



EXECUTIVE SUMMARY
Tiyan Campus Tax Credits Program
OPA Report No. 14-07, December 2014

What started out as a lease in June 2009 to temporarily house the John F. Kennedy (JFK) High School students and staff while its new campus was under construction, resulted in the Purchase Agreement of the Tiyan Campus in December 2013. The Purchase Agreement between the Government of Guam (GovGuam) and Core Tech International Corporation (Core Tech) initially allowed for tax credits to be used in lieu of annual cash payments. An Amended and Restated Lease Purchase Agreement and the related Amendment signed in November 2014 now calls for annual cash payments for base rent and additional rent (insurance and maintenance), but allows the use of tax credits for collateral equipment, as well as for the base rent and additional rent due in January 2015. This Tiyan Campus Tax Credits Program performance audit was initiated as part of our annual audit plan.

The Tiyan Campus [Tiyan High School and Guam Department of Education's (GDOE) Central Office and other facilities] will cost a total of \$260.3M. There is a maximum of \$44.1M in tax credits that may be claimed in relation to the lease and purchase of the Tiyan Campus. The tax credits that have been claimed or to be claimed are as follows:

- \$21.5M for lease payments from FY 2010 to FY 2013;
- \$7.5M for collateral equipment for Tiyan High School and the GDOE Central Office and other facilities; and
- \$15.1M for 2014 and 2015 base rent and additional rent.

We also found:

- Per the purchase agreement, the Tiyan Campus had a purchase price of \$87.1 M and consists of Tiyan High [\$45M for 99,776 square meters (m²) of land and 158,120 square feet (ft.²) of buildings] and GDOE Central Office and other facilities (\$42.1M for 29,786 m² of land and 181,339 ft.² of building).
- Of the \$87.1M purchase cost, GDOE has yet to determine how much is for land versus buildings. Due to the pending allocation, the total land and building costs were combined.
- The total cost of land, buildings, insurance and maintenance, and collateral equipment for Tiyan High (\$134.1M) and GDOE Central Office (\$126.3M) combined is \$260.3M.
- In addition to the Tiyan Campus, GovGuam obtained five new schools through the issuance of Certificates of Participation between FY 2007 and FY 2013. The total cost per square foot of the six schools and GDOE Central Office are as follows:

	SCHOOL	SIZE (SQ FT)	PRINCIPAL AMOUNT	TOTAL AMOUNT	TOTAL COST/ SQ.FT
1a	GDOE Central Office and Other Facilities	181,339	\$ 42,127,711	\$ 126,286,790	\$ 696.41
1b	Tiyan High School	158,120	\$ 45,021,286	\$ 134,061,025	\$ 847.84
1c	Tiyan Campus (Tiyan High & GDOE Central Office)	339,459	\$ 87,148,997	\$ 260,347,816	\$ 766.95
2	John F. Kennedy High School	269,647	\$ 65,735,000	\$ 202,672,331	\$ 751.62
3	Okkodo High School	203,578	\$ 57,577,200	\$ 134,809,751	\$ 662.20
4	Astumbo Middle School	81,650	\$ 15,207,150	\$ 27,720,000	\$ 339.50
5	Adacao Elementary School	53,700	\$ 11,586,400	\$ 21,120,000	\$ 393.30
6	Liguan Elementary School	53,700	\$ 10,862,250	\$ 19,800,000	\$ 368.72
	TOTAL	1,001,734	\$ 248,116,997	\$ 666,469,899	\$ 665.32

- Core Tech and 22 other companies claimed approximately \$31.5M in tax credits between FY 2010 and December 2014 (first quarter of FY 2015), of which the top five credits were claimed for taxes on cigarettes, retail, local contracting, rental, and distilled spirits.

The Tiyan Campus was the former temporary site of JFK during the construction of its new campus, the former temporary site of Luis P. Untalan Middle School (Untalan) during the renovation of its campus, and the current site of Tiyan High School and GDOE's Central Office and other facilities.

We applaud the Department of Revenue and Taxation (DRT), the Guam Economic Development Authority (GEDA), and the Department of Administration (DOA) for ensuring that there are processes in place to monitor the Tiyan Campus tax credits. In contrast, we observed that there needs to be better coordination and communication between the Governor's Office (as the government negotiator) and GDOE (as the beneficiary to the Tiyan Campus purchase).

\$107.4M Lease Revenue Bonds

The Industrial Development Authority of the City of Phoenix, Arizona Lease Revenue Bonds (Guam Facilities Foundation, Inc. Series 2014) were issued in December 2014, for a total of \$107.4M. The proceeds are to be loaned to AZ GFF Tiyan, LLC (AZ), an Arizona limited liability company, the sole member of which is the Guam Facilities Foundation, Inc., a Guam non-profit corporation. AZ will use the bond proceeds primarily for paying the costs to finance, acquire, design, construct, and rehabilitate certain facilities on the Tiyan Campus site. The facilities still to be built include:

- New GDOE office building that is approximately 83,500 ft.²;
- New GDOE gymnasium that is approximately 14,000 ft.²; and
- Two warehouses that are approximately 10,000 ft.², and each with a 6,500 ft.² mezzanine.

Previous Tax Credits Audit

In our 2007 audit of the various GovGuam tax credits programs (Report No. 07-15), we found that nine public laws authorized a minimum of \$23.6M in tax credits, and four of the tax credits programs did not have credit limits. This previous audit recommended the repeal of certain tax credits, but the Legislature and Administration did not take any action on this recommendation.

Conclusion

Tax credits and capital lease obligations have become alternative forms of long-term financing that do not affect the debt ceiling imposed by the Organic Act. Tax credits are used to pay down obligations such as the Tiyan Campus purchase (based on the initial Purchase Agreement), Layon land condemnation, and Medically Indigent Program (MIP) payables. However, the amended Tiyan Campus Purchase Agreement shifted the annual costs from tax credits to annual legislative appropriations. As of FY 2013, GovGuam had total liabilities of \$1.6 billion (B), of which bond payables were in excess of \$1B and capital lease obligations were \$117M. The Tiyan Campus purchase will add to this long-term liability.

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