

## News Release July 25, 2002

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### Public Auditor Finds Irregularities in GMHA's Settlement of Claims

Acting in response to a series of hotline tips, Public Auditor Doris Flores Brooks discovered apparent serious irregularities in the settlement of two claims paid by Guam Memorial Hospital Authority in Fiscal Year 2000.

The audit conducted by Deloitte Touche Tohmatsu LLP, briefly outlined the problems in Finding 9 of the Compliance Report. But it was calls from concerned persons that caused the Office of the Public Auditor to investigate the apparent irregularities before authorizing the issuance of the FY 2000 financial statements and compliance report.

When OPA auditors requested to review the files for the two cases settled in the fall of 2000 they were advised by Hospital staff that the official files noted in the audit report were "missing." The Hospital staff was able to provide from other records copies of some of the documents that were contained in the files; however, they were unable to assure that the materials provided were complete.

In one case, \$150,000 was paid to the family of a high-ranking GMHA official for the alleged wrongful death of the official's sister. The Hospital has no record of a claim ever having been filed in the case and we reviewed an internal report to the Board of Trustees which purported that a wrongful death settlement was inappropriate because the patient died as the result of a do-not-resuscitate order that the family had given to the Hospital.

The GMHA official's signature is on documents in the file as the highest-ranking GMHA official approving the payment. In addition, no documents were provided that explain why the settlement amount exceeded the maximum amount of \$100,000 allowed under the Government Claims Act (5 GCA §6301).

The second settlement involved a payment to a doctor who provides services to the Hospital. The doctor charged that her rights had been violated by the Hospital with regard to disciplinary actions taken against her by the Hospital on or before June 1999. GMHA provided the OPA with a settlement document dated June 4, 2001, which awarded the doctor \$300,000 in return for her release of claims against the Hospital. Included in GMHA's records were copies of three checks made payable to the doctor with the following details:

#### Date Amount

09/12/00	\$100,000
10/06/00	100,000
06/29/01	100,000

The first two checks were released to the physician well in advance of a signed settlement. GMHA's acting controller refused to process the third and final check without obtaining a settlement agreement and a release of further claims from the physician. Shortly after the documents were obtained and the final \$100,000 payment made, the acting controller was transferred out of GMH. But for the acting controller's demand, it appears that the entire claim of \$300,000 would have been processed by the Hospital based solely on a brief letter written by the Associate Administrator of Operations stating that the "Hospital has agreed to pay the amount of \$300,000."

The payments of both sums appear to be in contravention of the Government Claims Act. GMHA staff also said that the payments were not consistent with GMHA's own policies, but they were unable to provide the OPA with a written copy of the claims procedures. The staffers said the Hospital procedures provide that no action is supposed to be taken until an official claim is made against the Hospital. The next step is for the Hospital to conduct an investigation into the matter. After the investigation is completed, the files are turned over to the GMHA attorney for further review.

In the two cases, no evidence was provided that any official claim was filed or that Hospital staff investigated the cases. In the case of the alleged wrongful death settlement, there was no evidence that an attorney had been involved in the settlement.

In the case of the doctor settlement, the signature of the Attorney General and GMHA's attorney were affixed nine months after the first payment was made to the physician. However, there was no indication that any legal analysis had been performed to evaluate the merit of the claim prior to settling for the full amount allowed under the Government Claims Act.

Because of the apparent breakdown of controls related to the settlement of the two cases, copies of the documents obtained by the OPA will be forwarded to the Attorney General to make a determination whether any of the above-mentioned activities constitute an illegal act.