

# ANNUAL REPORT 2021

OFFICE OF PUBLIC ACCOUNTABILITY

**DISTRIBUTION:**

Governor of Guam

Lieutenant Governor of Guam

Speaker, 36<sup>th</sup> Guam Legislature

Senators, 36<sup>th</sup> Guam Legislature

Guam Media



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# GLOSSARY OF ACRONYMS

CLTC	Chamorro Land Trust Commission
DCA	Department of Chamorro Affairs
DOC	Department of Corrections
DRT	Department of Revenue and Taxation
GACS	Guahan Academy Charter School
GALC	Guam Ancestral Lands Commission
GCC	Guam Community College
GDOE	Guam Department of Education
GEDA	Guam Economic Development Authority
GFD	Guam Fire Department
GGRF	Government of Guam Retirement Fund
GHC	Guam Housing Corporation
GHF	Guam Highway Fund
GHURA	Guam Housing and Urban Renewal Authority
GIAA	Guam International Airport Authority
GMHA	Guam Memorial Hospital Authority
GOVGUAM	Government of Guam
GPA	Guam Power Authority
GPD	Guam Police Department
GPT	Guam Preservation Trust
GSA	General Services Agency
GSWA	Guam Solid Waste Authority
GVB	Guam Visitors Bureau
GWA	Guam Waterworks Authority
ILACS	iLearn Academy Charter School
JOG	Judiciary of Guam
MCOG	Mayors' Council of Guam
OOG	Office of the Governor
OPA	Office of Public Accountability
PAG	Port Authority of Guam
KGTF	Guam Educational Telecommunication Corporation (PBS Guam)
SiFA	Science is Fun & Awesome Learning Academy
TAF	Tourist Attraction Fund
TOG	Treasurer of Guam
UOG	University of Guam



## **A MESSAGE**

### ***FROM THE PUBLIC AUDITOR***

In my fourth annual report as Guam’s elected Public Auditor and the completion of year one of my renewed four-year term, 2021 was another challenging year and one where we had to adapt as our island continued to face challenges associated with the coronavirus pandemic. It was in March 2020 that the island, and the world for that matter, succumbed to the effects of the pandemic, including major hits to our island economy, healthcare, and school systems. Despite the uncertainty of local and world events, the work of the Guam Office of Public Accountability continued.

During 2021, we issued nine performance audits, had oversight over 28 financial audits, and administered 15 procurement appeals. These audits identified over \$6.3 million (M) in financial impact and represented over \$2.9M in procurement value for the appeals. Our office also updated the audit contracts for two Government of Guam agencies, with a specific provision to issue financial audits no later than March 31<sup>st</sup> after the fiscal year (FY) ends.

Our budget for FY 2021 increased slightly to \$1.31M when compared to the \$1.25M in FY 2020. GovGuam appropriations are our primary source of revenues to fund our operations. As of the writing of this report, our staff complement stands at 13, including the Public Auditor. In 2021, we saw a loss of three experienced auditors to autonomous agencies and the federal government that afforded them higher salaries. We were able to recruit four entry-level accountability auditors to increase our productivity, issue more audits, and look forward to recruiting a Supervising Accountability Auditor in 2022.

After learning and adapting to the new work environment caused by the pandemic, our office was able to secure a grant to update and upgrade our information technology equipment and capabilities. Each auditor was outfitted with new computer equipment and the ability to work remotely should the need arise. We have also made vast improvements to the delivery of our work products, including the rollout of our mobile app, which allows direct access to our work on your mobile device. Future improvements that will streamline board meeting reporting requirements and online filing of procurement appeals are in the beta testing phase and scheduled for release in 2022.

In December 2021, a team of auditors from the Republic of Palau, Commonwealth of the Northern Marianas, and Graduate School conducted a Government Auditing Standards-required peer review and gave OPA a full compliance rating, the highest rating that can be achieved in a quality control review. There were no management letter comments and the review covered performance audits in calendar years (CY) 2017 to 2019. This rating would not have been possible without the hard work, commitment, professionalism, dedication, and attention-to-detail of the OPA staff. OPA's next peer review is scheduled for the summer of 2023 and will cover calendar years 2020, 2021, and 2022.

Looking forward to 2022, we will be celebrating our 30<sup>th</sup> year since the creation of the Guam Office of Public Accountability in 1992. Through the years, our office has evolved and found our niche as a reliable and trusted office that delivers dependable audits and information to our various stakeholders. Earlier this month, we released our 2022 Annual Audit Plan that outlines the activities our office will engage in. It continues to be our goal to be proactive and help the Government of Guam become more effective and efficient.

In closing, it is truly an honor to serve the people of Guam as your Public Auditor. We have accomplished so much during my time in this office, but there is more work to be done. It is with renewed commitment that OPA continues to be a watchdog over government spending and promote accountability and transparency in the Government of Guam. Un dangkolo na si Yu'os ma'ase'!

Senseramente,



Benjamin J.F. Cruz  
Public Auditor



## WHO WE ARE

**Public Law 21-122** established the Office of Public Accountability (OPA) in July 1992. OPA is an instrumentality of the Government of Guam (GovGuam), independent of the executive, legislative, and judicial branches.

**We seek to** achieve independent and nonpartisan assessments that promote accountability and efficient, effective management throughout the Government of Guam.

**We seek to** serve the public interest by providing the Governor of Guam, the Guam Legislature, and the people of Guam with dependable and reliable information, unbiased analyses, and objective recommendations on how best to use government resources to support the well-being of our island and its constituents.

### MISSION

To ensure public trust and good governance in the Government of Guam, we conduct audits and administer procurement appeals with objectivity, professionalism, and accountability.

### VISION

The Government of Guam is a model for good governance with OPA leading by example as a model robust audit office.

### CORE VALUES

Objectivity  
Professionalism  
Accountability





# 2021 SUMMARY ■

# FOR OUR STAKEHOLDERS

Where we spent your tax dollars.

	<b>2021</b>	<b>2020</b>	
Appropriations (in millions)	\$ 1.31M	\$ 1.25M	↑
Expenditures (in thousands)			
Personnel	983	911	↑
Rent	122	122	-
Contractual Services	75	49	↑
Supplies	4	1	↑
Utilities	3	4	↓
Equipment	15	11	↑
Training	7	6	↑
Other	5	4	↑
<b>Change in Net Position<sup>1</sup></b>	<b>\$ 115K</b>	<b>\$ 148K</b>	<b>↓</b>

<sup>1</sup>Change in Net Position includes Federal Grants and Interest Income of \$25K in FY 2021 and \$22K in FY 2020

We received slightly more in GovGuam appropriations with \$1.31M compared to our FY 2020 appropriation of \$1.25M. The GovGuam appropriation is our primary source of revenue to fund our operations.

In 2021, our expenditures increased by \$105 Thousand (K) from \$1.11M the previous year to \$1.21M. We earned an interest income of \$5K, and received federal grants of \$20K.

The United States Department of Interior Office of Insular Affairs awarded OPA a Technical Assistance Program (TAP) grant of \$76K for training and internship program. This federal grant gives us the funding capability to allow OPA employees to continue training with the best in the industry. As of 2021, we have spent a total of \$7K, and have a remaining balance of \$69K.

9

PERFORMANCE AUDITS

2

INDEPENDENT AUDITING SERVICES  
REQUEST FOR PROPOSAL

28

FINANCIAL AUDITS OVERSIGHT

15

PROCUREMENT APPEALS  
ADMINISTERED

**\$6.3M**

Total Financial  
Impact

## PERFORMANCE AUDITS

*We issued nine performance audits in 2021.*

A **performance audit** is an independent assessment of government specific programs to determine if goals and objectives are being achieved effectively, economically and efficiently.

*This is akin to a doctor looking into a particular area, such as your heart, liver, kidney, etc.*

### Why Conduct Performance Audits?

Title 1 of the Guam Code Annotated (GCA) §1908 requires the Public Auditor to conduct post audits of all the transactions and accounts of all departments, offices, corporations, authorities, and agencies in all of the branches of the Government of Guam.

The Public Auditor may also conduct or cause to be conducted such other audits or reviews as necessary. We conduct audits to improve public transparency and accountability and the effective and efficient management of public funds and programs.

We endeavor to provide independent, nonpartisan, accurate and timely assessments of GovGuam's financial and operating activities in accordance with Generally Accepted Government Auditing Standards (GAGAS).



**We conduct audits to improve public transparency and accountability and the effective and efficient management of public funds and programs.**

# STAGES OF A PERFORMANCE AUDIT

## 1) SURVEY

We perform an initial evaluation of the audit subject to determine the feasibility, financial impact, and cost-benefit. We conduct interviews with agency personnel to gain an understanding of the operation and the program under audit. Throughout the audit, auditors meet with the agency to discuss initial findings, issues identified, and areas needing further audit work.

## 2) FIELDWORK

We gather relevant and appropriate evidence regarding the issues identified in the survey phase. Testing results are consolidated to formulate a finding or conclusion, which are referred to the agency for validation.

## Peer Review 2021

Government Auditing Standards require independent peer reviews every three years to assure audit organizations are complying with professional standards and legal requirements.

Due to the global pandemic, OPA's peer review was postponed to 2021 covering performance audits issued in CY 2017 to 2019. The Peer Review was independently done by a team selected by the Association of Pacific Islands Public Auditors (APIPA).

OPA received a rating of "Pass" in 2021, resulting in a 7<sup>th</sup> Full Compliance rating.

## 3) REPORTING

We provide draft and final reports on findings and recommendations. An exit meeting is held to discuss the audit report and need for an auditee written response, which will be included in the final audit report. The report is then distributed to the auditee and stakeholders.

## 4) RECOMMENDATIONS FOLLOW-UP

Agencies are required to submit a corrective action plan, document progress, and endeavor to implement recommendations no later than the beginning of the next fiscal year. OPA conducts follow-up with agency officials for the status of the implementation of recommendations.



**OPA received a rating of "Pass" in 2021, resulting in a 7<sup>th</sup> Full Compliance rating.**



## **GOVERNMENT OF GUAM COVID-19 PAYROLL EXPENSES**

### **Report No. 21-01, January 2021**

- \$2.5M in double pay for GPA and GWA employees.
- \$2.0M in 25% differential pay for 26 departments and agencies with top three users: GFD, GMHA, and GPD.
- \$933K in 15% differential pay for 29 departments and agencies with top three users: GMHA, MCOG, and GDOE.
- \$568K in 10% differential pay for 42 departments and agencies with top three users: PAG, GMHA, and DPHSS.
- \$4.5M in Other Pay for 34 departments and agencies with top three users: GMHA, GWA, and GIAA.
- Unclassified employees, including department and agency heads and certain elected officials, received COVID-related compensation as part of the differential pay policy. 54 elected and appointed officials received \$176K in COVID-related compensation.

## **STATUS OF THE GOVERNMENT OF GUAM CORONAVIRUS RELIEF FUND EXPENDITURES**

### **Report No. 21-02, January 2021**

- This was the first “flash report” issued by our office. The report was for informational purpose only as no audit procedures were applied to substantiate the amounts. However, this report provided the groundwork for the full performance audit of the expenditures that will be issued at a later time.
- GovGuam received \$118M from the CARES act to provide relief to workers, families, small businesses, and other levels of government that have been hit hard by the COVID-19 public health emergency.
- GovGuam expended \$74M as of November 30, 2021 for purchases related to COVID-19.
- US Department of the Interior’s Office of Insular Affairs awarded a \$12M Technical Assistance Program (TAP) grant to GovGuam to prepare, prevent, and respond to COVID-19.
- As of November 30, 2021, the \$12M TAP grant has not been expended.





## **PORT AUTHORITY OF GUAM BACK WAGES SERIES, PART A**

### **Report No. 21-03, February 2021**

- Performance audit of the back wages of the first of nine reinstated Port Authority of Guam (Port) employees – “Employee Q” found significant deficiencies in the basis of Port’s calculations for back wages, Medicare tax, retirement contribution, and interest charge that resulted in overpayments of at least \$96K in back wages and \$18K in interest for a total of \$114K.
- Port adhered to certain terms and conditions of Employee Q’s that were not required by the Civil Service Commission (CSC) or the courts’ judgments, such that:
  - The highest number of incremental sub-steps were granted based partly on two (2) prior years’ “Outstanding” performance evaluation ratings that were not approved by the former (or any) General Manager (GM); and
  - A 6% interest charge was paid to Employee Q without any court order requirement, negotiated terms, and proper calculation.
- Successor management approved salary increments that their predecessors did not approve of themselves.
- Legal remedies were executed without seeking the Board of Directors’ (Board) ratification by resolution and without a formal agreement and liability release until after the final payment in May 2020; and
- Different legal opinions resulted in delay and certain unorganized remedial actions.

## **STATUS OF THE GOVERNMENT OF GUAM CORONAVIRUS RELIEF FUND EXPENDITURES AS OF DECEMBER 31, 2021**

### **Report No. 21-04, February 2021**

- This was a subsequent flash report to OPA Report No. 21-02. The report was for informational purpose only as no audit procedures were applied to substantiate the amounts. However, this report provided the groundwork for the full performance audit of the expenditures that will be issued at a later time.
- GovGuam received \$118M from the CARES act to provide relief to workers, families, small businesses, and other levels of government that have been hit hard by the COVID-19 public health emergency.
- GovGuam expended \$89M as of December 31, 2021 for purchases related to COVID-19. This is a \$15M increase from \$72.9 M expenditures in November 2020.
- The majority of increases were for Miscellaneous (\$8.5M), Salaries and Wages (\$3.8M), and Contractual Services (\$2.6M).
- GovGuam utilized 75% of the CRF and authorization was extended for the remaining 25% to be spent until December 31, 2021.



## **ETHICS IN GOVERNMENT PROGRAM AS MANDATED BY PUBLIC LAW 28-76**

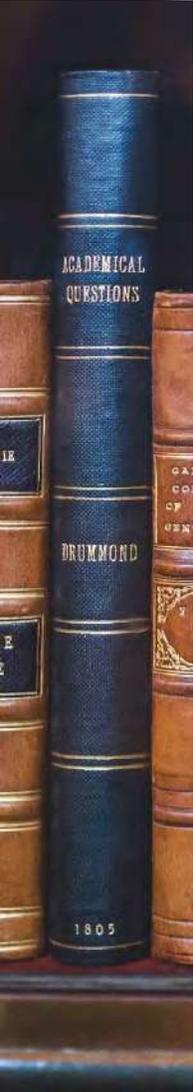
Report No. 21-05, May 2021

- Compliance audit of elected and appointed officials attending an ethics in government program training found the following who complied with P.L. 28-76:
  - All elected executive and legislative branch officials, including the Governor, Lt. Governor, Attorney General, Public Auditor, 15 members of the 36<sup>th</sup> Guam Legislature, and the six elected Guam Education Board officials;
  - 19 elected mayors and vice mayors;
  - Four (4) Consolidated Commission on Utilities Commissioners; and
  - 286 appointed positions serving in various capacities as agency heads, board, or commission members.
- Certain appointed positions served on multiple boards or commissions and were duplicated in the count.
- There are limitations with Guam's ethics law. Specifically, there was:
  - No one entity monitoring compliance with elected and appointed officials attending the required meeting;
  - Restriction on who should attend the course; and
  - No penalty for non-compliance.

## **GOVERNMENT OF GUAM PROCUREMENT OF HOTELS USED FOR COVID-19 QUARANTINE**

Report No. 21-06, July 2021

- 
- The initial emergency procurement conducted by the Office of the Governor (OOG) did not comply with Guam Procurement Law with the following deficiencies:
    - Improper procuring authority
    - Conflict of interest with one of the awarded facilities
    - Incomplete procurement record
    - Contract issues
  - In two (2) subsequent emergency procurements, GovGuam rectified the first two deficiencies cited. However, they continued to have an incomplete procurement record and the services extended beyond the 30-day emergency procurement limit to as long as six (6) months.
  - GovGuam spent over \$11.5M for the use of six hotels as quarantine and isolation facilities between March 2020 and December 2020 via emergency procurement. This does not include other COVID-19 related facilities procured and utilized by GovGuam (i.e., nurse lodging, homeless shelters, etc.)



## **SUBMISSION OF CITIZEN-CENTRIC REPORTS FOR FY 2017 THROUGH FY 2020**

### **Report No. 21-07, October 2021**

- 55 of 65 entities (or 85%) issued their FY 2020 CCRs. Of the 55, 36 entities fully complied by timely submitting their CCRs to both the OPA and Speaker. Also, posting the CCR on their websites. The remaining 19 entities were partially compliant for issuing their CCR but only met some requirements
- 50 of the 65 entities (or 77%) issued their FY 2019 CCRs. Of the 50, 26 entities fully complied and 24 entities partially complied.
- 52 of 65 entities (or 80%) issued their FY 2018 CCRs. Of the 52, 25 entities fully complied and 27 entities partially complied.
- 57 of 64 entities (or 89%) issued their FY 2017 CCRs. Of the 57, 28 entities fully complied and 29 entities partially complied.

## **COMPLIANCE WITH STANDARD OPERATING PROCEDURES AS MANDATED BY PUBLIC LAW 34-05**

### **Report No. 21-08, December 2021**

- 72 agencies documented and posted at least one of its SOPs on its designated website for public view;
- Two (2) agencies, namely the Department of CHamoru Affairs (DCA) and Guam Recovery Office (GRO), did not document or post its SOPs on its designated website.
- SOP mandate lacks clarity regarding (1) the types of GovGuam entities that must comply, and (2) the acceptable form of document to be considered as an SOP.
- SOP mandate does not address penalties for non-compliance.



## **PORT AUTHORITY OF GUAM, BACK WAGES SERIES, PART B**

### **Report No. 21-09, December 2021**

- Legal remedies paid (satisfied) without board ratification by a resolution;
- Inconsistencies and deficiencies in the Agreement to Satisfy Judgment and Settlement Agreement;
- Deviations from certain provisions of Port's Personnel Rules and Regulations
  - Highest number of incremental sub-steps granted annually without the required performance evaluations approved by the former GM.
  - Annual salary increments based partly on three prior years' "Outstanding" or "Highly Satisfactory" rating not approved by any GM.
  - Discrepancies in using the "Outstanding" and "Highly Satisfactory" ratings instead of eligible "Marginal Satisfactory" rating due to the absence of or Notice of Results of Performance Evaluation Report not approved by former GM; and
  - Conflicting Notifications of Personnel Actions.
- Deficiencies in Port back wages calculations resulting to potential overpayments due to:
  - Unapproved increments due prior to employees' terminations included in paid back wages; and
  - Questionable and unaccounted back wages paid.
- Income Tax withholding not deducted from paid back wages.
- Other Matters
  - Potential violation prohibition on retroactive pay raises.
  - Pay raise prior to end of freeze period potentially violated the freeze increment mandate.
  - Appearance of conflict of interest.

# FINANCIAL AUDITS

*We provided oversight on 28 financial audits in 2021.*

Independent financial audits are essential in assessing the overall financial performance and health of government entities. It provides reasonable assurance that audited financial statements are presented fairly in compliance with applicable professional standards.

*This is akin to having an annual general health check-up.*

## OUR OVERSIGHT

Title 1 GCA §1909(a) requires all financial audits to be issued by June 30th (nine months after fiscal year-end). Our goal is to issue financial audits no later than six months after fiscal year-end. We also strive for all agencies to not have any material weaknesses or significant deficiencies and/or become low-risk auditees.

After the selection of an audit firm, we remain involved in a monitoring and oversight role over the audit process. We hold an entrance conference, status conferences, and an exit conference as part of this process. These meetings provide the opportunity to ask questions, receive updates on the progress of the audit, and to be informed of any areas of concern.

We also issue financial highlights to provide our stakeholders an overview of the agency's financial performance. Audited financial reports are released

upon the Public Auditor's approval. We commend ILACS, GPT, SiFA, GHC, GGRF, GIAA, GSWA, GVB, GWA, GCC, GPA, CLTC, GALC, UOG, KGTF, and GEDA for issuing their financial audits by March 31, 2021.



**All 28 GovGuam entities/  
funds received unmodified  
(or “clean”) opinions.**

All government financial audits must include a report on internal control over financial reporting and on compliance, whether or not findings are identified.

All 28 GovGuam entities/funds received unmodified (or “clean”) opinions.



## **MANAGEMENT LETTER COMMENTS**

The independent auditors issued separate letters to management to report deficiencies related to internal control over financial reporting, non-compliance, information technology (IT), and other matters.

In FY 2020 financial audits, 19 GovGuam entities collectively received management letter comments.

## **PROCUREMENT OF FINANCIAL AUDIT SERVICES**

Title 1 GCA Chapter 19 §1908 authorizes the Public Auditor to acquire independent financial audit services from firms. GovGuam entities work with our office to issue Requests for Proposals (RFP) to procure financial audit services.

We issued RFPs for two (2) GovGuam agencies, resulting in audit contracts for FY 2020 through FY 2022 & FY 2021 through FY 2023.

# GOVGUAM ENTITIES FINANCIAL AUDITS ISSUANCE

*Arranged by date issued.*

## JANUARY

*ILACS*                      *GPT*  
*DCA<sup>†</sup>*                      *SiFA*

## MARCH

*GGRF*    *GWA*    *GALC*  
*GIAA*    *GCC*    *UOG*  
*GSWA*    *GPA*    *KGTF*  
*GVB*    *CLTC*    *GEDA*

## FEBRUARY

*GHC*

## APRIL

*PAG*                      *GHF*  
*GHURA*                *GGRF*  
*GDOE*                      (*GOVGUAM 457 PLAN*)  
*TAF*                      *GMHA*

<sup>†</sup>Issuance of DCA FY 2019 financial statements

# GOVGUAM ENTITIES FINANCIAL AUDITS ISSUANCE

*Arranged by date issued.*

**MAY**

*GACS<sup>†</sup>*



**JUNE**

*GOVGUAM*

**OCTOBER**

*DCA*

*GACS<sup>††</sup>*



<sup>†</sup>Issuance of GACS FY 2018 financial statements

<sup>††</sup>Issuance of GACS FY 2019 & 2020 financial statements



## **SINGLE AUDIT COMPLIANCE**

Government entities that spend more than \$750K in federal grants require an additional report on compliance for each major federal program (“Single Audit”).

The following GovGuam entities were subjected to Single Audits:

- Guam International Airport Authority\*
- Guam Waterworks Authority\*
- Guam Community College\*
- University of Guam
- Port Authority of Guam\*
- Guam Housing and Urban Renewal Authority
- Guam Department of Education
- Government of Guam

\*GovGuam entities that had no findings on their compliance over major federal programs



**The following GovGuam entities had findings in their FY 2020 Single Audit:**

- GHURA received an unmodified (“clean”) opinion on its FY 2020 financial statements and its compliance for major federal programs. However, in the compliance report, auditors identified three (3) significant deficiencies in internal control over financial reporting and four (4) significant deficiencies in internal control over compliance related to federal awards.
- GDOE received an unmodified (“clean”) opinion on its financial statements and compliance over major federal programs. However, there were two (2) significant deficiencies in GDOE’s internal control over financial reporting, of which one (1) was also a significant deficiency in their internal control over compliance for major federal programs.
- UOG was issued an unmodified (“clean”) opinion on its financial statements and report on compliance for major federal programs in FY 2020. Independent auditors identified one (1) significant deficiency in internal control over compliance on major federal program related with special tests and conditions for the Small Business Development Center’s agreed upon goals.
- GovGuam received qualified opinions on all but four (4) major federal programs. It had 18 findings in total – 16 of which relate to the ten (10) major federal programs. Eight (8) of these did not comply with applicable requirements rendering them material weakness, four (4) of which are over \$200K in questioned costs.



## QUESTIONED COSTS

A **questioned cost** arises from:

1. Alleged violation of a law, regulation, or the terms and conditions of a federal award;
2. Inadequate documentation of costs at the time of the audit; or
3. Unreasonable and wasteful expenditure of funds.

For the FY 2020 Single Audit of GovGuam, the questioned costs for federal awards continued to grow, from \$432K in FY 2016 to \$1.3M in FY 2020.

**\$1.3M**  
Questioned Costs

# LOW-RISK AUDITEES RECEIVING FEDERAL FUNDING

**One of our goals** is for all GovGuam entities subject to a Single Audit Act to qualify as a low-risk auditee. To qualify as a low-risk auditee, an agency must meet the following conditions for three (3) consecutive audit periods:

- Single audits performed annually.
- Unmodified (“clean”) opinion on financial statements.
- No material weaknesses GAGAS.
- No substantial doubt to continue as a going concern.
- None of the federal programs received modified opinions, has material weaknesses, and questioned costs exceeding 5% of total federal awards spent.

Four (4) GovGuam entities maintained their low-risk status in FY 2020:

- GCC
- GWA
- PAG
- UOG

The following entities did not qualify as low-risk auditees:

- GovGuam received qualified opinions on all but four (4) major federal programs.
- GDOE remains a high-risk grantee with the U.S. Department of Education for the past 18 years.
- GHURA had four (4) significant deficiencies in its internal control over compliance related to federal awards.
- GIAA lost its status in FY 2018.

# PROCUREMENT APPEALS

*We oversaw 15 procurement appeals in 2021.*

Procurement appeals are complaints by aggrieved persons against the purchasing agency's decision on (a) protest of method, solicitation or award; (b) debarment or suspension; (c) contractor breach of contract controversy; (d) award determination during a pending protest or appeal; or (e) other matters.

Our office received 15 procurement appeals in CY 2021. As of January 2022, A decision was reached on one appeal, eight appeals were dismissed, and six are ongoing.

**We strive** to resolve appeals within 90 to 120 days from the time of filing and decide within 30 to 60 days after the hearing.

The agencies involved in these 15 appeals with a total procurement value of \$2.9M were GHURA, GPA, GSA, GDOE, UOG, JOG, GIAA, and GCC.

## PROCUREMENT APPEALS IMPROVE THE PROCUREMENT PROCESS

Aggrieved vendors have been deliberative and reflective and invest time, money, and effort to file an appeal. The Public Auditor concluded that vendors continue to scrutinize the GovGuam procurement process. Vendors are analyzing bids and specifications and challenging premature disqualifications. These efforts help strengthen and improve the procurement process.

A common misconception is that appeals prolong the overall



**Our office received 15 procurement appeals in CY 2021.**

procurement process. However, appeals have been resolved generally within 90 to 120 days. We also encourage parties to agree to resolve their procurement issues.

Procurement appeals revealed the need for further government procurement training. GCC has courses on the procurement process as required by P.L. 32-131 (codified in Guam Procurement Law). All GovGuam procurement personnel must take these training courses.

# FILED PROCUREMENT APPEALS & CASES

In CY 2021, OPA received 15 procurement appeals that were addressed as follows:

- Reached a decision on one appeal
- Dismissed eight appeals – three of which due to lack of jurisdiction; and
- Six ongoing appeals

The subjects and dollar values of these appeals were as follows:

Metrolan – Connectivity/Internet/Telecom Bundled Services	\$32K
Fleet and Fuel Management Software Services	\$68K
Golf Carts	\$74K
Telecommunication Service – Plain Old Telephone Services (POTS)	\$71K
Telecommunication Service – Digital Transmission Services (DFTS)	\$471K
Air Purifier System and Replacement Filter*	\$40K
Indoor and Outdoor Wireless Local Area Network (WLAN) Infrastructure Installation Project	\$1.5M
Internet Service*	-
Telecommunication Upgrade (GBHWC) Voice over IP (VOIP) Phone System and Manage Wi-Fi System	\$26K
Management & Infrastructure Support Services to GIAA's Baggage Conveyance Systems*	-
Professional Printing, Mailing, and Processing Services Relating to Utility Customer Billing*	-
Procurement Contract for Replacement of Building 900 Metal Awning Structure	\$163K
Repair and Maintenance of the Northern Region Recreational Swimming Pool in the Dededo Sports Complex	\$397K
Purchasing of HVAC Equipment*	-

\*Monetary value could not be identified

# \$2.9 MILLION

**TOTAL PROCUREMENT**



## OPA HEARING OFFICERS

The Public Auditor assigns certain time-sensitive procurement appeals to contracted OPA Hearing Officers who are licensed attorneys from Thompson, Thompson, Alcantara, PC, and McDonald Law Office, LLC. OPA established this pool to handle the workload and prevent potential conflicts. There are cost savings from hiring contractual attorneys on an as-needed basis versus a full-time staff attorney. OPA Hearing Officers may also provide other legal advice and services as requested by the Public Auditor.

For FY 2021 legal costs for procurement appeals and other legal services mounted to \$32K, which is \$26K higher than the previous year of \$6K. The increase was due to more cases filed in CY 2021.

# LEGISLATIVE MANDATES

Besides performance audit activities and financial audit oversights, we also perform legislative mandates that have expanded our duties and responsibilities. OPA has 86 open mandates as of CY 2021:

- 37 required OPA to receive reports and other information from various GovGuam agencies.
- 21 required OPA to conduct audits.
- 22 required OPA to provide oversight, approval, or conduct a specific activity.
- Four (4) required OPA to be a member of a board, committee, group, or task force.
- Two (2) required OPA to submit reports to the Guam Legislature and Office of Finance and Budget.

Of the 21 mandates requiring OPA to conduct audits, three Charter Schools (ILACS, SIFA and GACS) are currently included in the annual financial audit.

In January 2017, we reported the status of all the legislative mandates issued to OPA from January 2001 to September 2016 in OPA Report No. 17-01, OPA's Status of Legislative Mandates.

This report found that there were 173 mandates imposed to OPA, of which 153 or 88% were closed because they were either addressed, the agencies submitted the required reports, the mandates were not the best use of OPA's limited resources, or deadlines to submit the required audits have lapsed.

As part of the General Appropriations Act of 2013, P.L. 31-233 instituted that the governing Boards and Commissions of all agencies, public corporations, and all departments of the Government of Guam shall provide electronic copies of monthly Board and Commission meeting agendas, approved minutes, and other attachments and addenda as discussed in each monthly meeting, to the Governor of Guam and the Speaker of the Guam Legislature no later than 15 days after the end of said meeting and post the same on its website of the agency, public corporation, or department to which it governs. The audio recording of each meeting shall be provided to the OPA within seven (7) calendar days after the meeting.



In addition, P.L. 30-127 requires no later than 60 calendar days after the independent audit report for a government entity has been released, all government entities shall submit to the Public Auditor/OPA and Speaker/Guam Legislature a Citizen-Centric Report via electronic format and post the same on their website.

In 2020, P.L. 35-86 requires the Public Auditor to conduct semi-annual audits of all expenditures on Guam associated with the CARES Act for compliance with all applicable local and federal laws.

As of 2021, P.L. 36-11 requires every director, administrator, president or head of a government of Guam agency, including line agencies, autonomous and semi-autonomous agencies, public corporations, the Mayors Council of Guam, the Courts of the Judiciary of Guam, and I Liheslaturan Guahan to electronically submit to the Public Auditor of Guam, in an electronic portable document format, a "Procurement Training Compliance Report."

Through P.L. 36-34, the OPA is also required to broadcast regular and special meetings via video live streaming applications.



**OTHER  
ANNOUNCEMENTS**



## FOUR MORE YEARS

On January 4, 2021, Benjamin J.F. Cruz was sworn-in to a new four-year term as our island's elected Public Auditor. His term will run through 2024.

*"Un Dãngkolo Na Si Yu'os Ma'ãse for electing me to a second term as your Public Auditor. Your continued trust and confidence in me is truly humbling and I consider it a tremendous honor to serve the people of Guam. (...) As an organization, we are blessed to have a group of professionals that continue to uphold the vision of auditing for good governance. The OPA continues to be a watchdog over government spending and promote accountability and transparency in the Government of Guam."*

– Benjamin J.F. Cruz





## NEW STAFF

In CY 2021, the OPA added four new Accountability Auditor I's to the team: Ms. Mariella Cruz, Mr. Ren Erbil Jalandoni, Mrs. Selina Onedera-Salas and Ms. Kayleen Concepcion.



**Mariella Cruz**  
*Accountability Auditor I*

Mariella graduated from the University of Guam in December 2020 with a Bachelor of Business Administration in Accounting.



**Ren Erbil Jalandoni**  
*Accountability Auditor I*

Ren graduated from the University of Guam in December 2017 with a Bachelor of Business Administration in Accounting.



**Selina Onedera-Salas**  
*Accountability Auditor I*

Selina graduated from the University of Texas at San Antonio in August 2008. She holds a Bachelor of Arts in Political Science and a Certificate in Legal Reasoning.



**Kayleen Concepcion**  
*Accountability Auditor I*

Kayleen graduated from the University of Guam in December 2020 with a Bachelor of Arts in Political Science.



## LAKWOOD EXPERIENCE

The Lakewood Experience, sponsored by the U.S. Department of the Interior Office of Inspector General, was held virtually for the first time from June 14 to June 25, 2021.

Guam OPA auditors Johanna Pangelinan and Thomas Eladio Battung attended the Lakewood Experience with ten others from the Pacific Island Audit Offices of the Federated States of Micronesia, the Republic of Marshall Islands, American Samoa and Palau.

The Lakewood Experience is a highly interactive two-week program that encompasses the phases of an audit and is comprised of two main aspects: classroom training and discussion, and a case study. Completed learning objectives include enhancing their understanding of the audit process, gaining knowledge and hands on experience regarding the audit process, employing critical thinking skills and working as a team to accomplish assigned tasks and exercises, and enhancing their knowledge of current auditing standards and acceptable practices.

This is the seventh year the OPA participated in the Lakewood Experience.





## OPA FULLY COMPLIANT WITH P.L. 36-25

On August 16, 2021, Public Auditor Benjamin J.F. Cruz submitted the Guam Office of Public Accountability's *Ethics Training Compliance Report Pursuant to 4 GCA § 15409 (c) and 15410 (d)* to the Guam Ethics Commission. Pursuant to Public Law 36-25, **ALL** government of Guam employees are required to attend an ethics in government program, of which topics to be discussed include Guam statutes concerning ethics, procurement laws and regulations, and fiduciary responsibility, to name a few.

All Guam OPA employees, including the Public Auditor, are now compliant with P.L. 36-25. The online training was hosted by the University of Guam's Global Learning & Engagement and facilitated by local attorney, Vincent Camacho, on July 27, 2021.

*"We believe that if an employee, and not just the agency head or oversight board, is informed and educated on their ethical responsibilities, it not only ensures government integrity within the work place, but also gains trust from the people we serve,"*

*- Benjamin J.F. Cruz*



## PROCUREMENT TRAINING

From August 11, 2021 to September 14, 2021, OPA participated in Module 5 on Ethics in Procurement. In attendance for our office were the Public Auditor Benjamin J.F. Cruz, Accountability Auditors Vince, Clariza, Thyrza, and Fred, as well our Administrative Services Officer, Marisol.

The course was a review of the basic principles of the procurement process, and in particular, the statutes, policies, and regulations that govern Government of Guam procurement. Emphasis was placed on any updates in the procurement process, to include recent decisions from the OPA and the courts/judicial system, and the role of ethics in the procurement process.





Graduate School USA  
PACIFIC & VIRGIN ISLANDS TRAINING INITIATIVES



## APIPA 2021

Association of Pacific Islands  
Public Auditors

# Auditing During the Pandemic

Office of Public Accountability  
Email: [admin@opagum.org](mailto:admin@opagum.org)  
Website: [www.opagum.org](http://www.opagum.org)  
Tel: (671) 475-0390  
Fax: (671) 472-7951  
Hotline: 47AUDIT (472-8348)



## APIPA 2021

The OPA were among participants in the APIPA 32<sup>nd</sup> Annual Conference which took place from August 23 to September 3, 2021.

The two-week Zoom conference provided a wide range of courses with relevant topics on Audit, Audit Supervisory, Finance, and Advanced Finance and Management aimed to strengthen and enhance valuable skills each professional needs in today's audit organization.

During a panel on the final day of the conference, Christian Rivera and Frederick Jones explained the offices' challenges during the pandemic and presented a summary of two audits, the Government of Guam's CARES Act expenditures (Report No. 21-02 & 04) and Procurement of Hotels Used for Quarantine and Isolation Facilities (Report No. 21-06). As auditors-in-charge of the two performance audits presented to APIPA participants, the presentation highlighted the accountability and auditing work performed by our office in 2021.



# FEATURE BY INTOSAI DEVELOPMENT INITIATIVE

The OPA was featured in November 2021 by the INTOSAI's Development Initiative as one of the well-governed Supreme Audit Institutions (SAI). In their SPRM Guam Success Story article, OPA was able to successfully take the results of its SAI PFM assessment, develop and implement a new strategy, and focused on enhancing its ability to deliver value and benefit to the citizens.

You may read the entire article at <https://idi.no/work-streams/well-governed-sais/about/success-stories/guam>



Hagåtña

168,801





## EXCELLENCE IN CITIZEN-CENTRIC REPORTING AWARD

The Association of Government Accountants (AGA), Guam Chapter presented the OPA with the Bronze Award (3rd place) for “Excellence in Citizen-Centric Reporting” award for FY 2020.

The Citizen-Centric Report (CCR) initiative, adopted through Public Law 30-127, assists in advancing accountability and transparency in our government. This report provides information about the entity’s goals, performance measures, audited financial statements, challenges and outlook of our operations, and most importantly, how taxpayer dollars are spent in a manner that is easily understandable and accessible to our citizens.

OPA was presented the award at the AGA November General Membership Meeting on November 17, 2021. We thank the voting committee and the AGA Guam Chapter for the award and selection of our FY 2020 CCR. The OPA continues to stay committed to good governance and responsible fiscal action. Our office will continue to promote transparency and accessibility to the public.



## FULL COMPLIANCE RATING FOR PEER REVIEW

Public Auditor Benjamin J.F. Cruz proudly announces that the OPA received a peer review rating of full compliance for its 2021 peer review, the highest level of compliance given to audit organizations. Cruz credits his hardworking and dedicated staff for the full compliance rating. This is Cruz's first peer review since his election as Public Auditor in 2018.

The APIPA peer review team was led by Palau Public Auditor Satrunino Tewid, with team members—Commonwealth to the Northern Mariana Islands (CNMI) Public Auditor Kina Peter and Audit Supervisor Joaquin Borja. Drummond Kahn, Graduate School, served as the technical advisor and CNMI Auditor Josh Diaz served as an observer to the process. The review took place on December 4th to 10th, 2021 at the Guam OPA office in Hagåtña.

You can view the peer review reports on the OPA website.





## FALL 2021 INTERNSHIP PROGRAM

In September 2021, the OPA employed Lester Dominic Dela Cruz Pasion as an intern. He completed his internship in December 2021. Lester is a student at the University of Guam and is set to receive his Bachelor of Business Administration in Accounting in May 2022.

*"As an intern with the OPA office, I worked on worthwhile tasks and was exposed to a variety of assignments and activities. The OPA team was also extremely welcoming and accommodating during my time at the office. Overall, I had a fulfilling experience and, as a result, feel confident about my career direction moving forward."*

- Lester Pasion



# REPORT FRAUD, WASTE, AND ABUSE 47-AUDIT (472.8348)

OPA has a hotline via telephone and website where citizens can report government fraud, waste, and abuse.

Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and does not necessarily involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.

Fraud involves obtaining something of value through willful misrepresentation.

Abuse is behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances, but excludes fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate.

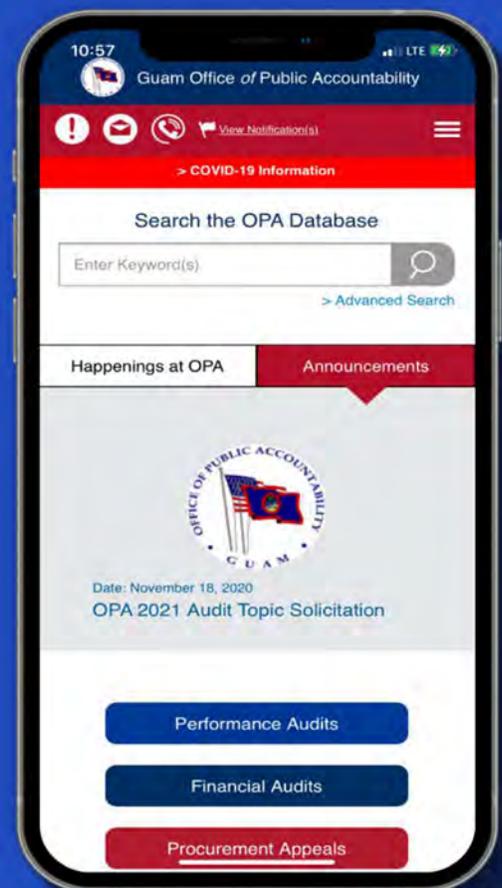
## OPA'S MOBILE APP

Accountability at your fingertips...

OPA's app was designed to be synced up with its national award-winning website, [www.opaguam.org](http://www.opaguam.org), but still provide a user-friendly and professional experience.

When OPA's website is updated, the app is automatically updated in real-time.

Visit our website to download the App or search Guam OPA in your app store.



# OPA TEAM

**AS OF DECEMBER 2021**

**Benjamin J.F. Cruz**  
Public Auditor



**Jerrick Hernandez,  
MA, CGAP, CICA**  
Accountability Auditor III

**Vincent Duenas**  
Accountability Auditor III



**Maria Thyrza Bagana,  
CGFM, CFE**  
Accountability Auditor III

**Christian Rivera**  
Accountability Auditor II



**Frederick Jones, MBA**  
Accountability Auditor II

**Thomas Eladio Battung**  
Accountability Auditor I



**Johanna Pangelinan**  
Accountability Auditor I

**Mariella Cruz**  
Accountability Auditor I



**Ren Erbil Jalandoni**  
Accountability Auditor I

**Selina Onedera-Salas**  
Accountability Auditor I

**Kayleen Concepcion**  
Accountability Auditor I

**Marisol Andrade, CGFM**  
Administrative Services Officer

## “Auditing for Good Governance”

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

Thomas Eladio Battung  
Audit Staff

Frederick Jones, MBA  
Auditor-in-Charge

Jerrick Hernandez, MA, CGAP, CICA  
Audit Supervisor

Benjamin J.F. Cruz  
Public Auditor

*Additional Credits*

Fauxels	Pixabay
IDI	Sora Shimazaki
Mikhail Nilov	Anna Shvets
Negative Space	Nataliya Vaitkevich

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