



## OFFICE OF PUBLIC ACCOUNTABILITY

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### Monthly Reports Required to Control Artificial Small Purchases

*Only Three Government of Guam Agencies Replied to Reporting Requirement on Small Purchases*

**February 28, 2020**

Hagåtña, Guam – The Office of Public Accountability (OPA) sent a reminder to all Government of Guam (GovGuam) agency heads that procurement requirements must not be artificially divided so as to qualify for “small purchase” procedures under Guam Procurement Law. Under Title 5 Guam Code Annotated (GCA), Chapter 5, §5213, small purchases are defined as any procurement that does not exceed \$25,000 for supplies or services, and does not exceed \$100,000 for construction.

Signed into law on August 7, 2017, Public Law (P.L.) 34-35 added a reporting requirement to 5 GCA §5213, relative to small purchases. The law requires that the Chief Procurement Officer, the Department of Public Works Director, or the agency head making small purchases submit **monthly** reports to the Speaker of the Guam Legislature, disclosing any procurement exceeding \$15,000 for supplies and services or exceeding \$50,000 for construction. Whether or not these procurement thresholds are exceeded, monthly reports should be submitted.

A review of the Guam Legislature’s website reveals that only the following three agencies have replied to this reporting requirement since it was signed into law: Guam International Airport Authority (GIAA), Guam Power Authority (GPA), and Guam Solid Waste Authority (GSWA). A review of these reports reveals identical (or similar) supplies, services, or construction that were split among two or more vendors and/or different months with costs at (or closely below) the \$25,000 or \$100,000 threshold. While not conclusive, it is suggestive of an *artificial division* of procurement. Please see the Guam Legislature’s website for the submitted reports of GIAA, GPA, and GSWA.

No other Government of Guam agencies have responded to this reporting requirement, including OPA.

For more information, please contact Michele Brillante at (671) 475-0390 ext. 217. Thank you.

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February 28, 2020

To: **All Directors, Administrators, Presidents, and Heads of Line Agencies, Public Corporations, the Mayors' Council of Guam, the Judiciary of Guam, and I Liheslaturan Guåhan**

From: **Benjamin J.F. Cruz, Public Auditor**

Re: **Monthly Reports Due in Compliance with P.L. 34-35, Relative to Small Purchases**

The Office of Public Accountability (OPA) would like to remind all Government of Guam (GovGuam) agency heads of the law provisions with respect to small purchases. In summary, Title 5 Guam Code Annotated (GCA), Chapter 5, §5213, defines “small purchases” as any procurement that does not exceed \$25,000 for supplies or services, and does not exceed \$100,000 for construction. Section 5213 also warns that procurement requirements must not be artificially divided so as to qualify for “small purchase” procedures under Guam Procurement Law.

To control the risk of artificial small purchases, Public Law (P.L.) 34-35 added a reporting requirement to 5 GCA §5213, relative to small purchases. The law requires that the Chief Procurement Officer, the Department of Public Works Director, or the agency head making small purchases submit **monthly** reports to the Speaker of the Guam Legislature, disclosing any procurement exceeding \$15,000 for supplies and services or exceeding \$50,000 for construction. Whether or not these procurement thresholds are exceeded, monthly reports should be submitted.

It has come to my attention that only three agencies have replied to this reporting requirement since it was signed into law on August 7, 2017 – Guam International Airport Authority (GIAA), Guam Power Authority (GPA), and Guam Solid Waste Authority (GSWA). No other GovGuam agencies have responded to this reporting requirement, including OPA. Furthermore, a review of the submitted reports reveals identical (or similar) supplies, services, or construction that were split among two or more vendors and/or different months with costs at (or closely below) the \$25,000 or \$100,000 threshold. While not conclusive, it is suggestive of an artificial division of procurement. For reference on the only reports submitted relative to P.L. 34-35, small purchases, please see the Guam Legislature’s website.

Should you have any questions, please contact Michele Brillante at (671) 475-0390 ext. 217. Thank you.