



**EXECUTIVE SUMMARY**  
**Department of Public Works' Procurement of Capital Improvement Projects**  
**Report No. 10-07, November, 2010**

The Department of Public Works (DPW) is the entity authorized to procure construction projects on behalf of the line entities of the government of Guam. From fiscal years (FY) 2007 to 2009, DPW expended \$25.9 million (M) for 566 Capital Improvement Projects (CIPs). Our audit of DPW's CIP procurement during this period revealed projects totaling \$16.1M were not procured in accordance with the Guam Procurement Law and the Procurement Regulations; specifically: (1) preferential selection of 10 contractors who received \$14.1M (54%) of the \$25.9M in awarded projects; (2) 262 CIPs totaling \$6.6M were not advertised; (3) emergency procurement was used to circumvent the competitive sealed bid process, including the \$199,200 purchase of eight sports utility vehicles from a contractor who is not an authorized automotive dealer; (4) documentation was missing for procurements totaling \$10.5M; and (5) \$226,926 in routine maintenance work was contracted as CIPs and the top five contractors received \$121,539 or 54%. These conditions occurred due to conflicting advertising requirements, artificial division of procurement, poor planning, and inadequate training of CIP personnel.

**Preferential Selection of Contractors**

According to the Guam Contractors License Board, some 957 contractors were licensed to conduct business from FY 2007 to FY 2009. Of the 76 contractors, the top 10 received 184 CIPs totaling \$14.1M, 54% of the \$25.9M. We found that DPW does not have a suspension and debarment listing and thus has no way to identify contractors who should be barred from doing business with the government. DPW continually awards projects to contractors who performed poorly.

**CIPs Totaling \$6.6M Not Advertised**

We found that conflicting advertising requirements resulted in the awarding of 86 unadvertised CIP contracts, each costing more than \$25,000 and totaling \$5M. The Procurement Law, Title 5, Guam Code Annotated (G.C.A), requires projects over \$25,000 to be advertised at least once and at least seven days prior to a bid submission deadline. The Procurement Regulations, Title 2, Division 4, Guam Administrative Rules and Regulations (G.A.R.), require *all* CIP procurements regardless of amount to be advertised for at least three separate days before the deadline. An Engineer Supervisor told us that projects are often divided into smaller purchases to make soliciting price quotes easier. As a result, 262 projects were artificially divided to avoid advertisement, the sealed bid process was circumvented, and 25 contractors were paid \$6.6M. One contractor received 38 purchase orders totaling \$460,430 for the tie-down and reinforcement of air condition units at different schools. These purchases were not advertised.

**Emergency Procurement Used to Circumvent Advertisement**

DPW listed 90 emergency CIP procurements totaling \$5.8M. We found an unlisted project for \$113,415. Of these Emergency and Sole Source procurements, we tested 11 projects ranging from \$28,000 to \$223,000 and totaling \$1.4M. Nine projects totaling \$1M took 76 to 255 days to complete, far exceeding the 30-day emergency period. The reasons cited for the setbacks included

shipment delays, incorrect material order, poor planning, and inclement weather. Based on the type of work and lengthy completion time, emergency procurement was inappropriate for the nine projects but used simply to circumvent the procurement process.

### **Missing Procurement Documentation**

We reviewed 67 files totaling \$10.5M. The files were disorganized and did not conform to 29 G.A.R. Section § 1111's standardized filing requirements. Procurement documentation, such as rationales for awarding bids, bid analyses, and internal and external communications, were lacking. For example, the files of five emergency projects totaling \$868,213 contained no determination of emergency. The government of Guam Single Audits over the past 10 years has consistently identified the lack of complete history of the procurement and proper documentation as a significant deficiency, yet no measurable improvements have been made.

### **Routine Maintenance Work Contracted as CIPs**

We found 93 CIP procurement files which appeared to be for routine maintenance work awarded to 25 contractors. Each purchase was for less than \$5,000, but totaled \$226,926 all together. Since routine maintenance is an on-going need, blanket purchase agreements (BPAs) for such would be more efficient and cost effective.

### **Poor Control Environment**

CIP personnel told us that they had no formal procurement training and were simply carrying out the practices of their predecessors. We also learned that DPW's CIP procurement process is hampered by a lack of teamwork and communication breakdown, and staff resistance to change. A Management Analyst's recommendations for improvement were negatively received by CIP staff.

### **Recommendations**

We recommend the DPW Director: (1) immediately prohibit the division of projects as a way to bypass the procurement process and ensure that projects of similar scope that are collectively anticipated to cost in excess of \$25,000 be advertised; (2) consider revising the 29 G.A.R. §§ 1160 and 1167 to be consistent with the advertising requirements in 5 G.C.A. § 5211(c) and 2 G.A.R. §§ 3109(d) and (f)(2); (3) designate the Chief Planner to review all CIP procurements up to a predetermined threshold and the Chief Engineer to review all those in excess of the threshold; (4) utilize BPAs for routine maintenance work and other small projects; (5) implement the standardized filing requirements of 29 G.A.R. § 1111; (6) establish a suspension and debarment list based on the contractors' past performances and using agency feedback; and (7) provide all CIP personnel with construction procurement training.

In his official response, the DPW Director "embraced" the audit and concurred with all the audit findings and recommendations. See Appendix 8 for the DPW's response.

Doris Flores Brooks, CPA, CGFM  
Public Auditor