

**Government of Guam  
Analysis of Top Ten Vendors**

**Performance Audit  
October 1, 2008 through September 30, 2011**

**OPA Report No. 12-06  
December 2012**



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**EXECUTIVE SUMMARY**  
**Government of Guam Analysis of Top Ten Vendors**  
**Report No. 12-06, December 2012**

The Government of Guam (GovGuam) General Fund and its related funds spent \$123.8 million (M) for goods and services in fiscal year (FY) 2009, \$165.7M in FY 2010, and another \$165.2M in FY 2011, for a total of \$454.8M on goods and services. In each of the three years, over 40% of GovGuam's business went to ten vendors. Our audit found deficiencies with the procurements of these ten vendors that amounted to \$3.67M in questioned cost. Deficiencies include:

- Procurement of goods and services with escalating contract costs totaling \$1.1M over the original contract amount;
- Two million (\$2M) for an award not given to the lowest bidder as well as this bid not being advertised;
- Utilization of sole source procurement without justification totaling \$6,000 (K); and
- Missing documentation totaling \$526K.

It appears there is a lack of due diligence with locally funded procurement compared to federally funded procurement as 99% of the questioned costs were associated with local funds. These conditions occurred because there was no secondary review of locally funded procurement and no standard filing system to ensure proper filing of all procurement documents.

**Top Ten Vendors Receive over 40% of GovGuam's Procurement**

Between FY 2009 and FY 2011, 32 government agencies procured the services of 1,671 vendors. Of this, 30 agencies procured the following services from the top ten vendors: construction (37%), consulting (29%), transportation (9%), adult care services (8%), food services (7%), training (5%), and computer goods and services (5%). See table 1 for details.

**Table 1: Summary of Top Ten Vendors from FY 2009 through FY2011**

Vendor Name	Type of Good/ Service	FY 2009	FY 2010	FY 2011	Total
Vendor 1	Construction	\$ 748,876	\$ 15,740,966	\$ 19,014,297	\$ 35,504,139
Vendor 2	Consulting	\$ 12,905,655	\$ 11,417,370	\$ 8,660,758	\$ 32,983,782
Vendor 3	Consulting	\$ 17,606,472	\$ 6,862,889	\$ 1,381,260	\$ 25,850,622
Vendor 4	Construction	\$ 1,323	\$ 11,106,907	\$ 13,775,384	\$ 24,883,614
Vendor 5	Transportation	\$ 4,713,261	\$ 7,006,621	\$ 6,018,955	\$ 17,738,837
Vendor 6	Adult Care	\$ 5,538,888	\$ 5,804,687	\$ 5,029,214	\$ 16,372,788
Vendor 7	Construction	\$ 4,131,710	\$ 8,642,949	\$ 1,630,859	\$ 14,405,518
Vendor 8	Food Services	\$ 2,551,916	\$ 4,779,094	\$ 6,213,295	\$ 13,544,305
Vendor 9	Training	\$ 1,482,755	\$ 3,896,229	\$ 5,372,746	\$ 10,751,730
Vendor 10	Computer	\$ 2,226,912	\$ 2,643,514	\$ 5,678,872	\$ 10,549,298
	Subtotal Top 10 Vendors	<u>\$ 51,907,769</u>	<u>\$ 77,901,225</u>	<u>\$ 72,775,640</u>	<u>\$ 202,584,633</u>
	1,661 Other Vendors	\$ 71,403,154	\$ 88,303,267	\$ 86,457,452	\$ 246,163,873
	Unclassified	\$ 477,475	\$ (461,040)	\$ 6,024,308	\$ 6,040,743
		<u>\$ 123,788,397</u>	<u>\$ 165,743,452</u>	<u>\$ 165,257,400</u>	<u>\$ 454,789,249</u>

### **Deficiencies in the Procurement of Top Ten Vendors**

We tested 27 procurement transactions totaling \$40.3M from the top ten vendors with funding sources coming from federal grants, capital projects, special revenues and the General Fund. Of the 27 transactions, 19 had no deficiencies. The remaining eight or 30% of the transactions totaling \$3.67M were 99% locally funded and had the following deficiencies:

- *Escalating Contract Costs* – We found amendments to a food services contract for the Department of Corrections with added costs of \$1.1M that exceeded the 10% threshold allowed in the Invitation for Bid (IFB). These amendments made changes to the price per meal as well as an extension to the contract for another five months. We could not determine if the contract was extended any further as it was outside of our scope.
- *Lowest Bidder was Not Awarded and Not Advertised* – The procurement file for an IFB issued by the Department of Public Works to procure road construction services did not contain justification for vendor selection. We found the lowest bidder was not awarded the contract. The procurement file also did not provide evidence of advertisement to the public. We questioned the award of this contract totaling \$2M.
- *Sole Source Procurement for Transportation Services* - We could not determine if the General Services Agency (GSA) did its due diligence to determine if there were other firms that could provide transportation services for a procurement completed in 2010. As a result, we questioned the total cost for this service of \$6K.
- *Missing Documentation* – Six files totaling \$532K lacked documentation that would support the rationale of the procurement method utilized and the vendor selection. This was due to poor record keeping and inconsistent filing. There is no filing system in place except for files that are reviewed by the Office of Attorney General (AG). It was evident that some agencies did not review the files to ensure compliance with Guam Procurement Law and that files are complete with correct documentation to support the vendor selection. These poor controls could lead to the loss of important documentation that validates the procurement of the goods or supplies.

### **Conclusion and Recommendation**

With expenditures totaling \$454.8M in procurement for goods and services in the last three years, there is need for stronger oversight and secondary review of local procurement. GovGuam expenditures have been on an upward trend with over 40% of its business going to ten vendors for consulting, construction, computer, and food services each year. Our audit found deficiencies primarily in locally funded procurement of good and services from the top ten vendors. The parameters of utilizing federal funds are often more stringent and scrutinized, which can lead to a better handling of the overall procurement process and documentation. When using local funds for procurement, efforts should be made to mirror that same due diligence and control routinely applied to federally funded procurements. We recommend that GSA follow the AG checklist for all procurements and utilize the standard templates for various methods of source selection to ensure compliance with established procurement regulations.



Doris Flores Brooks, CPA, CGFM  
Public Auditor



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# Introduction

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This report presents the results of our audit of the Government of Guam's (GovGuam) top ten vendors. The audit was initiated as part of the Office of Public Accountability's Annual Work Plan. Our objectives were to: (1) calculate the cost of goods and services purchased from the top ten vendors, and (2) determine if awards to the top ten vendors were made in accordance with applicable procurement rules and regulations between fiscal years 2009 and 2011.

The audit scope, methodology, and prior audit coverage are detailed in Appendices 2 and 3.

## Background

Guam procurement law defines procurement as the means of buying, purchasing, renting, leasing or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to obtaining any supply, service, or construction, including the description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. One of the purposes of procurement and the procurement law and regulations is to provide increased economy in territorial activities and to maximize to the fullest extent practicable the purchasing value of public funds of the Territory.

Supplies and services for GovGuam line agencies are generally procured through the General Services Agency (GSA), a division under the Department of Administration. GSA is responsible for providing centralized procurement and warehousing activities for GovGuam in accordance with Public Law 16-24. The Chief Procurement Officer serves as the central procurement officer of the Territory and is responsible for procurement or supervision of all supplies and services for the executive branch. Exemptions of GSA procurement authority include architecture, engineering, surveying, investment banking, and works of art and publications. GSA's procurement function is mainly through the issuance of invitation for bids (IFBs). GSA initiates its procurement upon requisition and approvals from agency department heads.

Some GovGuam agencies are also designated to perform certain procurement functions. Construction projects are procured through the Department of Public Works (DPW). The Mayor's Council of Guam (MCOG) has been given the authority to procure supplies or services of less than \$15,000 (K) without the approval of GSA, and construction projects that do not exceed \$50K. In addition, GovGuam agencies have been given the authority to procure professional services through a request for proposal (RFP) independently or with the assistance of the Office of the Attorney General for proposals costing over \$500K.

The top ten vendors were selected through a variety of procurement methods including IFBs, RFPs, sole source, and small purchases. Please refer to Appendix 4 for an explanation of these methods.

# Results of Audit

The Government of Guam (GovGuam) awarded over 40% of procured supplies, services, and construction to ten vendors in fiscal years (FY) 2009, 2010, and 2011. The remaining goods and services were procured from 1,661 vendors by 32 government line agencies. During the three year period, \$123.8 million (M), \$165.7M, and \$165.2M were spent in FY 2009, 2010, and 2011, respectively, for a total of \$454.8M. Our audit found deficiencies in the procurement of these ten vendors that amounted to \$3.67M. Noted deficiencies include:

- Escalating contract costs exceeding allowable amounts;
- The lowest bidder not being awarded;
- Utilizing sole source procurement without appropriate justification; and
- Missing documentation.

These conditions occurred because there was no secondary review of locally funded procurement and no standard filing system to ensure proper filing of all procurement documents.

## Top Ten Vendors Receive over 40% of GovGuam's Procurement

From FY 2009 through 2011, the General Fund expended a total of \$454.8M for procurement-related transactions. Nearly half of GovGuam's expenditures on goods and services have been with ten vendors for the three year period. A breakdown by each fiscal year is as follows:

- In FY 2009, a total of \$123.8M with 42% or \$51.9M being spent on the top ten vendors;
- In FY 2010, a total of \$165.7M was spent with 47% or \$77.9M being spent on the top ten vendors; and
- In FY 2011, a total of \$165.3M was spent with 44% or \$72.8M being spent on the top ten vendors.

Based on the Department of Administration's (DOA) records, the top ten vendors made up 45% or \$202.6M of the total expenditures. The 1,661 vendors made up 54% or \$246.2M. Unclassified transactions representing DOA's journal vouchers for various agencies comprised the remaining 1%. Goods and services among the top ten vendors include construction, consulting, transportation, adult care, food services, training, and computer services. See Table 1 for a summary of the top ten vendors and Appendices 5 and 6 for more details.

**Table 1: Top Ten Vendors from FY 2009 through FY 2011 by Service/Good**

Type of Good/ Service	No. of Vendors	FY 2009	FY 2010	FY 2011	Total	Total
Construction	3	\$ 4,881,909	\$ 35,490,822	\$ 34,420,540	\$ 74,793,270	37%
Consulting	2	30,512,127	18,280,259	10,042,018	58,834,404	29%
Transportation	1	4,713,261	7,006,621	6,018,955	17,738,837	9%
Adult Care	1	5,538,888	5,804,687	5,029,214	16,372,788	8%
Food Services	1	2,551,916	4,779,094	6,213,295	13,544,305	7%
Training	1	1,482,755	3,896,229	5,372,746	10,751,730	5%
Computer	1	2,226,912	2,643,514	5,678,872	10,549,298	5%
Subtotal Top 10 Vendors		<u>\$ 51,907,769</u>	<u>\$ 77,901,225</u>	<u>\$ 72,775,640</u>	<u>\$ 202,584,633</u>	<u>100%</u>
1,661 Other Vendors		\$ 71,403,154	\$ 88,303,267	\$ 86,457,452	\$ 246,163,873	
Unclassified		\$ 477,475	\$ (461,040)	\$ 6,024,308	\$ 6,040,743	
Grand Total		<u>\$ 123,788,497</u>	<u>\$ 165,743,452</u>	<u>\$ 165,257,400</u>	<u>\$ 454,789,249</u>	

Procurement expenditures increased from \$123.8M to \$165.3M in the three-year period, while the number of vendors GovGuam does business with has declined. In FY 2011, GovGuam conducted business with 977 listed vendors, a 17% decrease from the 1,171 vendors in FY 2009.

Thirty agencies procured supplies, services, or construction from the top ten vendors totaling \$202.6M. Agencies that have frequently used the services from these vendors include the Department of Public Works (DPW), Department of Public Health and Social Services (DPHSS), Guam Regional Transit Authority (GRTA), Department of Corrections (DOC), the Office of the Governor, and Department of Revenue and Taxation.

Payments made to the top ten vendors comprised of funding from federal grants, capital projects, special revenues, and the General Fund. GovGuam continues to rely heavily on funding provided from the federal government. Federal funding has made up a major portion of GovGuam's expenditures with \$35.8M or 69% in FY 2009, \$28.8M or 37% in FY 2010, and \$26.2M or 36% in FY2011.

With the building of the Layon Landfill, expenditures stemming from capital projects have increased over the three years with \$3.9M or 8% in FY 2009, \$28.2M or 36% in FY 2010, and \$30.9M or 43% of the total expenditures.

Local (General Fund) and special revenue funds made up the smallest portion of GovGuam's expenditures. The General Fund was the funding source for \$6.2M or 12% in FY 2009, \$14.8M or 19% in FY 2010, and \$9.6M or 13% in FY 2011. Special revenue funds was the funding source for \$5.9M or 11% in FY 2009, \$6.1M or 8% in FY 2010, and \$5.9M or 8% in FY 2011. See Appendix 5 for further details.

### **Overall Expenditures Increase for Top Ten Vendors**

Expenditures for the top ten vendors increased over the three year period with a significant jump of nearly \$26M or 50% from \$51.9M in FY 2009 to \$77.9M in FY 2010. Expenditures for six of the ten vendors grew for services related to construction, transportation, food, training, and computer goods. There was a decline in expenditures of \$5.1M or 7% from the \$77.9M in FY 2010 to \$72.8M in FY 2011.

A construction company received \$749K in FY 2009, \$15.7M in FY 2010, and \$19M in FY 2011. This was due to a contract executed by the Federal Receiver for the Layon Landfill access road construction, upgrades to area roads, and utility improvements. Another construction company received \$1K in FY 2009, \$11.1M in FY 2010, and \$13.8M in FY 2011. This vendor was awarded a contract that was executed by the Federal Receiver for the construction of the Layon Landfill.

Expenditures have also increased for the transportation services provided by one vendor over the last three years. This vendor was given \$4.7M for its services in FY 2009, \$7M in 2010 and another \$6M in FY 2011. Transportation services were provided mainly for the Guam Mass Transit system. However, this vendor also was paid for the renting of school busses.



A vendor who provided food services to GovGuam received \$2.6M in FY 2009, \$4.8M in FY 2010, and \$6.2M in FY 2011. This was an overall increase of \$3.7M or 143% over the three year period.

Expenditures for training increased when the University of Guam received \$1.5M in FY 2009, \$3.9M in FY 2010, and \$5.4M in FY 2011. This was an overall increase of \$3.9M or 262% over the three year period.

Computer services provided by one vendor increased from \$2.2M in FY 2009, to \$2.6M in FY 2010, and \$5.7M in FY 2011. This was an overall increase of \$3.5M or 155% over the three year period. When the government procures services to create software systems, costs of servicing that system continue with that specific vendor because that vendor has proprietary rights over the software system created.

## **Procurement Deficiencies of Top Ten Vendors**

We reviewed 27 transactions totaling \$40.3M that were procured through various methods. Nine were procured through IFBs, seven were procured through RFPs, two were procured through sole source, two were procured through blanket purchase agreements (BPAs), and seven were procured through small purchases. We found eight transactions totaling \$3.67M had the following procurement deficiencies: contract costs were escalated beyond its allowable amount, procurement was not awarded to the lowest bidder, sole source was utilized without appropriate justification, and overall poor recordkeeping and documentation. Of the \$3.67M, \$3.66M or 99% came from local government funds.

## **Escalating Contract Costs for Food Services**

In March 2008, an IFB was issued by GSA on behalf of the Department of Corrections (DOC) to procure food services for DOC inmates at the adult correctional facility and the Hagatna Detention Facility. More than one purchase order (PO) was generated from this IFB. The first PO was issued in October 2009 and ended in January 2010 for an original amount of \$916K; however \$96K was liquidated from this PO leaving an ending total of \$820K. A second purchase order was issued and incurred costs that exceeded the 10% threshold that was allowed in the IFB. The second PO amount of \$840K increased by \$1.1M, or 136%, to nearly \$2M. We questioned the escalation cost totaling \$1.1M that was incurred through various amendments made on this PO exceeding the allowable cost in which the agency did not issue a new bid. A memo on file indicated that the request for time extension was due to the Department needing time to update and enhance the existing contract to fit the department's current needs and setting.

The IFB allowed for the Chief Procurement Officer (CPO) to approve up to 10% escalation costs as stated in the IFB. Several amendments were made to the PO to increase the total amount, change the agreement on the price for each meal, and extend the time period of the purchase order. Initial meal rates for breakfast, lunch, and dinner were \$4.50, \$5.50, and \$6.00, respectively. Due to the increase of fuel costs, the vendor had requested for an increase in meal prices to become \$4.75, \$6.00, and \$6.50 for breakfast, lunch, and dinner, respectively. Amendments were made thereafter to extend the period of the contract from May 2011 to September 2011. Although there was a planned expiration date, an amendment was made each month from June 2011 to September 2011 to extend and increase the contract price and period. We were unable to determine if DOC further extended the contract price and period into fiscal year 2012 utilizing the same amendments. We noted that during the establishment of this procurement the Attorney General (AG) was not required to review such files even if the amount

exceeded \$500K. Had a secondary review been conducted, the government could have proceeded in a more efficient manner and would have provided oversight and guidance to ensure the government received maximum competition for the services provided and complied with established procurement regulations.

### **Lowest Bidder was not awarded in Construction Project**

An IFB was issued by DPW to procure construction services at the San Vitores Road. We questioned this \$2M project because it was not awarded to the lowest bidder. The memorandum included in the file stated that the winning vendor was the lowest bidder with a total amount of \$6.7M. However, we found that the second vendor noted in the evaluation sheet provided a total bid amount of \$6.5M. DPW officials later explained that the procurement personnel at that time may have only selected a few of the construction services offered in the bid due to limited funding. This explanation was not documented and maintained in the procurement file; therefore, we were unable to verify DPW's rationale. As legally required, the procurement file should maintain a complete record of each procurement file, inclusive of rationale for determining the lowest bidder.

This file also did not provide evidence of proper advertisement. Procurement regulations require that procurement in excess of \$25K shall be publicized at least once and at least seven days before the final date of submission of bids in (1) a newspaper of general circulation on Guam; (2) a newspaper of local circulation in the area pertinent to the procurement; (3) industry media; or (4) a government publication designed for giving public notices. The "Chronology of Events" in the procurement file indicated advertisement dates, but the actual advertisement was not found on file. Again, a secondary review of authority was not required which would have caused DPW to maintain such documentation for review and approval.

### **Sole Source Procurement for Transportation Services**

Transportation services procured in 2010 for DPHSS lacked documentation of having sent out a request for quotation (RFQ) to at least three vendors. During our review of the file we found no evidence that the RFQ for transportation services was sent to any other vendor, rather documentation on file reflect that the RFQ was only sent to this one vendor.

The GSA CPO determined this procurement to be sole source procurement and relied upon documentation from a request for information (RFI) dated 2008. The documentation reviewed on file was a letter dated in 2007 from this one vendor notifying the government that they are the only company to provide the services. Further there was no memo to file justifying the continuance of this vendor as a sole source service provider, nor any updated documentation reflecting such designation. As such, we could not determine if GSA did its due diligence in seeking if there were other firms that could provide the transit service for this procurement completed in 2010. As a result we questioned the total cost for this service of \$6K.

### **Missing Documentation**

Our review revealed some agencies did not ensure procurement files were in compliance with Guam's Administrative Rules and Regulations (2 GAR division 4 §3129) that require files to be complete with correct documentation to support the selection of vendors. Guam procurement rules and regulations require that the purchasing agency maintain a complete record of each procurement file which includes contract administration. Six files totaling \$532K lacked documentation that would support the reasoning of using a certain procurement method and the selection of the vendor. We found the following:

- An IFB issued by GSA for the DPHSS for transportation services totaling \$100K had no evidence that supported the selection of the vendor.
- Sole source procurement issued by GSA for the Guam Regional Transit Authority used outdated documents to support the use of this selection method. This procurement occurred in December 2010 and had included a memo dated November 2007 from the GSA CPO stating that the vendor was the sole provider. GSA officials told us sole source procurement of these transportation services was justified based on a court order that is located in the procurement file, however such documentation was not found in the file. We questioned the PO amount of \$409K.
- A BPA issued by GSA for DOA for computer services cost \$3K. It provided documentation that a BPA is in the government's best interest; however, the documentation was dated in 2003 and procurement for these services was performed in 2009. There were no updated documents maintained on file to justify utilization of the BPA.
- GSA issued a BPA for grocery items which cost \$4K and did not include documentation of any communication with the selected vendor to secure maximum discounts and other necessary details. We also did not find any justification of why this vendor was selected. It was only through our discussions with GSA officials where we found out that BPAs are just established with three vendors; however, we were unable to ascertain whether all competitive sources are being given an equal opportunity to furnish the required supplies or services as required by procurement regulations.
- A small purchase for grocery items issued by MCOG cost \$11K was treated as an "open purchase agreement" or BPA; however the procurement file did not show any documentation of a BPA being equally established with three different vendors as required by law. An "open purchase" was established with two other vendors with similar descriptions provided in the purchase order. However, the POs for the two other vendors were not established until September 20, 2011 and August 23, 2011, approximately ten months after the open purchase agreement established with the tested vendor. The PO amounts were also different. This food services vendor had an original PO amount of \$3,900; the second vendor had an original amount of \$1,500 and the third vendor had an original amount of \$2,000.

Agencies have maintained poor procurement records. The files were inconsistent and had no standard template for filing except for files that have already been reviewed by the AG. There was a significant difference in files that were to be reviewed by third parties such as the AG. For example, procurement files that were reviewed by the AG provided a checklist and references as to where those documents could be found. Following the checklist provided convenience to our review. In procurement files that were not reviewed by the AG or another third party, the filing appeared to be in disarray and unorganized. Amendments to IFBs and to the PO were not in any particular order and there were no labels or headings in the file. In the interest of standardization, effectiveness and efficiency, procurement files should maintained in an orderly manner.

## **Other Matters**

During the course of our audit, there were two issues that came to our attention – GovGuam's ties with a software services vendor and direct payments.

## **Continued Computer Services with One Vendor**

GovGuam has been primarily tied to one vendor who claims to hold proprietary information over computer software that is used by the GovGuam systems. It is also stated that this software is only allowed to be modified by this vendor; such restrictive language lends itself to one company holding a monopoly over GovGuam's computer infrastructure. This vendor has received nearly \$11M over the last three years. The continuance of service contracts from this vendor will likely increase in the upcoming years.

When customized software or a customized system is set-up and created for the government by a vendor, that vendor is then tied to the government to provide maintenance services because of the ownership rights of the system or software's source code. Various agencies such as the Superior Court, Department of Public Health and Social Services, and the Department of Administration have entered into service contracts with different vendors to create a system specific to their agency's needs and have ultimately become "married" to the vendor because the vendor is the owner of the source code and not the government. The government may own the software or the system, but it does not own the source code to make any changes or have another vendor service or maintain it. This has caused agencies to continue their contracts with specific vendors thereby creating sole source contracts.

## **Direct Payments**

Direct payments are payments authorized by DOA for vendors without a previous obligation or commitment. We identified that GovGuam expended an additional \$542.8M over the last three years in direct payments made by DOA. Of this amount, the top vendors received an additional \$5.3M in direct payments. As these amounts are significant, this information will be incorporated in OPA's risk assessment and audit planning process.

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## Conclusion and Recommendations

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Government of Guam procurement expenditures totaled \$454.8M and has been on an upward trend over the last three years with over 40% of its business going to ten vendors for consulting, construction, computer, and food services each year. We tested transactions totaling \$40.3M from these ten vendors and found deficiencies that were not in compliance with Guam Procurement Law and Regulations amounting to \$3.67M. Of that \$3.67M, \$3.66M or 99% was procurement with local government funds. Deficiencies included the procurement of goods and services with limited competition, without appropriate approvals and documentation, without rationale for amendments to contract amounts, and without justification for sole source procurement. These conditions occurred because of poor procurement planning, lack of review by a third party for amounts over a certain threshold, and lack of due diligence in maintaining procurement records.

Our audit determined that government agencies generally provide stronger oversight and greater diligence managing procurement that will be reviewed by a third party such as the Attorney General or a federal agency. Efforts should be made to mirror that same due diligence when using local funding sources. Therefore, we recommend that GSA follow the AG checklist for all procurement and utilize a standard template for the various methods of source selection to ensure compliance with established regulations. We also suggest GSA strengthen staff training pertaining to the administration of procurement records.

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# Managements' Responses & OPA Reply

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A draft report was transmitted to GSA, DPW, and MCOG, in December 2012, for their official response. In December, OPA met with GSA, DPW, and MCOG officials to discuss the audit findings and recommendations.

The GSA Acting Chief Procurement Officer disagreed with the audit findings as follows:

1. Escalating Contract Cost: GSA states the first purchase order was issued on April 21, 2008 in the total amount of \$129,000 and that escalation cost did not exceed 10%. Based on our review, PO's total \$2.8M compared to the original PO amounts of \$1.8M and exceeds the 10% from original contract amount.
2. Sole Source Procurement for Transportation Services: GSA disagrees on the basis that it did its due diligence in issuing an RFI for transportation services in FY 2009 and FY 2010 and maintains documentation in the procurement file. GSA also states that RFQ's are not required under the sole source method. We found no RFI on file for FY 2009 and FY 2010. The RFI GSA attached in its response is relative to maintenance services and supplies. OPA understands that RFQs are not required under sole source procurement; however this particular procurement was initiated as a small purchase procurement.
3. Missing Documentation: GSA subsequently provided documentation of a bid evaluation and analysis for transportation services of \$99K. This documentation was not provided at the time of our review and secondary review. GSA also states that regulations do not require written determination of using blanket purchase agreements to be updated on an annual or fiscal basis, but that written determination is required. While annual updates are not required, GSA should reference documentation that is in a reasonable time frame.

See Appendix 7 for GSA's management response.

The DPW informed the OPA and subsequently provided oral, but not written justification that the lowest bidder was in fact chosen. There was no evidence maintained in the file of DPW's rationale or position of removing certain additives that would qualify it to be the lowest bidder. See Appendix 8 for DPW's management response.

The MCOG Executive Director generally concurs with OPA's findings and recommendations and has taken steps to ensure that procurement policies and recommendations will be adhered to.

The legislation creating OPA requires agencies to prepare a corrective action plan to implement audit recommendations, to document the progress of the implementation of the recommendations, and to endeavor to have implementation completed no later than the beginning of the next fiscal year. Accordingly, our office will be contacting GSA to establish target dates and titles of officials responsible for implementing the recommendations. We appreciate the cooperation and assistance shown by the GSA, DPW, DMHSA, DPHSS, and MCOG.

OFFICE OF PUBLIC ACCOUNTABILITY



Doris Flores Brooks, CPA, CGFM  
Public Auditor

**Appendix 1:**  
**Classification of Monetary Impact**

Findings	Fund Source	Questioned Costs
<p><b>1. Analysis of Top Ten Vendors</b>            From FY 2009-2011, GovGuam spent a total of \$454.8M, of which the Top Ten Vendors received:</p> <ul style="list-style-type: none"> <li>• In FY 2009, a total of \$123.8M with 42% or \$51.9M being spent on the top ten vendors;</li> <li>• In FY 2010, a total of \$165.7M was spent with 47% or \$77.9M being spent on the top ten vendors; and</li> <li>• In FY 2011, a total of \$165.2M was spent with 44% or \$72.8M being spent on the top ten vendors.</li> </ul>		\$ -
<p><b>2. Escalating Contract Costs for Food Services</b>            Amendments made to a food services contract exceeded the allowable escalation costs of 10%.</p>	<b>General Fund</b>	\$ 1,139,281.00
<p><b>3. Award not given to Lowest Bidder in Construction</b>            The procurement file did not justify the selection of the bidder who did not provide the lowest bid.</p>	<b>General Fund</b>	\$ 2,000,000.00
<p><b>4. Sole Source Procurement for Transportation Services</b>            Outdated documentation to support justification for utilizing sole source procurement for transportation services for the Department of Public Health and Social Services.</p>	<b>Federal Grant Fund</b>	\$ 5,760.00
<p><b>5. Missing Documentation of \$532K</b>            Six procurement files reviewed did not provide documentation that would support the reasoning of using that particular procurement method and the selection of the vendor.</p>	<b>L.O. HIGHWAY BOND 2001A-CPF</b>	\$ 99,887.00
	<b>Special Revenue</b>	\$ 408,720.00
	<b>General Fund</b>	\$ 14,200.00
	<b>Federal Grant Fund</b>	\$ 3,498.00
	<b>General Fund</b>	\$ 11,000.00
<b>Totals</b>		<b>\$ 3,671,346.00</b>

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**Appendix 2:****Audit Scope and Methodology**

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The audit scope included a review of laws, rules and regulations, policies, prior audit findings, and other information pertinent to government procurement for the 36-month period between October 1, 2008 and September 30, 2011. Our review did not include procurement performed by autonomous agencies. We examined expenditures of the General Fund and its related funds as well as related procurement files from General Services Agency (GSA), Department of Public Works (DPW), Department of Mental Health and Substance Abuse (DMHSA), Department of Public Health and Social Services (DPHSS), and the Mayors' Council of Guam (MCOG).

To accomplish our objectives, we performed the following:

- Identified OPA hotline tips relative to the objectives of this engagement.
- Reviewed and summarized prior audit coverage relative to the objectives of this engagement.
- Gained an understanding of the policies, procedures, applicable laws, and regulations pertaining to government procurement and the methods of selection.
- Examined internal controls over procurement and assessed the risk of fraud, including the risk of preferential treatments.
- Interviewed key officials of DOA, GSA, DPW, DPHSS, DMHSA, and MCOG.
- Analyzed expenditure data from DOA to identify and calculate the cost of the top ten vendors amongst the government line agencies.
- Tested 27 purchase orders and contracts for compliance with established rules and regulations. These were for goods and services that were procured through the following procurement methods: invitation for bids, request for proposals, small purchases, sole source, and blanket purchase agreement.

We conducted this audit in accordance with the standards for performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. These standards require that we plan our audit objectives and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



OPA Report No. 03-07: General Services (GSA) Agency Tendan Gobetnu

The Office of Public Accountability (OPA) conducted a performance audit on Tendan Gobetnu which is an operation under GSA to purchase supplies at a wholesale price and have Government of Guam agencies purchase supplies from this operation rather than from particular vendors. The audit findings within the report confirm that the Tendan Gobetnu operation was no longer cost-effective to the government. Some of the findings included: (1) Overhead costs are being absorbed by DOA resulting in an overall loss of \$183,000 for FY 2002; (2) Receivables were at \$2.2 million due to non-payment by autonomous agencies, and (3) Inadequate controls were in place over the inventory resulting in inventory loss of over \$48,000. The OPA recommended that the Tendan Gobetnu operation be closed.

OPA Report No. 04-05: GSA Small Purchases Procurement Function

The OPA conducted a performance audit on GSA's small purchases procurement function to determine if small purchases of \$15,000 and below were awarded to vendors based on fair and open competition and in compliance with Guam Procurement Laws and Regulations. Audit findings concluded that GSA was not consistent in their compliance with Guam Procurement Laws and Regulations. The audit found lack of planning, possible artificial division of purchases, lack of competition, possible preferential selection of vendors and missing procurement documentation. It was recommended that GSA stop issuing multiple POs to the same vendor in one day and ensure that purchases are publicized and competitively bid. Three quotations should also be obtained and that all procurement files should be complete.

OPA Report No. 04-08: GSA Blanket Purchase Agreements Procurement Function

The OPA conducted a performance audit on GSA's blanket purchase agreements (BPAs) procurement function. The objectives of the audit were to determine whether BPAs awarded to vendors were based on fair and open competition and in compliance with Guam Procurement Laws and Regulations. The audit found that BPAs were not procured based on fair and open competition and unequally awarded to favor a single vendor. The audit also found excessive and improper procurement of food, inconsistent application of BPA regulations, lack of procurement monitoring and review, and incomplete documentation of procurement. Recommendation by the auditors included establishing written policies and procedures, having DOC analyze food purchases made by the agency and make efforts to reduce average food cost per inmate, and have the Attorney General provide guidance on handling unsigned contracts when services are urgently needed.

OPA Report No. 04-14: GSA Competitive Sealed Bidding, Sole Source, and Emergency Procurement Functions

The OPA conducted a performance audit on GSA's competitive sealed bidding, sole source, and emergency procurement functions. The audit found that GSA was not meeting the overall mission in providing effective and efficient procurement services and it was not clear if purchases worth \$15.3 million fostered broad-based competition and were made in the government's best interest. Some recommendations made were to: (1) discontinue leasing

and/or purchasing equipments under the two expired copier bids and the lease of motor vehicles and issue invitations for bid to solicit for these types of procurement, (2) discontinue the practice of utilizing “existing territorial contracts” and begin to plan and execute invitations for bid for all procurement, and (3) independently verify the rationale for sole source purchases and eliminate the use of GSA’s standardized sole source determination form.

OPA Report No. 11-12: General Services Agency Small Purchases Procurement Follow-Up Audit

The OPA conducted a follow-up audit on the Small Purchases Function of GSA. The audit found that GSA was using the small purchases procurement method when competitive sealed bidding should have been used for recurring items government agencies use. Three purchase orders (POs) were found to have exceeded the \$15,000 small purchase threshold. The audit also found that the Mayor’s Council of Guam, that procures for its own goods and services, did not comply with procurement regulations in expending \$95,843 on small purchases. Recommendations were made which included establishing IT controls so that small purchase POs exceeding \$15,000 will be rejected; analyzing recurring small purchases of line agencies and consolidate procurement of these requirements through competitive sealed bidding; reestablishing credit and buying relationships with federal agencies and other low cost vendors to take advantage of lower prices for medications.

Government of Guam Financial Audits FY 2008 through 2010

Guam GSA is funded through the Government of Guam General Fund and is covered under the GovGuam Wide Financial Audit. In FY 2008, Guam GSA had a budgeted amount of \$796,792, but actual amount in expenditures was \$796,790. In FY 2009, Guam GSA had a budgeted of \$802,001, and actual amount in expenditures was \$802,001. In FY 2010, Guam GSA had a budgeted amount of \$825,939 and actual amount in expenditures was \$825,939.

Guam procurement law states that all GovGuam contracts shall be awarded through competitive sealed biddings (i.e. IFBs), except for the procurement of professional services (RFPs) and except as authorized by: (1) Small Purchases, (2) Sole Source Procurement, (3) Emergency Procurement, and (4) Procurement for Non-Profit Corporations.

**Invitation for Bids:** In competitive sealed bidding, an IFB is issued that includes the purchase description and all contractual terms and conditions that are applicable to the procurement. Guam Administrative Rules and Regulations require that public notice be made to a sufficient number of vendors for the purpose of securing competition. Procurement in excess of \$25,000 shall be publicized at least once and at least seven days before the final date of submission of bids in (1) a newspaper of general circulation on Guam; (2) a newspaper of local circulation in the area pertinent to the procurement; (3) industry media; or (4) a government publication designed for giving public notices. A minimum of 15 days shall be provided for bidding time for a vendor unless a shorter time is deemed necessary as determined in writing by the procurement officer. Bids submitted shall be evaluated based on the requirements set forth in the IFB. The contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements set forth in the IFB. In instances where only one bid is received, the award may be made to the single bidder if the Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for re-solicitation.

**Request for Proposals:** This solicitation process is used for procuring the services of accountants, physicians, lawyers, dentists, licensed nurses, and other licensed health professionals and other professionals. Any using agency of the Government of Guam may act as a Purchasing Agency for request for proposals except as otherwise provided by law. The head of the using agency or a designee of such officer shall determine in writing, prior to announcing the need for any such services: (1) that the services to be acquired are services authorized to be procured by 5 G.C.A. §5121(a) and 2 G.A.R., Div. 4, Chap. 3, §3114(a); (2) that a reasonable inquiry has been conducted, which shall include requesting the appropriate Personnel Services Department to report on the availability of such personnel, and the territory does not have the personnel nor resources to perform the services required under the proposed contract; (3) the nature of the relationship established between the using agency and the contractor by the proposed contract; and (4) that the using agency has developed, and fully intends to implement, a written plan for utilizing such services which will be included in the contractual statement of work. Just as in an IFB, procurement in excess of \$25,000 shall be publicized at least one and at least seven days before the final date of submission of bids in any of those described above. Proposals shall be evaluated only on the basis of evaluation factors stated in the RFP.

**Small Purchases between \$500 and \$15,000:** The Regulations require no less than three positive written quotations from businesses to be solicited. In practice, this means that Request for Quotations must be faxed, mailed, or emailed to at least three (3) vendors. Written quotations from vendors, which should include the vendor name, identify the vendor's personnel authorized to submit the quotation, and the date and amount of each quotation, must be recorded

and placed in the procurement file which shall be maintained as public record. Awards shall be made to the lowest responsible and responsive bidder. Procurements under this section shall not be artificially divided to render a small purchase and avoid using other selection methods.

**Sole Source Procurement:** A contract may be awarded for a supply, service, or construction item without competition when the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of either officer above the level of the Procurement Officer determines in writing that there is only one source for the required supply, service or construction item. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness. In cases of reasonable doubt, competition should be solicited. Any request by a using agency that procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

**Emergency Procurement:** The Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

Specifications are developed to serve as a basis for obtaining a supply, service, or construction item that is adequate and suitable for the territory's needs. It is policy that specifications permit maximum practicable competition. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the territory's needs, and shall not be unduly restrictive.

**Appendix 5:**

**Breakdown of FY 2009 - 2011 Top Ten Vendors**

Vendor No.	Type of Good/ Service	FY 2009	FY 2010	FY 2011	Total	Common Size Ratio	Purchasing Agencies
Vendor 1	Construction	\$ 748,876.02	\$ 15,740,965.85	\$ 19,014,296.75	\$ 35,504,138.62	8%	DPW, Office of the Governor
Vendor 2	Consulting	12,905,654.59	11,417,369.99	8,660,757.54	32,983,782.12	7%	DPW
Vendor 3	Consulting	17,606,472.45	6,862,889.38	1,381,260.28	25,850,622.11	6%	DPW, Office of the Governor
Vendor 4	Construction	1,322.85	11,106,906.87	13,775,384.20	24,883,613.92	5%	DPW, Mayor's Council of Guam
Vendor 5	Transportation	4,713,261.00	7,006,620.50	6,018,955.18	17,738,836.68	4%	DPHSS, DOA, GRTA, DPW
Vendor 6	Adult Care	5,538,888.06	5,804,686.79	5,029,213.57	16,372,788.42	4%	AGO, DMHSA, DISID, DPHSS, Office of the Governor
Vendor 7	Construction	4,131,710.43	8,642,948.85	1,630,858.66	14,405,517.94	3%	DPW
Vendor 8	Food Services	2,551,915.69	4,779,093.99	6,213,295.43	13,544,305.11	3%	Customs & Quarantine Agency, Dept of Agriculture, DOC, DMHSA, DPHSS, DYA, Guam Public Library, Lt. Governor's Office, Mayor's Council, DISID, Office of the Governor, GFD, Guam Public Library, DOA
Vendor 9	Training	1,482,755.44	3,896,228.61	5,372,746.29	10,751,730.34	2%	AHRD, BSP, Dept of Agriculture, DOL, DMHSA, DPHSS, DPW, DISID, Guam Commission for Education Certification, GEC, GEPA, Mayor's Council, Guam Energy Office, DYA, DOC, AGO, Office of the Governor
Vendor 10	Computer	2,226,912.10	2,643,514.27	5,678,871.71	10,549,298.08	2%	AHRD, BBMR, DOA, Dept of Agriculture, DOC, DOL, DLM, DMHSA, DPHSS, DPW, DRT, DISID, GEPA, GFD, GPD, Guam Public Library, Office of the Governor, CLTC, Guam Commission for Education Certification, Guam Energy Office, Customs & Quarantine, DYA, DOC, AGO, BSP, CSC
	Subtotal Top 10 Vendors	\$ 51,907,768.63	\$ 77,901,225.10	\$ 72,775,639.61	\$ 202,584,633.34		
	1,661 Other Vendors	\$ 71,403,154.10	\$ 88,303,266.93	\$ 86,457,451.62	\$ 246,163,872.65	54%	
	Unclassified	\$ 477,474.65	\$ (461,040.34)	\$ 6,024,308.38	\$ 6,040,742.69	1%	
		\$ 123,788,397.38	\$ 165,743,451.69	\$ 165,257,399.61	\$ 454,789,248.68	100%	

## Appendix 6: FY 2009-2011 Top Ten Vendors Funding Source

Rank	Vendor Name	Fund Source	FY 2009	FY 2010	FY 2011	Total
1	Vendor 1	Local	\$ 748,876.02	\$ 3,944,000.00	\$ -	\$ 4,692,876.02
		Federal	-	2,218,902.14	2,037,596.31	4,256,498.45
		Capital Projects	-	9,578,063.71	16,976,700.44	26,554,764.15
		Special Revenue	-	-	-	-
	<b>Total</b>		748,876.02	15,740,965.85	19,014,296.75	35,504,138.62
2	Vendor 2	Local	-	-	58,944.47	58,944.47
		Federal	12,905,654.59	11,417,369.99	8,601,813.07	32,924,837.65
		Capital Projects	-	-	-	-
		Special Revenue	-	-	-	-
	<b>Total</b>		12,905,654.59	11,417,369.99	8,660,757.54	32,983,782.12
3	Vendor 3	Local	-	-	-	-
		Federal	17,606,472.45	6,862,889.38	1,381,260.28	25,850,622.11
		Capital Projects	-	-	-	-
		Special Revenue	-	-	-	-
	<b>Total</b>		17,606,472.45	6,862,889.38	1,381,260.28	25,850,622.11
4	Vendor 4	Local	1,322.85	-	-	1,322.85
		Federal	-	-	1,083,327.07	1,083,327.07
		Capital Projects	-	11,106,906.87	12,692,057.13	23,798,964.00
		Special Revenue	-	-	-	-
	<b>Total</b>		1,322.85	11,106,906.87	13,775,384.20	24,883,613.92
5	Vendor 5	Local	589,737.00	3,420,148.75	2,159,758.18	6,169,643.93
		Federal	545,727.75	494,971.75	1,092,065.00	2,132,764.50
		Capital Projects	-	-	-	-
		Special Revenue	3,577,796.25	3,091,500.00	2,767,132.00	9,436,428.25
	<b>Total</b>		4,713,261.00	7,006,620.50	6,018,955.18	17,738,836.68
6	Vendor 6	Local	2,557,588.30	4,606,865.73	4,147,402.98	11,311,857.01
		Federal	2,667,019.68	623,865.66	81,965.29	3,372,850.63
		Capital Projects	-	-	-	-
		Special Revenue	314,280.08	573,955.40	799,845.30	1,688,080.78
	<b>Total</b>		5,538,888.06	5,804,686.79	5,029,213.57	16,372,788.42
7	Vendor 7	Local	-	-	-	-
		Federal	158,247.04	1,121,773.89	333,077.39	1,613,098.32
		Capital Projects	3,973,463.39	7,521,174.96	1,297,781.27	12,792,419.62
		Special Revenue	-	-	-	-
	<b>Total</b>		4,131,710.43	8,642,948.85	1,630,858.66	14,405,517.94
8	Vendor 8	Local	1,334,937.43	2,221,015.50	2,756,541.34	6,312,494.27
		Federal	6,398.91	1,399,621.13	2,302,042.81	3,708,062.85
		Capital Projects	-	-	-	-
		Special Revenue	1,210,579.35	1,158,457.36	1,154,711.28	3,523,747.99
	<b>Total</b>		2,551,915.69	4,779,093.99	6,213,295.43	13,544,305.11
9	Vendor 9	Local	3,550.00	18,369.56	2,588.54	24,508.10
		Federal	1,302,475.48	3,857,508.25	5,368,557.75	10,528,541.48
		Capital Projects	-	-	-	-
		Special Revenue	176,729.96	20,350.80	1,600.00	198,680.76
	<b>Total</b>		1,482,755.44	3,896,228.61	5,372,746.29	10,751,730.34
10	Vendor 10	Local	929,292.50	578,663.37	511,543.01	2,019,498.88
		Federal	635,322.60	791,286.40	3,972,828.21	5,399,437.21
		Capital Projects	-	-	-	-
		Special Revenue	662,297.00	1,273,564.50	1,194,500.49	3,130,361.99
	<b>Total</b>		2,226,912.10	2,643,514.27	5,678,871.71	10,549,298.08
<b>Grand Totals</b>		Local	\$ 6,165,304.10	\$ 14,789,062.91	\$ 9,636,778.52	\$ 30,591,145.53
		Federal	35,827,318.50	28,788,188.59	26,254,533.18	90,870,040.27
		Capital Projects	3,973,463.39	28,206,145.54	30,966,538.84	63,146,147.77
		Special Revenue	5,941,682.64	6,117,828.06	5,917,789.07	17,977,299.77
			\$ 51,907,768.63	\$ 77,901,225.10	\$ 72,775,639.61	\$ 202,584,633.34

Eddie Baza Calvo  
Governor



**GENERAL SERVICES AGENCY**

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Department of Administration

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Anthony C. Blaz  
Deputy Director

**RECEIVED**

OFFICE OF PUBLIC ACCOUNTABILITY

BY: JB

DATE: 12/18/12

TIME: 12:58  AM  PM

December 18, 2012

Doris Flores Brooks, CPA, CGFM  
Public Auditor  
Office of Public Accountability  
Suite 401, DNA Building  
258 Archbishop Flores Street  
Hagatna, Guam 96910

Subject: Response to Draft Audit Report – Government of Guam Wide Top 10 Vendors from 2009 through 2011

Dear Ms. Brooks:

This is to acknowledge receipt of your letter dated 03 December 2012. The following is GSA's response to the draft audit report prepared by your office:

Based on the comments made on page 2 under the Executive Summary – Conclusion and Recommendation wherein you stated that you recommend GSA follow the AG checklist for all procurements and utilize the standard templates for the various methods of source selection that would ensure compliance with established regulations for procurement.

GSA would like to state for the record that GSA had an established checklist that was provided to the Office of the Attorney General as a template for the AG's to implement an AG checklist form. Attached is a copy for your perusal. **Exhibit 1**

On page 6 Escalating Contract Costs for Food Services you stated that the first purchase order issued by GSA was October 2009. GSA disagrees based on the factual evidence that the first purchase order was issued on April 21, 2008 in the total amount of \$129,000. Additionally, the IFB authorized the escalation of 10% if justified. The escalation cost did not exceed the 10% as authorized by the IFB as you also stated in the draft audit report. GSA also disagrees wherein you stated that the contract was extended for a period of five months from May 2011 to September 2011. The contract was extended up until August 2011. GSA did not issue any other purchase order relevant to GSA-022-08. An emergency procurement was issued for the needed services for the months of December 2011 and January 2012. **Exhibit 2**

GSA disagrees with the statement made on page 6 wherein you noted: "Had a secondary review been conducted, the government could have proceeded in a more efficient manner and would have provided oversight and guidance to ensure the government received maximum competition for the services provided and complied with established procurement regulations." The basis for GSA to disagree with this statement is an example of the GFD pumper truck that was also

COMMITTED TO EXCELLENCE

reviewed by a secondary review (AG's) but was still protested and cancelled in its entirety. Therefore, we like to stress for the record that protest cannot be avoided. GSA is tremendously short of procurement staff. GSA handles over 50 line departments and agencies to include a couple of autonomous agencies with only five buyers.

GSA continues to admonish line departments/agencies that they need to start planning the needs of the department/agencies in a timely manner. GSA would like to stress that we (GSA) cannot proceed with any procurement without a funding document. Most of the time departments and agencies wait for the very last minute to submit a request for a needed requirement such as providing food to the inmates at DOC. However, the failure is on the part of the department and not on GSA.

In fact, GSA issued Circular No. 2012-002 dated 13 October 2011 regarding expiring federal fund. Requisitions must be submitted no later than 30 days prior to the grant expiration date. GSA continues to work on implementing procedures to help the departments plan their needs in a timely manner. **Exhibit 3**

On page 7 under Sole Source Procurement for Transportation Services wherein you stated: "During your review of the file you found no evidence that the RFQ for transportation services was sent to any other vendor, rather documentation on file reflect that the RFQ was only sent to this one vendor." The method used for the procurement of transportation was the sole source method. Therefore, issuing RFQs are not required under the sole source method of procurement.

GSA did its due diligence issuing an RFI every fiscal year for transportation services. A copy of the advertisement for 2009 and 2010 was located in the procurement file. In addition, the court order indicated that the seller cannot compete for transportation services for a period of five years. The record indicates that going as far back as 2003 that only two companies participated for the Mass Transit Services. Attached are the copies of the advertisement and a copy of the court order for your perusal. **Exhibit 4**

Additionally, it is evident that GSA did its due diligence in the processing of sole source procurement for transportation service based on the emergency procurement issued in May 2012 for transportation services that were needed for DPHSS. Only one vendor participated for such requirement. Two other vendors submitted a no quote and a letter indicated they are unable to provide such services due to failing the meet the wheelchair lift. Attached are copies of the letters for your perusal. **Exhibit 5**

On page 7 under Missing documentation it noted on bullet point number one that an IFB was issued by GSA for the DPHSS for transportation services totaling \$99K had no evidence that supported the selection of the vendor. The evaluation sheet and the bid analysis was located in the bid file. Attached are copies for your perusal. **Exhibit 6**

On page 8 under bullet point number 3 it noted: A BPA issued by GSA for the Department of Administration for computer services cost \$3K. There were no updated documents maintained on file to justify utilization of the BPA. A memorandum date November 20, 2003 was located in the procurement file. The regulations did not indicate that we had to update the justification

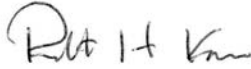


annually or by fiscal year. However, the regulation does indicate that we shall provide a written determination for file which was provided. **Exhibit 7**

On page 10 Conclusion and Recommendations we believe that the recommendation has been established and implemented since 2004. Attached is a copy of a training handout to GSA staff dated July 2004, August 2009. In addition, GSA has in the past forwarded a copy of the GSA Standard Operating Procedures dated November 24, 2003 and is evident that GSA has implemented a checklist. Therefore, for the record we would like to point out that your recommendation is already in place. **Exhibit 8**

If you wish to discuss this matter immediately please do not hesitate to contact me at 475-1715.

Sincerely,



ROBERT KONO  
Acting Chief Procurement Officer

Buyer/Typist: \_\_\_\_\_ Date Completed: \_\_\_\_\_  
 Date Package: \_\_\_\_\_

*Exhibit 1*

**BID PACKAGING CHECK LIST**

Document No (s): \_\_\_\_\_ \$ \_\_\_\_\_

Description/Services: \_\_\_\_\_

Department/Agency: \_\_\_\_\_

Bid No.: \_\_\_\_\_

1. ( ) Requisition (Ad) Date received: \_\_\_\_\_ By: \_\_\_\_\_ (Initial)
2. ( ) Requisitions Date received: \_\_\_\_\_ By: \_\_\_\_\_ (Initial)
3. ( ) Specification with Signature
4. ( ) Special Reminder to Prospective Bidder(s) (Form: DOA 132)
5. ( ) Invitation For Bid (Form: DOA 110)
6. ( ) Formulated Bid Specification(s)
7. ( ) Special Provision
8. ( ) Major Shareholders Disclosure Affidavit (Form: DOA 133)
9. ( ) Bid Bond (Form: DOA 113)
10. ( ) Local Procurement Preference Application (Form: DOA 296)
11. ( ) General Terms & Conditions (Form: GSA 112)
12. ( ) Sealed Bid Solicitation Instructions (Form: DOA 295)
13. ( ) Bidders Register/Sign-in
14. ( ) Advertisement (xeroxed copy of) (Form: DOA 118)
15. ( ) Purchase Order No. \_\_\_\_\_, for Advertisement
16. ( ) Date Bid Issued: \_\_\_\_\_
17. ( ) Amendment(s) #1 ( ) #2 ( ) #3 ( ) #4 ( )

Remarks: \_\_\_\_\_

18. ( ) Bid Opening Date: \_\_\_\_\_ Time: \_\_\_\_\_
19. ( ) Bid Abstract
20. ( ) Number of Vendor's Participating: \_\_\_\_\_
21. ( ) Correction, Withdrawal, etc. after bid openings and before award: ( ) Yes ( ) No
22. ( ) Analysis & Recommendation(s), 1 part (Memorandum): [ ] Award [ ] Rebid [ ] Canceled  
 Others: \_\_\_\_\_
23. ( ) Memo to Dept/Agency: "Analysis and Recommendation"  
 Date Faxed: \_\_\_\_\_ Date Picked Up by Dept/Agency: \_\_\_\_\_
24. ( ) Date Response Due: \_\_\_\_\_ Date Submitted: \_\_\_\_\_
25. ( ) Requisition Returned, inclusive of Standard Form: \_\_\_\_\_
26. ( ) Bid Status (Form: DOA 120)
27. ( ) Deposit Return (Bid Bond) (Form: DOA 114)
28. ( ) Letter of Notice of Intent of Possible Award (Form: DOA 297)
29. ( ) Performance Bond (Form: DOA 123) Due Date: \_\_\_\_\_  
 (Note: Issued 14 days from the date of Notice of Intent of Possible Award)
30. ( ) Purchase Order for Award and Completion of Contract of Bid

31. ( ) Awarding of Purchase Order:	Vendor(s)	P. O. No(s).	Amount
	1. _____	_____	_____
	2. _____	_____	_____


32. ( ) Receiving Report Due Date: 1. \_\_\_\_\_ 2. \_\_\_\_\_
33. ( ) Deposit Return (Performance Bond) (Form: DOA 115)
34. ( ) Sealed Bid Checklist (Form: DOA 292 "A")
35. ( ) Sealed Bid Checklist (Protest) (Form: DOA 292 "B")

**REMARKS:** I certify that all records under this Bid GSA- - - - Are true and complete to the best of my knowledge. I further certify that there is no request for confidentiality submitted with the bid and that all records are available for public inspection upon written request.

CLAUDIA S. MCFARLE  
 Chief Procurement Officer

Appendix 7:  
GSA Management Response

**Exhibit 2**



GENERAL SERVICES AGENCY  
DEPARTMENT OF ADMINISTRATION  
GOVERNMENT OF GUAM

148 Route 1  
Marine Drive  
Piti, Guam 96925

**TRAN CODE**

THIS PURCHASE ORDER NUMBER  
**No.** P085A02911

MUST APPEAR ON ALL INVOICES,  
PACKING SLIPS, PACKAGES, B/L,  
CORRESPONDENCE ETC.

F.O.B.	*AIR FREIGHT TEL. CONTACT	SHIP VIA: AIR FREIGHT	DATE: 2/19/2008	JOB ORDER NO.: 130008011230	OBJ CL: 230
PREPAID-SHOW SHIPPING CHARGES AS SEPARATE ITEM ON INVOICE.					

<b>VENDOR</b>	<b>TO:</b>	<b>VENDOR</b>	<b>CONSIGNEE, DESTINATION &amp; MARKING</b>
	CALIFORNIA MART S.H. ENTERPRISES, INC. P.O. BOX 8730 TAMUNING, GU 96931 Telephone: 671 649-0521 Fax: 671 649-2957	50097959	DEPARTMENT OF CORRECTION 1111 MARINER AVENUE P.O. BOX 3235 MAGATNA, GU 96932-0000 CORRECTIONS REVOLVING FUND

AUTHORITY: 3109	** INVITATION NO. GSA-022-08	** CONTRACT NO.	TIME FOR DELIVERY: SEE BELOW	EXPIRING:	DISCOUNT TERMS:
-----------------	------------------------------	-----------------	------------------------------	-----------	-----------------

ITEM	ARTICLES OF SERVICES	QTY.	UNIT	UNIT PRICE	AMOUNT	DOCUMENT NUMBER	FAC
1	TO COVER COST OF FOOD SERVICES TO DOC INMATES & HDF DETAINEES FOR APRIL 01 - 15, 2008. *BREAKFAST: \$2.85 PER MEAL *LUNCH: \$4.50 PER MEAL *DINNER: \$5.50 PER MEAL SERVICES RENDERED TO DOC INMATE DETAINEES COMMENCING FOOD SERVICES 4/1/08 POC: JOSEPH MESA @735-3918 NOTE: TOTAL AMOUNT IS SUBJECT TO GOVERNMENT LAW WHICH MAY BE SUBJECT TO CHANGE. THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID. NOTE: THE GOVERNMENT OF GUAM WILL NOT BE RESPONSIBLE FOR UNAUTHORIZED PURCHASES OR SERVICES. Note: Amounts due this Purchase Order may be off set for monies due the Govt. of Guam inclusive of but not limited to taxes, fees, and returned checks plus fees, interest or other damages, penalties, and attorney's fees, after failure to pay according to law. ALL LATE DELIVERIES AND ACCEPTANCES ARE SUBJECT TO THE LIQUIDATED DAMAGES CLAUSE IN SECTION 6101(9)(a) OF THE GAR. JUSTIFICATION: Supply of inmates for 15 days		LOT	129000.00	129000.00	4081300100	
<b>↑ TOTAL ↑</b>					129,000.00		

**SPECIAL INSTRUCTIONS TO VENDOR:**

B. SEND CERTIFIED ORIGINAL AND THREE (3) COPIES OF INVOICE TO DIVISION OF ACCOUNTS, DEPARTMENT OF ADMINISTRATION, GOVERNMENT OF GUAM, P.O. BOX 884, AGANA, GUAM 96910.

C. PAYMENT UPON RECEIPT OF MERCHANDISE IN GUAM IN GOOD CONDITION.

D. THIS ORDER SUBJECT TO CONDITIONS ON REVERSE SIDE.

E. \*THIS ORDER IS SUBJECT TO THE SPECIAL PROVISIONS, AND BID GENERAL TERMS AND CONDITIONS SPECIFIED ON THIS BID.

F. \*ON ALL AIR SHIPMENTS HAVE AIR FREIGHT COMPANY CALL THIS NUMBER UPON ARRIVAL OF GOODS IN GUAM.

SIGNATURE: *Claudia S. Alfalle* 4/21/08

NAME: Claudia S. Alfalle

TITLE: Chief Procurement Officer

A. DO NOT FILL THIS ORDER IF YOUR TOTAL COST EXCEEDS THIS TOTAL.

INSERT CHANGES AND RETURN THIS ORDER FOR AMENDMENT.

Control No.

MASTER RECEIPT COPY



Ray Tenorio  
Lieutenant Governor

George A. Santos  
Deputy Director

Ray Tenorio  
Lieutenant Governor

George A. Santos  
Deputy Director

EXHIBIT 3

**GSA**

**GENERAL SERVICES AGENCY**

(Ahensian Setbision Hinirat)  
Department of Administration

148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: (671) 475-1707 Fax Nos: (671) 475-1727 / 475-1716

Ray Tenorio  
Lieutenant Governor

George A. Santos  
Deputy Director

October 13, 2011

**GENERAL SERVICES AGENCY CIRCULAR NO.: 2012 - 002**

**TO:** All Department and Agency Heads

**FROM:** Chief Procurement Officer

**SUBJECT:** Federal Funds Expiring within Thirty (30) Days

Buenas yan Hafa Adai! This is to serve as a reminder to the GSA Circular No.: 2003-09 with the same subject matter referenced above, stating that all requisitions federally funded (grants) with specific timelines, must be submitted thirty (30) days **prior to expiration date** to the General Services Agency for further action.

Si Yu'os Ma'ase' for your full support and understanding.

  
CLAUDIA S. ACFALLE

COMMITTED TO EXCELLENCE

---

Exhibit 4

P.O. BOX 2977 • AGANA, GU. S.A. 96932-2977  
Telephone Nos. (871) 3054/55  
Facsimile (871) 648-3185

**GPA** **GPA**

Simon A. Sanchez II  
CCU Chairman

Joaquin C. Flores, P.E.  
General Manager

### INVITATION FOR BID

This notice is paid for by the  
GUAM POWER AUTHORITY Revenue Funds.

BID NO.	DUE DATE	TIME	DESCRIPTION
GPA-0110	12/01/2009	2:00 P.M.	Lease of a High Volume/High Speed Digital Black & White Printer

Bid package may be picked up at the GPA Procurement Office,  
1st Floor, GPA Central Office, 1911 Route 18, Harmon, Guam 96911.

**GUAM WATERWORKS AUTHORITY**  
**Good Water Always**  
Post Office Box 3010, Hagama, Guam 96932  
Phone: (671) 647-0493 Fax: (671) 647-2621

### INVITATION FOR BID

(Multi-Step Bid)

IFB No.: IFB-01-ENG-2010  
For: DESIGN-BUILD VIDEO SURVEILLANCE AND ALARM SYSTEM

PRE-BID CONFERENCE	SUBMISSION DEADLINE
Nov. 18, 2009 - 10:00 AM GWA Engineering Conf. Rm.	Dec. 14, 2009 - 3:00 PM GWA Engineering Office

**SITE TOUR:** Nov 18, 2009 - 9:00 AM

Interested parties may pick up IFB packages at GWA Engineering Office located at its new location in Department of Public Works compound, Office of Highway Safety Bldg, 2nd Floor, 8 am to 12 pm and 1 pm to 5 pm, Monday through Friday except holidays. A "non-refundable" fee of \$25 will be charged. You can view and download the IFB package at [www.guamwaterworks.org](http://www.guamwaterworks.org). But you must pay the "non-refundable" fee of \$25 to receive all bid addendums, questions and answers, which is also required before acceptance of Bid. Bids must be submitted and stamped date/received by GWA Engineering no later than submission deadline. Failure to submit the Bid by submission deadline at said place will be grounds for rejection of Bid. This project is funded by U.S. Department of Homeland Security Grant Program.

/s/ Leonard J. Olive, Sr.  
General Manager

Felix P. Camacho  
Governor

Louise M. Perez  
Director

**GSA**  
**GENERAL SERVICES AGENCY**  
(Agharlan Gebelion Hiharut)  
Department of Administration  
Government of Guam  
148 Route 1 Marine Corps Drive, P.O. Box 96015  
Tel: (871) 475-1707 thru 1728 • Fax Nos.: (871) 475-4277/475-1727/475-1716

Michael W. Cruz, M.D.  
Lt. Governor

Joseph C. Manibusan  
Deputy Director

THIS ADVERTISEMENT WAS PAID WITH GOVERNMENT FUNDS BY:  
GENERAL SERVICES AGENCY

### TO ALL INTERESTED VENDORS

The Department of Administration (DOA) is in the process of establishing a list of vendors willing to provide maintenance services and/or supplies to the government of Guam. All interested vendors shall submit a letter of interest to GSA, to include their email address, so we may send an email copy of the complete list of supplier or services needed by the government of Guam.

Submit letter of interest to include a copy of business license, company address, contact name, phone number, fax number and email address to the following address no later than **November 30, 2009**.

Department of Administration  
c/o Chief Procurement Officer  
General Services Agency  
148 Route 1 Marine Corps Drive  
P.O. Box 96015

We look forward to your interest in doing business with the Government of Guam, General Services Agency, Department of Administration.

/s/ CLAUDIA S. ACFALLE  
Chief Procurement Officer

A weekly publication in English

### A WEEKEND G.U.J.E

**HR Generalist**  
Honolulu-based Construction Company seeks a HR Generalist for their Guam Office. Duties include providing support to Business Unit Management in functional areas of Human Resources, i.e., recruitment, and employment, employee communications, employee relations, compensation and benefits administration, and special projects. A work experience in HR, training or related discipline or equivalent HR education is preferred. Only those of HR Generalist experience and knowledge of Employment/Displacement Law is helpful. PHR certification is a plus. Salary is commensurate with experience. An Equal Opportunity Employer. Please email resume to [hr@watts.com](mailto:hr@watts.com)

**WATTS**

**Pacific Daily News**  
GUAM'S COMPLETE SOURCE

Assistant Photographer,  
Photographer & Editor  
Please bring your police and court clearance to #310 Tumon Sands Plaza between 9am to 5pm  
**Satok Co., Ltd.**  
No Phone Calls Please.

**Sand Castles**  
Baldyga Group / Sand Castle.  
Seeking  
Executive Assistant to the President/Owner  
Requires strong organization, communication and computer skills. Supports the President and also acts independently. Ability to work in a fast paced, professional environment. Highly competitive salary commensurate with experience.

Email Resume to [j\\_tenorio@baldyga.com](mailto:j_tenorio@baldyga.com)  
or call 649-7263 ext. 231.

Equal Opportunity Employer

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**Pacific Daily News**  
Classifieds Work  
for YOU!

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[www.guampdn.com](http://www.guampdn.com)

Call **472-1PDN**  
for more information

westin friends & family

Searching for the career of a lifetime that will personally enrich you, allow your instinctive creativity to flow, and renew your sense of purpose? We invite you to learn more about the following opportunities available at The Westin Resort Guam:

- Japanese Sales Manager
- Barquet Waitstaff
- Engineering - General Maintenance
- Room Attendant
- Houseman / Steward / Special Projects
- Pool Attendant
- Service Express (Bell Staff)
- Guest Relations Agent (Front Desk)

Candidates may apply at:  
Security Office Monday through Friday, 9:00am - 5:00pm  
Email your resume to [hr@westin.com](mailto:hr@westin.com)

Delicious dining, relaxing recreation, and more...  
**THE WESTIN**  
RESORT  
GUAM

**UNIVERSITY OF GUAM**  
UNIKESDAT GUAHAN

Administration and Finance  
Casualized Procurement Office

### INVITATION TO BID

UOG BID No. P07-10

The University of Guam is soliciting sealed bids for:  
**DATABASE DEVELOPMENT AND TRAINING**

Copies of Instruction and Information may be obtained from:

Procurement Office  
UOG Administration Building  
Mangilao, Guam  
Tel: 735-2925  
Fax: 734-3118

A bid package is available from 9am - 4pm Mon - Fri.  
A non-refundable fee of \$25.00 is required.

**Deadline for Submission of Bid Packages is on Friday, December 4, 2009, 2:00 P.M. at the UOG Procurement Office.**

/s/ Dr. Robert A. Underwood  
President

University of Guam is an equal opportunity employer and provider.

Pacific Daily News, Friday, November 13, 2009, [guampdn.com](http://guampdn.com)

TUESDAY, JANUARY 28, 2010

UNIVII

MARIANAS VARIETY GUAM EDITION 11

**CNMU Briefs**

**Man charged for sexual abuse of 13-year-old**

SAIPAN – The Attorney General's Office has charged Denmar E. Malaban, 32, with one count of sexual abuse of a minor in the first degree, and one count of sexual abuse of a minor in the second degree.

The information filed by the AGO in court stated that Malaban had sex with a minor, then 13-years old in 2006.

Malaban, who has been released to his mother as third party custodian, was arrested on New Year's Eve.

In other news, Julian M. Sablan, 21, and Terrence C. Cabrera, 18, were directed by the court to appear for their arraignment.

They were each charged with one count of theft, one count of burglary, one count of conspiracy to commit burglary, and one count of criminal mischief.

**Assault victim to sue DPW**

SAIPAN – Bernardo Cruz has not returned to work yet and will undergo physical therapy due to the physical trauma he says he suffered after being hit by Alex Chong, his boss at the Department of Public Works.

Chong assaulted Cruz for not paying him a \$100 bet.

A month and a week after the incident, DPW has yet to decide what to do with the case.

Cruz said he will sue DPW's administration "for not taking immediate action."

Cruz said his relatives and his friends believe that the "injustice" happening within DPW will affect other poor and low-level employees.

He said the Department of Public Safety has not yet filed his complaint with the Attorney General's Office.

**DPH set to implement healthcare corporation law**



Under the law, Commonwealth Health Center will be completely separated from the Department of Public Health.

By Junhan B. Todono  
junhan.todono@mvariety.com  
Variety News Staff

SAIPAN – Public Health Secretary Joseph Kevin Villagomez says they are creating a team to look into the specifics of the

Commonwealth Healthcare Corporation Act of 2008, which was signed into law by the governor last week.

"It was the right direction to go but there's going to be a lot of work from now on," he said.

He said they will fill up key positions with very specific requirements.

"We should be hiring the right people for the right positions," he added. Villagomez said they are given

one year to see to it that the Commonwealth Health Center will be completely separated from the Department of Public Health.

The new law creates a healthcare corporation to oversee CHC, the Community Guidance Center and the health centers on Tinian and Rota, he added.

Following a transition period, Villagomez expects the newly created public corporation to be self-sufficient and able to manage its funds.

Under the law, the public corporation will be governed by a seven-member board of trustees.

The board includes three ex-officio voting members – the chief executive officer, the director of medical affairs and a representative selected by the corporation's non-physician health care professions.

The four other members will be appointed by the governor subject to the Senate's confirmation.

**Speaker eyes additional \$5 million for FY 2010 budget**

By Gemma Q. Casas  
gemma.casas@mvariety.com  
Variety News Staff

SAIPAN – Speaker Froilan C. Tenorio says the budget bill for fiscal year 2010 may be \$5 million more compared to the governor's proposal if government fees are increased, among other revenue-enhancing measures.

Tenorio, Covenant-Saipan, said Friday that the banking industry, for example, has been paying low fees despite the huge business transactions they make.

A commercial bank currently pays only \$500 a year for its business license.

He said this should be increased to at least \$3,000.

Tenorio at the same time said the fiscal year 2010 budget bill will include the Fitial administration's austerity measures.

"We are thinking of cutting government workers' salaries by 10 percent across the board," he said.

The House Ways and Means Committee, he added, is now finalizing the budget bill.

The committee chairman, Rep. Ramon S. Basa, Covenant-Saipan, is done consulting with different government agencies

regarding their budgets. "Basically, he's finished listening to all departments," Tenorio said. "We



may be able to identify additional revenues."

Once this is done, the committee will confer

with Gov. Benigno R. Fitial, the speaker said.

The Fitial administration recommended a \$150.5 million budget for fiscal year 2010 which began on Oct. 1, 2009.



**GSA General Services Agency**  
(Ahenslan Setbision Hinirat)  
Department of Administration  
Government of Guam

*Yolita P. Camacho*  
Governor

*Ismael M. Perez*  
Director  
Dept. of Administration

**148 Route 1 Marine Corps Drive, Piti, Guam 96915**  
Tel: 475-1707-13 Fax: 472-4217/475-1716/475-1727



*Michael W. Cruz*  
11 Governor

*Joseph C. Mombassan*  
Deputy Director  
Dept. of Administration

THIS ADVERTISEMENT WAS PAID WITH GOVERNMENT FUNDS BY: GENERAL SERVICES AGENCY

**TO ALL INTERESTED VENDORS**

The Department of Administration (DOA) is in the process of establishing a list of vendors willing to provide maintenance services and/or supplies to the government of Guam. All interested vendors shall submit a letter of interest to GSA, to include their email address, so we may send an email copy of the complete list of supplies or services needed by the government of Guam.

Submit letter of interest to include a copy of business license, company address, contact name, phone number, fax number and email address to the following address no later than February 26, 2010.

Department of Administration  
c/o Chief Procurement Officer  
General Services Agency  
148 Route 1 Marine Corps Drive  
Piti, Guam 96915

We look forward to your interest in doing business with the Government of Guam, General Services Agency, Department of Administration.

/s/ CLAUDIA S. ACFALLE  
Chief Procurement Officer

**ASSET PURCHASE AGREEMENT**

AGREEMENT made between FLEET SERVICES, INC., a Guam corporation, whose address is Post Office Box 10838, Tamuning, Guam 96931 ("Seller") and KLOPPENBURG ENTERPRISES, INC., a Guam corporation, GUAM SANKO TRANSPORTATION, INC., a Guam corporation, and MICRONESIAN HOSPITALITY, INC., a Guam corporation, of Post Office Box 6098, Tamuning, Guam 96931 (collectively the "Buyers"), and is made with reference to the following:

**RECITALS:**

- A. Seller is the owner and operator of a bussing company and has sixteen (16) that it desires to sell in the territory of Guam.
- B. The Buyers desire to purchase all of said assets upon the terms and conditions as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto do hereby agree as follows:

§1. **Purchase and sale.** The Seller agrees to sell, convey, transfer and deliver to Buyers, and Buyers agree to purchase from Seller, sixteen (16) specific , all as set forth and described in particularity on Exhibit "A" attached hereto and incorporated herein by reference.

§2. **Purchase price.** The total purchase price to be paid by Buyers to Seller for all of said buses [REDACTED]

2.1. **Deposit.** [REDACTED] to be paid into escrow, as hereinafter defined, as a good faith deposit.

*EW*  
*AV*  
*Ad*

2.2. *Balance.* The balance of the purchase price, [REDACTED]

[REDACTED] to be paid in cash, cashier's check or certified check at the closing of the within transaction.

§3. *Instruments of transfer.* The sales and deliveries to be made to Buyers pursuant hereto shall be effected by the execution of a Bill of Sale and properly endorsed Certificates of Title to each bus being purchased.

§4. *Copies of Certificates of Title.* Within ten (10) days after the date hereof, Seller shall deliver to Buyers copies of the front and back side of every Certificate of Title for each bus described in Exhibit "A."

§5. *Compliance with bulk sales requirements.* The Buyers shall give notice in compliance with the applicable Bulk Sales provisions of the Uniform Commercial Code as enacted and enforced in the territory of Guam, of the bulk transfer contemplated by this Agreement. Seller shall furnish Buyers with all information necessary to prepare such notice. Any claims that arise as a result of the compliance with the bulk sales provisions shall be paid or cleared by Seller to the satisfaction of Buyers by or at the date of closing. Alternatively, Buyers may pay off any of said creditors' claims that arise as a result of compliance with the bulk sales law and deduct same from the balance of the purchase price.

§6. *Representations and warranties of Seller.* Seller represents, warrants, covenants and agrees with the Buyers as follows:

6.1. Fleet Services, Inc. is a corporation duly organized, existing and in good standing under the laws of the territory of Guam and the execution and delivery of the within



Agreement has been duly authorized by the board of the directors of the Seller corporation, and Seller agrees to deliver at or before closing, a certified copy of the corporate resolution approving this transaction.

6.2. The Seller shall not mortgage, sell or lease any of the assets being sold hereby during the existence of the within Agreement.

6.3. The Seller agrees to assign, transfer, grant and convey all of the assets to be sold hereunder to Buyers, free and clear of any lien, charge or encumbrance, and Buyers will receive good and absolute title thereto, free of any liens, charges or encumbrances of any kind whatsoever.

6.4. There are no undisclosed or contingent liabilities or title defects relating to the Seller's assets to be sold hereby. In the event that any such undisclosed or contingent liabilities or title defects hereafter arise, applicable in whole or in part to a period prior to the closing date, the Seller shall discharge such liabilities and undertake to defend and hold Buyers free and harmless therefrom.

6.5. There is no litigation pending or threatened against the Seller or the assets to be sold hereunder at the present time.

6.6. The warranties and representations and the agreement set forth herein shall be continuous and shall survive the delivery by Seller of all instruments of transfers contemplated hereunder.

§7. *Conduct of business before closing.* Between the date of this Agreement and the closing date, Seller may conduct its busing business in accordance with the same business



practices previously followed by it, and during said period will conduct said business only in the ordinary course.

§8. **Closing.** The closing of the within transaction shall be consummated at 1:00 o'clock p.m. on or before November 27, 2007, at the law offices of Teker Torres & Teker, P.C., in Hagåtña, Guam, at which time Buyers shall pay the balance of the purchase price and Seller shall deliver a properly executed Bill of Sale and properly executed and endorsed Certificates of Title to all of said buses, and any other instruments of transfer, all satisfactory to Buyers' counsel and in proper form to convey all of the Seller's buses to Buyers.

§9. **Risk of loss prior to closing.** The risk of loss to any of the assets being purchased hereby shall remain with Seller until the time of closing. Buyer shall have the option to either cancel this Agreement without further obligation or to negotiate a *pro rata* reduction of the purchase price of the assets in the event of any material loss, destruction or damage to any of the assets prior to the time of closing.

§10. **No liabilities.** It is agreed and understood by and between the parties hereto that Buyers are not acquiring, and they do not assume, any liabilities of the Seller regarding the purchase of the buses.

§11. **Covenant not to compete.** The Seller and its principal shareholder, Pacific Unlimited, Inc., and its principal shareholder, Mr. John A. Limtiaco, shall not directly or indirectly engage in, and shall have no interest in any business, firm, person, partnership or corporation, whether as an employee, officer, director or agent, security holder, creditor, consultant, or otherwise, that engages in any bussing activity that is the same or similar to, or



competitive with any activity now engaged in by the Seller within the territory of Guam at any time within five (5) years immediately following the closing date hereunder. It is agreed, however, between the parties that Seller's or Mr. John A. Limtiaco's interest in any Guam trucking businesses, maintenance of <sup>WV 75 - 022-111 X (2)</sup> or its interest in Paradise Limousines, LLC, is not a similar business and, therefore, is not prohibited by the within non-competition agreement.

§12. *Condition of buses.* The buses being sold hereby are being sold in an "as is" condition. Three buses will require towing and all other buses have normal day-to-day issues as with any bussing operation, but Seller will make best efforts to ensure that thirteen (13) buses are in current working order as of the date of closing.

§13. *Cancellation, etc.* If Buyers fail to close this transaction for any reason not attributable to Seller, then the deposit shall be forfeited to Seller and this Agreement shall terminate and neither party will have any further obligation hereunder.

If Seller does not close this transaction in accordance with the terms hereof, the deposit shall be returned to Buyers and this Agreement shall terminate and neither party will have any further obligations hereunder.

§14. *Entire agreement.* This Agreement, including the Exhibit, contains the entire agreement of the parties and supersedes all prior agreements and understandings of the parties.

§15. *Binding effect.* This Agreement shall be binding on and shall inure to the benefit of the successors and assigns of the parties hereto.

///

///



IN WITNESS WHEREOF, the parties hereto have executed this Agreement in Hagåtña,  
Guam, on Sept. 27, 2007.

**SELLER:**

**FLEET SERVICES, INC.**

By   
JOHN LIMTIACO, President

By   
MICHAEL LIMTIACO, Vice President

**BUYERS:**

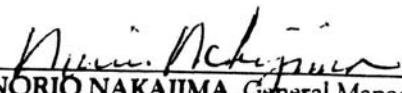
**KLOPPENBURG ENTERPRISES, INC.**

By   
BRUCE KLOPPENBURG, President

**GUAM SANKO TRANSPORTATION, INC.**

By   
TAKAMITSU NOGUCHI, General Manager

**MICRONESIAN HOSPITALITY, INC.**

By   
NORIO NAKAJIMA, General Manager

LJT:cs  
KLOPPENBURG ENT..004REV09-28-07



**SUPPLEMENTAL AGREEMENT**

This AGREEMENT is made between FLEET SERVICES, INC., a Guam corporation, whose address is Post Office Box 10838, Tamuning, Guam 96931 ("Seller") and KLOPPENBURG ENTERPRISES, INC., a Guam corporation, GUAM SANKO TRANSPORTATION, INC., a Guam corporation, and MICRONESIAN HOSPITALITY, INC., a Guam corporation, of Post Office Box 6098, Tamuning, Guam 96931 (collectively the "Buyer"), and is made with reference to the following:

**RECITALS:**

- A. The parties hereto entered into an Asset Purchase Agreement on September 28, 2007, whereby the Seller agreed to sell sixteen (16) busses to the Buyer, and the Buyer agreed to purchase same.
- B. The closing was scheduled to take place on or before November 27, 2007.
- C. The parties have now agreed to close on October 31, 2007.
- D. In the interim, however, the Seller had previously submitted a bid to the Department of Administration, government of Guam, to operate certain bus routes on behalf of the government of Guam, and it now appears that the government of Guam will in fact contract with the Seller to operate certain bus routes in Guam from November 1, 2007 to November 30, 2007.
- E. But because the Seller has agreed to sell its sixteen (16) busses to Buyer prior to the November 2007 contract period, the parties now desire to make an arrangement whereby the Seller would agree to subcontract its November contract to the Buyer.

*[Handwritten initials: FS, W, and a signature]*

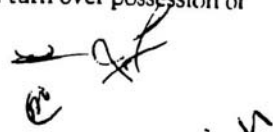
NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto do hereby agree as follows:

§1. **Subcontract.** If the Seller is awarded a contract from the Department of Administration, government of Guam, to provide certain bus services to the government of Guam for the month of November, 2007, Seller agrees to subcontract all of those services to the Buyer, and the Buyer agrees to accept such subcontract and to perform all of said services in accordance with the contract to be awarded by the Department of Administration.

§2. **Price.** The price for said subcontract services shall be Buyer's average bid price of [REDACTED] to the Department of Administration, government of Guam, over the last six month period, namely May 1, 2007 through October 31, 2007, for the same services.

§3. **Payment.** Buyer agrees to invoice Seller for said services at the aforesaid price on November 30, 2007, and Seller agrees to pay Buyer therefor within thirty (30) days thereafter.

§4. **Closing date and time.** The closing date and time for this transaction will be October 31, 2007 at 1:00 o'clock p.m., at the law offices of Teker Torres & Teker, P.C., Hagåtña, Guam, at which time escrow will deliver a cashier's check to Seller and Seller will deliver to Buyer all of the properly executed Certificates of Title to all of the sixteen (16) busses being sold, together with a Bill of Sale therefor. Because Seller will still be providing services to the government of Guam under its October Contract, Seller is permitted to utilize said busses until 9:00 o'clock p.m. on October 31, 2007, and will turn over physical possession of all of said busses to Buyer at said time at its offices in Tiyan. However, Seller will turn over possession of



the non-working busses and parts in the afternoon of October 31, 2007. Seller agrees to tow any vehicles to Buyer's offices at Seller's standard prices.

§5. **Employees.** Seller has advised its employees that they may apply for positions with the Buyer and Buyer has agreed to review said applications for possible hires. But because Seller needs those employees to complete its Contract with the government of Guam through October 31, 2007, Buyer agrees that Buyer will not hire said employees until after October 31, 2007.

IN WITNESS WHEREOF, the parties hereto have executed this Supplemental Agreement on October 24, 2007.

**SELLER:**

**FLEET SERVICES, INC.**

By

  
JOHN LIMTIACO, President

By

  
MICHAEL LIMTIACO, Vice President

**BUYERS:**

**KLOPPENBURG ENTERPRISES, INC.**

By

  
TRAVIS KLOPPENBURG, Vice President

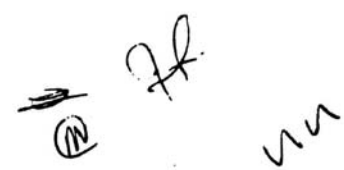
GUAM SANKO TRANSPORTATION, INC.

By   
TAKAMITSU NOGUCHI, General Manager

MICRONESIAN HOSPITALITY, INC.

By   
NORIO NAKAJIMA, General Manager

LJT.cs  
KLOPPENBURG ENT.:006





MAY-29-2012 09:49 From:6717345143

Exhibit 5 Page: 1/3



# King Bus Tours

GSA  
Ms. Anita Cruz  
Tell: 475-1713  
Fax: 472-4217

May 25, 2012

**Ref: Price Quotation for Senior Citizen Transportation**

Dear Ms. Cruz,

Thank you for contacting King Bus Tours regarding your transportation requirements. We will not be able to submit a bid based on your requirements of a wheelchair lift on every vehicle.

Should you have any questions, please call our office or fax us at the numbers listed below. After office hours or in the event of an emergency, please call Mr. Greg A. Cruz at 898-0580.

We thank you for your business and look forward to your continued patronage.

Sincerely,

  
Ralph Goedecke - reservationist

*"When you ride with us, You'll be treated like a King."*  
P.O. Box 12009 Tamuning, Guam 96931  
Tel: 671-734-2573 • Fax: 671-734-5143

Appendix 7:  
GSA Management Response

Page 20 of 25

05/25/2012 FRI 1:38 FAX  
671-475-1727

04:40:04 p.m. 05-23-2012 1/25  
001/001

**URGENT**

REQUEST FOR QUOTATION

BUYER : Santos, Cassandra - GSA  
TELEPHONE: 475-1711  
FAX NO. : 472-4217

**NO QUOTE**

Please respond as soon possible but no later than: 5/29/2012		Requisition Number: Q121730046 RFQ #: RFQ12002401	Date: 5/23/2012
VENDOR: LAM LAM TOURS & TRANSP., INC. 117 GUERRERO STREET TAMUNING, GU 96911 Phone (671) 888-2227 Fax (671) 646-6256		PLEASE FURNISH PRICE QUOTE, DELIVERY TIME AND TERMS BASED ON F.O.B. DESTINATION FOR THE ITEMS LISTED BELOW. PLEASE RESPOND BY THE ABOVE DATE.	
Quoted by Print/Signature:		Quote Date:	Phone Number:
** Delivery Date Required:	The party making the foregoing bid is genuine and that said bidder agrees, that they are fully aware and is in compliance with Title 5 G.C.A. Chapter 5 - 5801 and 5802 Wage Determination, and that the attached is the most recent issued by U.S. D.O.L. for the positions required to implement the required service as per the following specification.		
** Delivery Date Offered:	Therefore, under penalty of perjury, I certify that the facts stated above are true.		
Terms: Prices good for: _____ Days	Signature		Date:
1. Offering Recycle Products ( ) YES ( ) NO 2. Offering Biodegradable Products ( ) YES ( ) NO Please separate your offer of recyclable and/or biodegradable products from regular products.			

THIS IS NOT AN ORDER

ITEM	DESCRIPTION - OR EQUAL	QTY	UOM	UNIT PRICE	TOTAL PRICE	AVAILABILITY
1	TRANSPORTATION SERVICES FOR THE COMPREHENSIVE MANAGEMENT, OPERATIONS AND MAINTENANCE OF TRANSPORTATION SERVICE PROGRAM FOR SENIOR CITIZENS FROM 6/01/2012 to 6/30/2012. Please refer to the attached specifications. * SERVICES WILL BE ACQUIRED THE PROVISIONS OF 5 G.C.A.	1	LOT			

NOTE: The Government of Guam encourage offers of "EARTH FRIENDLY" products.  
COMMITTED TO EXCELLENCE  
CONTINUED ON NEXT PAGE

DPHSS

Exhibit 5

Felix P. Camacho

Governor



GENERAL SERVICES AGENCY

(Ahensian Setbision Hinirat)

Government of Guam

P.O. Box FG, Agana, Guam 96910

Michael W. Cruz

Lt. Governor

Lourdes M. Perez  
Director, Dept. of Administration

Joseph C. Manibusan  
Deputy Director

June 11, 2009

Memorandum

To: Chief Procurement Officer

From: Buyer I

Subject: **Analysis on Multi-Step Bid No. GSA-057-09  
Transportation Services for the Guam Comprehensive Management,  
Operations and Maintenance of Transportation Service for Senior  
Citizens**

Buenas Yan Hafa Adai! Multi-Step Bid No. GSA-057-09 was officially announced and advertised in the Marianas Variety on April 16, 2009 at 10:00 a.m. Five (5) prospective bidders acquired the Invitation to Bid packages and one (1) submitted an offer, namely:

**1. Kloppenburg Ent., Inc.** Item 1.1 Unit price: \$186,709.08 Ext.: \$2,240,508.96

Based on my review and approval of the specifications from the Department of Public Health & Social Services, I recommend that this Bid be awarded to Kloppenburg Ent., Inc., in the amount of \$2,240,508.96, as being the only responsive and responsible bidder.

Paul T. Llanes

APPROVED:  DISAPPROVED:

CHIEF PROCUREMENT OFFICER DATE 6/15/09

DOA  
BPA

Exhibit 7

Elis P. Camacho  
Governor  
Lourdes M. Perez  
Director



**GENERAL SERVICES AGENCY**  
(Añensian Serbision Hinirat)  
Department of Administration  
Government of Guam  
148 Route 1 Marine Drive, Piti, Guam 96915  
Tel: 475-1707 Fax No.: 472-4217

MICHAEL W. CAJUZ  
Lt. Governor  
Joseph C. Manibusan  
Deputy Director

November 20, 2003

**Memorandum**

To: File  
From: Chief Procurement Officer  
Subject: Blanket Purchase Agreement

Hafa Adai! This is a written determination for file that awarding this purchase order through the blanket purchase agreement is in the best interest of the government based on the various needs of the department for the following commodities since it is impossible to determine the need should it arise:

- Office Supplies (Not carried by the Tendan Gubetru)
- Hardware Supplies (Not carried by the Tendan Gubetru)
- Electrical Supplies
- Computer Supplies
- Copier Supplies
- Medical Supplies
- Pharmaceutical Supplies
- Vehicle Parts
- Oil Change
- Animal Feeds
- Plant Nursery Supply
- Veterinarian Services
- A/C preventive maintenance service
- Typewriter maintenance service

— Exhibit 8

August 25, 2009

To: Buyers

Required Order of All Purchase Order Files.

1. Required: Each P.O. File has to have a Routing Slip.
2. Optional: If it is a Sole Source, copy of Sole Source Determination signed by Buyer, and copy of Sole Source letter from the Vendor.
3. Optional: If it is a Blanket Purchase Agreement (BPA), attach a copy of the BPA Determination and check mark the type of supply it is.
4. Required: Copy of P.O. with initial next to the Contracting Officer's name.
5. Required: Copy of the Requisition, funds certified.
6. Required: Copy of the Abstract, signed or initialed by the Buyer.
7. Required: Copy of the "Price Quote" of Vendor being Awarded.
8. Required: Copy of the RFQ FaxTransmittal.
9. Required: Copy of the RFQ
10. Required: Copy of the "Price Quote" or "No Quote" of the Second Vendor.
11. Required: Copy of the RFQ Fax Transmittal of the Second Vendor.
12. Required: Copy of the RFQ of the Second Vendor.
13. Required: Copy of the "Price Quote" or "No Quote" of the Third Vendor.
14. Required: Copy of the RFQ Fax Transmittal of the Third Vendor.
15. Required: Copy of the RFQ of the Third Vendor.
16. If using more than three vendors, continue the process.

Note: It is **Mandatory** that you get three Positive Quotes for each Purchase Order and follow the above procedure in order for the Chief Procurement Officer to sign the Purchase Order. Failure to follow the above Procedure may be reason for rejection.

  
Pete San Nicolas, GSA

7/30/04  
0930  
TRAINING BY CPO

**RETURN REQUISITION**

**PROCEDURE**

When a Buyer receives a requisition that is incomplete on the description or is not clear or needs an attachment, the following steps shall be followed:

1. The Buyer shall call the end user as soon as possible and inform them that they have until the next working day to get the information to the Buyer, otherwise the requisition will be returned.
2. If the next working day is close and the end user failed to provide the necessary information requested by the Buyer, the requisition return form shall be prepared and returned immediately the next morning.
3. The Buyer shall inform the end user that upon receipt of the needed information that the end user may re-submit their requisition.

**PREPARATION OF P.O. FOR APPROVAL**

Upon completion of the negotiation by the Buyer, the P.O. shall be prepared for the General Manager's signature in the following manner:

1. Routing Slip -- Buyer shall initial the routing slip.
2. Attached behind the routing slip shall be the Purchase Order and shall also be initialed by the Buyer.
3. Requisition shall be attached directly behind the P.O.
4. The Buyer's abstract shall be attached directly behind the requisition.
5. The written price quotation according to the abstract shall be attached directly behind the abstract.
6. The request for quotation and the transmittal sheet for each vendor shall be attached behind the written quotes from the vendor.

**NOTE:**

If a purchase order is submitted for approval under the bidding process, a copy of the G.M.'s approval of the analysis shall accompany the P.O. and a copy of the Performance Bond.





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**Appendix 9:**  
**MCOG Management Response**

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*Mayors' Council of Guam*  
*Konsehelon Mahot Guahan*

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December 18, 2012

Doris Flores Brooks, CPA, CGFM  
Public Auditor  
Office of Public Accountability

**RECEIVED**  
OFFICE OF PUBLIC ACCOUNTABILITY  
BY: JOY  
DATE: 12/19/12  
TIME: 1:10  AM  PM

RE: Draft Audit report – Government of Guam Wide Top ten Vendors from 2009 through 2011

Dear Ms. Brooks:

*Buenas yan Hafa Adai!* This official response is made to the referenced audit. A meeting was held with me and representatives of your office on Thursday, December 6, 2012. As I had indicated to them, I am in agreement with the findings of the audit and we have already taken steps to ensure that BPA's issued for Mayoral offices be processed in the manner recommended by your audit conclusion and recommendation.

We have certainly grown more aware of properly processing procurement documents and requisitions from the various offices under the Mayors' Council of Guam. We have taken your audits and its findings and recommendations as a proper guide for us to continue to improve the services provided by my office both in accountability and transparency. We also appreciate the many gestures of guidance and assistance your staff has offered to us in all the audits that been performed for the MCOG.

We continue to improve and we continue to take heed of your recommendations. Our goal is to be able to conduct all our business in the most professional manner but with utmost adherence to all procurement policies and regulations.

Thank you for making us better in what we do.

Merry Christmas and a prosperous New Year to you and your staff.

Senseramente,

ANGEL R. SABLAN  
Executive Director



P. O. Box 786, Hagåtña, Guam 96932  
Office: (671) 472-6940, 477-8461 • Fax: (671) 477-8777  
E-mail: mcogadmin@teleguam.net

