ 85,000.00	FROZEN MEATS	87027	31-Jul-02	4,571.55
						87097	5-Aug-02	6,522.80
2	040-01	P026A06066	27-Sep-02	90,000.00	GROCERY ITEMS	87023	30-Jul-02	11,012.00
						87044	26-Jul-02	4,506.00

	Bid Reference	PO #	PO Date	PO Amount	Nature of Purchase	Invoice #	Invoice Date	Invoice Amount
3	036-01	P026A06067	27-Sep-02	10,000.00	FRESH VEGETABLES	87142	1-Aug-02	1,510.95
						87174	3-Sep-02	200.38
4	035-01	P026A06068	27-Sep-02	3,700.00	DAIRY PRODUCTS	*No invoices issued, only encumbrance according to the AS400		
5	035-01	P026A06069	27-Sep-02	2,000.00	DAIRY PRODUCTS	87172	3-Sep-02	224.70
						87138	12-Aug-02	1,123.50
6	040-01	P026A06070	27-Sep-02	99,400.00	GROCERY ITEMS	86827	6-Aug-02	4,551.60
						86993	30-Aug-02	10,808.10
7	038-01	P026A06071	27-Sep-02	20,000.00	FRESH FRUITS	87141	12-Aug-02	441.60
						87180	4-Sep-02	1,111.26
8	039-01	P026A06072	27-Sep-02	150,000.00	FROZEN MEATS	87066	14-Aug-02	1,024.00
						86973	9-Aug-02	4,550.60
	<b>Total</b>			<b>\$ 460,100.00</b>				<b>\$ 52,159.04</b>

- **Questionable Disqualification of Other Bidders**

**Alleged Incomplete Affidavit by Another Vendor.**

2 G.A.R. § 1102 stipulates that Guam Procurement Regulations' policy is to promote economy, efficiency, and effectiveness in the procurement of supplies and services by fostering broad-based competition, providing safeguards for the maintenance of a procurement system of quality and integrity, and maximize the purchasing value of public funds. Further, 5 G.C.A. § 5233 requires:

*“As a condition of bidding, partnership, sole proprietorship or corporation ... shall submit an affidavit executed under oath that lists the name and address of any person who has held more than ten percent (10%) of the outstanding interest or shares ... during the twelve (12) month period immediately preceding submission of a bid. The affidavit shall contain the number of shares or the percentage of all assets of such partnership, sole proprietorship or corporation which have [been] held by each such person during the twelve (12) month period ...”*

We found bids submitted by vendor M3031701 for bids 039-01 and 040-01, for DOC food, that were disqualified on the basis that an authorized person did not sign and date the “Disclosure of Major Shareholders Affidavit.”

Examination of the aforementioned bids showed that requirements under 5 G.C.A. § 5233 were substantially met, i.e. notarized affidavit listing number of shares by each shareholders owning more than 10% ownership of the company and the signatures of shareholders. Inquiries with GSA staff indicated that the bid was disqualified based on a stipulation included in the bid packets requiring “[t]he affidavit be notarized and dated on the same month as the bid opening... [d]ate of signature of the person authorized to sign the bid and the notary date to be the same.”

As a result, vendor M3031701 was eliminated from competition. There was no analysis as to whether vendor M3031701 may have provided the lowest bid. When vendor M3031701 was disqualified, only two and three other bidders remained in bids 039-01 and 040-01, respectively. An audit of the bid files found that vendor P3351001 again

received the bulk of the awards or \$1.5 million for bids 039-01 and 040-01 (see **Appendix B**).

**Insufficient Bidding Time**

A minimum of 15 days shall be provided to allow sufficient and reasonable time for bidders to prepare their bids unless a shorter time is necessary as determined in writing by the procurement officer. 2 G.A.R. § 3109(d).

Bids 038-01, 039-01, and 040-01 were advertised on September 17, 2001 and were due September 25, 2001, providing only **nine days** for bidders to prepare their bids. Upon review of the bid files, we found no documentation in writing to substantiate the reason why a shorter time was allotted for bidders to respond, contrary to 2 G.A.R. § 3109 (d). If there were new vendors interested in bidding, they may be discouraged to respond.

Further, there was no documentation in the bid files to indicate why other bidders who picked-up bid packages did not submit bids. Consequently, the majority of the bids were again awarded to vendor P3351001. In fact, vendor P3351001 was awarded \$1,720,822 or 73% of the aggregate \$2,353,859 award amount of bids 038-01, 039-01, and 040-01. Refer to **Appendix B** for illustration.

**POs Issued to Vendor P3351001 without Any Indication of Bidding**

DOC issued six POs (refer to **Table 6**), each below \$15,000, to vendor P3351001 aggregating \$74,996 that made no reference to bid awards or advertisements. Although these POs were issued shortly after Super Typhoon Pongsona, we found no documentation in the PO files that the purchases were for the emergency. We found that P036A03750, P036A01924, P036A00634, and P036A00628 (items 1~2 and 5~6 in **Table 6**) did not have the three required solicitations in file, and were awarded to vendor P3351001. Further, it appears that P036A00655 and P036A00656 (items 3~4 in **Table 6**) were artificially divided because both POs were issued on the same day for the same type of items. When the POs are added, they are in excess of \$25,000, thus ignoring the requirement to utilize competitive sealed bidding and advertisement. It would again appear that preferential treatment was given to vendor P3351001, as we found no documentation within the PO files indicating the rationale for selecting this vendor. See **Table 6** for details.

**Table 6: POs without Bid Reference**

	<b>PO #</b>	<b>PO Date</b>	<b>PO Amount</b>	<b>Nature of Purchase</b>
1	P036A03750	16-Jun-03	\$ 5,000.00	Miscellaneous Coffee
2	P036A01924	5-Mar-03	14,999.00	Grocery Items
3	P036A00655	14-Dec-02	14,999.00	Grocery Items
4	P036A00656	14-Dec-02	14,999.00	Grocery Items
5	P036A00634	11-Dec-02	14,999.00	Grocery Items
6	P036A00628	11-Dec-02	10,000.00	Fresh Fruits
	<b>Total:</b>		<b>\$ 74,996.00</b>	

**Food Purchased from Vendor P3351001 not the Best Value**

We non-statistically selected PO # P036A02957 issued on May 5, 2003 for frozen meats, poultry, and vegetables and examined invoices to obtain purchase prices for comparison with other vendors. We contacted two retailers for price per pound comparisons on the same items and found that Retailer B charged 38 cents per pound less for short ribs and 18 cents per pound less for beef stew, while vendor P3351001 was cheaper by 4 cents per pound for pork chops and 31 cents per pound for ground beef. Refer to **Table 7** for the price comparison.

**Table 7: Food Items Comparison from Other Vendors<sup>9</sup>**

Food Items	Vendor P3351001	Retailer A	Retailer B	Savings if items obtained from Retailer A or B
Beef short ribs	\$2.87	\$2.69	\$2.49	\$ 0.38
Beef stew	2.17	3.69	1.99	0.18
Ground beef	1.38	1.69	1.95	0
Pork chops	2.95	3.99	2.99	0

From the analysis presented above, DOC may not always be receiving the best value for the food items being purchased. It also indicates that GSA is not performing a thorough price analysis to base the issuance and award of purchase orders.

**Excessive Food Purchases**

- **DOC Cost to Feed Inmates Higher than Comparable U.S. Penitentiaries**

As indicated in **Table 3**, DOC issued 60 purchase orders totaling \$2,472,510 to vendor P3351001 during FY 2002 and nine months ending June 2003 to supply food for inmates.



Figure 2: Food purchases by DOC.

The \$1,537,517 food purchases issued to vendor P3351001 in FY 2002 equates to food cost of approximately \$6.38 per inmate per day or \$2.13 per inmate’s meal. If we were to calculate an inmate’s meal based on the **overall food** purchase amount of \$2,181,092 (**Table 3**) in FY 2002, **taxpayers paid approximately \$9.05 per inmate per day or \$3.02 per inmate’s meal (Table 8)**. The amount of \$3.02 per meal to feed 660 inmates in FY 2002 does not take into consideration any labor and overhead costs associated with the preparation and serving of meals.

Spending \$3 per inmate per meal for food may appear reasonable, however, comparison of the average costs per inmate’s meal in several penitentiaries in the United States (U.S.) show otherwise. The cost to feed an inmate in comparable U.S. correctional facilities that house approximately 500 to 1,200 prisoners, ranged from \$0.66 to \$1.18 per inmate per meal (**Table 8**), which is substantially lower than Guam’s cost of \$3.02.

<sup>9</sup> Prices indicated in the table are costs per pound.



**Table 8: 2002 Costs to Feed Inmates**

<b>U.S. Correctional Facility<sup>10</sup></b>	<b>Average Inmate Population</b>	<b>Food Cost per Inmate per Day</b>	<b>Food Cost per Inmate per Meal</b>	<b>Food Cost % Compared to Guam DOC Per Day &amp; Per Meal</b>
Guam Department of Corrections	660	\$ 9.05	\$ 3.02	100%
Sedgwick County, Kansas Sheriff's Department	1,226	3.54	1.18	-256%
Delta Correctional Center Delta, Colorado	500	2.50	0.83	-362%
U.S. Medical Center for Federal Prisoners	1,200	2.42	0.81	-374%
Correction Center of Northwest Ohio (NNCO)	579	2.30	0.77	-393%
Greene County Jail Springfield, Missouri	500	2.00	0.66	-453%

Based on the comparison presented in **Table 8**, costs incurred by other correctional facilities are up to four times less than the cost of feeding Guam's DOC population in FY 2002. For instance, the food cost per inmate at Greene Country Jail in Springfield, Missouri ranked the lowest; food cost per inmate per day was \$2.00 and food cost per inmate per meal was \$0.66. This is 453% less than the cost of feeding Guam's DOC population in FY 2002.

### ***Allegation of Inferior Quality of Food Items***

An allegation received in the OPA Hotline indicated that the vegetables delivered by vendor P3351001 were often rotten and not fit for human consumption. The tip also alleged that designated employees responsible in receiving purchases do not inspect the condition of the food items, which was often spoiled. Our Hotline also received concerns pertaining to the disparity of food given to inmates alleging that better food, such as steak and crab are given to preferred inmates, whereas other inmates are served canned foods. We did not perform any procedures to determine whether such allegations were valid. We recommend DOC to conduct an investigation based on these allegations.

### ***Improper Procurement of Food***

- **POs Issued After the Bid's Expiration Date**

In the nine months ended June 2003, we found three POs (P036A00421, P036A00579, and P036A00654) issued by DOC aggregating \$49,999 citing bid numbers that had expired, of which two (totaling \$24,999) were issued to vendor P3351001.

- P036A00421, which cited bid 035-01, was issued on November 29, 2002 to vendor P3351001 for \$10,000 for dairy products, but the bid's expiration was determined to be October 16, 2002.

<sup>10</sup> [www.sedgwick.gov/sheriff/stats/detention.htm](http://www.sedgwick.gov/sheriff/stats/detention.htm), [www.rimag.com/003/bus/htm](http://www.rimag.com/003/bus/htm), <http://springfield.news-leader.com/health/archive/1223-Inmateskee-249912.thml>, [www.ccnoregionaljail.org/Statistics.htm](http://www.ccnoregionaljail.org/Statistics.htm).

- P036A00579, which also cited bid 035-01, was issued on December 4, 2002 for \$25,000 to vendor F0301701. The bid's expiration was determined to be October 22, 2002, which means this PO was issued six weeks past the bid's due date.
- P036A00654 was issued to vendor P3351001 on December 14, 2002 for \$14,999 for frozen meats, poultry, and vegetables. This PO cited bid 039-01, which was determined to expire on October 17, 2002. Refer to **Appendix B** for details.

There was no documentation in the files to rationalize the issuance of purchase orders beyond the expiration of the bids.

• **Competition Circumvented through Over-Issuance of Purchase Orders**

During our testing, we found three BPAs issued by DOC to vendors O0481701, P3351001, and F0301701, which were purchases issued beyond the maximum amount of the POs. Total purchases issued over these three PO amounts were \$129,846. The amount of the over-issuance of POs were all in excess of \$25,000 each and therefore the purchases should have required competitive sealed bidding and publication. One cause for over issuance of purchase orders is the lack of a running balance log in the BPA files, which is essential in monitoring the BPA file balances (**Table 9**). Refer to **Finding 3** for more discussions on running balance logs.

**Table 9: DOC Over Issuance of Purchase Orders**

	PO #	Vendor #	PO Amount	Payments as of 6/30/03	Amount Over Issued	Agency	Nature of Procurement
1	P026A00057	O0481701	\$50,000.00	\$99,969.11	(\$49,969.11)	DOC	Groceries
2	P026A00030	P3351001	100,000.00	139,951.49	(\$39,951.49)	DOC	Frozen Meats
3	P026A00013	F0301701	6,622.00	46,547.07	(\$39,925.07)	DOC	Dairy Products
		<b>Total</b>	\$156,622.00	\$286,467.67	(\$129,845.67)		

• **Competition Circumvented through Issuance of Amendments**

DOC issued amendments to existing POs above \$15,000; thus, circumventing the requirement to utilize competitive sealed bid and to advertise the requirements for purchases above \$25,000.

- DOC issued PO # P026A00013 on October 16, 2001 to vendor F0301701, to purchase dairy products worth \$6,622. Three months later, DOC issued amendment #1 in January 2002 to increase the PO amount from \$6,622 to \$21,622. Three months later, in April 2002, DOC issued amendment #2, which increased the PO amount another \$26,000 from \$21,622 to \$47,622. Overall, DOC issued two amendments to increase the original purchase amount of \$6,622 by a total of \$41,000, or more than 700%, to \$47,622. Refer to **Table 10**.
- On October 19, 2001, DOC issued PO # P026A00057 to vendor O048701 to purchase \$50,000 in groceries. The PO was amended in February 2002, authorized by the former CPO, to increase the PO amount to \$100,000 or twice its original amount. Refer to **Table 10**.

**Table 10: DOC Amendments through Standardized Form**

PO #	Vendor	Document Type	Date	Amount	Cumulative PO Amount	Percent Increase
1 P026A00013	F0301701	Original	16-Oct-01	\$ 6,622.00	\$ 6,622.00	N/A
		Standardized Amendment Form #1	2-Jan-02	15,000.00	21,622.00	327%
		Standardized Amendment Form #2	3-Apr-02	26,000.00	47,622.00	719%
		<b>Total Amount</b>		<b>\$ 47,622.00</b>		<b>719%</b>
2 P026A00057	O0481701	Original	19-Oct-01	50,000.00	50,000.00	N/A
		Standardized Amendment Form #1	26-Feb-02	50,000.00	100,000.00	100%
		<b>Total Amount</b>		<b>\$ 100,000.00</b>		<b>100%</b>

• **Professional Services Not Subject to Competition**

During the 21 months, there were eight POs (P026A02250, P026A04114, P036A02877, P036A02988, P036A02267, P0396A03434, P036A03005, and P036A02987) issued by DOC for medical and dental services, aggregating \$370,721 that GSA found to be in non-compliance with the competitive procurement procedure. These POs were subsequently ratified by the former GSA Chief Procurement Officer under 2 G.A.R. § 9106. A standard form indicating the purchase order number, amount, date, and agency was signed by the former CPO to ratify the eight POs. We found no other documentation or analysis to indicate why such purchases were in the best interest of the government, as required by 2 G.A.R. § 9106(c)(3).

***Conclusion on DOC's Procurement of Food***

Procurement rules and regulation are intended to promote economy, efficiency, and effectiveness in the procurement process by fostering broad-based competition and maximize the purchasing value of public funds. A summary of our findings of purchases of food by DOC follows:

- DOC issued majority of its purchases in FY 2002 (\$2.2 million) and as of June 30, 2003 (\$1.3 million), for the procurement of food and showed preferential selection to vendor P3351001 through:
  - Issuing \$1.5 million or 70% of the overall \$2.2 million food purchases in FY 2002 and another \$935,000 or 70% of the \$1.3 million in food purchases for the nine months ended June 30, 2003 to vendor P3351001;
  - Vendor P3351001 was issued \$84,681 in excess of bid awards even though this vendor did not receive the greatest amount of the bids;
  - Vendor P3351001 was issued eight POs amounting to \$460,100 that were dated three days prior to the expiration of the POs and end of fiscal year 2002, whereas the invoices were dated prior to the issuance of the POs;
  - Questionable disqualification of potential bidders and as a result, vendor P3351001 received the bulk of the awards or \$1.5 million;
  - Insufficient bidding time to prepare bids, which may discourage other potential bidders to respond to the bids and in these bid awards vendor P3351001 received \$1.7 million or 72% of the total amount of bids;
  - Six POs totaling \$74,996 was issued to vendor P3351001 without any rationale for the selection of this vendor;
  - Three POs totaling \$49,999 were issued after the bids expiration dates, of which two POs, aggregating \$24,999 were issued to vendor P3351001; and

- DOC did not always receive the best value for food purchased; one retailer charged less on two food items purchased by DOC that were awarded to vendor P3351001.
- The cost to feed an inmate in U.S. correctional facilities that house 500 to 1,200 prisoners ranged from \$2.00 to \$3.54 per day compared to the \$9.05 per day for Guam inmates during FY 2002.
- DOC issued amendments to existing POs above \$15,000; thus, circumventing the requirement to utilize competitive sealed bidding and publication requirements.
- No documentation of exerted efforts that potential vendors were contacted to maximize a broad-based competition and avoid issuance of the bulk of purchases to certain vendors.
- The CPO and buyers at GSA failed to monitor the purchases of agencies to ensure that no vendor is given an advantage over others. As a result, vendor P3351001 was given an advantage over other eligible vendors.

**Finding 2: Rejected Contracts Bypassed by Issuance of a Purchase Order**

The Department of Public Health and Social Services (DPHSS) issued three BPAs aggregating \$137,120 (refer to **Table 11**) instead of contracts, when the Office of the Attorney General (OAG) had advised the amendment of the contracts due to cited deficiencies in two sections within the contracts.

**Table 11: DPHSS Purchases above \$25,000**

Contract & PO #	Contract Expiration	PO Date	Governor's Signature & Date	AG's Signature & Date	Vendor #	PO Amount Issued	Payment made as of June 2003	Nature of Procurement
1 TC-037-03 P036A02893	30-Sep-03	1-May-03	None	None	D6022102	\$60,000.00 <sup>11</sup>	\$ 58,568.70	Lab Services
2 TC-039-03 P036A02890	30-Sep-03	1-May-03	None	None	P7036501	48,000.00	12,576.00	Radiology Services
3 TC-031-03 P036A02886	30-Sep-04	1-May-03	Yes 9-19-2003	Yes 9-30-2003	H0096551	29,120.00	16,450.00	Physician Services
TOTAL						<b>\$137,120.00</b>	<b>\$87,594.70</b>	

Events that took place:

1. August 2002: Request for proposals for all these services were advertised in a local newspaper publication.
2. October 2002: Each contractor began rendering services.<sup>12</sup>
3. Mid January 2003: DPHSS submitted contract with vendor H0096551 to the OAG for review, approval, and signature.<sup>13</sup>

<sup>11</sup> We found a standardized amendment form dated August 13, 2003 signed by the former CPO to increase amount of P036A02893 by \$20,000 due to additional requirement needed.

<sup>12</sup> DPHSS did not provide OPA any RFP evaluations to indicate how they arrived to produce contracts with vendors H0096551, D6022102, and P7036501.

<sup>13</sup> No documents were transmitted by DPHSS to the OPA to indicate when contracts for vendors D6022102 and P7036501 were submitted to the OAG for review, approval, and signature.

4. February 2003: DPHSS was advised by an Assistant Attorney General of “contradictory provisions respecting contractor malpractice” in the two areas of Section VII (Responsibility of Consultant) and Section XII (Indemnity). DPHSS was instructed to inform the contractors and amend these sections to be in agreement with government standards.
5. March 27, 2003: DPHSS requested that the OAG reconsider the initial contract of vendor H0096551.
6. April 7, 2003: Issuance of POs approved by the former Acting CPO due to contracts not signed by all parties of the contract.
7. May 16, 2003: DPHSS again requested that the OAG reconsider the initial contract of vendor H0096551.
8. June 9, 2003: The OAG responded by returning the contracts to be corrected.
9. August 6, 2003: The OAG indicated that they erred in their recommendation to amend the two sections of the contracts because of “...a problem we thought existed with respect to the liability provisions in the proposed contracts...”
10. May 2004: Contracts still not signed by Governor and AG, rendering services received as unauthorized.<sup>14</sup>

We found that DPHSS found an alternative way to authorize the procurement of services through the issuance of purchase orders, because the Governor and Attorney General did not sign the original contracts for reasons stated above. DPHSS and GSA demonstrated the lack of prudence and presented an inappropriate precedent to government agencies in circumventing proper issuance of contracts and purchase orders.

While we recommend all government agencies, not just DPHSS, to seek guidance from the OAG, we also recommend the AG to provide such written guidance on handling unsigned contracts when medical services are urgently needed.

### **Finding 3: Noncompliance with BPA Procurement Regulations**

BPAs should be allocated to three vendors, should have a running balance log to determine utilization, files should be reviewed to determine if BPAs are issued in accordance with BPA regulations, and files should be appropriately documented to provide a complete history of the procurement.

#### ***BPAs Not Allocated to Three Vendors***

2 G.A.R. § 3112.12(e) stipulates, “All competitive sources should be given an equal opportunity to furnish supplies or services... BPAs for items of the same type should be placed concurrently with at least three separate suppliers to assure equal opportunity.”

In our analysis of the BPAs, we found instances where BPAs were issued to less than three vendors, contrary to 2 G.A.R. § 3112.12(e). See **Table 12** for some examples.

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<sup>14</sup> Effective date of the contracts shall take effect upon signature of the Governor.

**Table 12: BPAs Not Allocated to Three Vendors  
FY 2002**

	PO #	PO Date	Vendor #	Agency	Amount	Nature of Procurement
1	P026A04535	7-26-2002	M0096987	DMHSA	14,999.00	Medical Supplies & Medications
		<b>Subtotal</b>	<b>1 Vendor</b>		<b>14,999.00</b>	
2	P026X00218	7-25-2002	N2432201	GSA	12,000.00	Office Supplies & Materials
		<b>Subtotal</b>	<b>1 Vendor</b>		<b>12,000.00</b>	
3	P026A04452	7-17-2002	M0097776	DYA	5,000.00	Pizzas & Drinks
		<b>Subtotal</b>	<b>1 Vendor</b>		<b>5,000.00</b>	
4	P026A04495	7-22-2002	N2432201	Bureau of Planning	1,000.00	Office Supplies
	P026A04496		S1132201		1,000.00	
		<b>Subtotal</b>	<b>2 Vendors</b>		<b>2,000.00</b>	
5	P026A04472	7-19-2002	K1271001	Dept. of Labor	3,000.00	Miscellaneous Supplies
	P026A04473		C5521011		3,000.00	
		<b>Subtotal</b>	<b>2 Vendors</b>		<b>6,000.00</b>	

**FY 2003 (Nine Months June 2003)**

	PO #	PO Date	Vendor #	Agency	Amount	Nature of Procurement
1	P036A03381	6-3-2003	I4231001	AHRD	10,397.46	Safety Gears
		<b>Subtotal</b>	<b>1 Vendor</b>		<b>10,397.46</b>	
2	P036X00061	3-12-2003	A0083001	GSA	14,999.00	Hardware Supplies
		<b>Subtotal</b>	<b>1 Vendor</b>		<b>14,999.00</b>	
3	P036A03322	5-29-2003	S1132201	Governor's Office	440.00	Office Supplies
	P036A03321		N2432201		440.00	
		<b>Subtotal</b>	<b>2 Vendors</b>		<b>880.00</b>	
4	P036A03113	5-16-2003	T5745001	Agriculture	3,000.00	Animal Feed (Potatoes)
	P036A03112		M3031701		3,500.00	
		<b>Subtotal</b>	<b>2 Vendors</b>		<b>6,500.00</b>	
5	P036A03629	6-11-2003	B0289901	DPR	1,933.22	Paints Materials & Supplies
	P036A03630		A0083001		1,933.22	
		<b>Subtotal</b>	<b>2 Vendors</b>		<b>3,866.44</b>	

We found that the U.S. federal government issues a single or multiple BPA.<sup>15</sup> We recommend the Attorney General determine the possibility of issuing an award to a single or two vendors depending on the circumstance, i.e. in few instances whereby pool of vendor is limited, etc.

***Incomplete BPA Records***

BPAs shall contain documentation, such as written determination that the BPAs were in the best interest of the government, price quotations, selection process, the description of the agreement, extent of obligation, pricing, purchase limitation, notice of individuals authorized to purchase under BPAs, delivery tickets, and invoices.

From our testing of 28 non-statistically selected BPA purchases with a value of \$918,794, we found:

- All 28 BPAs did not have the CPO's written determination that BPAs were in the best interest of the government, as required in 2 G.A.R. § 3112.11(b);
- 19 (68%) BPAs, totaling \$281,045, did not have any price quotes in their files, as required in GSA Circular 2003-08.

<sup>15</sup> A single BPA represents a procurement awarded to a single vendor while multiple BPA are awarded to two or more vendors.

- 13 POs, totaling \$583,398, did not have documentation of the selection process of the winning vendor in the file. Additionally, there was no evidence that another person, ideally a supervisor, reviewed the procurement files to verify that the buyer's vendor selection was proper and that the government received the best price as required in GSA Circular 2003-08;
- P036A00394 (\$14,999) issued to vendor M0096987 for medical supplies and medication, had none of the terms and conditions of the BPA, i.e. description of agreement, extent of obligation, pricing, purchase limitation, notice of individuals authorized to purchase under the BPA, delivery tickets, and invoices, contrary to 2 G.A.R. § 3112.13(h).

### ***Lack of Running Balance Logs***

In March 2003, the former Acting CPO distributed GSA Circular 2003-08 to all Government of Guam Agency Heads informing them of the proper utilization of BPAs. Item 8 of the Circular stipulated that a balance log should be placed in each BPA file and balances should be updated and maintained accurately.

From our testing of 28 non-statistically selected BPA purchases we found:

- 26 (aggregating \$848,794) POs did not maintain a running balance log to monitor the remaining balance on the BPAs, as required in GSA Circular 2003-08, item 8. Three of the 26 POs (P026X00118, P026X00119, and P026X00121) aggregating \$50,000 had running balance logs, but no transactions were recorded on the balance logs. See **Appendix C** for more details.
- There were 24 POs aggregating \$810,682 (88%) that had no invoices attached within their files as stipulated in GSA Circular 2003-08, which is essential in determining the BPA remaining balances.
- P026X00117 (\$40,000) issued to vendor T2626701, for the procurement of plastic bags, paper towels, and tissue had activities recorded on the running balance log; however, there were no running totals to indicate if the remaining balance of the BPA was reached.
- P026X00120 issued to vendor M0096600, for \$30,000, for the procurement of plastic bags and paper towels, had activities recorded on the running balance log; however, there were no dates to indicate when the transactions occurred. Again, there were no running totals to indicate if the remaining balance of the BPA was reached.

By not maintaining a running total of invoices issued against the BPAs, over-issuance of POs can occur. In fact, five of the 28 BPAs (items 1~3, 6, and 21 of **Appendix C**) were over issued by \$130,697.

### ***Amendments in Excess of \$15,000***

2 G.A.R. § 3108 requires all contracts to be procured using the Competitive Sealed Bidding method, except as provided under Small Purchases (§ 3111), Sole Source (§

3112), Emergency (§ 3113), and Services (§ 3114 and § 5108). Thus, procurement of supplies or services greater than \$15,000 must undergo competitive sealed bidding.

For instance, on October 1, 2001, GSA issued P026X00117 to vendor T2626701 for plastic bags and paper towels for \$40,000. An amendment was subsequently issued on June 13, 2002, that increased the PO amount by \$20,000 or 50%.

Instead of re-soliciting for the products or services to be procured, the former CPO generally authorized amendments to increase the PO amounts. There was a standardized amendment to document the increased PO; however, we found no other documentation to justify the need for the increased PO amounts.

**Review Procedures not Performed**

2 G.A.R. § 3112.14(a) and 5 G.C.A. §7101, provides that the Chief Procurement Officer, the Director of Public Works, or the Purchasing Agency, shall review a sufficient random sample of the BPA files at least annually to ensure that authorized procedures are being followed. However, inquiries with GSA employees and the former CPO indicated that BPA files were not reviewed, thus violating 2 G.A.R. § 3112.14(a). However, GSA personnel indicated that the current CPO reviews the BPA files.

**Circumvention of regulation by issuing BPAs of \$14,999**

Of the total BPAs issued in FY 2002 and the nine months ended June 2003, 52 BPAs were issued in the amount of \$14,999 each. We found three instances where purchases were issued to the same vendor in a short period of time, for the same type of items and in the amount of \$14,999 each (**Table 13**). When the purchases were aggregated for the same vendor, the total amount was well above the \$25,000 threshold that should have required competitive sealed bidding and publication.

Issuing multiple BPAs less than \$15,000 suggests the possibility of circumventing the procurement regulations, in the form of artificial division of procurement.<sup>16</sup> Competitive sealed bidding and publication should have been utilized for these purchases.

**Table 13: \$14,999 BPAs Issued to the Same Vendor in a Short Time Frame**

Agency	Vendor #	PO #	PO Date	PO Amount	Nature of Procurement
AHRD	P0096101	P026A04422	7-15-2002	\$ 14,999.00	Workshop for Dislocated Workers
		P026A04633	7-31-2002	14,999.00	
		P026A05293	8-28-2002	14,999.00	
		<b>Total</b>			<b>\$ 44,997.00</b>
GSA	M0096600	P036X00039	1-16-2003	14,999.00	Hardware & Cleaning Supplies
		P036X00048	2-14-2003	14,999.00	
		<b>Total</b>			<b>\$ 29,998.00</b>
GSA	I4231001	P036X00041	1-16-2003	14,999.00	Safety Equipment Supplies
		P036X00063	3-12-2003	14,999.00	
		<b>Total</b>			<b>\$ 29,998.00</b>

<sup>16</sup> 2 G.A.R. §§3108, 3112.13(b), 5 G.C.A. §5213



## Finding 4: Vague or Contradicting BPAs Regulation

### **\$15,000 BPA Amount Limitation Not Followed**

Individual BPAs shall not exceed the \$15,000 threshold for supplies or services, 2 G.A.R. § 3112.13(b).

In FY 2002, we found 57% (\$2.6 million) of the total BPAs issued by Government of Guam agencies were in excess of \$15,000. The corresponding number in the nine-month ended June 30, 2003 was 39% (\$2.2 million). See **Table 14** for illustration.

**Table 14: BPAs Range**

Purchase Amount Range	FY 2002			Nine Months Ending 6/30/03			Overall Total		
	Total POs	Total PO Amount	PO Amount %	Total POs	Total PO Amount	PO Amount %	Total POs	Total PO Amount	PO Amount %
\$15,000 and below	597	\$1,924,937.73	43%	971	\$3,363,369.03	61%	1,568	\$5,288,306.76	53%
Above \$15,000	61	2,575,770.90	57%	34	2,191,540.30	39%	95	4,767,311.20	47%
<b>Total</b>	<b>658</b>	<b>\$4,500,708.63</b>	<b>100%</b>	<b>1,005</b>	<b>\$5,554,909.33</b>	<b>100%</b>	<b>1,663</b>	<b>\$10,055,617.96</b>	<b>100%</b>

For instance, GSA issued purchase order P036X00043 to vendor X0012204 in the amount of \$197,675 for copier supplies, which is 13 times more than the \$15,000 limitation. See **Table 15** for other examples of BPAs issued above the \$15,000 amounts.

**Table 15: Individual BPAs Exceeding the \$15,000 Limit FY 2002**

PO #	PO Date	Vendor #	Agency	PO Amount	Nature of Procurement
1 P026X00117	10-1-2001	T2626701	GSA	\$ 40,000.00	Plastic Bags, Paper Towels, Tissue
2 P026X00120	10-1-2001	M0096600	GSA	30,000.00	
3 P026X00121	10-1-2001	S1851001	GSA	30,000.00	Plastic Bags, Toilet Tissues
4 P026X00195	10-1-2001	X0012204	GSA	20,000.00	Copier Supplies
5 P026X00202	10-1-2001	J0083235	GSA	20,000.00	Paper Products
6 P026X00204	10-1-2001	O0481701	GSA	20,000.00	
7 P026X00209	10-1-2001	N2432201	GSA	20,000.00	Office Supplies
8 P026A02016	2-13-2002	B0906004	DPW	17,000.00	Heavy Equipment Rental
9 P026A03251	3-6-2002	J2496701	DPW	16,000.00	
10 P026A04467	7-17-2002	A0096666	DPW	15,050.00	
<b>Subtotal</b>				<b>\$ 228,050.00</b>	
<b>Other 51 POs</b>				<b>2,347,720.90</b>	
<b>Total 61 POs</b>				<b>\$ 2,575,770.90</b>	

### **FY 2003 (Nine months ending June 2003)**

PO #	PO Date	Vendor #	Agency	PO Amount	Nature of Procurement
1 P036X00043	1-29-2003	X0012204	GSA	\$ 197,675.00	Copier Supplies
2 P036X00046	1-29-2003	S1851001	GSA	170,541.00	Cleaning & Household Products
3 P036A02893	5-1-2003	D6022102	DPHSS	60,000.00	Lab Services
4 P036X00047	1-29-2003	M0096600	GSA	51,614.00	Cleaning & Household Products
5 P036A02890	5-1-2003	P7036501	DPHSS	48,000.00	Radiology Services
6 P036X00045	1-29-2003	S1851001	GSA	33,390.00	Assorted Batteries
7 P036A00121	10-30-2002	J0083195	DPW	30,000.00	Backhoe Rental
8 P036A00122	10-30-2002	D1626701	DPW	30,000.00	
9 P036A02892	5-1-2003	A4756001	DPHSS	21,600.00	Medical Lab Services
10 P036X00060	3-12-2003	B0097236	GSA	20,400.00	Document Protector
<b>Subtotal</b>				<b>\$ 663,220.00</b>	
<b>Other 24 POs</b>				<b>1,528,320.30</b>	
<b>Total 34 POs</b>				<b>\$ 2,191,540.30</b>	

We recognize there are occasions when \$15,000 may not be sufficient to cover the procurement requirement of a repetitive purchase of goods or services, similar to DOC's food purchase or medical supplies purchase by DPHSS; thus, we recommend the Attorney General determine the sufficiency of the \$15,000 limitation of a BPA purchase and clarify the amount that can be issued for BPAs.

**Inconsistency in Application of Purchase Amount Limitation of \$15,000**

As stipulated in 2 G.A.R. § 3112.13(b), "individual purchases under BPAs shall not exceed \$15,000 for supplies or service." Additionally, 2 G.A.R. § 3112.12 requires that BPAs for items of the same type should be placed concurrently with at least three separate suppliers to assure equal opportunity. Our audit testing found that GSA is applying two different interpretations on this regulation, as listed below:

1. Three vendors are issued separate purchase orders for a cumulative amount not exceeding \$15,000 (Table 16, Interpretation 1), and
2. Three vendors are each issued a purchase order not exceeding \$15,000, a cumulative amount not to exceed \$45,000 (Table 16, Interpretation 2).

We have requested the Attorney General provide an opinion on proper application of the \$15,000 limitation, stipulated in 2 G.A.R. § 3112.13(b).

**Table 16: Examples of Differences in Application of BPAs Amount Limitation**

**Interpretation 1: BPA Purchase Allocated to at least Three Vendors with Cumulative Amount Not Exceeding \$15,000**

	PO #	Date	Vendor #	Agency	Amount	Nature of Procurement
1	P026X00126	10-1-01	B0289901	GSA	5,000	Hardware Supplies
	P026X00127		B3851711		5,000	
	P026X00128		A0083001		5,000	
	<b>BPA Subtotal</b>					<b>\$ 15,000</b>
2	P026A02123	2-15-02	U0502201	DPW	500	Computer Supplies/Accessories
	P026A02124		D7271501		500	
	P026A02125		A0097115		500	
	<b>BPA Subtotal</b>					<b>\$1,500</b>
3	P026A06092	9-30-02	S0097677	DOC	5,000	Baked Goods
	P026A06093		F0096443		5,000	
	P026A06110		A0561701		5,000	
	<b>BPA Subtotal</b>					<b>\$15,000</b>
4	P036A00988	12-30-02	A2185201	Customs & Quarantine	1,000	A/C Service and Repair
	P036A00989		G6375101		1,000	
	P036A00990		A2551201		1,000	
	<b>BPA Subtotal</b>					<b>\$3,000</b>

**Interpretation 2: BPA Individual Purchase Order Not Exceeding \$15,000 and Cumulatively Not Exceeding \$45,000**

	PO #	Date	Vendor #	Agency	Amount	Nature of Procurement
1	P026A04885	8-14-02	M0096987	DOC	14,900	Misc. Pharmacy Prescribed Medications
	P026A04887		M0096588		14,900	
	P026A04889		T0092514		14,900	
	<b>BPA Subtotal</b>					<b>\$ 44,700</b>
2	P036A01805	2-26-03	P0096719	AHRD	14,500	Workforce Investment Act Youth Participant
	P036A01806		A2408101		10,000	

	PO #	Date	Vendor #	Agency	Amount	Nature of Procurement
	P036A01807		B0097571		10,000	Educational Courses
	<b>BPA Subtotal</b>				<b>\$34,500</b>	
3	P036A00412	11-27-02	J2496701	DPW	15,000	Roller w/ Vibrator Rental; DPW-Eng/Hmc
	P036A00413		F3665401		15,000	
	P036A00414		C0097148		15,000	
	<b>BPA Subtotal</b>				<b>\$45,000</b>	
4	P026E00161	7-20-02	B4026001	DPW	12,740	Rental of Backhoe
	P026E00162		B0906004		12,100	
	P026E00163		M9846401		6,478	
	<b>BPA Subtotal</b>				<b>\$31,318</b>	

### ***Specification and Clarification on Type of Goods or Services Allowed***

Another example of conflicting regulations pertains to the purchase of equipment and furniture utilizing BPAs. GSA Circular 2003-06, (issued January 21, 2003) stated, "equipment and furniture are not authorized under a blanket purchase agreement."

Further, 2 G.A.R. § 3112.12(a) stipulates that a BPA is allowed when filling anticipated repetitive needs for supplies or services, when services or supplies cannot be properly identified as to the quantity and the type of services or supplies required. However, we found that BPAs were issued for equipment ranging from safety, office, computer, and small engine. Furniture and equipment are normally procured once with specific types of requirements and hence do not fall under the category of recurring supplies and equipment, therefore BPAs should not have been issued for the equipment.

We recommend the Attorney General clarify the type of goods or services allowed to be purchased under a BPA.

## **Management Initiatives**

### **DOC Food Purchases**

As of March 2004, GSA and DOC have initiated the use of bento boxes in the Mangilao correctional facility to test the effectiveness of providing inmates' meals through bento boxes three times a day. According to the CPO, a meeting with DOC is set for July 2004 to discuss the success of the bento boxes in the Mangilao facility and the possibility of extending the service to all DOC facilities; which will eventually eliminate cafeteria overhead, the possibility of pilferage, spoilage, and procurement staff's preparation of POs for recurring food purchases at DOC.

### **Consolidated Bids**

As of the issuance date of this report, the current Chief Procurement Officer (CPO) has requested copies of open purchase orders from agencies under GSA's purview (line and autonomous agencies) in an effort to issue a consolidated bid of recurring items utilized by governmental agencies.

## **Procurement Reform**

In July 2003, the Governor's Office requested technical assistance from the U.S. Department of Interior, Office of Insular Affairs to update and revamp its procurement procedures, rules, and regulations. The initial phase of the technical assistance began in September 2003. See **Appendix D** for a copy of the letter.

In September 2003, the Governor issued Executive Order No. 2003-27 for the reformation, modernization, and streamlining of the government's procurement process. See **Appendix E** for the Executive Order. The Governor also called for the establishment of a Procurement Reform Steering Committee (PRSC) to determine how best to address these objectives:

- To provide consistent and uniform procurement laws governing all agencies;
- To provide increased economy in procurement activities;
- To maximize to the fullest degree the purchasing value of public funds; and
- To promote effective, broad-based competition.

## **Recommendations**

### **We recommend GSA to:**

4. Establish written policies and procedures, to include:
  - The proper planning of BPA purchases through collaborative effort with line agencies in identifying anticipated repetitive needs for products or services and determining a periodic cost, i.e. quarterly, semi-annual, or annual;
  - The performance of detailed and extensive bid award analysis, to include performance of price comparison, price especially when amounts being awarded are in millions;
  - Request price reduction and conduct price negotiation based on total estimated volume of the BPA purchase, thereby realizing best value for government resources;
  - Cease issuance of multiple purchase orders or amendments against a bid award. Should the Attorney General allow a single BPA, a single PO should only be issued to one vendor for purchase need throughout a specific period. There should be an increased level of monitoring and review of procurement to prevent the over issuance of BPA purchases over bid amounts; and
5. Enforce compliance with procurement regulations, such as:
  - 2 G.A.R. § 3112.13(h), BPAs shall contain adequate documentation of transactions to provide a complete history of the procurement in compliance with regulations (i.e., the description of the agreement, extent of obligation, pricing, purchase limitation, notice of individuals authorized to purchase under BPAs, delivery tickets, and invoices);
  - 2 G.A.R. § 3112.14(a), the CPO must review a random number of BPA files at least annually to ensure that appropriate procedures are being followed;

- 2 G.A.R. § 3109(f)(2), provide adequate and timely publication of all bids over \$25,000; and
  - 2 G.A.R. § 3108, seek competitive sealed bidding for procurement over \$15,000.
6. Cease the issuance of BPAs in the amount of \$14,999 to prevent the appearance of circumvention of competitive sealed bidding requirements. If the CPO determines that an agency's request to procure an indefinite quantity of items might possibly exceed \$15,000, it is in the best interest of the government to procure the items through competitive sealed bids. This will afford interested vendors an idea of the minimum and maximum amount of specific items to be purchased within a set period, as well as give GSA and the requesting agency a price range for such items.

**We recommend the Department of Corrections to:**

1. Analyze food purchases by the agency and make efforts to reduce average food cost per inmate to be more in-line with comparable U.S. correctional facilities;
2. Initiate an internal investigation to determine accuracy of allegation that perishable items received are not fit for consumption and disparity in issuance of food items to inmates; and to provide OPA with a report outlining results and resolution of such allegation; and
3. Ensure inspection of the condition of perishable food purchases upon receipt and return rotten food;

**We recommend the Attorney General to:**

1. Clarify the limitation of amount and the type of goods or services that can be issued for BPAs;
2. Determine the possibility of issuance of single BPA, in addition to multiple BPA allocated to two or more vendors;
3. Determine whether an illegal activity may have transpired between vendor P3351001, GSA employees, and/or DOC employees; and
4. While we recommend all government agencies, not just DPHSS, to seek guidance from the OAG, we also recommend the AG to provide such written guidance on handling unsigned contracts when medical services are urgently needed.

**Management Response**

GSA, DOC, and DPHSS generally concurred with our findings. Copies of DOC, GSA, and DPHSS' management responses can be found in **Appendices F, G, and H**. Listed below are ten sub-findings disagreed by GSA and our rationale for retaining the findings in our report.

**Evidence Indicating a Favored Vendor**

GSA asserts they are in no position to demand other vendors to participate on government bids if they do not wish to. We did not find any written documentation in our testing to warrant that GSA procurement officers performed due diligence in the bidding process by contacting the non-responding vendors; thus, this finding remains.

### **Vendor P3351001 Received Purchases in Excess of Bid Awards**

GSA asserts that vendor P3351001 received purchases in excess of bid awards under bids 034-01, 035-01, and 004-03 because they were indefinite quantity bids and that quantities stated in the invitation for bid was the minimum quantity. We did not find any documentation within the bid files to warrant that the quantity of items awarded to vendors were the minimum quantity or maximum quantity that the territory is obligated to order (2 G.A.R. § 3119 (i)(2)); thus, this finding remains.

### **POs Issued After the Bid's Expiration Date**

GSA asserts that bids 035-01 (effective from October 2001 to October 2002) and 039-01 (effective from October 2001 to October 2002) are good for one year with an option to renew for two additional years. However, bid files of bid 035-01 did not have any documentation to validate that GSA opted to renew the contract as indicated in the bid's "special provision." Bid files for bid 039-01 had an amendment authorized by the former Acting CPO, amending the bid's contract period to one year, which meant that there should not have been any POs issued after the bid's expiration of October 2002. This finding on POs issued after the bid's expiration date remains.

### **Competition Circumvented through Over-Issuance of Purchase Orders**

GSA asserts that the over-issuance of purchases from POs P026A00057, P026A00030, and P026A00013 were issued in accordance to the terms and conditions of the bids. However, we found that these POs clearly specified the amount authorized to be used for the POs: P026A00057 for \$50,000; P026A00030 for \$100,000; and P026A00013 for \$6,622, therefore competition circumvented through over-issuance of POs remain.

### **Competition Circumvented through Issuance of Amendments**

GSA asserts that the amendment to increase the POs P026A00013 (bid 035-01) and P026A00057 (bid 040-01) amounts were reasonable because the bids were indefinite quantity bids. However, we did not find any documentation within the bid files to warrant that the quantity of items awarded to vendors were the minimum quantity or maximum quantity that the territory is obligated to order (2 G.A.R. § 3119(i)(2)), thus competition circumvented through issuance of amendments remain.

### **Conclusion on DOC's Procurement of Food**

GSA asserts that their role is to facilitate the procurement process and ensure that the Guam procurement regulations are followed and not to dictate the needs of the departments. However, we found evidence that GSA is not facilitating the procurement process nor ensuring compliance with procurement regulations. Examples of evidence are issuance of purchase orders in excess of bid awards to vendor P3351001, food deliveries prior to issuance of POs, questionable disqualification of other bidders, insufficient bidding time, POs issued to vendor P3351001 without any indication of bidding, and DOC may not always be receiving the best value for their food purchases; therefore, the conclusion on DOC's procurement of food remains.

### **BPAs Not Allocated to Three Vendors**

GSA agreed with OPA's finding and indicated that BPAs were not allocated to at least three vendors because there were instances when vendors will not accept government-issued purchase orders due to non-payment. We acknowledge this rationale, however, we did not find any documentation that other vendors were solicited; therefore, the finding remains. We are referring this matter to the Attorney General to determine the possibility of issuance of single BPAs.

### **Amendments in Excess of \$15,000**

GSA asserts that the amendment issued on PO # P026X00117 to vendor T2626701 was appropriate because bid 002-02 underwent competitive sealed bidding. However, we found that the amendment increased the PO amount by \$20,000 or 50% and should have been re-solicited. We also did not find any written justification within the PO file for the increased PO amount. Thus, the finding on amendments in excess of \$15,000 remains.

### **Circumvention of Regulation by Issuing BPAs of \$14,999**

GSA asserts that because purchase orders were issued several months apart to the same vendor, it "does not mean that the exact equipment or supplies" were purchased, thus circumvention of regulation did not transpire. We found that these purchases were issued to the same vendor in a short time frame for the same type of items; thus, the finding remains.

### **\$15,000 BPA Amount Limitation Not Followed**

GSA asserts for 17 of the BPAs that exceeded the \$15,000 limitation, solicitations were issued to procure the goods and/or services. This rationale is contrary to 2 G.A.R. § 3112.13(b), which requires that BPAs shall not exceed the \$15,000 threshold; therefore, this finding remains. We acknowledge that the \$15,000 threshold may not be sufficient to cover the procurement requirement of repetitive purchases of goods or services and are recommending the Attorney General to determine the sufficiency and clarify the amount of limitation.

## **Limitations of the Report**

This report has been released to the Governor of Guam, the Speaker and members of the 27<sup>th</sup> Guam Legislature, the Director of Department of Administration, the General Services Agency, the Director of Department of Corrections, the Director of Department of Public Health and Social Services, the Director of Bureau of Budget and Management Research, the Attorney General of Guam, and the U.S. Department of Interior Office of Inspector General. This report is a matter of public record and its distribution is not limited.

This report does not provide conclusions involving legal determinations.

**OFFICE OF THE PUBLIC AUDITOR**



Doris Flores Brooks, CPA, CGFM  
Public Auditor



## **Appendices**

## **Appendix A: Government of Guam Line Agencies**

- 1 Agency for Human Resources Development (AHRD)
- 2 Bureau of Budget and Management Resource (BBMR)
- 3 Bureau of Statistics & Plan (Bureau of Planning)
- 4 Chamorro Land Trust Commission (CLTC)
- 5 Chief Medical Examiner
- 6 Civil Defense
- 7 Civil Service Commission (CSC)
- 8 Customs & Quarantine Agency
- 9 Department of Administration (DOA)
- 10 Department of Agriculture (Agriculture)
- 11 Department of Chamorro Affairs
- 12 Department of Corrections (DOC)
- 13 Department of Education (DOE)
- 14 Department of Integrated Services for Individuals with Disabilities (DISID)
- 15 Department of Labor
- 16 Department of Land Management (DLM)
- 17 Department of Law (Office of the Attorney General/OAG)
- 18 Department of Mental Health & Substance Abuse (DMHSA)
- 19 Department of Military Affairs (Military Affairs)
- 20 Department of Parks & Recreation (DPR)
- 21 Department of Public Health & Social Services (DPHSS)
- 22 Department of Public Works (DPW)
- 23 Department of Rev. & Tax (DRT)
- 24 Department of Youth Affairs (DYA)
- 25 General Services Agency (GSA)
- 26 Guam Board of Accountancy
- 27 Guam Contractors' Licensing Board
- 28 Guam Council on the Arts & Humanities Agency (CAHA)
- 29 Guam Economic Development & Commerce Agency (GEDCA)
- 30 Guam Environmental Protection Agency (GEPA)
- 31 Guam Fire Department (GFD)
- 32 Guam Educational Telecom Corporation (KGTF)
- 33 Guam Election Commission
- 34 Guam Energy Office
- 35 Guam Police Department (GPD)
- 36 Guam Public Library
- 37 Guam Retirement Fund
- 38 Governor's Office
- 39 Professional Engineers, Architects, & Land Surveyors (PEALS) Board
- 40 Veteran's Affairs Office

**Appendix B: Bids and POs Issued by DOC**

**FY 2002**

Referenced Bid Number	Date Bid Advertised & Offered	Bid Due Dates	# of Vendors who picked up Bid Packages	Vendors who Submitted & Awarded	Bid Expiration Date	Bid Award Amount	POs Issued			Amount Over/Under Issued to Awarded Vendor				
							PO #	Date	Amount					
034-01 Assorted Seafood Items	31-Aug-01	18-Sep-01	6	1. P3351001	16-Oct-02	9,740.00	P026A00017	10/16/2001	7,450.00	(72,710.00)				
							P026A02189	2/21/2002	35,000.00					
							P026A02754	4/26/2002	40,000.00					
							<b>P3351001 Subtotal:</b>				<b>82,450.00</b>			
							2. Q0321701	15-Oct-02	106,680.00		P026A00016	10/16/2001	7,450.00	99,230.00
<b>Q0321701 Subtotal:</b>			<b>7,450.00</b>											
<b>Total Bid Award:</b>						<b>116,420.00</b>	<b>Total POs Issued:</b>		<b>89,900.00</b>	26,520.00				
035-01 Dairy Products	31-Aug-01	18-Sep-01	6	1. P3351001	16-Oct-02	60,375.60	P026A00011	10/16/2001	4,967.00	(8,291.40)				
							P026A02185	2/21/2002	10,000.00					
							P026A02753	4/26/2002	30,000.00					
							P026A04426	7/16/2002	3,000.00					
							P026A05351	8/30/2002	5,000.00					
							P026A06069	9/27/2002	2,000.00					
							P026A06068	9/27/2002	3,700.00					
							P036A00421	11/29/2002	10,000.00					
							<b>P3351001 Subtotal:</b>				<b>68,667.00</b>			
							2. F0301701	22-Oct-02	174,985.60		P026A00013	10/16/2001	6,622.00	137,363.60
											P026A06085	9/30/2002	6,000.00	
											<b>P036A00579</b>	<b>12/4/2002</b>	<b>25,000.00</b>	
<b>F0301701 Subtotal:</b>			<b>37,622.00</b>											
3. Q0321701	15-Oct-02	25,800.00	<b>Not Tested</b>			0	Not Tested							
<b>Q0321701 Subtotal:</b>			<b>0</b>											
<b>Total Bid Award:</b>						<b>261,161.20</b>	<b>Total POs Issued:</b>		<b>106,289.00</b>	129,072.20				
036-01 Fresh Vegetables	<b>GSA can't locate file as of 6/01/04</b>			<b>GSA cannot locate file as of 6/01/04</b>			P026A00015	10/16/2001	25,000.00	Not Tested				
							P026A02187	2/21/2002	15,000.00					
							P026A02751	4/26/2002	15,000.00					
							P026A04428	7/16/2002	5,500.00					
							P026A05352	8/30/2002	10,000.00					
							P026A06067	9/27/2002	10,000.00					
							P036A00422	11/29/2002	5,000.00					
							<b>P3351001 Subtotal:</b>				<b>85,500.00</b>			
<b>Total Bid Award:</b>						<b>0</b>	<b>Total POs Issued:</b>		<b>85,500.00</b>					
038-01 Fresh Fruits	17-Sep-01	25-Sep-01	4	1. P3351001	16-Oct-02	170,160.00	P026A00014	10/16/2001	25,000.00	25,160.00				
							P026A02188	2/21/2002	35,000.00					
							P026A02752	4/26/2002	30,000.00					
							P026A04423	7/16/2002	10,000.00					

Referenced Bid Number	Date Bid Advertised & Offered	Bid Due Dates	# of Vendors who picked up Bid Packages	Vendors who Submitted & Awarded	Bid Expiration Date	Bid Award Amount	POs Issued			Amount Over/Under Issued to Awarded Vendor				
							PO #	Date	Amount					
							P026A05350	8/30/2002	25,000.00					
							P026A06071	9/27/2002	20,000.00					
							<b>P3351001 Subtotal:</b>				<b>145,000.00</b>			
							2. Q0321701	Unable to Determine	28,480.00		<b>No POs issued to vendor Q0321701 for fresh fruits</b>		28,480.00	
							<b>Q0321701 Subtotal:</b>				<b>0</b>			
							<b>Total Bid Award:</b>				<b>198,640.00</b>	<b>Total POs Issued:</b>		<b>145,000.00</b>
039-01 Frozen Meats, Poultry & Vegetables	17-Sep-01	25-Sep-01	5	1. P3351001	17-Oct-02	798,928.80	P026A00030	10/17/2001	100,000.00	78,929.80				
							P026A00685	12/11/2001	75,000.00					
							P026A02186	2/21/2002	130,000.00					
							P026A02749	4/26/2002	120,000.00					
							P026A04424	7/16/2002	45,000.00					
							P026A06065	9/27/2002	85,000.00					
							P026A06072	9/27/2002	150,000.00					
							P036A00654	12/14/2002	14,999.00					
							<b>P3351001 Subtotal:</b>				<b>719,999.00</b>			
							2. Q0321701	17-Oct-02	142,086.00		P026A00029	10/17/2001	50,000.00	92,086.00
<b>Q0321701 Subtotal:</b>			<b>50,000.00</b>											
<b>3. M3031701 (rejected due to affidavit not signed by authorized person)</b>														
<b>Total Bid Award:</b>			<b>941,014.80</b>	<b>Total POs Issued:</b>		<b>769,999.00</b>	171,015.80							
040-01 Grocery Items	17-Sep-01	25-Sep-01	5	1. P3351001	19-Oct-02	751,732.80	P026A00059	10/19/2001	100,000.00	285,832.80				
							P026A02190	2/21/2002	75,000.00					
							P026A02748	4/26/2002	65,000.00					
							P026A04427	7/16/2002	36,500.00					
							P026A06066	9/27/2002	90,000.00					
							P026A06070	9/27/2002	99,400.00					
							<b>P3351001 Subtotal:</b>				<b>465,900.00</b>			
							2. O0481701	19-Oct-02	412,884.20		P026A00058	10/19/2001	50,000.00	222,884.20
											P026A06073	9/27/2002	60,000.00	
											P026A06074	9/27/2002	80,000.00	
<b>O0481701 Subtotal:</b>			<b>190,000.00</b>											
3. Q0321701	Unable to Determine	49,587.20	<b>Not Tested</b>		Not Tested									
<b>Q0321701 Subtotal:</b>			<b>0</b>											
<b>4. M2021701 (rejected due to affidavit not signed by authorized person)</b>														
<b>Total Bid Award:</b>			<b>1,214,204.20</b>	<b>Total POs Issued:</b>		<b>655,900.00</b>	508,717.00							

**FY 2003 (Nine Months Ending June 30, 2003)**

Referenced Bid Number	Date Bid Advertised & Offered	Bid Due Dates	Vendors who picked up Bid Packages	Vendors who Submitted Bids	Bid Expiration Date	Bid Award Amount	POs Issued			Bid Variance			
							PO #	Date	Amount				
002-03 Fresh Fruits	31-Dec-02	15-Jan-03	4	1. P3351001	7-Mar-04	169,680.00	P036A01938	3/5/2003	70,000.00	59,680.00			
							P036A02952	5/5/2003	25,000.00				
							P036A03765	6/16/2003	15,000.00				
				<b>P3351001 Subtotal:</b>							<b>110,000.00</b>		
<b>Total Bid Award:</b>						<b>169,680.00</b>	<b>Total POs Issued</b>		<b>110,000.00</b>	59,680.00			
003-03 Frozen Meats, Poultry & Vegetables	31-Dec-02	15-Jan-03	3	1. P3351001	7-Mar-04	634,090.40	P036A01937	3/5/2003	200,000.00	84,090.40			
							P036A02957	5/5/2003	270,000.00				
							P036A03764	6/16/2003	80,000.00				
				<b>P3351001 Subtotal:</b>							<b>550,000.00</b>		
				2. Q0321701	6-Mar-04	122,258.00	<b>No POs Issued to vendor Q0321701 as of June 30, 2002</b>						122,258.00
<b>Q0321701 Subtotal:</b>							<b>0</b>						
<b>Total Bid Award:</b>						<b>756,348.40</b>	<b>Total POs Issued:</b>		<b>550,000.00</b>	206,348.40			
004-03 Assorted Seafood Items	31-Dec-02	15-Jan-03	4	1. P3351001	7-Mar-04	11,320.00	P036A01923	3/5/2003	5,000.00	(3,680.00)			
							P036A02951	5/5/2003	10,000.00				
				<b>P3351001 Subtotal:</b>							<b>15,000.00</b>		
				2. Q0321701	10-Mar-04	89,900.00	<b>No POs Issued to vendor Q0321701 as of June 30, 2002</b>						89,900.00
<b>Q0321701 Subtotal:</b>							<b>0</b>						
<b>Total Bid Award:</b>						<b>101,220.00</b>	<b>Total POs Issued:</b>		<b>15,000.00</b>	86,220.00			
005-03 Fresh Vegetables	31-Dec-02	15-Jan-03	4	1. P3351001	7-Mar-04	169,710.00	P036A01921	3/5/2003	60,000.00	89,710.00			
							P036A02950	5/5/2003	15,000.00				
							P036A03766	6/16/2003	5,000.00				
				<b>P3351001 Subtotal:</b>							<b>80,000.00</b>		
<b>Total Bid Award:</b>						<b>169,710.00</b>	<b>Total POs Issued:</b>		<b>80,000.00</b>	89,710.00			
015-03 Grocery Items	4-Mar-03	19-Mar-03	3	1. P3351001	4-Jun-04	603,708.00	P036A02954	5/5/2003	7,499.00	566,209.00			
							P036A03767	6/16/2003	30,000.00				
				<b>P3351001 Subtotal:</b>							<b>37,499.00</b>		
				2. J0083235	4-Jun-04	570,544.14	P036A03763	6/16/2003	35,000.00			535,544.14	
<b>J0083235 Subtotal</b>							<b>35,000.00</b>						
<b>Total Bid Award:</b>						<b>1,174,252.14</b>	<b>Total POs Issued:</b>		<b>72,499.00</b>	1,101,753.14			
016-03 Dairy Products	4-Mar-03	19-Mar-03	3	1. P3351001	4-Jun-04	155,052.60	P036A02953	5/5/2003	7,500.00	132,552.60			
							P036A03768	6/16/2003	15,000.00				
				<b>P3351001 Subtotal:</b>							<b>22,500.00</b>		
				2. F0301701	8-Jun-04	150,156.00	P036A03792	6/16/2003	5,000.00			145,156.00	
<b>F0301701 Subtotal:</b>							<b>5,000.00</b>						
<b>Total Bid Award:</b>						<b>305,208.60</b>	<b>Total POs Issued:</b>		<b>27,500.00</b>	277,708.60			

### Appendix C: BPAs with no Running Balance Log and Over Issuance of POs

	PO #	Vendor #	Amount	Payments to Date	Balance (Overpayments)	Agency	Nature of Procurement
1	P026A00013	F0301701	\$ 6,622.00	\$ 46,547.07	\$ (39,925.07)	DOC	Dairy Products
2	P026A00030	P3351001	100,000.00	139,951.49	(39,951.49)	DOC	Frozen Meats
3	P026A00057	O0481701	50,000.00	99,969.11	(49,969.11)	DOC	Groceries
4	P026A02005	L0092256	14,999.00	2,301.48	12,697.52	AHRD	Training
5	P026A02189	P3351001	35,000.00	35,000.00	0.00	DOC	Asstd. Seafood Items
6	P026A02297	A1471701	500.00	1,220.08	(720.08)	Governor's Office	Asstd. Food Items
7	P026A02748	P3351001	65,000.00	64,997.90	2.10	DOC	Groceries
8	P026A04259	D7271501	2,000.00	462	1,538.00	Commerce	Computer Repairs
9	P026A04260	M9271501	2,000.00	0.00	2,000.00	Commerce	Computer Repairs
10	P026A04261	P0096538	2,000.00	69	1,931.00	Commerce	Computer Repairs
11	P026A05260	G1381601	14,000.00	14,000.00	0.00	AHRD	Educational Courses
12	P026A05386	C0096104	2,000.00	1,988.73	11.27	Commerce	Computer Supplies
13	P026A06065	P3351001	85,000.00	84,948.69	51.31	DOC	Frozen Meats
14	P026A06070	P3351001	99,400.00	92,935.50	6,464.50	DOC	Frozen Meats
15	P026A06072	P3351001	150,000.00	77,110.85	72,889.15	DOC	Frozen Meats
16	P026A06074	O0481701	80,000.00	9,059.25	70,940.75	DOC	Groceries
17	P026X00118	A0083001	10,000.00	0.00	0.00	GSA	Plastic Bags
18	P026X00119	S0097677	10,000.00	10,000.00	0.00	GSA	Paper Towels
19	P026X00121	S1851001	30,000.00	4,360.00	25,640.00	GSA	Plastic Bags
20	P036A00015	P7816001	7,849.60	7,849.60	0.00	DRT	Hotel Banquet Rental
21	P036A00016	P1716701	8,112.80	8,244.00	(131.20)	DRT	Hotel Banquet Rental
22	P036A00017	G1476011	4,314.00	2,515.00	1,799.00	DRT	Hotel Banquet Rental
23	P036A00054	C0098001	14,999.00	1,375.00	13,624.00	DOA	DOT Substance Abuse Panel 5
24	P036A00394	M0096987	14,999.00	13,181.27	1,817.73	DMHSA	Medical Supplies
25	P036A00579	F0301701	25,000.00	0.00	25,000.00	DOC	Dairy Products
26	P036A00656	P3351001	14,999.00	14,999.00	0.00	DOC	Groceries
		<b>Total</b>	<b>\$ 848,794.40</b>	<b>\$ 733,085.02</b>	<b>\$ 105,709.38</b>		

Appendix D: July 2003 Letter from Office of the Lieutenant Governor



*Office of the Governor of Guam*

Adelup, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: gov@guam.gu

Felix Perez Camacho  
*Governor*

Kaleo Scott Moylan  
*Lieutenant Governor*

11 JUL 2003

7/29/03 1:30 PM  
Received by Office of the  
Public Auditor

**The Honorable David B. Cohen**  
**Deputy Assistant Secretary for Insular Affairs**  
**U. S. Department of the Interior**  
**1849 C Street, NW**  
**Washington, D. C. 20240**

**Dear Secretary Cohen:**

Since taking office in January, Governor Felix P. Camacho and I have been working closely with the USDA Graduate School, specifically Mr. Stephen Latimer of the Pacific Islands Training Initiative, to provide training in the areas of procurement and contract management, as well as conducting a full assessment of current procurement practices of the Government of Guam. USDA's assistance in this matter has been invaluable and has shed light on ways in which we can improve our current process.

GovGuam's current procurement regulations date back to 1984. The process limits the government to making firm-fixed-price contract awards to the low bidder only. We do not have the ability to negotiate contracts on a best-value basis, based on technical merit, past performance and price, as the federal government operates. This limits GovGuam procurement personnel in their ability to arrange the most advantageous procurement to benefit their respective agency.

The bottom line is that the Government of Guam needs to update and revamp the manner in which it procures services and goods. Thus, I respectfully request that the Department of Interior's provide technical assistance via USDA Graduate School and Mr. Latimer. Specifically, we request that USDA provide training and technical assistance in developing new procurement rules and regulations mirroring the federal standards best value basis. The objective is to develop a modern system that eliminates duplication and fragmentation in the procurement process. We recognize that this would require a long-term commitment of technical assistance over at least two years. We would like to have a person of the caliber of Mr. Ralph Capio who has already provided me with his preliminary survey of Guam's procurement problems. We envision Mr. Capio or someone like him coming to Guam for four-to-six weeks at a time every three to four months to help us formulate this new procurement structure. Our Public Auditor, Doris Flores Brooks, has noted in many financial and performance audits that procurement deficiencies make clear that the procurement process must be reformed. She is of the opinion that Mr. Capio could be of significant assistance to GovGuam in fashioning the necessary changes.

*Rosa CFO 7/29/03*

Should your good office have any specific questions or concerns regarding this matter, please feel free to contact Ms. Lou Perez, Director of the Department of Administration or Mrs. Brooks. I trust you will give this request all due consideration and act favorably. USDA's expertise will aid our administration in our ongoing efforts to streamline GovGuam and maximize our limited financial resources. As always, your assistance is greatly appreciated.

Sincerely,



**Kaleo S. Moylan**  
***I Maga'lahaen Guahan, Acto***  
**Acting Governor of Guam**

cc: Lou Perez, Department of Administration  
Doris Brooks, Public Auditor  
Stephen Latimer, USDA Graduate School, PITI



## Appendix E: Executive Order # 2003-27



OFFICE OF THE GOVERNOR  
HAGATNA, GUAM 96910  
U.S.A.

### EXECUTIVE ORDER NO. 2003-27

#### RELATIVE TO PROCUREMENT REFORM

**WHEREAS**, the reformation, modernization and streamlining of the public procurement process is a vital and immediate objective of my Administration; and

**WHEREAS**, it is the purpose of my Administration to establish a public procurement process that systematically identifies the supplies, services and construction needs of the Island of Guam, solicits and evaluates offers fairly, and awards contracts without favoritism; and

**WHEREAS**, the government-wide infrastructure implementing the public procurement process should optimally organize agency resources for this purpose, establish and maintain reasonable levels of responsibility and accountability, and efficiently manage and safeguard the fiscal assets of the Island of Guam, from whatever source received.

**NOW, THEREFORE, I, FELIX P. CAMACHO, I Maga'lahaen Guåhan**, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, and the laws of Guam, do order as follows:

1. There is established a Procurement Reform Steering Committee (the "PRSC") to determine how to best address, inter alia, these objectives:
  - (a) to simplify, clarify, and modernize the laws and regulations of Guam governing the procurement of supplies, services and construction;
  - (b) to make consistent and uniform the procurement laws and regulations governing all agencies of this government;
  - (c) to provide for increased public confidence in the procurement process followed by this government;
  - (d) to provide increased economy in procurement activities and to maximize to the fullest extent the purchasing value of public funds;
  - (e) to foster effective, broad-based competition within the free enterprise system, yet caring for legitimate emergency situations;
  - (f) to provide safeguards for the maintenance of a procurement system of quality and integrity;
  - (g) to obtain in a cost-effective and responsive manner the supplies, services and construction required by this government's agencies in order for those agencies to better serve the citizens of Guam; and
  - (h) to propose any legislative and regulatory reform necessary to accomplish the objectives stated hereinabove.
2. The PRSC shall be chaired by the Lieutenant Governor, and shall be available at his call. It shall have as members the Director of Administration, the Director of Public

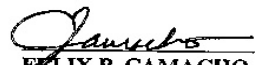


Works, the Director of the Bureau of Budget and Management Research, the Attorney General and the Public Auditor. Membership is on a principals-only basis, and may be expanded to include other members, from time-to-time, within the discretion of the Chairman.

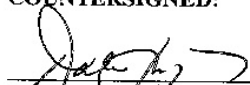
3. Periodic reports of progress and/or recommendations shall be made by the PRSC to me.

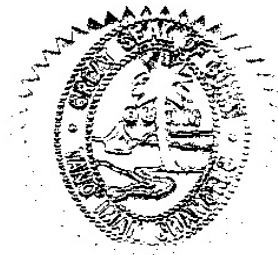
4. This appointment shall be for two years, unless either sooner rescinded or extended by me.

SIGNED AND PROMULGATED at Hagåtña, Guam this 19<sup>th</sup> day of September 2003.

  
**FELIX P. CAMACHO**  
*I Maga'lahaen Guåhan*  
Governor of Guam

COUNTERSIGNED:

  
**KALEO S. MOYLAN**  
*I Segundu Maga'lahaen Guåhan*  
Lieutenant Governor of Guam



# Appendix F: DOC Management Response



## DEPARTMENT OF CORRECTIONS

*Depattamenton Mangngurihi*

P.O. Box 3236

Hagatna, Guam 96932

**Felix P. Camacho**  
*Governor*

**Kaleo S. Moylan**  
*Lt. Governor*

**Robert D. Camacho**  
*Acting Director*

**Francisco B. Crisostomo**  
*Warden*

**Michael P. Quinata**  
*Chief Parole Officer*

**Joseph T. Afaisen**  
*Acting Administrator*  
*CCSD / RSAT / Forensic*

**Luis M. Paulino**  
*Administrative Services Officer*

July 12, 2004

Received by Office of the  
Public Auditor

7-13-04 10:45

### MEMORANDUM

TO: M. Francis Quinto, CPA  
Acting Public Auditor

FROM: Director of Corrections  
Acting

SUBJECT: Response to OPA Report No. 04-08

Thank you for allowing us to respond to your audit report covering October 1, 2001 to June 30, 2003.

As you well know, in January 2003, the former Director Frank Ishizaki was appointed Acting Director of Corrections. About a month later, I was appointed Acting Deputy Director. Therefore your report only covers about six months of this administrations accountable time. We came into the Department in the midst of great controversy over alleged overtime abuses. Since that time, I believe we have resolved those issues. In January 2004, Mr. Ishizaki vacated his position as Director and moved to the Guam Police Department and I was Acting Director of Corrections.

Upon our appointments as acting administrators in 2003, Frank and I developed a system of accountability for supply, equipment and personnel. We will continue to improve our systems of operations and we welcome any suggestions from your office to improve our efficiency and accountability.

I cannot dispute the findings of many of the practices prior to our administration. It seems quite apparent that there have been abuses in the past and procurement laws were not followed or circumvented. My only goal is to ensure that henceforth we follow these procurement laws and have more accountability in all areas within DOC.



Tel. No.: 475-6222 / 6298/473-7022 / 7027  
Fax. No.: 473-7024

Here are my responses to the findings:

I would like to request that the Finding 1 be re-phrased to state, "Questionable Procurement of food *for* the Department of Corrections". The former phrase indicates that Department of Corrections was solely responsible for the procurement process. GSA has been at the fore front of all procurement of food items and the designating the vendors to be awarded. The only exception may have been during emergency deliveries during a crisis situation. Additionally, in 2003, we have sought advisement from GSA on issuing requisitions for food supplies to vendors.

In the case of favored vendors, please also keep in mind that many vendors have refused to accept purchase orders from our department due to non-payment or delayed payment of services rendered. This has made it extremely difficult to find reliable food vendors to keep up with the daily demands of food services. In order to maintain daily food operations, food was delivered without purchase orders. This required ratification at a later date.

Since our privatization of galley operations at the Adult Correctional Facility, we have managed to reduce overspending and possible pilferage. As Director, I have taken great strides to ensure that we do not over spend on food and that there were no abuses in supply. All purchase orders are thoroughly reviewed. Early on during my administration, I had noticed that some inmates in the housing area were storing food. This practice has since ceased due to a daily inspection sheet we have established for the units and the privatization of the ACF galley. We have further established an understanding with all vendors that if the products are not in good quality condition upon delivery, we would not accept it.

Before our last meeting, I was unaware that pricing of products could be negotiated. I always believed that these prices were fixed and non negotiable in accordance to the bid award. I also believed that GSA would seek to compare these prices and it would be near wholesale. In the future, you can be assured that we will seek the lowest cost for each food product working with GSA. I was quite surprised with the costs comparisons with wholesale and retail. DOC was completely unaware that the pricing exceeded the retail prices.

On the issue of exceeding the bidding contract. We were informed by the Chief Procurement Officer, that PO's could still be given out to certain vendors past the Bid's expiration. We were told that if a vendor had inventory that encompassed the total bid package were still obligated to purchase those items. I want to also clarify that on the bottom left hand corner of the Requisition form there is an area for "Recommended Source". The final determination on who is receives the purchase order solely rests on GSA and not DOC.

Pacific Produce earlier this year wanted to be paid for past deliveries, and wanted to continue to deliver products that were not on purchase order. We totally refused further deliveries until the previous deliveries could be verified. We also consulted with GSA on Pacific Produce's inventory.

I informed Pacific Produce to cease delivering products until they receive a purchase order.

If we are to compare food purchasing prices with mainland prices, we should consider some critical facts. If you look at one State, you may have 30 or more institutions. Though one prison may have only 500 inmates, the total inmate population for that State may be in excess of 50,000. This leaves much room for negotiation and may explain the substantially low pricing.

Secondly, many institutions have enormous plant and animal farms that reduce overall costs. Guam DOC has been improving our programs in this area. We have been consulting with Department of Agriculture on how to improve our farm crops. We have 5 inmates who are undergoing training on developing larger scale crops for DOC. We also have a piggery that is periodically inspected by a veterinarian and the pig farm has been inspected by EPA.

Professional Services have been an ongoing problem at DOC. Dental and medical services are being rendered to our inmates. Unfortunately, through the contractual agreements, we did not anticipate that there would be numerous referrals to other medical facilities because of lack of expertise or equipment. This led to numerous ratifications. GSA proposed that blanket purchases be afforded to all the medical clinics and pharmacies. Financially, however, we could not see this as feasible procedure. We were struggling to pay past medical bills and holding up the monies was impossible.

We had requested assistance in securing one clinic to handle all the medical issues. GSA promised to assist us in this area by providing us similar contracts from Public Health. After much waiting, I took the initiative to consult with three local doctors to help me to formulate the scope of work, however, the process has been extremely slow. I also made two visits to the Cancer Institute in Tamuning to see if the clinic could support our medical needs. My whole intention was to have one clinic provide all medical services to include: examinations, referrals, lab work and medication. This coordination is still ongoing.

In conclusion, DOC will make every effort to analyze food purchases and compare it to U.S. correctional facilities as recommended. In the past, there may have been some problems receiving items that may have not been in the best quality; I believe we have resolved this issue. We would also like to note that there have been no reports of food poisoning or illnesses related to spoilage. Currently, we have existing personnel that inspect all products that come into the facility for quality consumption. There is no disparity in the issuance of food. At one point, inmates who were on work crews requested for supplemental meals due to performing labor intensive community service work. They complained that the portions were not sufficient to support their energy level in the field. This has been changed especially in the advent of privatization. Food portions for each inmate is sufficient no matter what program area.

Thank you again for giving us this opportunity to respond.



ROBERT D. CAMACHO

## Appendix G: GSA Management Response

Felix P. Camacho  
Governor

Lourdes M. Perez  
Director



### GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)  
Department of Administration  
Government of Guam  
148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: 477-8836-8 • Fax Nos.: 472-4217/4207

Kaleo S. Moylan  
Lt. Governor

Joseph C. Manibusan  
Deputy Director

July 07, 2004

Ms. Francis Quinto, CPA  
Acting Public Auditor  
Office of the Public Auditor  
Suite 401, Pacific Daily News Building  
238 Archbishop Flores Street  
Hagatna, Guam 96910

Received by Office of the  
Public Auditor

7-7-04 4:45PM

Dear Ms. Quinto:

Hafa Adai! This is our response to your draft copy of proposed OPA Report No. 04-08 General Services Agency, Performance Audit on Blanket Purchase Agreements, covering the (21) month period from October 01, 2001 to June 30, 2003. The following is the response to the audit findings:

#### **Finding 1: Questionable Procurement of Food by the Department of Corrections (DOC)**

- **Evidence Indicating a Favored Vendor**

I disagree with the finding as stated "favored vendor". GSA issued invitation for bids for food commodities and as a result of the bid vendor #P3351001 participated on the bid and was awarded. GSA is in no position to demand other vendors to participate on government bids if they do not wish to.

- **Vendor P3351001 Received Purchases in Excess of Bid Awards**

I disagree with this finding. Based on the invitation for bid issued by GSA stated that it was an indefinite quantity bid and the quantities stated on the invitation for bid was the minimum quantity. Therefore, GSA did not circumvent any regulations.

- **Competition Eliminated – Food Delivered by Vendor Prior to Issuance of PO**

I agree with this finding.

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- **Questionable Disqualification of Other Bidders**

I agree with the findings.

- **Pos Issued After the Bid's Expiration Date**

I disagree with this finding. It is stated on the Invitation for Bid Nos. GSA035-01, GSA-039-01 and GSA-004-03 that the contract is for a period of (1) year with the option to renew for (2) additional years not to exceed a (3) year period based upon availability of funds.

- **Competition Circumvented through Over-Issuance of Purchase Orders**

I disagree with this finding. Purchase order numbers P026A00057, P026A00030 and P026A00013 referenced invitation for bid numbers therefore these purchase orders were issued in accordance to the terms of the invitation for bid that allows the government to increase quantities since the bid was issued as an indefinite quantity bid.

- **Competition Circumvented through Issuance of Amendments**

I disagree with this finding. Again, the invitation for bids that were issued by GSA stated that the bid is an indefinite quantity bid and can therefore be increased throughout the contract period. Therefore, GSA did not circumvent the competition process.

- **Conclusion on DOC's procurement of food**

I disagree with the conclusion of the audit for procurement of food. The role of GSA is to facilitate the procurement process and to ensure that procurement regulations and statutes are followed and not to dictate the needs of the departments. GSA did execute the appropriate method in procuring for food commodities for DOC.

**Finding 2: Rejected Contracts Bypassed by Issuance of a Purchase Order**

- I agree with audit finding 2.

**Finding 3: Noncompliance with BPA Procurement Regulations**

- **BPAs Not Allocated to Three Vendors**

I agree with finding 3. However, there were times when vendors will not accept government purchase orders due to non-payment of the government.

In addition, Pursuant to 2 G.A.R. Subsection 3112.12 (e) states in part: "Therefore, if not impossible, then to the extent practical, BPAs for items of the same type should be placed concurrently with at least three separate suppliers to assure equal opportunity. However, it is impossible for GSA to issue (3) purchase orders to (3) vendors if the vendors does not want to continue to do business with the government during this time period. Vendors do suspend the government at times when payments are not made.

**Action Taken:**

Corrective action has been in effect since November 2003 wherein procurement files are documented accordingly. The buyers are instructed to award blanket purchase agreements to at least (3) vendors. If vendors do not want to accept government purchase orders it is documented on the abstract.

- **Incomplete BPA Records**

I agree with the finding.

**Action Taken:**

Corrective action has been taken in effect since November 2003 the buyers shall solicit for price quotes on service type requirements. The hourly rate of the service will be typed on the purchase order in order for appropriation branch to know what did vendor agreed to charge the government.

In addition, I have implemented a requisition routing slip for performance measurement and tracking of processing timelines. The routing slip also requires the buyers initial as well as the initial of both the buyer supervisor and the purchasing administrator that indicates it was reviewed by several level of management prior to the approval of the CPO. (See attached copy)

The written determination is also made a part of the blanket purchase agreement indicating that it is in the best interest of the government to issue a blanket purchase agreement.



- **Lack of Running Balance Logs**

I agree with this finding.

**Action Taken:**

On February 09, 2004, GSA issued Circular No. 2004-05 regarding the control and accountability when utilizing the method of blanket purchase agreement. The departments are required to submit copies of invoices on all transactions to GSA to properly monitor and scrutinize the use of the blanket purchase agreement to ensure that the activities within are appropriate. (See attached copy)

In addition, GSA initiated a form to be utilized for blanket purchases. The required tally and request forms are attached to this circular for proper tracking of all activities.

- **Amendments in Excess of \$15,000.00**

I disagree with this finding. Amendment issued on P026A00117 to vendor T2626701 was appropriate. This vendor was awarded under bid number GSA-002-02. Therefore, GSA did undergo competitive sealed bidding.

- **Review Procedures not Performed**

I agree with this finding.

**Action Taken:**

On May 10, 2004 GSA issued a memorandum to all autonomous and line departments and agencies to submit blanket purchase agreements for fiscal year 2003 in order for GSA to audit and determine how we can better support the needs of the departments and at the same time obtain the best price for the government. (See attached copy)

In addition, GSA has established a goal to implement the GSA Local Catalog for the Government of Guam on both supplies and services needed by the various departments and agencies.

- **Circumvention of regulation by issuing BPAs of \$14,999.00**

I disagree with this finding. Circumvention arises when a purchase order is issued for the same exact equipment or supplies split into two different purchase orders to the same vendor.

The purchase orders were issued several months apart to the same vendor, does not mean the department purchased the exact equipment or supplies that was purchased on the first blanket purchase order agreement. Therefore, GSA did not circumvent regulations as stated in the audit finding.

**Finding 4: Vague or contradicting BPAs Regulation**

- **\$15,000 BPA Amount Limitation Not Followed**

I disagree with this finding. Based on the analysis prepared by the OPA on page 20 of this audit report Table 15, indicates that 20 individual BPAs exceeded \$15,000.

However, 17 out of the 20 individual purchase orders may have exceeded the \$15,000 limitation however, a solicitation was issued to procure the goods and or services indicated by the OPA.

- **Inconsistency in application of purchase amount limitation of \$15,000**

Based on 2 G.A.R. Subsection 3112.13(b) GSA is within the guidelines of the regulations.

- **Specification and clarification on type of goods or services allowed**

I agree with this finding.

**Action Taken:**

Corrective action has been in effect since November 2003 whereas the purchase of equipments is not being authorized through a blanket purchase agreements.

**Management Response**

Based on the recommendation of the OPA, GSA has already initiated several issues addressed on this audit finding. The issues addressed are as follows:

- GSA is currently auditing the procurement transactions made during fiscal year 2003 on all blanket purchase agreement for autonomous and line departments and agencies. The results of this audit will determine the commodity that needs to be

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procured through the method of competitive sealed bidding in order for the government to obtain the best cost based on bulk purchasing.

- Currently, bid awards are made on the basis of the solicitation. In other words, GSA will issue the purchase orders per each line item even if it is an indefinite quantity type bids, the award will be made on an item per item basis. By doing this, GSA will be able to monitor how much we have purchased on each particular line item throughout the contract period.

If the department request to increase the quantity they may do so through an amendment process on the same purchase order number which will be easier to audit in terms of usage factor, when the term of the contract expires.

- GSA as of February 9, 2004, implemented forms to be utilized when using the blanket purchase agreement procedure for better accountability and auditing purposes. In addition, departments are required to submit copies of invoices to GSA for proper controls and accountability within the procurement files.
- GSA is currently working towards accomplishing a goal set to begin October 1, 2004 that is our GSA Local Catalog System for the Government of Guam.

GSA will continue to improve the processes within the procurement activities of this government.

Sincerely,

  
CLAUDIA S. ACFALLE  
Chief Procurement Officer

## Appendix H: DPHSS Management Response



Felix P. Camacho  
GOVERNOR

Kaleo S. Moylan  
LIEUTENANT GOVERNOR

### GOVERNMENT OF GUAM

#### DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES (DIPATTAMENTON SALUT PUPBLEKO YAN SETBISION SUSIAT)

Post Office Box 2816, Hagatña, Guam 96932  
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Mangilao, Guam 96923



Peter John D. Camacho  
DIRECTOR

July 27, 2004

Yukari Cabrera, CPA  
Acting Public Auditor  
Office of the Public Auditor  
Suite 401 Archbishop Flores Street  
Hagatna, Guam 96910

Dear Ms. Cabrera:

Buenas Yan Saluda! In reference to your letter dated July 26, 2004, Finding 2 on "Rejected Contracts Bypassed by Issuance of a Purchase Order", the Department of Public Health and Social Services respectfully submits this response.

As a department mandated to provide preventive health and social services access to the territory of Guam, it is and remains important to ensure that we continue to adequately provide health related services (i.e. physician, laboratory, pharmaceutical services, etc.) to the people of Guam.

It was unfortunate that circumstances beyond our control became a barrier to the continuity of health-related services. However, the Department of Public Health and Social Services was made to understand that the issuance of purchase orders for these services were in line with procurement policies and procedures.

Since the department does not have any procurement authority, we rely heavily on General Services Agency for their expertise as it relates to procurement regulations and practices.

Senseramente,

Peter John D. Camacho, MPH  
Director

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