



Executive Summary
General Services Agency
Procurement of Consultation Services for GBHWC-Criminal Justice Program
OPA Report No. 22-02, March 2022

Our compliance audit of the General Services Agency's (GSA) procurement of expert consultant services to establish the Guam Behavioral Health and Wellness Center (GBHWC)-Criminal Justice Program found that the GSA generally complied with Guam procurement laws and regulations. However, we noted the following areas for improvement:

- The Chief Procurement Officer (CPO) rejected GBHWC's multiple requests for sole source procurement while they provided supporting documents to justify this method, but the CPO has the authority to reject the sole source without documenting the reason; and
- GSA's use of the small purchase procurement method based on the dollar threshold amount of the service was allowed, but we noted potential preferential treatment given to the awarded vendor.

Although a vendor was awarded through the small purchase procurement, GBHWC refused to use the vendor because they felt that the vendor was not qualified to provide the service. Because this was a special professional service, GBHWC could have acted as the purchasing agency instead of GSA and utilized the competitive sealed bid procurement method by issuing a Request for Proposal (RFP) on their own.

CPO Had Discretionary Authority to Reject Sole Source Procurement

In August 2020, GBHWC submitted a requisition requesting for sole source procurement from GSA to award Vendor A with the following supporting documents:

- Compatibility Letter
- Sole Source Letter
- Price Quote
- Negotiation Letter from GBHWC
- Negotiation Letter Response from Vendor A

The CPO denied GBHWC's request stating the justification does not support the sole source request and instructed them to get at least three quotes.

In October 2020, GBHWC submitted two requisitions requesting sole source with the same supporting documents provided in their prior sole source request, and two additional quotes. The initial quote from Vendor A plus the two additional "no quote" responses could have sufficed for the CPO's instruction to get three quotes, as a "contract may be awarded without competition for a supply or service when there is only a single supplier." However, the sole source request was still rejected.

GSA complied with Guam Procurement with regards to GBHWC's sole source request, as the CPO has discretionary authority to reject the sole source in accordance with 2 GAR §3112. (b). However, as a best practice, it would be good to have documentation as to the reasoning for the rejection in the procurement record. This has heightened the need to look more into sole source procurement, as such, an audit on all GovGuam sole source procurement is part of OPA's 2022 Annual Audit Plan.

Small Purchase Procurement Showed Potential Preferential Treatment

After the continuous sole source request rejections, GBHWC submitted two requisitions (Q212300106 and Q212310068) to GSA to utilize the small purchase procurement method in February 2021. The reasoning for the small purchase was based on the dollar amount threshold for the services in accordance with 5 GCA §5213 and 2 GAR §3111. However, GSA should have instructed GBHWC to utilize the competitive sealed bid procurement method and issue a RFP in accordance with 2 GAR §3114; as this was for professional consulting services.

Instead, GSA issued two separate requests for quotations (RFQ) on March 2, 2021. RFQ#21000785 was for Consultant Services to develop an Implementation Plan for mental health treatment and services and RFQ#21001031 was for Consultant Services to develop an Implementation Plan for substance use treatment and services.

Although both RFQs were issued simultaneously, they each went through different paths to be awarded to Vendor B, which we found GSA generally complied with Guam procurement. However, the timing and inclusion of Vendor B appeared to show preferential treatment given by GSA. In the end, GBHWC refused to utilize services from Vendor B for RFQ#21000785 because they did not find Vendor B met the requirements needed. GSA ended up canceling RFQ#21001031 because they cited artificial division from RFQ#21000785, and instructed GBHWC to combine the two requisitions and issue an Invitation for Bid.

Conclusion and Recommendation

The Governor signed Executive Order (E.O.) No. 2020-21 in June 2020 mandating GBHWC and the Department of Corrections (DOC) to create a GBHWC-Criminal Justice Program. To establish the GBHWC-Criminal Justice Program, GBHWC needed an expert consultant to help them develop mental health services within the correctional system.

As a line agency, GBHWC sought the assistance of GSA to procure the consultant services first through sole source procurement and then through the small purchase procurement methods. Although GSA generally complied with Guam Procurement with the awarding of Vendor B, we noted improvements could have been made. In the end, the services from the awarded Vendor B were never used. GSA should have instructed GBHWC to utilize the competitive sealed bid procurement method through the issuance of an RFP after it rejected the sole source request and received the small purchase requisitions. In addition, GBHWC could have also ensured its staff is familiar with Guam Procurement by obtaining the mandated procurement training and certification to properly execute this procurement.

Because the procurement was for special professional consulting services and because GBHWC is the end-user who knows exactly what type of service is needed and who is qualified to perform the service, they instead could have acted as the purchasing agency and utilized the competitive sealed bid method in line with 5 GCA, Chapter 5, §5121. This would have also helped them properly evaluate the proposals to determine the most responsive and responsible bidder.

We would recommend that if GBHWC still needs the service, they should issue an RFP for the professional consultant services. During the audit exit meeting, GBHWC noted they are already working on an RFP.

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