The background of the entire page is a photograph of the Guam Memorial Hospital building. The building is a multi-story, light-colored structure with a prominent entrance. Two tall palm trees are in the foreground, one on the left and one on the right, framing the building. The sky is blue with scattered white clouds. The text "GUAM MEMORIAL HOSPITAL" is visible on the building's facade.

GUAM MEMORIAL HOSPITAL

# **GUAM MEMORIAL HOSPITAL AUTHORITY REVENUE CYCLE MANAGEMENT**

**PERFORMANCE AUDIT**

*October 2014 through November 2022*

**OPA Report No. 24-01**

**January 2024**





**Guam Memorial Hospital Authority  
Revenue Cycle Management**

**Performance Audit  
October 1, 2014 through November 3, 2022**

**OPA Report No. 24-01  
January 2024**

Distribution via E-Mail:

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**Executive Summary**  
**Guam Memorial Hospital Authority**  
**Revenue Cycle Management**  
**OPA Report No. 24-01, January 2024**

Our review of the procurement, agreement, billings, and payments relative to the performance of revenue cycle management (RCM) services for the Guam Memorial Hospital Authority (GMHA) found:

- (1) Deficiencies in GMHA’s procurement process in complying with Guam procurement law and/or its procurement regulations;
- (2) Factors indicative of preferential treatment towards hiring the Contractor for RCM services;
- (3) Unreasonable bases included in the Contractor’s 12% compensation, resulting in questioned costs of \$4.9 million (M); and
- (4) Ineffectiveness of the RCM consultancy due to continuing cash flow and patient receivable issues.

GMHA was engaged in the procurement of an RCM contractor from January 2020 to April 2021, in which GMHA utilized two types of solicitations: one sole source and two requests for proposals (RFP). After the completion of RFP No. 003-2020, an Agreement for RCM Services (the contract) was signed and approved “as to legality and form” by the Office of the Attorney General (OAG) and the Governor in May 2021. The awarded contractor (the Contractor) was to be compensated 12% of accounts receivable (A/R) collections above \$7.2M for performance of RCM services for GMHA. The contract was renewed for an additional year in May 2022; however, GMHA officially terminated the contract in November 2022 via a written notice issued by GMHA’s Legal Counsel.

We questioned \$4.9M paid and/or recognized as payable by GMHA for Contractor invoices issued for July 2021 to October 2022 due to the Contractor’s non-performance of collection functions for self-pay patients and third-party insurers; non-involvement in the Medicare Cost Reporting; and the apparent lack of effort in collecting from regulated payors included in the billable A/R mix.

**Deficiencies in Procurement Process**

Prior to the Contractor’s service as GMHA’s RCM consultant, the Contractor, through the extension of an unsolicited offer, performed a no-cost assessment of the Hospital’s RCM in 2019 and provided recommendations to address its findings. GMHA subsequently made three attempts – one sole source procurement and two RFPs – to formally procure a contractor for RCM services. We noted several compliance deficiencies in GMHA’s processing of the Contractor’s unsolicited offer and the three subsequent procurement attempts for RCM services.

*Unsolicited Offer*

In November 2019, GMHA signed a memorandum of understanding (MOU) with the Contractor after receiving an **unsolicited offer, as stated therein**, for a no-cost assessment of the Hospital’s

RCM. Guam procurement law<sup>1</sup> and GMHA's procurement regulations<sup>2</sup> provide guidelines on the definition and processing of an unsolicited offer; however, there was no evidence that the GMHA adhered to these regulations in that GMHA stated that the offer was evaluated through the RFP process, and thus provided copies of evaluation documents for RFP No. 003-2020. Despite GMHA's deficiencies in following its own procurement rules and procedures for an unsolicited offer – evident by the absence of the required documents – GMHA signed the MOU with the Contractor in November 2019.

#### *Sole Source Procurement*

In December 2019, GMHA attempted to use sole source procurement to hire the Contractor following the completion of the no-cost assessment. GMHA's procurement regulations allow for sole source procurement to arise from an unsolicited offer following an evaluation of the offer (26 GAR 2-§16304(a)(4)); however, according to Guam procurement law, notwithstanding any other provision of law, **sole source procurement shall not be permissible in any procurement arising from an unsolicited offer** (5 GCA §5219(e)). A version of the contract was signed by both the Contractor and GMHA's Hospital Administrator/Chief Executive Officer (CEO) as of January 17, 2020; however, the OAG did not approve the sole source procurement of RCM services and instructed that GMHA must go through the RFP process.

#### *GMHA RFP No. 002-2020*

We found that GMHA did not involve the OAG throughout the RFP process pursuant to Guam procurement law, which is required for procurements over \$500 thousand (K) (5 GCA §5150). GMHA's estimations for the total contract value ranged from \$1.5M to \$5M for 12 months, which more than exceeded the \$500K procurement value requiring the OAG's involvement; however, GMHA drafted a contract for \$450K in total compensation for a six-month term, which would no longer require the Attorney General's (AG) review and approval. The Hospital Administrator/CEO stated that the AG was not involved at the beginning of the procurement, but was notified of the RFP's cancellation/rejection. Additionally, GMHA did not maintain a complete procurement record for this RFP, with notable documents missing such as the results of the pre-evaluation and the final evaluation of the Contractor's proposal. These omissions exhibited a lack of transparency and accountability which are essential to the procurement process. This RFP was canceled/rejected in June 2020 by GMHA, but the deficiencies were corrected by GMHA seeking the AG's review and maintaining a complete procurement record for RFP No. 003-2020 issued in July 2020.

#### *GMHA RFP No. 003-2020*

GMHA's procurement regulations define a **responsive bidder** as a person who has submitted a proposal that conforms in all material respects to the RFP (26 GAR 2-§16309(n)(2)). Per Item #47 on the General Terms and Conditions for RFP No. 003-2020, **offerors shall not submit any cost or pricing data with their proposal**; however, we found that the Contractor was not responsive with the terms of the RFP because there were two instances in which the Contractor violated the provision by providing cost or pricing data in its proposal. The appointed evaluators – which were the same members retained from RFP No. 002-2020's evaluation committee – did not comment on the appearance of the Contractor's non-responsiveness in the opening pre-evaluation or in the

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<sup>1</sup> Title 5, Chapter 5, of Guam Code Annotated (GCA) §5219(a)

<sup>2</sup> Title 26, Division 2, Chapter 16, Article 3 of Guam Administrative Rules and Regulations (GAR) §16304(a)(1), §16304(a)(3), and §16304(a)(4)

final evaluation. Since the Contractor submitted cost or pricing data with their proposal in violation of the General Terms and Conditions of the RFP, the Contractor should have been disqualified as a nonresponsive bidder.

### **Factors Indicative of Preferential Treatment**

For both of GMHA's RFPs for RCM services, we found indications of preferential treatment towards hiring the Contractor through GMHA (1) allowing submissions of percentage-based model proposals for RFP No. 002-2020 after Contractor affiliate's request; (2) issuing RFP No. 003-2020 after discussions with the Contractor under RFP No. 002-2020; and (3) drafting a contract which includes the compensation terms included in the Contractor's proposal.

#### *GMHA Permitted Submission of Percentage-Based Model Proposals After Contractor Affiliate's Request*

Under RFP No. 002-2020, GMHA intended to enter into a contract with a fixed-price cap for the initial term; however, GMHA allowed the submission of percentage-based models in response to an organization where the Contractor's Managing Partner works as the CEO. This organization eventually served as the **subcontractor** in the fulfillment of RCM services for GMHA. The amendment stated the organization's "typical preference" for a risk-sharing negotiated percentage-based model that protects GMHA should the contractor not improve the financial performance of the facility. Although the amendment appeared to be beneficial to GMHA, accepting an amendment which noted a "typical preference" for such an arrangement creates the impression of preferential treatment.

#### *GMHA Issued RFP No. 003-2020 After Discussions with Contractor Under RFP No. 002-2020*

GMHA's determination notice for RFP No. 003-2020 stated that a **contingency-based contract** will best serve the interest of GMHA and the territory – most notably in that GMHA will not be required to compensate a contractor for its services until and unless GMHA receives an increase in its monthly revenue collections from reimbursements. In GMHA's Board of Trustees meeting minutes, GMHA management noted that the fixed-price contract with price adjustments contract type from the initial RFP (RFP No. 002-2020) "did not meet the bidder's needs" and that the scope of work for the new RFP (RFP No. 003-2020) would be redrafted to make it a contingency-based contract.

#### *Final Agreement Incorporated Compensation Terms Included in Contractor's Proposal*

Under RFP No. 003-2020, GMHA initiated two rounds of negotiations with the Contractor prior to reaching a final agreement. The Contractor filed two procurement protests with GMHA in response to GMHA's request for additional cost or pricing data and licenses and certifications, which were later withdrawn. In the protest letters, the Contractor emphasized that GMHA benefitted from the no-cost assessment and the information provided in their proposal and no-cost assessment. The AG and the Governor signed the final agreement for RCM services in May 2021; however, we found that the compensation terms in the final agreement were identical to those included in the Contractor's proposal.

### **Unreasonable Basis for Contractor Compensation Leads to Questioned Costs of \$4.9M**

The Contractor provided RCM consultancy services for GMHA from June 2021 to November 3, 2022, in which the Contractor billed GMHA \$5M for services rendered during the period. We

observed that the contract's scope of services included the collection from self-pay patients and third-party insurers and involvement in the Medicare Cost Reporting, which GMHA stated was not performed by the Contractor and instead fulfilled through guidance in claim process improvements (to include coding) and GMHA seeking a secondary contractor for Medicare Cost Reporting. Furthermore, the billable A/R collection sources (3Ms (Medicare, Medicaid, and the Medically Indigent Program); insurance providers; and self-pay, which includes tax refund garnishments from the Department of Revenue and Taxation) comprise of payors whose payments are guided by local and/or federal regulations. As a result, we questioned \$4.9M paid and/or recognized as payable by GMHA for Contractor invoices issued for July 2021 to October 2022.

### **Ineffective Contract Performance**

GMHA contracted an RCM consultant to address continuing cash flow issues and the independent auditors' repeat findings related to patient receivables; however, it appeared that, based on the findings highlighted in GMHA's fiscal year (FY) 2022 financial audit, the RCM consultancy did not provide immediate relief for GMHA's financial condition.

Based on GMHA's financial audits, there were increases in gross patient revenues during FYs 2021 and 2022; however, GMHA only collected around 47% to 48% of gross patient revenues during the contract period compared with the 58% to 59% collected during the years prior to the contract. GMHA's FY 2022 financial audit disclosed recurring issues relating to the Hospital's continued incurrence of losses from operations and negative cash flows; and increases in unbilled patient receivables. The long-term effect of the RCM consultancy following the contract termination in November 2022 remains to be seen through GMHA's in-house management of the revenue cycle process.

To address the findings, we recommend for the GMHA Hospital Administrator/CEO to:

1. Revise its procurement planning and pre-evaluation processes to include guidelines and criteria which considers compliance with applicable terms and laws relevant for the type of solicitation used; and
2. Utilize a consultancy contract which pays a fixed amount to the awarded contractor instead of a variable percentage, should similar services be needed in the future.



Benjamin J.F. Cruz  
Public Auditor



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## **Introduction**

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This report presents the results of our performance audit of the procurement, agreement, billings, and payments relative to the performance of revenue cycle management (RCM) services for the Guam Memorial Hospital Authority (GMHA). This audit was initiated in response to citizens' concerns regarding the awarded contractor's (the Contractor) qualifications to perform services for GMHA.

Our audit objectives were to determine whether:

1. The procurement of RCM consultancy and related services was conducted in accordance with applicable rules, laws and regulations;
2. The agreement/contract provisions are fair and justifiable; and
3. Contractor billings and payments are in accordance with the contract and sufficiently documented.

The scope, methodology, and prior audit coverage are detailed in [Appendices 1](#) and [2](#).

## **Background**

### **Guam Memorial Hospital Authority**

Public Law 14-29 established GMHA as an autonomous agency of the government of Guam (GovGuam). GMHA owns and operates the Guam Memorial Hospital (Hospital), Guam's only civilian, public acute care hospital.

### *Regulation of Procurement Activities*

GovGuam procurement activities are governed by Guam Procurement Law, which is found in Title 5, Chapter 5 of the Guam Code Annotated (GCA). GMHA also has separate procurement regulations found in Title 26, Division 2, Chapter 16 in the Guam Administrative Rules and Regulations (GAR), which are largely based on Guam Procurement Law. The Hospital Administrator/Chief Executive Officer (CEO) serves as GMHA's Procurement Officer.

### **Revenue Cycle Management**

RCM is the financial process that healthcare facilities use to track patient care episodes from registration and appointment scheduling to the final payment of a balance. RCM involves a comprehensive and intense financial process of managing the overall claims payment for inpatient and outpatient hospital services. It utilizes a variety of resources and tools such as professional personnel, technological hardware and software including medical billing software for tracking patient care from the point of registration to point of discharge wherein the patient's preliminary billing will be generated for payment. RCM is an extremely critical function of a hospital for medical billing, coding, reimbursement and revenue enhancement.

### *GMHA Departments Involved in RCM*

The Patient Registration Department is responsible for the timely registration, transfer and discharge of patients, as well as obtaining accurate and complete demographics. This department comprises of the Chief of Admissions, Patient Service Supervisors, Patient Service Representatives, and Eligibility Specialists.

The Medical Records Department maintains patient health records and hospital vital statistics; supports medical transcription and record processing; and performs medical coding. This department comprises of the Medical Health Records Administrator, the Records Management Officer, Medical Records Coders, and Medical Records Clerks.

The Revenue Integrity Unit – a newly established department as a result of the Contractor’s consultancy – is responsible for investigating missing charges and denials; maintaining the charge description master; ensuring charge capture; and preventing coding errors. The unit comprises of the Hospital Quality Improvement Specialist, the Hospital Utilization Review Specialist, and Program Coordinators.

The Patient Affairs Department is responsible for billing hospital claims; following up on claims; collections from insurance and patients; and monitoring accounts receivable (A/R). This department comprises of the Business Office Manager, Accounting Technician Supervisors, Accounting Technicians, Collection Agents, and Cashiers.

The General Accounting Department is responsible for managing the Hospital’s fiscal affairs; providing financial reports; preparing the Medicare Cost Report; and managing cash flow. This department comprises of the General Accounting Supervisor and Accountants.

The RCM process is also supported by other departments such as Physicians, Utilization Review, Information Technology, Guest Relations, all Nursing Units, and all Professional Support Units.

### *Procurement Events*

GMHA was engaged in the procurement of a RCM contractor from January 2020 to April 2021, in which GMHA utilized two types of solicitations: one sole source and two requests for proposals (RFP). The final Agreement for RCM Services was signed and approved in May 2021, and was renewed for an additional year in May 2022; however, GMHA officially terminated the contract in November 2022 via a written notice issued by GMHA’s Legal Counsel. A full timeline of events can be found in [Appendix 3](#).

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## Results of Audit

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Our review of the procurement, agreement, billings, and payments relative to the performance of RCM services for GMHA found:

- (1) Deficiencies in GMHA's procurement process in complying with Guam procurement law and/or its procurement regulations;
- (2) Factors indicative of preferential treatment towards hiring the Contractor for RCM services;
- (3) Unreasonable bases included in the Contractor's 12% compensation, resulting in questioned costs of \$4.9 million (M); and
- (4) Ineffectiveness of the RCM consultancy due to continuing cash flow and patient receivable issues.

As the result of RFP No. 003-2020, an Agreement for RCM Services (the contract) was signed and approved "as to legality and form" by the Office of the Attorney General (OAG) and the Governor in May 2021. The Contractor was to be compensated 12% of accounts receivable (A/R) collections above \$7.2M for performance of RCM services for GMHA. We questioned \$4.9M paid and/or recognized as payable by GMHA for the Contractor's invoices issued for July 2021 to October 2022 due to the Contractor's non-performance of collection functions for self-pay patients and third-party insurers; non-involvement in the Medicare Cost Reporting; and the apparent lack of effort in collecting from regulated payors included in the billable A/R mix.

### Deficiencies in Procurement Process

Prior to the Contractor's service as GMHA's RCM consultant, the Contractor, through the extension of an unsolicited offer, performed a no-cost assessment of the Hospital's RCM in 2019 and provided recommendations to address its findings. GMHA subsequently made three attempts – one sole source procurement and two RFPs – to formally procure a contractor for RCM services. We noted several compliance deficiencies in GMHA's processing of the Contractor's unsolicited offer and the three subsequent procurement attempts for RCM services.

### Unsolicited Offer Extended by Contractor for No-Cost Assessment of Hospital's RCM

In October 2019, GMHA considered an evaluation of its RCM to address perennial cash flow issues, as the Hospital stated that they did not have the expertise to manage the complexities associated with the RCM process. There was also an urgent need for RCM services due to the Hospital's sixty-day window to analyze and update its base rate that was set to expire in December 2019.

In November 2019, GMHA signed a memorandum of understanding (MOU) with the Contractor after receiving an **unsolicited offer, as stated therein**, for a no-cost assessment of the Hospital's RCM. The MOU was to automatically expire upon receipt of the Contractor's written final report or within six months of the MOU's commencement, whichever was sooner.

The Contractor did not provide a written report of the findings and recommendations relative to the assessment; however, GMHA prepared three draft versions of an Agreement for RCM Services (sole source contract), which provided the results of the Contractor's assessment. The findings

were that (1) GMHA's Charge Master is considerably incomplete, resulting in undercharging for room, board, and services; (2) coding is severely short-staffed and impacting billing and collections; and (3) the revenue cycle needs organizational restructure. The Contractor provided the following recommendations to address the findings:

1. Increase capacity in GMHA's Charge Master function, institute charges by departments, and remap the general ledger with an initial focus on Emergency Room (ER) and Urgent Care (UC); and
2. Increase resources in the coding department immediately and possibly outsource ER and UC coding because records are electronically available.

#### *No Evidence That GMHA Followed Its Procurement Regulations for Unsolicited Offers*

Guam procurement law (5 GCA §5219(a)) and GMHA's procurement regulations (26 GAR 2-§16304(a)(1)) define an unsolicited offer as any offer other than one submitted in response to a solicitation. GMHA's procurement regulations (26 GAR 2-§16304(a)(3)) state some of the following conditions for consideration of an unsolicited offer: the offer must be (1) in writing; (2) sufficiently detailed to allow a judgement to be made concerning the potential utility of the offer to the Hospital; and (3) demonstrate that the proprietary character of the offering warrants consideration of the use of sole source procurement. **Unsolicited offers shall be evaluated** to determine its utility to the Hospital and whether it would be to the Hospital's advantage to enter into a contract based on such offer (26 GAR 2-§16304(a)(4)).

GMHA contends that the Contractor's unsolicited offer referred to in the MOU did not meet the definition of an unsolicited offer, as GMHA stated that offer was delivered through a presentation to GMHA's Board of Trustees; however, in examining the procurement portal on GMHA's website, there were no solicitations posted related to RCM services or a related assessment/evaluation of such prior to 2020. Additionally, the recitals in the MOU indicated that an unsolicited offer was extended by the Contractor, to which the Hospital Administrator/CEO and the Contractor's Managing Member **attested to the truth and accuracy of the recitals** in signing the MOU.

We could not determine if the unsolicited offer was evaluated by GMHA officials prior to entering into the MOU. GMHA stated that the offer was evaluated through the RFP process, and thus provided copies of evaluation documents for RFP No. 003-2020, which was issued subsequent to the unsolicited offer. RFP No. 003-2020 was issued in July 2020 – eight months after the execution of the MOU in November 2019.

Despite GMHA's deficiencies in following its own procurement rules and procedures for an unsolicited offer – evident by the absence of the required documents – GMHA signed the MOU with the Contractor in November 2019.

#### **Attempted Sole Source Procurement Violated Guam Procurement Law**

In December 2019, GMHA attempted to use sole source procurement to hire the Contractor following the completion of the no-cost assessment. GMHA's procurement regulations allow for sole source procurement to arise from an unsolicited offer following an evaluation of the offer (26 GAR 2-§16304(a)(4)); however, according to Guam procurement law, notwithstanding any other

provision of law, **sole source procurement shall not be permissible in any procurement arising from an unsolicited offer** (5 GCA §5219(e)).

The proposed agreement term was for an initial six-month period beginning December 31, 2019 and ending June 30, 2020, and may be renewed by GMHA for an additional six-month term. There were **three versions of the contract**, which suggested the following compensation models:

1. **Requisition No. R-20-8700-447 – \$350 Thousand (K):** GMHA agrees to compensate the Contractor at \$250 per hour, not to exceed \$350K in a six-month period.
2. **No Requisition No. – \$450K:** GMHA agrees to compensate the Contractor 12% for any dollar collected in a given month that is above GMHA’s fiscal year (FY) 2019 (audited) average monthly collection rate [not specified in the contract], to include 40% of any dollars collected for any unbilled, uncollected, or denied claims that GMHA refers to the Contractor and for which the Contractor obtains payment on behalf of GMHA. **We noted that the Contractor utilizes a similar model in its contracts with other clients, and a similar arrangement would later be incorporated in the final contract resulting from RFP No. 003-2020.** The total compensation for this contract was also increased to \$450K from the first contract draft.
3. **No Requisition No. – \$450K:** GMHA agrees to compensate the Contractor 12% for any dollar collected in a given month that is above GMHA’s FY 2020 (unaudited) average monthly collection rate of 59%. An additional clause was added from the previous contract draft to cap the Contractor’s compensation at \$450K in a six-month period.

A version of the contract was signed by both the Contractor and GMHA’s Hospital Administrator/CEO as of January 17, 2020; however, the OAG did not approve the sole source procurement of RCM services and instructed that GMHA must go through the RFP process.

### **GMHA RFP No. 002-2020**

Following the Attorney General’s (AG) advisory, GMHA issued RFP No. 002-2020 on February 17, 2020 as a **fixed-price contract with price adjustments** contract type. The RFP was advertised in two local newspapers with a deadline to submit proposals by 4:00 p.m. Chamorro Standard Time on February 27, 2020. GMHA issued four amendments to the RFP in response to clarification from three vendors. The Contractor was the only offeror to submit a proposal in response to the RFP.

GMHA neither involved the OAG throughout the entirety of the RFP process, nor maintained a complete procurement record for this RFP pursuant to Guam procurement law. These omissions exhibited a lack of transparency and accountability which are essential to the procurement process. GMHA canceled/rejected this RFP in June 2020, but the deficiencies were corrected by GMHA seeking the AG’s review and maintaining a complete procurement record for RFP No. 003-2020 issued in July 2020.

### *Office of the Attorney General Not Involved Throughout the Procurement Process*

Pursuant to Guam procurement law (5 GCA §5150), whenever the Chief Procurement Officer conducts any solicitation or procurement which is estimated to result in an award of Five Hundred Thousand Dollars (**\$500K**) or more, **the Attorney General (AG) or his designees [...] shall act as a legal advisor during all phases of the solicitation or procurement process.**

GMHA's estimations for the total contract value ranged from \$1.5M to \$5M for 12 months, which more than exceeded the \$500K procurement value requiring the AG's involvement; however, GMHA drafted a contract for \$450K in total compensation for a six-month term, which would no longer require the AG's review and approval. The Hospital Administrator/CEO stated that the AG was not involved at the beginning of the procurement, but was notified of the RFP's cancellation/rejection. GMHA later sought review from the AG for RFP No. 003-2020 issued in July 2020.

#### *Incomplete Procurement Record*

Pursuant to 5 GCA §5249, each procurement officer shall maintain a complete record of each procurement. The procurement record includes items such as the names of participants at any meeting pertaining to the procurement; a log of all communications between government employees and members of the public related to the procurement; the requesting agency's determination of need, etc.

For procurements with a value of over \$500K, the OAG requires agencies to fill out AG Procurement Form 014 "Declaration Re: Compliance with 5 GCA §5150" **during a procurement's initial planning stage and before any procurement is publicly announced or officially issued.** This form must also be certified and signed under penalty of perjury by the agency's procurement officer, and maintained as part of the procurement record.

In our request for the procurement record for RFP No. 002-2020, significant documents were missing such as the results of the pre-evaluation and the final evaluation of the Contractor's proposal. AG Procurement Form 014 was also not included in the procurement record – likely because the AG was not involved in this RFP.

GMHA transmitted a Notice of Possible Award to the Contractor – the only offeror to submit a proposal in response to the RFP – in April 2020, and was in the process of obtaining signatures for a contract in June 2020. The omission of pre-evaluation and evaluation documents provides the possibility that GMHA did not perform their due diligence in ensuring that the Contractor was responsive and responsible in performance of RCM services prior to award. Although the RFP was later canceled/rejected in June 2020, the incomplete procurement record maintained for the RFP exhibited a lack of transparency and accountability in the procurement process.

#### **GMHA RFP No. 003-2020**

GMHA issued RFP No. 003-2020 on July 10, 2020 as a **contingency fee-based** contract type. The RFP was advertised in two local newspapers with a deadline to submit proposals by 4:00 p.m. Chamorro Standard Time on July 20, 2020. GMHA issued no amendments for this RFP.

Although GMHA corrected the deficiencies from RFP No. 002-2020 in RFP No. 003-2020, GMHA did not perform its due diligence in ensuring that the Contractor was a responsive offeror with respect to the terms of RFP No. 003-2020.

#### *Non-Responsiveness of the Contractor as an Offeror*

GMHA's procurement regulations define a **responsive bidder** as a person who has submitted a proposal that conforms in all material respects to the RFP (26 GAR 2-§16309(n)(2)). Per Item #47

on the General Terms and Conditions for RFP No. 003-2020, **offerors shall not submit any cost or pricing data with their proposal**; however, we found that the Contractor was not responsive with the terms of the RFP because there were two instances in which the Contractor violated the provision by providing cost or pricing data in its proposal:

1. The Contractor stated the following proposed **compensation terms** in its Statement of Qualifications and Performance Data (see Figure 1).

Figure 1: Statement of Qualifications and Performance Data from Contractor Proposal (Excerpt)

8. **Compensation:** [REDACTED] is risk sharing with GMHA and receives no compensation if [REDACTED] does not increase monthly collections; GMHA agrees to compensate [REDACTED] twelve percent (12%) of any dollar collected (not dollars charged, but actual monies collected) in a given month that are above GMHA's FY 2018 (audited) average monthly collection rate of \$7,147,766.00. [REDACTED] will also be compensated forty percent (40%) of any dollars collected for any unbilled, uncollected or denied claims prior to the effective date of this agreement, that GMHA refers to [REDACTED] and for which [REDACTED] obtains payment on behalf of the GMHA.

We noted that the compensation terms in Figure 1 were incorporated in the contract draft agreed to by the Contractor under RFP No. 002-2020 (see Figure 2).

Figure 2: Compensation in Draft Contract for RFP No. 002-2020 (Excerpt)

**COMPENSATION**

A. **Compensation.** GMHA agrees to compensate [REDACTED] twelve percent (12%) of any dollar collected (not dollars charged, but actual monies collected) in a given month that are above \$7,147,766.00. [REDACTED] will also be compensated forty percent (40%) of any dollars collected for any unbilled, uncollected or denied claims that GMHA refers to [REDACTED] and for which [REDACTED] obtains payment on behalf of the GMHA.

2. A copy of the proposed contingency fee-based contract template was provided by GMHA to offerors as part of the RFP package. This template **left sections blank for the compensation (see Figure 3) and signatory for the authorized agent of the prospective contractor.**

Figure 3: Contract Template from RFP No. 003-2020 (Excerpt)

**SECTION 4  
COMPENSATION**

A. **Compensation.** GMHA agrees to compensate CONTRACTOR \_\_\_\_\_ percent (\_\_\_\_%) of any dollar collected, not charged (actual monies collected) in a given month that are above GMHA's estimated monthly collection rate of \_\_\_\_\_. CONTRACTOR will also be compensated \_\_\_\_\_ percent (\_\_\_\_%) of any dollars collected for any unbilled, uncollected or denied claims that GMHA refers to CONTRACTOR and for which CONTRACTOR obtains payment on behalf of the GMHA.

The Contractor provided a copy of the contract template filled in with the following compensation model (see Figure 4).

Figure 4: Compensation in Contract Template Submitted with Contractor Proposal (Excerpt)

**SECTION 4  
COMPENSATION**

A. **Compensation.** GMHA agrees to compensate CONTRACTOR twelve percent (12%) of any dollar collected, not charged (actual monies collected) in a given month that are above GMHA's estimated monthly collection rate of \$7,200,000. CONTRACTOR will also be compensated thirty percent (30%) of any dollars collected for any unbilled, uncollected or denied claims that GMHA refers to CONTRACTOR and for which CONTRACTOR obtains payment on behalf of the GMHA.

The contract template was also signed by one of the Contractor's partners dated July 17, 2020 (see Figure 5).

Figure 5: Signature Page in Contract Template from Contractor Proposal (Excerpt)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be made effective as of the date first entered above.

|  |   |
|--|---|
| <p>_____</p> <p><b>AUTHORIZED AGENT</b></p> <p>Title: <u>Partner</u></p> <p>Date: <u>7/17/20</u></p> <p>_____</p> <p>Chief Financial Officer, Acting</p> <p>Guam Memorial Hospital Authority<br/>Cost Center: GIL - Account #:</p> <p>Date: _____</p> <p>AGREEMENT FOR REVENUE CYCLE MANAGEMENT SERVICES<br/>GMHA RFP 003-2020</p> | <p style="text-align: center;"><b>GUAM MEMORIAL HOSPITAL<br/>AUTHORITY</b></p> <p>_____</p> <p>Hospital Administrator/CEO</p> <p>Date: _____</p> <p>_____</p> <p>Chairman, Board of Trustees<br/>Guam Memorial Hospital Authority</p> |
|--|---|

The full pages from Figures 4 and 5 can be found in [Appendix 4](#). We noted that the provisions filled in by the Contractor in the contract template (see Figure 4) **would later be incorporated into the final contract fully signed and executed in May 2021 (see Figure 6).**

Figure 6: Agreement for RCM Services (May 2021 – Excerpt)

**SECTION 5  
COMPENSATION**

A. **Compensation.** GMHA agrees to compensate CONTRACTOR twelve percent (12%) of any dollar collected, not charged (actual monies collected) in a given month that are above GMHA's estimated monthly collection rate of \$7,200,000. CONTRACTOR will also be compensated thirty percent (30%) of any dollars collected for any unbilled, uncollected or denied claims that GMHA refers to CONTRACTOR and for which CONTRACTOR obtains payment on behalf of the GMHA.

The appointed evaluators – which were the same members retained from RFP No. 002-2020’s evaluation committee – did not comment on the appearance of the Contractor’s non-responsiveness in the opening pre-evaluation or in the final evaluation. Since the Contractor submitted cost or pricing data with their proposal in violation of the General Terms and Conditions of the RFP, the Contractor should have been disqualified as a nonresponsive bidder.

### **Factors Indicative of Preferential Treatment**

For both of GMHA’s RFPs for RCM services, we found indications of preferential treatment towards hiring the Contractor through GMHA (1) allowing submissions of percentage-based model proposals for RFP No. 002-2020 after the Contractor affiliate’s request; (2) issuing RFP No. 003-2020 after discussions with the Contractor under RFP No. 002-2020; and (3) drafting a contract which includes the exact compensation terms included in the Contractor’s proposal.

### **GMHA Permitted Submission of Percentage-Based Model Proposals After Contractor Affiliate’s Request**

Under RFP No. 002-2020, GMHA intended to enter into a contract with a fixed-price cap for the initial term; however, GMHA allowed the submission of percentage-based models in response to an organization where the Contractor's Managing Partner works as the CEO. This organization eventually served as the **subcontractor** in the fulfillment of RCM services for GMHA. The amendment stated the organization’s “typical preference” for a risk-sharing negotiated percentage-based model that protects GMHA should the contractor not improve the financial performance of the facility. Although the amendment appeared to be beneficial to GMHA, accepting an amendment which noted a “**typical preference**” for such an arrangement creates the impression of preferential treatment.

Six vendors accessed a copy of RFP No. 002-2020, of which the Contractor was the only offeror to submit a proposal. GMHA sent the Notice of Possible Award to the Contractor on April 3, 2020, and was in the process of finalizing a contract for RCM services in June 2020; however, the RFP was canceled/rejected in that same month because GMHA wanted to change the contract type to a **contingency fee-based contract**.

### **GMHA Issued RFP No. 003-2020 After Discussions with Contractor Under RFP No. 002-2020**

GMHA’s determination notice for RFP No. 003-2020 stated that a **contingency-based contract** would best reflect that compensation in the RCM industry is typically based on a contractor’s ability to improve the collection of claims for hospital services. Furthermore, GMHA will not be required to compensate a contractor for its services until and unless GMHA receives an increase in its monthly revenue collections from reimbursements.

However, in GMHA’s Board of Trustees meeting minutes, GMHA management noted that the fixed-price contract with price adjustments contract type “did not meet the bidder’s needs” and that the scope of work for the new RFP would be redrafted to make it a contingency-based contract. Of the nine vendors that accessed RFP No. 003-2020, the Contractor and one additional vendor submitted its proposals in response to the RFP on July 17, 2020, and July 20, 2020, respectively. The Contractor was determined to be the most qualified offeror based on evaluations and was notified via a Ranking of Offerors & Invitation for Negotiations dated August 18, 2020.

### **Final Agreement Incorporated Compensation Terms Included in Contractor's Proposal**

Under RFP No. 003-2020, GMHA initiated two rounds of negotiations with the Contractor prior to reaching a final agreement. The Contractor filed two procurement protests with GMHA in response to GMHA's request for additional cost or pricing data and licenses and certifications, which were later withdrawn. The AG and the Governor signed the final agreement for RCM services in May 2021; however, we found that the compensation terms in the final agreement were identical to those included in the Contractor's proposal.

#### *Contractor Filed Two Procurement Protests to GMHA in Response to Request for Additional Documentation*

During the second round of negotiations, the Contractor filed two protests with GMHA regarding GMHA's request for additional cost or pricing data, and licenses and certifications – of which both protests had essentially the same content. The Contractor claimed that they had a binding contract with GMHA officials signed in October 2020, and GMHA should have made their requests before signing the contract.

The Contractor's protests emphasized that GMHA benefited from proprietary information provided during a no-cost assessment of the Hospital's RCM in 2019. The Contractor stated that the RFP package was based on the assessment's results, and that GMHA had historically lacked a solution for its "grossly inadequate collection procedures" until it consulted with the Contractor in 2019. The Contractor also mentioned that they expended sums of money while submitting their responses for RFP Nos. 002-2020 and 003-2020, which they claimed were used to develop RFP No. 003-2020; however, the Contractor withdrew both protests on February 4, 2021. See [Appendices 5A](#) and [5B](#) for an example of the Contractor's protest and withdrawal.

#### *Final Contract*

The Contractor submitted to GMHA three signed **contracts with other clients** as part of their cost or pricing data. The submitted contracts revealed that the Contractor typically charged 12% of their client's total gross revenues, as well as the payment of an initial assessment fee.

A supplemental determination of negotiations was issued by GMHA in February 2021, which affirmed that the Contractor had a clear and precise understanding of the scope of work and the essential requirements involved in providing the required professional services under the RFP. GMHA further determined that the submitted cost or pricing data was fair and reasonable.

Although the Contractor did not include an initial assessment fee in its contract with GMHA, the efforts of the GMHA negotiating team to obtain a fair and reasonable compensation model did not appear to be present. This is because the final contract signed and approved by the AG and the Governor in May 2021 contained the **same compensation model** noted in the signed contract template submitted in the Contractor's proposal for RFP No. 003-2020.

#### Attorney General's Determination of Form and Legality of the Final Contract

In addition to serving as the legal advisor for agency procurements pursuant to 5 GCA §5150, the AG [...] shall determine the correctness of form and legality when approving contracts. In making such a determination of legality, the AG *may* require any or all agencies involved in the contract to **supply evidence** that the required procedures precedent to executing the contract were carried

out. Failure of agencies to comply with 5 GCA §5150 may result in serious adverse consequences including, but not limited to, procurement protests, protracted litigation, and additional financial liabilities for the agency.

The Agreement for RCM Services was “approved as to legality and form” by the AG on May 14, 2021. While GMHA officials performed their due diligence in seeking the OAG’s review and approval during RFP No. 003-2020 and for the resulting final contract, the OAG’s approval signature on a contract does not relieve GMHA of their responsibility to be transparent in the condition responsibility to provide the OAG the documents evident of the Contractor’s non-responsiveness to the proposal. These documents could have been considered by the OAG in its review process.

Furthermore, the deficiencies and other procurement issues with the Contractor's unsolicited proposal up until RFP No. 002-2020 were not resolved as part of the OAG's determination for the final contract. The deficiency in RFP No. 003-2020 regarding the submission of cost or pricing data does not represent non-compliance with the law; however, it was the responsibility of the GMHA evaluation committee to determine the responsiveness of all offerors with respect to the terms of the RFP. See [Appendix 6](#) for GMHA’s response concerning the OAG’s determination.

As GMHA’s procurement process was not able to detect the compliance deficiencies, we recommend the revision of procurement planning and pre-evaluation processes to include guidelines and criteria which considers compliance with applicable terms and laws relevant for the type of solicitation used.

### **Unreasonable Basis for Contractor Compensation Leads to Questioned Costs of \$4.9M**

The Contractor provided RCM consultancy services for GMHA from June 2021 to November 3, 2022, in which the Contractor billed GMHA \$5M for services rendered during the period. We observed that the contract’s scope of services included the collection from self-pay payors and third-party insurers and involvement in the Medicare Cost Reporting; however, GMHA stated that these functions were not performed by the Contractor and instead fulfilled through guidance in claim process improvements (to include coding) and GMHA seeking a secondary contractor for Medicare Cost Reporting. Furthermore, the billable A/R collection sources comprise of payors whose payments are guided by local and/or federal regulations. As a result, we questioned \$4.9M paid and/or recognized as payable by GMHA for Contractor invoices issued for July 2021 to October 2022.

### **Seventeen Contractor Invoices Issued for July 2021 to November 2022 A/R Collections**

Per the contract, GMHA is to compensate the Contractor 12% of any dollar collected, not charged (actual monies collected) in a given month, that are above GMHA’s estimated monthly collection rate of \$7.2M. The Contractor will also be compensated 30% of any dollars collected for any unbilled, uncollected or denied claims referred by GMHA to the Contractor and for which the Contractor obtains payment on behalf of GMHA. The description of each Contractor invoice contains (1) the month and year for A/R collections being billed; (2) the name of the supporting report for the total A/R collection figure; (3) the calculation of total A/R collections over \$7.2M and the 12% owed to the Contractor. According to GMHA, the Contractor and GMHA would

determine the totals for month-to-month revenue, collections over the established rate, and total compensation due to the Contractor.

The Contractor’s billable A/R payor mix comprises of the following sources: (1) 3Ms (Medicare, Medicaid, and the Medically Indigent Program (MIP)); (2) insurance providers; and (3) self-pay. Self-pay includes tax refund garnishments (net of referral fee) from the Department of Revenue and Taxation (DRT); GMHA’s online payment system and all others; and patient registration receipts. GMHA utilized the “Schedule of Billings and Collections and Reconciliation of Billings to Gross Patient Revenues” found in its annual financial audits as the basis for the billable patient A/R mix subject to the 12% fee.

Following the signing of the Agreement for RCM Services by the OAG and the Governor in May 2021, the Contractor started reviewing GMHA’s current RCM processes in June 2021. The Contractor began billing GMHA for A/R collections in July 2021. The Contractor issued 17 invoices for GMHA’s A/R collections from July 2021 to November 2022. Based on the Contractor’s invoices, GMHA collected \$164.5M in total A/R, of which \$5M was billed for A/R collections totaling \$42.1M above the \$7.2M monthly baseline. There were no unbilled, uncollected, or denied claims (subject to the 30% fee) referred to the Contractor during the contract period.

GMHA paid a total of \$4.5M for services rendered from July 2021 to August 2022, and had a total outstanding payable of \$374K to the Contractor for September 2022 and October 2022 collections as of August 2023. The payment of the final Contractor invoice of \$159K issued for November 2022 collections is subject to further evaluation from GMHA. See Table 1 for details of the invoices issued by the Contractor during the contract period.

**Table 1: Contractor Invoices from July 2021 to November 2022**

|    | <b>Invoice Date</b> | <b>Month/Year Collection</b><br><i>*Unpaid by GMHA (as of August 2023)</i><br><i>**Not booked by GMHA</i> | <b>Total A/R Cash Collection</b><br>(as stated in invoice description) | <b>Total Collections Over \$7.2M</b><br>[Total A/R Cash Collection - \$7.2M] | <b>Rate/Amount</b><br>[Total Collections Over \$7.2M * 12%] |
|----|---------------------|---|--|--|---|
| 1  | 8/18/2021           | July 2021   | \$7,903,096.38   | \$703,096.38   | \$84,371.57   |
| 2  | 9/14/2021           | August 2021   | 12,071,283.84  | 4,871,283.84   | 584,554.06  |
| 3  | 10/18/2021          | September 2021  | 13,875,671.29  | 6,675,671.29   | 801,080.55  |
| 4  | 11/17/2021          | October 2021  | 7,855,047.14   | 655,047.14   | 78,605.66   |
| 5  | 12/20/2021          | November 2021   | 10,157,140.74  | 2,957,140.74   | 354,856.89  |
| 6  | 1/21/2022           | December 2021   | 11,243,844.54  | 4,043,844.54   | 485,261.34  |
| 7  | 2/22/2022           | January 2022  | 8,525,155.82   | 1,325,155.82   | 159,018.70  |
| 8  | 3/14/2022           | February 2022   | 8,666,273.54   | 1,466,273.54   | 175,952.82  |
| 9  | 4/12/2022           | March 2022  | 8,632,099.11   | 1,432,099.11   | 171,851.89  |
| 10 | 5/19/2022           | April 2022  | 10,262,662.19  | 3,062,662.19   | 367,519.46  |
| 11 | 6/30/2022           | May 2022  | 9,242,798.46   | 2,042,798.46   | 245,135.82  |
| 12 | 7/26/2022           | June 2022   | 11,796,565.63  | 4,596,565.63   | 551,587.88  |
| 13 | 8/29/2022           | July 2022   | 7,666,133.32   | 466,133.32   | 55,936.00   |
| 14 | 11/23/2022          | August 2022   | 10,543,750.00  | 3,343,750.00   | 401,250.00  |
| 15 | 10/27/2022          | September 2022*   | 9,219,959.25   | 2,019,959.25   | 242,395.11  |
| 16 | 12/27/2022          | October 2022*   | 8,294,988.27   | 1,094,988.27   | 131,398.59  |
| 17 | 2/23/2023           | November 2022**   | 8,524,829.83   | 1,324,829.83   | 158,979.58  |
|    |                     | <b>Total</b>  | <b>\$164,481,299.35</b>  | <b>\$42,081,299.35</b>   | <b>\$5,049,755.92</b>                                       |

*Uncertainty as to the Renewal of the Contractor’s Business License*

According to Item #10 in the Special Reminder to Prospective Offerors for RFP No. 003-2020, a Guam business license is not required in order to submit a proposal but is a pre-condition for award

and entering into contract with GMHA. The Contractor submitted a copy of its CNMI business license issued in January 2020 for health care management with its proposal for RFP No. 003-2020. GMHA issued the Notice of Award to the Contractor on September 30, 2020, which required the Contractor to submit a valid Guam business license. The Contractor submitted two copies of its Guam business license for **consulting (investment & management)** throughout the period, with expiry dates of August 31, 2021 and **2022**, respectively.

It is unclear if the Contractor renewed its Guam business license prior to its expiry on August 31, 2022, as GMHA did not make any further request for a valid Guam business license following the initial contract award and subsequent renewal up to May 13, 2023. As a result, we could not determine if the Contractor's services from September 1, 2022 through November 3, 2022 were covered by a valid Guam business license. GMHA did not perform its due diligence in ensuring that the Contractor was legally permitted to conduct its business in Guam throughout the life of the contract due to the absence of a copy of a renewed Guam business license.

#### *Contract Termination (November 2022)*

GMHA renewed the RCM contract with the Contractor for an additional year in May 2022, as the Contractor was able to stabilize and increase collections by \$27.2M over the Hospital's baseline in the first year; however, the contract was officially terminated on November 3, 2022 via a written notice issued by GMHA's Legal Counsel. The notice stated that GMHA's ability to manage its revenue cycle is mature enough to justify terminating the contract, and that the anticipated costs versus the value of the services provided by the Contractor to GMHA do not justify continuing the contract.

The Contractor provided its official response to GMHA's contract termination notice on November 4, 2022, stating that while GMHA was almost at the point to where it could manage the RCM process independently, additional training and guidance was needed to ensure that GMHA would not "lapse back to the vicious cycle of revenue shortfalls." The Contractor further stated that it was able to boost GMHA's revenue cycle by \$39M in the span of 14 months.

#### *Changes to GMHA's RCM Workflow*

As part of improving its RCM processes, GMHA stated that an electronic claims scrubbing software was procured in November 2021. The Contractor assisted with the implementation of the bill scrubber and clearinghouse software, and a revenue integrity department was established to maintain a charge description master, ensure charge capture, prevent coding errors, and investigate revenue loss and leakage.

According to GMHA, besides the establishment of the Revenue Integrity Unit, there were several changes that were implemented for its RCM processes as a result of the consultancy period. This included the revamping of billing workflows and developing critical reports to monitor daily; better coding workflows implemented; and better organizational structure in the Patient Affairs Department. Departments also received training throughout the contract period, which involved billers, coders, follow-up, revenue integrity, patient registration, and the relevant department supervisors. GMHA began managing its revenue cycle process under a new revenue cycle director after the contract's termination in November 2022. The effectiveness of these changes remain to be seen under GMHA's in-house management of the revenue cycle process.

## Non-Performance of Collection and Medicare Cost Reporting Functions

Per the contract’s scope of services, the Contractor was tasked to provide administrative functions that contribute to the capture, management, and collection of patient service revenue in accordance with the Healthcare Financial Management Association. The Contractor’s functions *shall* have also included, in part, the collection of payments from self-pay patients and third-party insurers, as well as involvement in the Medicare Cost Reporting. According to GMHA, all functions were performed by the subcontractor, which was permissible under the contract; however, GMHA emphasized that **collection services were not performed**, but only guidance was provided on claim processing improvements (including coding). The Contractor was also not involved in the Medicare Cost Report, and GMHA, through a separate RFP (RFP No. 002-2021) issued in December 2020, sought a secondary contractor for such services.

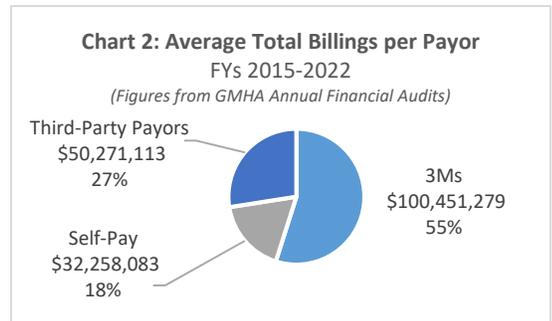
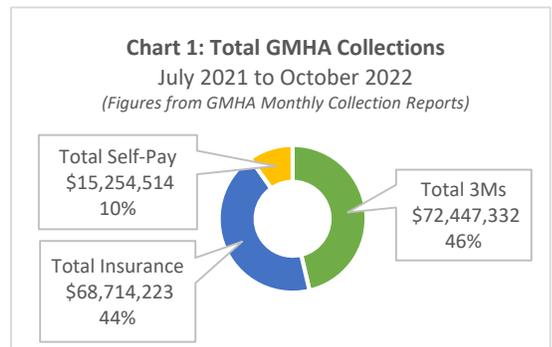
## Billed Patient A/R Mix Included Regulated Collections to GMHA

The Contractor’s compensation is based on its ability to increase GMHA’s collections above the established monthly rate of \$7.2M. According to GMHA, the Contractor provided guidance on claim processing improvements (to include coding) to receive payments from the 3Ms and DRT. GMHA’s description of the Contractor’s involvement suggests that no reasonable effort was exerted in improving GMHA’s collections in these areas. This is because payments from the 3Ms and DRT are regulated, and the language in the corresponding regulations suggest a guarantee of payment that would not have needed the Contractor’s intervention to increase collections; however, GMHA stated that the Contractor’s claim processing allowed for GMHA to receive full payment from these sources through the generation of a clean and accurate claim/report.

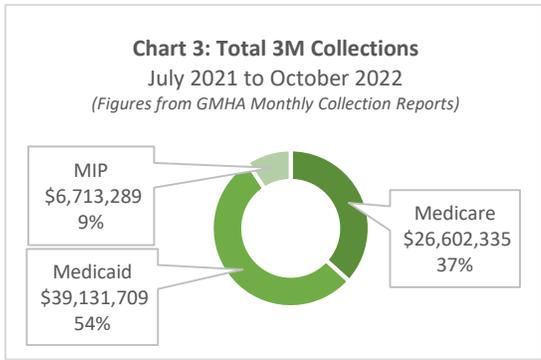
Based on GMHA’s internal collection reports, GMHA recorded total collections of \$156M from July 2021 to October 2022. Of the \$156M, \$72M (or 46%) was collected from the 3Ms; \$69M (or 44%) from insurance; and \$15M (or 10%) from self-pay. See Chart 1 for the total collections recorded by GMHA during the contract period.

### 3Ms (Medicare, Medicaid, Medically Indigent Program)

The 3Ms comprise the largest source of GMHA’s gross patient revenues in its payor mix, and have consistently comprised more than 50% of GMHA’s gross patient revenues since FY 2015. GMHA receives reimbursements from the 3Ms on a per diem basis for inpatient charges, which are paid at a flat rate per day – regardless of the total charges. In FY 2022, GMHA received \$1,555 per day for an inpatient stay regardless of charges incurred. Outpatient charges are reimbursed on a cost to charge ratio as determined by the Medicare Cost Report. See Chart 2 for GMHA’s average total billings per payor from FYs 2015 to 2022.



Of the \$72M collected from the 3Ms from July 2021 to October 2022, \$39M (or 54%) was collected from Medicaid; \$27M (or 37%) from Medicare; and \$7M (or 9%) from MIP. According to GMHA, the increases in revenues and collections are due to factors such as (1) increased patient



length of stay and acuity; (2) GMHA’s annual rate increase of 5%; (3) improved charge capture processes; and (4) implementation of new fees. See Chart 3 for the total 3M collections recorded by GMHA during the contract period.

GMHA stated that the Contractor did not provide collection services for the 3Ms, but instead provided guidance on claim processing improvements (including coding). The Contractor was also tasked to have involvement in the Medicare Cost Reporting, but was outsourced by GMHA to

a secondary contractor. Because the Contractor did not prepare the Medicare Cost report as required by the contract, we questioned \$2.3M in billings attributable to 3Ms collections from July 2021 to October 2022. See [Appendix 7](#) for details of the questioned cost calculations.

**Medicare**

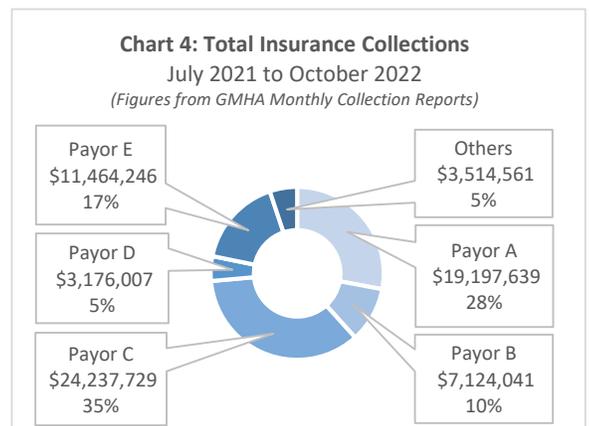
As a Medicare provider, GMHA is reimbursed for medical services as a TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) hospital exempted from Medicare’s prospective payment system. TEFRA hospitals are reimbursed based on the cost of treating Medicare patients as determined by the annual Medicare Cost Report with an aggregate per-discharge limit based on the facility’s cost of care.

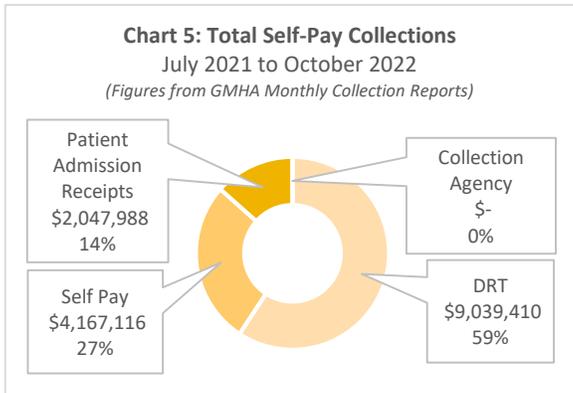
**Medicaid Assistance Program (Medicaid) and Medically Indigent Program (MIP)**

GMHA is reimbursed by the Guam Department of Administration for the cost of inpatient and outpatient services under the programs administered by the Guam Department of Public Health and Social Services. MIP is a locally funded program established to provide medical, dental, and behavioral health assistance to the indigent people of Guam in a manner that ensures access to basic quality health care at an affordable cost. Medicaid and MIP somewhat mirror Medicare’s reimbursement methodology; thus, the reimbursements for patients with coverage under those programs are similar.

**Insurance**

Of the \$69M collected from insurance, \$19M (or 28%) was collected from Payor A; \$7M (or 10%) from Payor B; \$24M (or 35%) from Payor C; \$3M (or 5%) from Payor D; \$11M (or 17%) from Payor E; and \$4M (or 5%) from others. Collecting payments from third-party insurers is one of the Contractor functions required to be performed. Because the required collection function was not performed, we questioned \$2.1M in billings to the Contractor attributable to insurance collections for July 2021 to October 2022. See Chart 4 for the total insurance collections recorded by GMHA during the contract period.





*Self-Pay; Patient Registration Receipts; and Collection Agency*

Self-pay refers to patients who are underinsured or without health insurance coverage, while true self-pay are patients without health insurance coverage. A portion of the self-pay collections was paid from the Hospital’s online payment system. Of the \$15M collected from self-pay – which also includes the \$9M in DRT tax refund garnishments – \$4M (or 27%) was from self-pay; and \$2M (or 14%) was from patient registration receipts. GMHA also included a line item for collections from a

collection agency; however, GMHA did not record any such collections during the contract period. See Chart 5 for the total self-pay collections recorded by GMHA during the contract period.

Similar to the insurance collections, the Contractor did not provide the required collection services function for self-pay payors. Therefore, we questioned \$185K in compensation paid and/or payable to the Contractor for self-pay collections.

Department of Revenue and Taxation Tax Refund Garnishments

Pursuant to 26 GAR 2-§17104(b)(1)(L), the Hospital may elect to work with DRT to withhold income tax refunds for outstanding patient accounts at the Hospital. Tax refund garnishments are divided between the Hospital, the Judiciary of Guam, OAG and/or DRT for residents who owe debts for real property taxes, child support, traffic citations, or hospital bills. GMHA cannot reasonably estimate the collections from tax refund garnishments because it depends on whether a patient has a tax refund for the tax year and if the patient owes other GovGuam agencies. DRT charges GMHA a referral fee of \$25 per transaction.

From FYs 2015 to 2022, GMHA received \$42.4M in gross tax refund garnishments from DRT, of which approximately \$9M was received from July 2021 to September 2022. GMHA did not receive any tax refund garnishments in October 2022, but paid \$173K in referral fees to DRT for those tax refund garnishments received. GMHA noted several months in prior FYs without tax refund garnishments; however, GMHA received tax refund garnishments for the entirety of FY 2022. Tax refund garnishments were included in the calculation of the 12% owed to the Contractor, net of the referral fees paid to DRT. See Table 2 for a breakdown of the gross tax refund garnishments (inclusive of referral fee) received from DRT and [Appendix 7](#) for details of the questioned cost calculations.

**Table 2: DRT Gross Tax Refund Garnishments from FYs 2015 to 2022**

| Month        | FY 2015             | FY 2016             | FY 2017             | FY 2018             | FY 2019             | FY 2020             | FY 2021             | FY 2022             | Total                |
|--------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|
| Oct          | \$ -                | \$ 2,035,094        | \$ -                | \$ 11,965           | \$ 3,846,891        | \$ 2,418            | \$ 1,462,914        | \$ 694,963          | \$ 8,054,245         |
| Nov          | \$ 562,754          | \$ -                | \$ 2,000            | \$ -                | \$ 701,482          | \$ -                | \$ -                | \$ 395,660          | \$ 1,661,895         |
| Dec          | \$ 211,215          | \$ 2,289            | \$ 147,747          | \$ 43,315           | \$ 209,686          | \$ -                | \$ 421,740          | \$ 246,491          | \$ 1,282,483         |
| Jan          | \$ 169,456          | \$ 222,344          | \$ 74,010           | \$ 142,647          | \$ 126,923          | \$ -                | \$ 881,356          | \$ 53,161           | \$ 1,669,897         |
| Feb          | \$ 111,009          | \$ -                | \$ 205,486          | \$ 168,434          | \$ 44,335           | \$ 68,040           | \$ 272,674          | \$ 171,846          | \$ 1,041,824         |
| Mar          | \$ 73,888           | \$ 215,425          | \$ 56,946           | \$ 61,537           | \$ 249,475          | \$ 149,825          | \$ 342,282          | \$ 433,876          | \$ 1,583,255         |
| Apr          | \$ 1,846,887        | \$ 3,653            | \$ 101,684          | \$ 185,590          | \$ 192,737          | \$ -                | \$ 235,789          | \$ 168,141          | \$ 2,734,480         |
| May          | \$ 1,042,271        | \$ 1,605,192        | \$ 788,708          | \$ 438,806          | \$ -                | \$ -                | \$ 1,098,061        | \$ 1,600,797        | \$ 6,573,835         |
| Jun          | \$ 623,313          | \$ 246,959          | \$ 89,522           | \$ 87,381           | \$ -                | \$ 570,920          | \$ 1,244,959        | \$ 729,792          | \$ 3,592,845         |
| Jul          | \$ 1,136,586        | \$ 33,218           | \$ 96,791           | \$ 94,456           | \$ -                | \$ 291,746          | \$ 824,245          | \$ 849,928          | \$ 3,326,970         |
| Aug          | \$ 398,806          | \$ 293,962          | \$ -                | \$ 247,477          | \$ -                | \$ 319,782          | \$ 708,798          | \$ 385,928          | \$ 2,354,754         |
| Sep          | \$ 28,595           | \$ 3,500,983        | \$ 2,540,116        | \$ 26,379           | \$ -                | \$ 357,875          | \$ 1,402,565        | \$ 673,085          | \$ 8,529,599         |
| <b>Total</b> | <b>\$ 6,204,779</b> | <b>\$ 8,159,119</b> | <b>\$ 4,103,010</b> | <b>\$ 1,507,987</b> | <b>\$ 5,371,529</b> | <b>\$ 1,760,608</b> | <b>\$ 8,895,383</b> | <b>\$ 6,403,669</b> | <b>\$ 42,406,083</b> |

GMHA stated that tax refund garnishments are the last resort to collect from the patient if GMHA cannot collect from other sources. Similar to collections for the 3Ms, per GMHA, the Contractor provided guidance on claim processing improvements (including coding), **and did not render collection services for tax refund garnishments**. As a payor under the self-pay category, the Contractor was required to collect payments as per the scope of services in the contract. The Contractor instead assisted GMHA in generating an accurate claim report to DRT for tax refund garnishments. Because the Contractor did not perform the required collection services, we questioned \$282K in billings attributable to DRT tax refund garnishment collections for July 2021 to October 2022.

Based on these factors concerning the Contractor’s performance of and compensation for services, it could have been beneficial for GMHA and GovGuam to compensate the Contractor **with a fixed fee for consultancy services** instead of a contingency fee based on collections in excess of the established threshold without the Contractor’s involvement. GMHA terminated the contract with the belief that it has gained the ability to manage the revenue cycle independently; however, should GMHA seek similar services in the future, we recommend that GMHA utilize a consultancy contract which pays a fixed amount to the awarded contractor instead of a variable percentage.

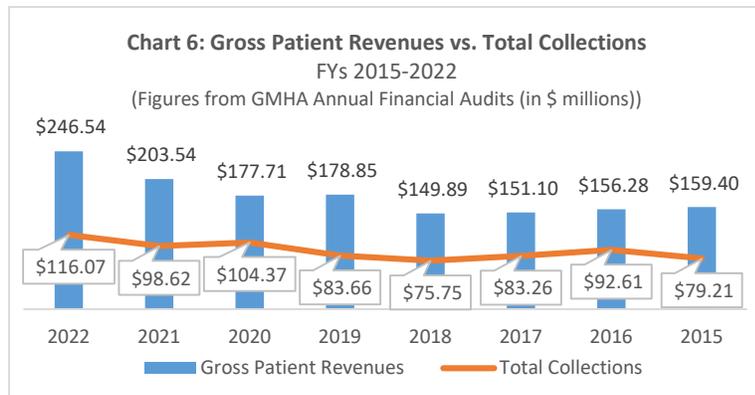
**Ineffective Contract Performance**

Based on GMHA’s financial audits, there were increases in gross patient revenues during FYs 2021 and 2022; however, GMHA only collected around 47% to 48% of gross patient revenues during the contract period compared with the 58% to 59% collected during the years prior to the contract. GMHA’s FY 2022 financial audit disclosed recurring issues relating to the Hospital’s continued incurrence of losses from operations and negative cash flows; and increases in unbilled patient receivables.

**Lowered Percentage of Collections During Contract Period**

We found that GMHA’s gross patient revenue figures generally improved during FYs 2021 and 2022 – the years in which the RCM consultancy contract was active; however, GMHA was unable to collect more than half of its gross revenues as was done in FY 2020 – the year prior to the start of the contract.

From FYs 2015 to 2022, GMHA collected an average of \$7.6M in patients' A/R per FY. GMHA recorded the highest gross patient revenues and collections in FY 2022 when compared to the previous FYs; however, GMHA's collection ratio was higher in previous FYs. GMHA collected **58.7%** of gross revenues in FY 2020 – nearly similar to **59.3%** ratio in FY 2016. During FYs 2021 and 2022, GMHA collected **only 48.5% and 47.1%**, respectively, of its gross patient revenues. See Chart 6 for a comparison of GMHA's gross patient revenues and total collections during the audit scope period.



### Cash Flow and Patient Receivables Issues Persist for FY 2022

In its Determination of Need for Solicitation, GMHA emphasized the need for specialized services for RCM, which include 1) management of overall claims payment, 2) improve revenues, 3) reduce bad debts expense and write-offs, 4) reduce accounts receivables, 5) maximize its collections and 6) decrease operating losses. GMHA's FY 2021 corrective action plan – found in its Report on Compliance and Internal Control – stated that the enlistment of the RCM contractor served, in part, to address the findings regarding patient receivables. However, GMHA's FY 2022 financial statements disclosed issues relating to the Hospital's continued incurrence of losses from operations and negative cash flows; and increases in unbilled patient receivables.

#### *Cash Flow and Patient Receivables*

Additionally, GMHA's independent auditors have noted that the Hospital has struggled with collecting patient receivables since FY 2015. The enlistment of an RCM consultant served, in part, as GMHA's corrective action to address the independent auditor's findings; however, GMHA's FY 2022 report on compliance and internal control indicated the same finding concerning patient receivables, noting a \$7.6M increase from FY 2021's unbilled receivables of \$7.5M. This finding further contributes to GMHA's cash flow issues and inability to pay its vendors timely – which included the Contractor, as the September and October 2022 invoices remained unpaid as of August 2023. Unbilled patient receivables amounting to \$15.1M, increased by \$7.6M (or 102%) from FY 2021's \$7.5M. AR suspense account likewise increased from \$0.96M in FY 2021 to \$1.2M in FY 2022.

As GMHA sought an RCM consultant to address continuing cash flow issues and the independent auditors' repeat findings related to patient receivables, it appears that, based on the findings highlighted in GMHA's FY 2022 financial audit and inability to pay the remaining Contractor invoices, the RCM consultancy did not provide immediate relief of GMHA's financial condition. This was further reflected in GMHA's statement in its termination letter to the Contractor stating that the **anticipated cost versus the value of the services provided did not justify the continuation of the contract**. The long-term effect of the RCM consultancy following the contract termination in November 2022 remains to be seen through GMHA's in-house management of the revenue cycle process.

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## Conclusion

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Our review of the procurement, agreement, billings, and payments relative to the performance of RCM services for GMHA found: (1) deficiencies in GMHA's procurement process in complying with Guam procurement law and/or its procurement regulations; (2) factors indicative of preferential treatment towards hiring the Contractor for RCM services; (3) unreasonable bases included in the Contractor's 12% compensation, resulting in questioned costs of \$4.9M; and (4) ineffectiveness of the RCM consultancy due to continuing cash flow and patient receivable issues.

Prior to the Contractor's service as GMHA's RCM consultant, the Contractor, through the extension of an unsolicited offer, performed a no-cost assessment of the Hospital's RCM in 2019 and provided recommendations to address its findings. GMHA subsequently made three attempts – one sole source procurement and two RFPs – to formally procure a contractor for RCM services. We noted several compliance deficiencies in GMHA's processing of the Contractor's unsolicited offer and the three subsequent procurement attempts for RCM services.

The Contractor provided RCM consultancy services for GMHA from June 2021 to November 3, 2022, in which the Contractor billed GMHA \$5M for services rendered during the period. We observed that the contract's scope of services included the collection from self-pay patients and third-party insurers and involvement in the Medicare Cost Reporting, which GMHA stated was not performed by the Contractor and instead fulfilled through guidance in claim process improvements (to include coding) and GMHA seeking a secondary contractor for Medicare Cost Reporting. Furthermore, the billable A/R collection sources comprise of payors whose payments are guided by local and/or federal regulations. As a result, we questioned \$4.9M paid and/or recognized as payable by GMHA for Contractor invoices issued for July 2021 to October 2022.

As GMHA sought an RCM consultant to address continuing cash flow issues and the independent auditors' repeat findings related to patient receivables, it appears that the Contractor's RCM consultancy services did not effectively deliver the expected outcome. Although an improvement was noted in GMHA's gross patient revenues in FYs 2021 and 2022, there was no improvement in GMHA's overall financial condition. GMHA was unable to collect more than half of its gross patient revenues as was done prior to the contract. GMHA's FY 2022 financial audit disclosed recurring issues relating to the Hospital's continued incurrence of losses from operations and negative cash flows; and increases in unbilled patient receivables. The long-term effect of the RCM consultancy following the contract termination in November 2022 remains to be seen through GMHA's in-house management of the revenue cycle process.

To address the findings, we recommend for the GMHA Hospital Administrator/CEO to:

1. Revise its procurement planning and pre-evaluation processes to include guidelines and criteria which considers compliance with applicable terms and laws relevant for the type of solicitation used; and
2. Utilize a consultancy contract which pays a fixed amount to the awarded contractor instead of a variable percentage, should similar services be needed in the future.

## Classification of Monetary Amounts

| Finding Description |   | Questioned Costs    |
|---------------------|---|---------------------|
| <b>1.</b>           | <b>Deficiencies in Procurement Process</b>  |                     |
|                     | a. Unsolicited Offer Extended by Contractor for No-Cost Assessment of Hospital's RCM                  | \$ -                |
|                     | b. Attempted Sole Source Procurement Violated Guam Procurement Law                                    | \$ -                |
|                     | c. GMHA RFP No. 002-2020  | \$ -                |
|                     | d. GMHA RFP No. 003-2020  | \$ -                |
|                     | <i>Sub-Total</i>  | \$ -                |
| <b>2.</b>           | <b>Factors Indicative of Preferential Treatment</b>   |                     |
|                     | a. GMHA Permitted Submission of Percentage-Based Model Proposals After Contractor Affiliate's Request | \$ -                |
|                     | b. GMHA Issued RFP No. 003-2020 After Discussions with Contractor Under RFP No. 002-2020              | \$ -                |
|                     | c. Final Agreement Incorporated Compensation Terms Included in Contractor's Proposal                  | \$ -                |
|                     | <i>Sub-Total</i>  | \$ -                |
| <b>3.</b>           | <b>Unreasonable Basis for Contractor Compensation Leads to Questioned Costs of \$4.9M</b>             |                     |
|                     | a. Seventeen Contractor Invoices Issued for July 2021 to November 2022 A/R Collections                | \$ -                |
|                     | b. Non-Performance of Collection and Medicare Cost Reporting Functions                                | \$ -                |
|                     | c. Billed Patient A/R Mix Included Regulated Collections to GMHA                                      | \$ -                |
|                     | 1. 3Ms (Medicare, Medicaid, Medically Indigent Program)   | \$ 2,338,379        |
|                     | 2. Insurance  | \$ 2,135,999        |
|                     | 3. Self-Pay   | \$ 466,790          |
|                     | <i>Sub-Total</i>  | \$ 4,941,168        |
| <b>4.</b>           | <b>Ineffective Contract Performance</b>   |                     |
|                     | a. Lowered Percentage of Collections During Contract Period   | \$ -                |
|                     | b. Cash Flow and Patient Receivable Findings Persist for FY 2022                                      | \$ -                |
|                     | <i>Sub-Total</i>  | \$ -                |
|                     | <b>Total Questioned Costs</b>   | <b>\$ 4,941,168</b> |

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## Management Response and OPA Reply

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The preliminary findings were presented to GMHA representatives in August 2023. GMHA provided its response to the preliminary findings draft that same month. We did not hold an exit conference with GMHA officials; however, GMHA provided its formal management response on November 2023.

**GMHA Response:** GMHA’s Hospital Administrator/CEO reiterated that the administration acted upon the good faith belief that approval of the RCM contract by the OAG clearly indicated the legality of the contract, the process leading to approval, and the form (including the specific contractual terms). As such, GMHA takes issue with our findings related to the (1) [short-term] ineffectiveness of the RCM consultancy; (2) OAG’s non-involvement during RFP No. 002-2020; and (3) instances of preferential treatment noted throughout the procurement process. Nonetheless, GMHA acknowledges other concerns related to the procurement process, and concurs with the recommendations put forth in the report. GMHA has taken steps to implement the recommendations.

**OPA Reply:** We acknowledge that GMHA performed its due diligence in seeking the OAG’s review and approval of the RCM contract resulting from RFP No. 003-2020 pursuant to Guam procurement law; however, we reiterate that GMHA must also ensure its compliance with procurement law and regulations in all solicitations, as the OAG is only mandated to review and approve solicitations with a value of at least \$500K.

See [Appendix 8](#) for GMHA’s official management response.

The legislation creating OPA requires agencies to prepare a corrective action plan to implement audit recommendations, to document the progress in implementing the audit recommendations, and to endeavor to have implementation completed no later than the beginning of the next fiscal year. Accordingly, we will contact GMHA to provide target dates and title of the official(s) responsible for implementing the recommendations.

We appreciate the cooperation and assistance from the staff and management of GMHA during this audit.

OFFICE OF PUBLIC ACCOUNTABILITY



Benjamin J.F. Cruz  
Public Auditor

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**Appendix 1:**  
**Objective, Scope & Methodology**

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The objectives of our audit were to determine whether:

1. The procurement of RCM consultancy and related services was conducted in accordance with applicable rules, laws and regulations;
2. The agreement/contract provisions are fair and justifiable; and
3. Contractor billings and payments are in accordance with the contract and sufficiently documented.

The scope of our audit covered October 1, 2014 to November 3, 2022 (FYs 2015 to 2022), to encompass a six-year lookback period plus the one-and-a-half-year period under contract. Our review included the GMHA RCM procurement records, Contractor invoices, GMHA payment documents, audited financial statements, and Hospital collection reports.

**Methodology**

To accomplish our objectives, we performed the following:

1. Researched laws, rules and regulations, policies and procedures, hotline tips and audit reports on GMHA to obtain an understanding of GMHA's procurement and collection activities;
2. Obtained and reviewed the procurement records and invoices relative to the RCM contract to determine compliance with procurement law and timeliness and recordation and propriety of payments;
3. Reviewed and analyzed the audited financial statements for GMHA from FYs 2015 to 2022 to understand the Hospital's revenue and collection patterns during the contract period plus a six-year lookback period; and
4. Requested additional information by sending questions (via email) to appropriate GMHA officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan 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.

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## Appendix 2: Prior Audit Coverage

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### *Performance Audit*

#### **OPA Report No. 19-01, GMHA Billing and Collections of True Self-Pay Accounts (Issued February 2019)**

OPA found that the Hospital's billing and collections for true self-pay accounts were not in accordance with the applicable law, rules and regulations, and policies and procedures. OPA found several variances on charges billed to patients versus the published fee schedules, which raises significant concern as to the accuracy and transparency of billings to true self-pay patients. OPA also found that management had been slacking in prioritizing or enforcing collection efforts on the front end. The Hospital only collects less than 10% of accounts referred through garnished tax refunds; however, they could not provide documentation to support the analysis of account referrals to the DRT. Lastly, the Hospital's standard operating procedures on self-pay patients' billing and collections were outdated and unclear. OPA made five recommendations to the Hospital's Chief Financial Officer, which include (1) providing formal training and setting target collection outputs for the Credit & Collection Supervisor and Collections Staff; and (2) conducting an assessment of the Hospital's current conditions to determine whether reinstating a Financial Counselor will help improve the collection process.

### *Financial Audit*

#### **GMHA FY 2022 Financial Audit**

The independent auditors noted four material weaknesses in internal control over financial reporting:

1. **Patient Receivables:** Findings relative to patient receivables have remained uncorrected since FY 2015. As of FY 2022, GMHA's unbilled patient receivables amounted to \$15.1M, which is a \$7.6M (or 102%) increase from FY 2021's unbilled receivables of \$7.5M. Additionally, its A/R suspense accounts increased by \$1.2M (or 129%) from \$.96M in FY 2021 to \$2.2M in FY 2022. Consequently, these conditions will result in the accumulation of uncollectible and/or disputed receivables, and potential inadequate cash flows to meet GMHA's current obligations.
2. **Liabilities:** GMHA recognized \$5M in expenditures and payable to GovGuam for payments made on-behalf of GMHA for travel nurses. However, GovGuam does not recognize a receivable from GMHA, resulting in an overstatement in expenditures and due to GovGuam of \$5M in GMHA's books.
3. **Non-Operating Revenues – Federal Grants:** As of FY 2022, GMHA recorded \$5.2M in federal grant award revenues and other receivables, although the federal grant was awarded in October 2022, and the corresponding agreement was signed in February 2023. This resulted in an overstatement by \$5.2M in federal grant revenues and other receivables in GMHA's financial statements and schedule of expenditures of federal awards.
4. **Unearned Revenues:** As of FY 2022, GMHA recognized unearned revenue of \$14.4M from the Provider Relief Fund (PRF) federal grant received and concluded that revenues related to PRF should be reported in FY 2023. However, during the fiscal year, GMHA has met the eligibility requirement by incurring allowable costs of approximately \$12.8M.

## Appendix 3: Timeline of Procurement Events

| Date                | Description  |
|---------------------|--|
| October 2019        | GMHA considers an evaluation of its RCM to address perennial cash flow issues.   |
| November 2019       | GMHA considers an MOU/Memorandum of Agreement for an offer to conduct a no-cost assessment of the Hospital's RCM system/process. This was a result of an unsolicited offer provided by the Contractor for the same service   |
| January 2020        | GMHA develops a [sole-source] contract for RCM services to put the findings into action following the completion of the no-cost assessment of the Hospital's RCM processes.  |
| February 17, 2020   | GMHA issued RFP No. 002-2020 with contract type "fixed firm with price adjustments" following the AG's rejection of the sole-source contract and instruction to go through the RFP process. The Contractor was the only offeror to submit a proposal in response to the RFP. |
| March 4, 2020       | Letters transmitted to evaluation panel members for RFP No. 002-2020.  |
| June 22, 2020       | Notice of cancellation/rejection issued for GMHA RFP No. 002-2020 following GMHA's desire to reissue the RFP as a contingency fee-based contract.  |
| July 10, 2020       | GMHA RFP No. 003-2020 was issued with contract type "contingency fee-based." Two proposals were submitted in response to the RFP.  |
| August 7, 2020      | Evaluation held for two proposals submitted for GMHA RFP No. 003-2020. The same panel members selected for RFP No. 002-2020 were utilized.   |
| August 18, 2020     | Memorandum of evaluation drafted; Ranking of offerors/invitation for negotiations provided to Contractor and Guam Marianas Collection Agency   |
| August 25, 2020     | Term and Pricing Sheet transmitted to Contractor   |
| September 16, 2020  | Memorandum of negotiations drafted; Panel members agree to Term and Pricing Sheet  |
| September 28, 2020  | GMHA sends first draft agreement for RCM services to Contractor  |
| September 30, 2020  | GMHA issues Notice of Award, notifies Contractor of its requirement to provide a license to do business in Guam per RFP; Contractor signs contract transmitted September 28, 2020  |
| October 7, 2020     | First draft Agreement for RCM Services signed by Hospital Administrator/CEO  |
| October 8, 2020     | First draft Agreement for RCM Services signed by GMHA Board of Trustees Chairman   |
| October 9, 2020     | Documents submitted for approval by AG and Governor  |
| January 21, 2021    | GMHA requests for licenses and certifications and cost or pricing data from Contractor   |
| January 21-26, 2021 | Contractor files protest with GMHA in response to letter dated January 21, 2021 (Re: Request for Licenses and Certifications)  |
| January 27, 2021    | Contractor submits licenses and certifications per January 21, 2021 letter   |
| February 4, 2021    | Contractor withdraws protest   |
| February 22, 2021   | Supplemental determination of negotiations memorandum drafted  |
| March 10, 2021      | Contractor responds to the request for cost or pricing data  |
| March 15, 2021      | Notice of determination of nondisclosure of confidential information - GMHA determines that the cost or pricing data provided by Contractor is confidential information  |
| April 20, 2021      | Contract signed by Contractor's Managing Partner   |
| April 22, 2021      | Contract signed by GMHA CFO  |
| April 23, 2021      | Contract signed by GMHA Hospital Administrator/CEO and Chairman of GMHA BOT  |
| April 28, 2021      | GMHA issues Notice of Award to Contractor for GMHA RFP 003-2020  |
| May 13, 2021        | Contract approved by Governor  |
| May 14, 2021        | Contract signed and approved as to legality and form by OAG  |
| May 26, 2021        | GMHA issues Notice to Proceed to Contractor  |
| May 13, 2022        | GMHA renews contract for additional year   |
| November 3, 2022    | Contract with Contractor was terminated via written notice from GMHA   |

AGREEMENT FOR

REVENUE CYCLE MANAGEMENT SERVICES

BETWEEN

\_\_\_\_\_

AND

GUAM MEMORIAL HOSPITAL AUTHORITY (GMHA)

**Contract for:** Revenue Cycle Management Services  
**Project No:** GMHA RFP No. 003-2020

AGREEMENT FOR REVENUE CYCLE MANAGEMENT SERVICES  
GMHA RFP 003-2020

**Contractor Proposal for RFP No. 003-2020 (Contract Template – Excerpt)**

**SECTION 2  
CONTRACT TERM**

A. **Contract Term.** Subject to the termination clause of this Agreement, the Contract shall be for a period of one (1) year from the initial contract approval date which is the date all approving signatures required by Guam law are affixed (the "Initial Term").

B. **Renewal Terms.** This Contract may be renewed, at the sole discretion of the Hospital, for two (2) additional one (1) year terms (each a "Renewal Term"), subject to the appropriation and availability of funds thereafter.

**SECTION 3  
SCOPE OF SERVICES**

CONTRACTOR shall provide administrative and clinical functions that contribute to the capture, management, and collection of patient service revenue in accordance with the Healthcare Financial Management Association (HFMA). In addition to overseeing GMHA's RCM and recommending appropriate RCM structure, CONTRACTOR will provide guidance and training to GMHA staff until such time that GMHA's capabilities are mature enough to manage its RCM. CONTRACTOR functions shall also include:

1. Charge Capture: Rendering patient services into billable charges
2. Claim Submission: Timely filing of claims of billable fees to insurance companies
3. Coding: Appropriate coding diagnoses and procedures
4. Patient Collections: Determining self-pay balances and collecting payments
5. Preregistration: Collecting preregistration information before patient arrives for scheduled inpatient or outpatient procedures
6. Registration: Collecting subsequent patient information during registration to establish a Medical Record Number and meet various regulatory, financial and clinical requirements
7. Remittance Processing: Applying or rejecting payments through remittance processing
8. Third-Party Follow-Up: Collecting payments from third-party insurers.
9. Medicare Cost Reporting
10. Update and Maintenance of GMHA Charge Master

**SECTION 4  
COMPENSATION**

A. **Compensation.** GMHA agrees to compensate CONTRACTOR twelve percent (12%) of any dollar collected, not charged (actual monies collected) in a given month that are above GMHA's estimated monthly collection rate of \$7,200,000. CONTRACTOR will also be compensated thirty percent (30%) of any dollars collected for any unbilled, uncollected or denied claims that GMHA refers to CONTRACTOR and for which CONTRACTOR obtains payment on behalf of the GMHA.

**Contractor Proposal for RFP No. 003-2020 (Contract Template – Excerpt)**

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CONTRACT TERM**

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**Contractor Proposal for RFP No. 003-2020 (Contract Template – Excerpt)**

[Redacted]

**GUAM MEMORIAL HOSPITAL AUTHORITY**  
ATTN: Materials Management Department  
850 Gov Carlos Camacho Rd.  
Oka Tamuning, Guam 96913-3128

Said notices shall be deemed given on the earlier of (a) actual receipt; or (b) ten (10) business days following the date such notices are deposited in the U.S. Mail, properly addressed and sent via certified mail or placed with a commercial courier or delivery service. If the last day of any notice period falls on a Saturday, Sunday or federal holiday, such notice period shall be extended to the next regular business day. Either party may change the address or designated person for receiving Notices by providing notice to the other party in accordance with this Section.

**SECTION 26  
TRANSMISSION OF DATA IN DIGITAL FORM**

If the parties intend to transmit any information or documentation in digital form, they shall establish necessary protocols governing such transmissions, unless otherwise already provided in this Agreement.

**IN WITNESS HEREOF**, the parties hereto have executed this Agreement to be made effective as of the date first entered above.

\_\_\_\_\_  
[Redacted]  
\_\_\_\_\_  
**AUTHORIZED AGENT**  
Title *President*  
Date: [Redacted]

**GUAM MEMORIAL HOSPITAL  
AUTHORITY**  
\_\_\_\_\_  
[Redacted]  
\_\_\_\_\_  
**Hospital Administrator/CEO**  
Date: \_\_\_\_\_

\_\_\_\_\_  
[Redacted]  
\_\_\_\_\_  
**Chief Financial Officer, Acting**  
  
Guam Memorial Hospital Authority  
Cost Center: GIL - Account #:

\_\_\_\_\_  
[Redacted]  
\_\_\_\_\_  
**Chairman, Board of Trustees**  
Guam Memorial Hospital Authority

Date: \_\_\_\_\_

**AGREEMENT FOR REVENUE CYCLE MANAGEMENT SERVICES**  
GMHA RFP 003-2020

Note: The Contractor filed two separate protests with GMHA in response to GMHA's request for (1) licenses and certifications and (2) cost or pricing data; however, the contents of both protests were materially the same. For brevity, the contents of only one protest are provided.

[REDACTED]

**PROTEST**

Procurement Officer  
GMHA  
850 Gov. Carlos Camacho Road  
Oka Tamuning, Guam

Via: Email to the Procurement Officer/Acting Procurement Officer and hand delivery

Re: Protest of your letter of Jan. 21, 2021 (re RFP 003-2020, Revenue Cycle Management (RCM) Services; Request for Licenses and Certifications)

Hafa adai, CEO/Hospital Administrator/Procurement Officer [REDACTED]  
[REDACTED] and [REDACTED] Acting HA/CEO  
[REDACTED]

We represent [REDACTED] in RFP 003-2020 and related matters.

1. [REDACTED] herein protests your letter of January 21, 2021 re RFP 003-2020, Revenue Cycle Management (RCM) Services; Request for Licenses and Certifications.
2. This Protest is submitted under 26 GAR § 16901. The fact giving rise to the Protest was known on Jan. 21, 2021 when the Letter of Jan. 21, 2021 (the "Jan. 21 Letter") was received by [REDACTED]
3. This Protest is timely under 26 GAR § 16901 (c) (1).
4. The Subject of the Protest is the specifications preparation, bid solicitation, and award of RFP 003-2020 (hereinafter, the "RCM RFP").
  - a. The Procurement is stayed pursuant to 26 GAR § 16901 (e).
  - b. [REDACTED] reserves the right to supplement or amend this protest prior to the expiration of the time to protest and or as facts and circumstances become known.

- c. [REDACTED] further reserves the right to initiate one or more separate protests should additional facts become known.
  - d. [REDACTED] further reserves the right to take any and all lawful action in addition to its Protest.
5. Because of the pandemic and because time is of the essence under the deadline imposed by the Jan. 21 Letter, this Protest is being sent via email as well as stated in 26 GAR § 16901 (c) (3) regarding expedited handling.
6. The Protestor is [REDACTED] identified CONTRACTOR in the contract Circulated by GMHA for signatures, and signed, by GMHA, [REDACTED] on or around Oct. 6, 2020.
7. The Protestor's address is [REDACTED]
8. For this Protest, the Protestor's address is as follows:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Protestor requests that the address in ¶ 8 be used for this Protest.

9. The procurement under this Protest is GMHA Procurement 003-2020.
10. The Contract number is as stated on the Contract [REDACTED] signed on or around Oct. 6, 2020.
11. The following are the reasons for the Protest:
- a. The Procurement Law applies contract law principles. 5 GCA § 5002. A contract binding GMHA/signatories and [REDACTED] has been executed; or is executory. When a contract is signed, an agreement has been formed according to the terms of the contract. All signatories shall thereafter be bound in whatever capacity signed.
    - (i) [REDACTED] protests that the Jan. 21 Letter comes after a binding Contract has been formed.

- (ii) [REDACTED] protests that the Jan. 21 Letter was required to have been requested prior to GMHA's offering the Contract for signature and at all events prior to signing the Contract.
  - (iii) [REDACTED] protests that no written determination has been made to require the information in the Jan. 21 Letter (hereinafter, the "Information").
  - (iv) [REDACTED] protests that no written determination has been made to require the Information after the Contract has been circulated for signatures.
  - (v) [REDACTED] protests that the Procurement Officer has misapplied 26 GAR § 16314 (l) because a Contract has been offered and is executed or executory. *See* 26 GAR § 16314 (l) (3).
  - (vi) [REDACTED] protests that, under 5 GCA § 5150, the rendering of the contract for signature is dispositive of an assent to terms and that an agreement was reached.
  - (vii) [REDACTED] protests that GMHA acts unreasonably when it requires a 5-day deadline to comply with the Jan. 21 Letter or be treated as a failed negotiation.
  - (viii) [REDACTED] protests that a reasonable time to respond to the request is no less than 30 days.
  - (ix) [REDACTED] protests that the letter comes after no party responded timely in protest to the letter Aug. 18, 2020 letter advising [REDACTED] of its selection and the commencement of price negotiations.
  - (x) [REDACTED] protests that GMHA and or the Procurement Officer violates the terms of the Aug. 18, 2020 Letter.
- b. Under contract law, the circulation of terms shows intent to contract. GMHA and [REDACTED] circulated different versions of the Contract and specifically edited the Contract to include the price agreed to.
- (i) [REDACTED] protests that the parties intended to contract at the price that was circulated, back and forth between the parties, until accepted and the Contract bound GMHA by signatures on or around Oct. 8, 2020.
  - (ii) [REDACTED] protests that if GMHA intended not to be bound by the price on the Contract, it acted in bad faith during negotiations.

c. Under contract law, requirements that are imposed after a binding agreement has been formed is not a defense to formation of the contract.

(i) [REDACTED] protests that the Jan. 21 Letter is not a defense to formation.

d. Under contract law, the nonbreaching party is entitled to damages.

(i) [REDACTED] protests that GMHA's breach entitles [REDACTED] to damages in excess of \$1.

e. Under contract law, where a party has expended sums in circumstances like that here, it is entitled to relief in *quasi contract*. Beginning in 2019, [REDACTED] expended sums of money towards submission of its responses to RFP 003-2020 and 002-2020. [REDACTED] expenditures were reasonable. GMHA benefited from such expenditures in that it utilized information and efforts of [REDACTED] to develop RFP 003-2020.

(i) [REDACTED] protests that GMHA was unjustly enriched. As a result, [REDACTED] is entitled to restitution of amounts it has spent prior to the signing of the Contract.

f. GMHA has historically not had a solution for its grossly inadequate collections procedure until it consulted with [REDACTED] beginning in 2019. Information it received from [REDACTED] since that time is not public record.

In deriving RFP 003-2020, GMHA used information of a proprietary nature that is owned by [REDACTED] to draft RFP 003-2020.

Where applicable, the information is [REDACTED] work product and or is otherwise proprietary and confidential. GMHA remains in possession of [REDACTED] proprietary information.

(i) [REDACTED] protests that GMHA has not taken adequate steps to ensure work product and or proprietary information is safeguarded.

(ii) [REDACTED] protests that GMHA unlawfully converted its work product and or proprietary property and information.

(iii) [REDACTED] protests that GMHA must return all work product and all proprietary property and not make it public records.

12. [REDACTED] anticipates that litigation may result from this Protest.

██████████ requests that all parties including GMHA take reasonable steps to preserve and retain all hard copies and electronically stored information ("ESI"), as defined by Rule 34 of the Federal Rules of Civil Procedure, relevant to this Action. To fulfill GMHA's preservation obligation, you must take reasonable steps to preserve all hard copy documents and ESI relevant to this Action, including, but not limited to: Suspending data destruction and backup tape recycling policies; Retaining software, hardware, or other information required to access or view the ESI, such as identification codes; passwords; decryption applications; decompression software; reconstruction software; network access codes; manuals; and user instructions.

██████████ requests that you take special action for archived or deleted ESI; ESI stored in a database; computer logs; metadata, including the date ESI was created, the date ESI was last modified, and the name of the individual who created the ESI.

██████████ requests that you take any other reasonable steps necessary to prevent the destruction, loss, override, or modification of relevant data, either intentionally or inadvertently, such as through modification of the Responsible Party's document retention policy and systems.

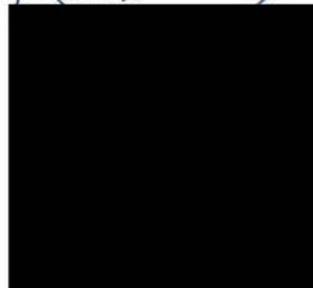
██████████ requests that ESI must be preserved intact and without modification.

That above items is not exhaustive as GMHA must preserve all information that is potentially relevant to this Protest.

Please note that GMHA's failure to preserve relevant data may constitute spoliation of evidence, which may later subject it to sanctions. In the event of a dispute arising out of GMHA's failure to preserve documents, we will rely on this letter in court as evidence of our request and notice of your preservation obligations.

██████████ reasserts that it may amend or supplement this Protest until the 14 day period in 26 GAR § 16901 (c) (1) has lapsed.

Sincerely,

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes or dates.

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**Appendix 5B:**  
**Withdrawal of Contractor Protest**

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Note: The Contractor filed two separate protests with GMHA in response to GMHA's request for (1) licenses and certifications and (2) cost or pricing data; however, the contents of both withdrawal notices were materially the same. For brevity, the contents of one withdrawal notice are provided.

[REDACTED]

RECEIVED  
FEB - 4 2021  
MATERIALS  
MANAGEMENT

Procurement Officer  
GMHA  
850 Gov. Carlos Camacho Road  
Oka Tamuning, Guam

Via: Email to the Procurement Officer/Acting Procurement Officer and hand delivery

Re: Withdrawal of Protest of your letter of Jan. 21, 2021 (re RFP 003-2020, Revenue Cycle Management (RCM) Services; Request for Licenses and Certifications)

February 4, 2021

Hafa adai, CEO/Hospital Administrator/Procurement Officer [REDACTED]  
[REDACTED] and [REDACTED] Acting HA/CEO  
[REDACTED]

[REDACTED] hereby withdraws its protest of GMHA's Letter referenced above. In addition to information already provided in response to the Letter, [REDACTED] will supplement the record as necessary and as required by the Procurement Law.

Sincerely,

[REDACTED]



**GUAM MEMORIAL HOSPITAL AUTHORITY**  
ATURIDÁT ESPETÁT MIMURIÁT GUÁHĀN

850 Governor Carlos Camacho Road, Tamuning, Guam 96913  
Operator: (671) 647-2330 or 2552 | Fax: (671) 649-5508



August 25, 2023

From: [REDACTED] GMHA Legal Counsel  
[REDACTED] GMHA Legal Counsel

To: Benjamin F. Cruz  
Public Auditor, Office of Public Accountability

Mariella Cruz  
Auditor, Office of Public Accountability

Re: **Agency's Reliance on an Attorney General's Determination that a Contract for Procurement of Services is Valid**

**Relevant Law**

**5 GCA § 5150:** [in relevant part] . . . *The Attorney General, or his designee, including one (1) or more Special Assistant Attorneys General shall, in addition, when he approves contracts, determine not only the correctness of their form, but their legality. In making such a determination of legality, he may require any or all agencies involved in the contract to supply him with evidence that the required procedures precedent to executing the contract were carried out. He or his designees may prescribe the forms and format required to be followed by the agencies in aiding him in his determination of form and legality.*

*Guam Int'l Airport Auth. v. Moylan*, 2005 Guam 5

*Attorney General of Guam v. Gutierrez*, 2011 Guam 10

**Question Presented**

Whether a government agency may rely on the Attorney General's determination that a contract is legal?

**Short Answer**

Yes. The Attorney General's determination, under 5 GCA § 5150, that a contract is legal is authoritative and it is "prudent and reasonable" for an agency to rely on the Attorney General's approval.

### Discussion

When performing a *post hoc* evaluation of a contract resulting from the government procurement process, the following principles apply: (1) the Attorney General of Guam's approval as to form and legality carries with it the implicit determination that the procurement process leading up to execution of the contract complied with applicable law and (2) an executive agency and its administrator may rely on the Attorney General's signature and approval when performing their contractual obligations and when authorizing payments due under the contract.

Title 5 GCA § 5150 sets forth that the Attorney General possesses the authority (and obligation) to approve government contracts. "In making such a determination of legality, [the AG] *may* require any or all agencies involved in the contract to supply him with evidence that the required procurement procedures precedent to executing the contract were carried out." *Id.* (emphasis added). The Attorney General has the sole discretion to determine which procurement documents need to be reviewed to ensure compliance with the Procurement Code. Both the Legislature and the Guam Supreme Court recognize the Attorney General's primary authority to determine the correctness of form and the legality of contracts executed subsequent to a procurement.

In *GIAA v. Moylan*, 2005 Guam 5, the Guam Supreme Court considered whether the Attorney General's Organic Act Authority precluded the legislature from defining or limiting his common law powers via statute. The dispute arose when the Guam International Airport Authority (GIAA) sought to hire the services of an attorney not employed by the Attorney General's office as was explicitly allowed by statute. The Guam Supreme Court determined that the Organic Act did not preclude the legislature from limiting the Attorney General's common law powers. As an ancillary issue, the Court also ruled that "It is clear that the Attorney General has the authority to review contracts with respect to their legality and form pursuant to Title 5 GCA § 5150. However, when determining whether to approve or disapprove contracts, the Attorney General may only consider the legality and form of the proposed contract." *Id.* at ¶ 65. In a footnote, the Supreme Court described that this duty was more than ministerial in nature commenting: ". . . once the Attorney General reviews a contract and determines that it is lawful as to form and content, a legal duty arises to approve the proposed contract." *Id.* at ¶ 65; fn. 8.

Under 5 GCA § 5150, the Office of the Attorney General clearly acts as a legal clearinghouse for contract form and legality. In execution of the duty to review and approve certain contracts, the Attorney General *may* require that the agency proposing the contract disclose all relevant procurement documentation necessary for the Attorney General to conduct an adequate review of the procedure precedent. Irrespective of the materials the Attorney General actually reviews, the contracting agency may fully rely on the Attorney General's approval as to legality and form. Any alleged deficiencies in the Attorney General's review processes are not imputed to the procuring agency once the Attorney General approves the lawfulness of a contract.

This principle authorizing reliance on Attorney General opinions and approvals has been definitively recognized by the Guam Supreme Court. In *Attorney General v. Gutierrez*, 2011 Guam 10, the Supreme Court considered whether former Governor Carl Gutierrez and former GMHA Administrator Dr. Davina Lujan should be held personally liable for settling a third-party lawsuit in violation of the Enforcement of Proper Government Spending Act. In a unanimous ruling, the Supreme Court found that Governor Gutierrez and Dr. Lujan properly relied on the Attorney General's approval as to the form of the settlement. As stated by the Court, "[W]e do not believe the Attorney General should be permitted to so easily disavow their legal obligations in reviewing contracts. . . [Attorney General] Kono's approval of the contract under law necessarily implies that the expenditure of the funds was within the powers of the hospital, and it appears prudent and reasonable for Lujan and Gutierrez to rely on Kono's approval. If Kono did not undertake the requisite task of reviewing the purpose and legality of the payments to Batoyan, he should not have approved the settlement agreement." *Id.* at ¶¶ 51-52

The Court summarized, ". . . Acting Attorney General Kono's approval of the contract as to form necessarily implies that the expenditure of the funds as within the powers of the hospital, and it appears prudent and reasonable for Lujan and Gutierrez to rely on Kono's approval and rely on the advice provided by other attorneys." *Id.* at ¶ 59.

None of this suggests that executive branch agencies are not required to comply with Guam procurement law or applicable regulations. They are. But, it is the Attorney General, in executing his section 5150 powers, who is tasked with determining the legality of certain contracts. If the Attorney General determines the contract resulted from a violation of the procurement law, it is his duty to decline to sign the contract or to disapprove the contract. No other government entity, including the Office of Public Accountability, is statutorily imbued with the authority to review the Attorney General's determination of form and legality. Even if a different governmental body or individual disagrees with the Attorney General's approval as to form and legality, the procuring agency is still entitled to rely on the Attorney General's approval. The Attorney General's signature and approval is the finalized testament of a contract's legality. The contrary view would lead to government contracts always being subject to endless review, debate, and lawsuits. The government would be unable to function.

### **Conclusion**

The state of the law is clear. The Attorney General and his or her office possess the authority and duty to review both the procurement process and resulting contracts for form and legality. The Guam Supreme Court has made clear that an executive agency and its administrator are entitled, as a matter of prudence and reasonableness, to rely on the Attorney General's signature that a contract is correct in form and legality—an act which indicates approval and authorization.

**Appendix 7:  
Questioned Costs Calculation**

| Month /Year  | [1]                           |  |  | [2]                        |  |  | [3]   |  |  |                                     |  |  | [D]   | [E]  |
|--------------|-------------------------------|--|--|----------------------------|--|--|---|--|--|-------------------------------------|--|--|---|--|
|              | 3Ms (Medicare, Medicaid, MIP) |  |  | Insurance                  |  |  | Self-Pay (DRT, Self-Pay, SP Admissions/PR, Collection Agency) |  |  |                                     |  |  | Grand Total Collections<br>[1A] + [2A] + [3A] | Total Billable by Contractor;<br>[D] - \$7.2M * 12%<br><br>Total Questioned Costs<br>[1C] + [2C] + [3c] + [3C] |
|              | [A]                           | [B]                                    | [C]                                    | [A]                        | [B]                                    | [C]                                    | DRT Tax Refund Garnishments                                   |  |  | [A]                                 | [B]                                    | [C]  |   |  |
|              | Total Collections Recorded    | % of Overall Collections<br>[1A] ÷ [D] | Portion of Total Billing<br>[1B] * [E] | Total Collections Recorded | % of Overall Collections<br>[2A] ÷ [D] | Portion of Total Billing<br>[2B] * [E] | Total DRT Collections Recorded                                | % of Self-Pay Collections<br>[3a] ÷ [3A] | Portion of Self-Pay Billing<br>([3b] * [3B]) * [E] | Total Self-Pay Collections Recorded | % of Overall Collections<br>[3A] ÷ [D] | Portion of Total Billing (less DRT portion)<br>[(3A) - [3a]) ÷ [3A] * [3B] * [E] |   |  |
| 7/21         | 3,083,372                     | 39.01%                                 | 32,917                                 | 3,655,456                  | 46.25%                                 | 39,025                                 | 805,695   | 69.20%                                   | 8,601  | 1,164,269                           | 14.73%                                 | 3,828  |   |  |
| 8/21         | 5,451,942                     | 45.16%                                 | 264,011                                | 5,430,580                  | 44.99%                                 | 262,977                                | 693,398   | 58.33%                                   | 33,578   | 1,188,762                           | 9.85%                                  | 23,988   | 12,071,284                                    | 584,554  |
| 9/21         | 7,022,523                     | 50.61%                                 | 405,430                                | 5,228,814                  | 37.68%                                 | 301,874                                | 1,249,023   | 76.89%                                   | 72,110   | 1,624,334                           | 11.71%                                 | 21,668   | 13,875,671                                    | 801,081  |
| 10/21        | 2,386,562                     | 30.38%                                 | 23,882                                 | 4,445,404                  | 56.59%                                 | 44,485                                 | 681,538   | 66.62%                                   | 6,820  | 1,023,081                           | 13.02%                                 | 3,418  | 7,855,047                                     | 78,606   |
| 11/21        | 4,900,312                     | 48.24%                                 | 171,201                                | 4,586,463                  | 45.16%                                 | 160,236                                | 387,585   | 57.82%                                   | 13,541   | 670,366                             | 6.60%                                  | 9,879  | 10,157,141                                    | 354,857  |
| 12/21        | 5,616,337                     | 49.95%                                 | 242,390                                | 5,026,539                  | 44.70%                                 | 216,935                                | 242,216   | 40.30%                                   | 10,454   | 600,969                             | 5.34%                                  | 15,483   | 11,243,845                                    | 485,261  |
| 1/22         | 2,631,375                     | 30.87%                                 | 49,083                                 | 5,538,266                  | 64.96%                                 | 103,305                                | 52,236  | 14.69%                                   | 974  | 355,515                             | 4.17%                                  | 5,657  | 8,525,156                                     | 159,019  |
| 2/22         | 4,325,204                     | 49.91%                                 | 87,815                                 | 3,859,939                  | 44.54%                                 | 78,369                                 | 168,871   | 35.10%                                   | 3,429  | 481,131                             | 5.55%                                  | 6,340  | 8,666,274                                     | 175,953  |
| 3/22         | 4,039,457                     | 46.80%                                 | 80,419                                 | 3,787,073                  | 43.87%                                 | 75,395                                 | 425,301   | 52.80%                                   | 8,467  | 805,568                             | 9.33%                                  | 7,571  | 8,632,099                                     | 171,852  |
| 4/22         | 4,343,927                     | 42.32%                                 | 155,586                                | 5,368,064                  | 52.30%                                 | 192,267                                | 165,666   | 30.05%                                   | 5,934  | 551,342                             | 5.37%                                  | 13,814   | 10,263,333                                    | 367,600  |
| 5/22         | 4,185,462                     | 45.28%                                 | 111,006                                | 3,054,711                  | 33.05%                                 | 81,016                                 | 1,572,072   | 78.50%                                   | 41,694   | 2,002,626                           | 21.67%                                 | 11,419   | 9,242,798                                     | 245,136  |
| 6/22         | 4,887,312                     | 41.43%                                 | 228,523                                | 5,656,502                  | 47.95%                                 | 264,489                                | 716,667   | 57.21%                                   | 33,510   | 1,252,752                           | 10.62%                                 | 25,066   | 11,796,566                                    | 551,588  |
| 7/22         | 3,763,424                     | 46.66%                                 | 48,480                                 | 2,969,537                  | 36.82%                                 | 38,253                                 | 837,604   | 62.84%                                   | 10,790   | 1,332,904                           | 16.53%                                 | 6,380  | 8,065,865                                     | 103,904  |
| 8/22         | 6,029,421                     | 57.08%                                 | 230,367                                | 3,772,944                  | 35.72%                                 | 144,153                                | 380,528   | 50.01%                                   | 14,539   | 760,897                             | 7.20%                                  | 14,533   | 10,563,261                                    | 403,591  |
| 9/22         | 5,008,346                     | 54.32%                                 | 131,671                                | 3,147,143                  | 34.13%                                 | 82,739                                 | 661,010   | 62.10%                                   | 17,378   | 1,064,470                           | 11.55%                                 | 10,607   | 9,219,959                                     | 242,395  |
| 10/22        | 4,772,358                     | 57.53%                                 | 75,598                                 | 3,186,788                  | 38.42%                                 | 50,481                                 | -   | -  | -  | 335,842                             | 4.05%                                  | 5,320  | 8,294,988                                     | 131,399  |
| <b>Total</b> | <b>\$72,447,334</b>           |  | <b>\$2,338,379</b>                     | <b>\$68,714,223</b>        |  | <b>\$2,135,999</b>                     | <b>\$9,039,410</b>  |  | <b>\$281,819</b>                                   | <b>\$15,214,828</b>                 |  | <b>\$184,971</b>   | <b>\$156,376,383</b>                          | <b>\$4,941,168</b>   |

Columns [A, a] Source: GMHA DCR Payor Reports  
Note: Totals may be skewed due to rounding error.



**GUAM MEMORIAL HOSPITAL AUTHORITY**  
ATURIDÁT ESPETÁT MIMURIÁT GUÁHÅN

850 Governor Carlos Camacho Road, Tamuning, Guam 96913  
Operator: (671) 647-2330 or 2552 | Fax: (671) 649-5508



November 27, 2023

Benjamin F. Cruz  
Public Auditor  
Suit 401 DNA Building  
238 Archbishop Flores Street  
Hagåtña, Guam 96910

Re: *Guam Memorial Hospital Authority's Response to Public Auditor's Draft Report of a Performance Audit focusing on GMHA's Revenue Cycle Management contract with MedHealth*

Public Auditor Cruz,

On behalf of the Guam Memorial Hospital Authority ("GMHA") administrative staff I would like to thank you and your staff for your patience and willingness to work with GMH. Throughout this audit, GMHA has stressed that its administration acted upon the good faith belief that approval of the Revenue Cycle Management ("RCM") contract by the Attorney General's Office clearly indicated the legality of the contract, the process leading to approval, and the form (including the specific contractual terms). GMHA is unequivocally entitled to rely upon the Attorney General's approval of a contract as to legality and form.

GMHA continues to take issue with a number of the Office of Public Auditor's ("OPA") conclusions. The primary objection is to OPA's conclusion that the Medhealth RCM contract was "Ineffective" or that there was an "Unreasonable Basis for Contractor Compensation." [OPA Report; pp. 17 & 23]. GMHA notes that the draft report acknowledges the OPA's inability to conclude with certainty the long-term value of the consultancy provided by Medhealth to GMHA: "The long-term effect of the consultancy following the contract termination in November 2022 remains to be seen through GMHA's in-house management of the revenue cycle process." [OPA Report; p. 24].

GMHA also takes issue with OPA's continued insistence that the Attorney General's office was not made aware of the procurement process in line with 5 GCA § 5150. The OPA's Report acknowledges that GMHA did act in coordination with the Attorney General's office when it voided an RFP that would not have been approved by the AG and moved forward with an RFP that corrected deficiencies. "This RFP [02-2020] was canceled/rejected in June 2020 by GMHA, but the deficiencies were corrected by GMHA seeking the AG's review and maintaining a complete procurement record for FRP No. 003-2020 issued in July 2020." Further the report acknowledges that the Attorney General's office was notified about the cancellation of RFP 002-2020 [OPA Report; p. 4]. Additionally, cancellation of a procurement is available when it is in the best interests of Guam, 5 GCA § 5225, or where there is a violation of the procurement law, 5 GCA §§ 5451, 5452. GMHA believes it acted reasonably and responsibly in cancelling RFP No. 002-2020.

Finally, GMHA takes issue with the allegation that GMHA granted preferential treatment to the contractor as set forth at OPA Report pp. 4-5. GMHA maintains that the final contract terms were a result of negotiations with Medhealth, as required by the procurement code. GMHA conducted the procurement in a transparent manner, including discussions at public meetings with the Board of Trustees and circulation to nine prospective vendors, [OPA Report; p. 15], indicating that the contract was not a product of deference or special treatment.

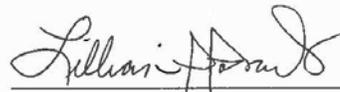
That said, GMHA understands the Public Auditor's concerns with some aspects of the procurement process. In the spirit of cooperation, GMHA agrees that the following Public Auditor Recommendations be implemented:

- 1. Revise its procurement planning and pre-evaluation process to include guidelines and criteria which considers compliance with applicable terms and laws relevant for the type of solicitation used; and*
- 2. Utilize a consultancy contract which pays a fixed amount to the awarded contractor instead of a variable percentage, should similar services be needed in the future.*

In closing, GMHA would like to inform the OPA that it has begun implementing directives to relevant staff to make sure that the agreed-to recommendations identified by OPA's report are quickly addressed. I think we can all agree that the current procurement code and regulations are complicated and ongoing education is essential to preventing problems going forward. We also urge the OPA to support revisions to the procurement code which simplify the process and allow the hospital to efficiently procure life-saving and other medical supplies and equipment. GMHA will also commit to reviewing and revising its own, internal policies when it comes to considering contingency contracts to bring those policies into greater legal compliance.

I want to thank the Office of the Public Auditor once again for working with GMHA as we work to resolving the issues and concerns raised by OPA and continue to provide the island with the necessary medical care the public deserves.

Respectfully,



---

Lillian Perez-Posadas, MN, RN  
CEO/Administrator  
Guam Memorial Hospital

**Appendix 9:**  
**Status of Audit Recommendations**

| No. | Addressee                       | Audit Recommendation  | Status | Action Required  |
|-----|---------------------------------|---|--------|--|
| 1.  | GMHA Hospital Administrator/CEO | Revise procurement planning and pre-evaluation processes to include guidelines and criteria which considers compliance with applicable terms and laws relevant for the type of solicitation used. | OPEN   | Implement no later than the beginning of the next fiscal year.     |
| 2.  | GMHA Hospital Administrator/CEO | For future procurement of RCM consultancy or related services, utilize a consultancy contract which pays a fixed amount to the awarded contractor instead of a variable percentage.               | OPEN   | Implement during next RFP for RCM consultancy or related services. |

# GUAM MEMORIAL HOSPITAL AUTHORITY REVENUE CYCLE MANAGEMENT OPA Report No. 24-01, January 2024

## ACKNOWLEDGEMENTS

### ***Key contributions to this report were made by:***

Mariella Cruz, Auditor-in-Charge

Maria Thyrza Bagana, CGFM, CFE, Audit Supervisor

Benjamin J.F. Cruz, Public Auditor

## MISSION STATEMENT

We independently conduct audits and administer procurement appeals to safeguard public trust and promote good governance for the people of Guam.

## VISION

The Government of Guam is the standard of public trust and good governance.

## CORE VALUES

### **Objective**

To have an independent and impartial mind.

### **Professional**

To adhere to ethical and professional standards.

### **Accountable**

To be responsible and transparent in our actions.

## REPORTING FRAUD, WASTE, AND ABUSE

- Call our HOTLINE at 671.47AUDIT(671.472.8348)
- Visit our website at [www.opaguam.org](http://www.opaguam.org)
- Call our office at 671.475.0390
- Fax our office at 671.472.7951
- Or visit us at Suite 401 DNA Building in Hagåtña

All information will be held in strict confidence.



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