

**Guam Football Association
Soccer Stadium Contributions**

**Performance Audit
January 1, 2012 through December 31, 2016**

**OPA Report No. 18-02
March 2018**



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Executive Summary
Guam Football Association Soccer Stadium Contributions
OPA Report No. 18-02, March 2018

The Government of Guam (GovGuam), through Public Law (P.L.) 24-33, entered into a public-private partnership with the Guam Football Association (GFA) in 1997 to develop a soccer stadium and related facilities that meet international competition standards. Since then, GovGuam contributed \$1.0 million (M) in tax credits and granted two leases of GovGuam lands to GFA for \$1 a year for a period of 30 and 25 years, respectively. In addition, cash appropriations and sponsorship amounting to \$1.4M was contributed to GFA from fiscal year 2012 to 2016.

In response to recent corruption committed by the former GFA President, we reviewed these GovGuam contributions to determine if they were properly used and monitored by GFA and GovGuam. Our audit found the following:

- GFA officials did not follow the Federation Internationale de Football Association (FIFA) and Asian Football Confederation (AFC) codes of ethics provisions on conflict of interest;
- Department of Parks and Recreation (DPR) failed to create a Memorandum of Understanding (MOU) for the use of the Northern Soccer Stadium;
- GFA significantly delayed remitting the Event Admission Assessment Fee; and
- Guam Visitors Bureau (GVB) did not request for an accounting of the \$400 thousand (K) granted to GFA.

In April 2017, the former GFA President, pleaded guilty in the United States District Court to corruption and agreed to pay more than \$1.1M in forfeitures and penalties. He was charged with two counts of wire fraud conspiracy in connection with his participation in multiple schemes to accept and pay bribes to soccer officials and one count of failing to disclose foreign bank accounts. In November 2017, the FIFA Ethics Committee banned him for life from FIFA.

GovGuam and GFA Public-Private Partnership

As part of GovGuam’s public-private partnership with GFA, GovGuam contributed the following:

1. 30,623 sq. m. of land in Dededo and 48,492 sq. m. of land in Agat, valued at \$839K and \$397K, respectively, leased to GFA for \$1 a year to construct soccer stadiums and facilities.
2. \$1.2M in tax credits to construct soccer stadiums requiring GFA to match these funds. \$200K of these tax credits has not been expended.
3. \$700K in cash appropriations, received in 2013 and 2016, for additional facilities, a gymnasium and classroom sports facilities requiring GFA to match these funds. An additional \$400K has not been paid.
4. \$400K to host, attend, and participate in the 2018 FIFA World Cup Qualifiers and the 2019 AFC Asian Cup 2019 preliminary joint qualifiers; and
5. \$300K from GVB as sponsorship to host FIFA 2018 World Cup qualifying matches.

GFA also received significant contributions from other sources, which amounts to \$8.7M from calendar year (CY) 2012 to 2016. Our audit only covers contributions made by GovGuam from CY 2012 to 2016, specifically the \$1.4M cash appropriation and GVB sponsorship.

Contribution to GFA from CY 2012 – CY 2016

Contributors	2012	2013	2014	2015	2016	Total
Government Guam	\$ -	\$ 500,000	\$ -	\$ 700,000	\$ 200,000	\$ 1,400,000
Others (FIFA, AFC, etc.)	\$817,087	\$1,668,459	\$1,832,996	\$2,928,224	\$1,456,810	\$ 8,703,576
Total	\$817,087	\$2,168,459	\$1,832,996	\$3,628,224	\$1,656,810	\$10,103,576

Potential Conflicts of Interest in Awarding Projects and Reimbursements

Although GFA complied with the matching funds requirements of specific appropriations laws and funds were used for appropriate purposes, we noted instances of conflicts of interest. For example, four projects were awarded to a close relative or acquaintance of the former GFA President or Executives, which did not follow the FIFA and AFC Code of Ethics. In addition, GFA did not solicit bids for these projects and bid proposals were not on file to ensure that they were getting the best value for money. We also found that eight reimbursement checks payable to the GFA Executives amounting to \$99K were also co-signed by the payee. Reimbursements should not be signed, even co-signed, by the payee in order to ensure proper independent authorization, as well as to avoid the appearance of conflict of interest.

Lack of MOU for the Northern Soccer Stadium

P.L. 27-85, established, as a condition for contributors to receive tax credits, that the soccer stadium must be available to the public in accordance with an MOU with DPR. However, we found that DPR failed to create an MOU governing the use of the Northern Soccer Stadium. As a result, the public was unaware that the Northern Soccer Stadium was constructed with the intent that it will be available to the general public.

Delays in Remitting Event Admission Assessment Fees

In the Office of Public Accountability (OPA) Report No. 07-15, released in 2007, we found that Event Admission Assessment Fees were only paid after OPA initiated the audit. In our current audit, we found that from CY 2012 to 2016, GFA remitted the fees, but with significant delays ranging from 125 to 990 days. As a best practice, GFA should remit the fees timely and such procedure should be documented in the MOU with DPR.

GVB Did Not Request an Accounting of the \$400K Contributed to GFA

P.L. 33-89 appropriated \$400K to GFA passed through GVB pertaining to the 2018 FIFA World Cup and 2019 AFC Asian Cup preliminary joint qualifiers. As a best practice, GVB should request an accounting for the use of these funds to ensure their proper use.

Conclusion and Recommendation

GovGuam's objective to develop and construct a comprehensive soccer stadium has been achieved. However, accountability can be improved over the funds contributed. Since GFA receives significant contributions from various sources including GovGuam, it is vital for GFA to be transparent on how funds are used and strictly adhere to its ethical standards particularly avoiding conflicts of interest.

To improve accountability over GFA contributions, we recommend that GFA audited financial statements be posted on the GFA website to ensure transparency to sponsors and contributors. We also recommend that DPR prepare and execute the required MOU with GFA to prevent confusion over the public use of GovGuam properties, and that GVB request an accounting of funds they passed through to other entities.

Our recommendations to GFA are to: (1) implement policies to ensure competitive project awards, (2) prohibit payees to sign their checks, and (3) timely remit event admission fees that have been implemented and closed.

Doris Flores Brooks, CPA, CGFM
Public Auditor



Introduction

This report presents the results of our performance audit of the Guam Football Association (GFA) Soccer Stadium Contributions. This audit was initiated in response to a citizen's concern relative to GFA's use of the Government of Guam (GovGuam) funds and allocated resources granted through appropriations and tax credit.

The audit objectives were to determine if:

1. GFA reasonably and properly expended GovGuam funds;
2. GFA promptly remitted event admission fees; and
3. Authorizing agencies complied with laws, rules, and regulations.

The audit objectives, scope, methodology, and prior audit coverage are detailed in Appendices 1 and 2.

Background

GFA is a non-profit, non-stock association founded in 1975 to establish recreational football in Guam. GFA is a member of various international federations such as the Asian Football Confederation (AFC), Federation Internationale de Football Association (FIFA), and the East Asian Football Federation (EAFF). To prepare for the 1999 South Pacific Games, a public-private partnership between GovGuam and GFA was established in 1997 to develop a comprehensive soccer stadium through Public Law (P.L.) 24-33.

After 20 years of the partnership, participation in GFA soccer programs and leagues has increased significantly. GFA now has approximately 5,000 registered players, coaches, and officials; close to 150 teams from 13 member clubs and about 1,500 youths participating in the youth league each season. GFA operates the Northern Soccer Stadium in Dededo and soon another stadium will open in southern Guam. GFA's operations and capital improvements are funded by various organizations and sponsors including GovGuam.

GFA Organizational Structure

GFA is governed by statutes set forth by FIFA and AFC. GFA has nine executives composed of the President, two Vice-presidents, and six members. The executives do not receive monetary compensation. Some of these executives have represented Guam in international soccer events such as competitions, conventions, and others. GFA also employs 21 staff members of which 12 are full-time.

A major change in GFA's leadership occurred in April 2017, when the former GFA President stepped down due to corruption charges.

Former GFA President Guilty of Corruption Charges

The former GFA President was the president of GFA since 2001. In that capacity, he had a vote in the FIFA presidential elections. He also served at various times as a member and chair of the AFC Finance Committee, and member of the AFC Executive Committee, AFC Marketing Committee, and the FIFA Audit and Compliance Committee.

In April 2017, he pleaded guilty to corruption charges and agreed to pay more than \$1.1 million (M) in forfeitures and penalties. Specifically, he was charged with the following:

- Two counts of wire fraud conspiracy in connection with his participation in multiple schemes to accept and pay bribes to soccer officials; and
- One count of failing to disclose foreign bank accounts.

After the guilty plea, he resigned as the GFA president. To fill the vacancy, an election was held in July 2017 and the former GFA General Secretary was elected the new President.

In November 2017, the former GFA President was banned for life from FIFA.

Contributions

GovGuam has made significant monetary and non-monetary contributions since the inception of the partnership in 1997. From calendar year (CY) 2012 to 2016, GovGuam contributed \$1.4M or 14% of the \$10.1M total contributions received by GFA from various sources. Prior to 2012, tax credits of \$1.0M were also granted, including an additional \$200 thousand (K), which is yet to be expended. Refer to Table 1.

Table 1: Contributions to GFA from CY 2012 – 2016

Contributors	2012	2013	2014	2015	2016	Total
Government Guam	\$ -	\$ 500,000	\$ -	\$ 700,000	\$ 200,000 ¹	\$ 1,400,000
Others (FIFA, AFC, etc.)	\$817,087	\$1,668,459	\$1,832,996	\$2,928,224	\$1,456,810	\$ 8,703,576
Total	\$817,087	\$2,168,459	\$1,832,996	\$3,628,224	\$1,656,810	\$10,103,576

GovGuam’s contributions, together with contributions from other donors and sponsors, were used by GFA to develop the Northern Soccer Stadium. Our audit covers contributions made by GovGuam from CY 2012 to 2016, specifically the \$1.4M cash appropriation and Guam Visitors Bureau (GVB) sponsorship. GovGuam contributions were as follows:

Lease of Dededo Lot for \$1 per year

In 1997, P.L. 24-33 granted GFA the authority to lease 30,623 square meters (sq. m.) of Dededo land appraised at \$839K, for \$1 per year for a period of 30 years. The objective was to construct a soccer stadium and facilities.

GFA, through various funding sources, has made significant improvements to the property to include three soccer fields with artificial turf or natural grass,



Image 1: Northern Soccer Stadium (Photo courtesy of GFA)

¹ P.L. 32-207 appropriated \$600K, however only \$200K has been paid by GovGuam.

one futsal court, one beach soccer court, and two buildings for classrooms and offices. These facilities currently have a total value of \$3.9M.



Lease of Agat Lot for \$1 per year

In 2014, GovGuam signed an agreement with GFA to establish a soccer stadium and facilities on a 48,492 sq. m. of land in Agat as authorized in P.L. 30-3. The land, appraised at \$397K, was leased to GFA for \$1 a year for 25 years. In August 2017, backfill and leveling were underway.

Image 2: Agat lot, site for the southern soccer center (Photo courtesy of GFA)

Tax Credits Amounting to \$1.2M

In 2004, P.L. 27-85 granted \$1.0M in tax credits for the design and construction of a soccer stadium. GFA utilized these funds to construct the GFA building, parking lot, futsal field, beach soccer court, lighting, and the lower artificial turf pitch. This was funded not only by GovGuam contributions, but also by donations from various sources, such as FIFA. The tax credits were reviewed in the Office of Public Accountability (OPA) Report No. 07-15 issued in November 2007 and OPA Report No. 15-06 issued in October 2015.



Image 3: GFA Soccer Stadium – Lower field with Artificial Turf

In 2010, P.L. 30-101 increased the tax credits to \$1.2M allocating \$200K for the construction of the Southern Soccer Stadium and facilities on the Agat property. As of 2017, the remaining \$200K has yet to be expended but work was started to backfill the property. We did not review these tax credits for propriety and compliance with law.

\$500K Appropriation

In September 2012, P.L. 31-233 appropriated \$500K, which was paid in 2013, to GFA through the Guam Economic Development Authority (GEDA) to develop additional facilities in the Northern Soccer Stadium. GFA used this appropriation to partially finance the installation of one of the artificial turfs located in the upper ground of the Northern Soccer Stadium.



Image 4: Solar panels used to help power the GFA main office and nighttime games and activities.



Image 5: Northern Soccer Stadium – Upper field with Artificial Turf

This project was also funded by FIFA through its fifth Goal Project². In addition, the appropriation was used to partly fund a Solar Power System also partially funded by FIFA through its Income Generation Programme (Green Project). The cost for these two major projects amounted to \$689K and \$755K, respectively.

\$600K Appropriation

In October 2014, P.L. 32-207, appropriated \$600K to GFA through GEDA to develop a gymnasium and classroom sports facilities in the Northern Soccer Stadium. Although \$600K was appropriated to GFA, only \$200K was paid in 2016. GFA used this \$200K appropriation to partially fund the construction of the GFA National Academy Center.



Image 6: Northern Soccer Stadium – Newly constructed GFA National Academy Center.

The total project cost was \$1.2M and partially funded by GFA and FIFA. The project was completed in the last quarter of 2016 and operations started in April 2017. Currently, coaching and refereeing courses, meetings, and workshops are held in this location.

\$400K for the FIFA 2018 World Cup Qualifiers

In November 2015, through P.L. 33-89, \$400K was appropriated to GFA through GVB to host, attend, and participate in the FIFA 2018 World Cup and the AFC Asian Cup 2019 preliminary joint qualification matches.

\$300K GVB Sponsorship to Host FIFA World Cup Qualifying Matches.

In addition to the appropriation in November 2015, the GVB Board approved a \$300K sponsorship to GFA to host the FIFA World Cup qualifying matches. This sponsorship also named GFA as an ambassador of Guam through its national program, to elevate Guam as a viable sports competition destination and promote the island’s profile in international football.



*Image 7: World Cup Qualifier, Guam’s first ever win.
(Photo courtesy of GFA)*

² Goal Project is a FIFA grant program for developing football infrastructure in member associations around the world.

Using these two latter funding sources and contributions from various sources, Guam hosted the qualifier matches where Guam won its first two games against the Turkmenistan and India teams. Guam's third match with Oman resulted in a draw and its final two matches were lost to India and Iran. Guam finished in fourth place and earned a berth in the AFC Asian Cup UAE 2019 qualifiers. However, in December 2016, Guam withdrew from the AFC tournament due to lack of funds.

Results of Audit

In our review of the GFA's Soccer Stadium contributions by GovGuam, we found the following:

- GFA officials did not follow FIFA and AFC Codes of Ethics provisions related to conflicts of interest;
- Department of Parks and Recreation (DPR) failed to create a Memorandum of Understanding (MOU) on the use of the Northern Soccer Stadium;
- GFA significantly delayed remitting the Event Admission Assessment Fee; and
- GVB did not request for an accounting of the \$400K funds granted to GFA.

Potential Conflicts of Interest in Awarding Projects and Reimbursements

Although GFA complied with the matching funds requirements of specific appropriations laws and at the same time, funds were used for appropriate purposes, we noted instances of conflicts of interest as follows:

- Projects were awarded to a close relative or acquaintance; and
- Check reimbursement issued to and co-signed by the same person.

Projects Awarded to Close Relative or Acquaintance

GFA is governed by statutes set forth by FIFA and AFC. Based on FIFA's Code of Ethics, "persons bound by the Code may not abuse their position in any way, especially to take advantage of their position for private aims or gains." It further states, "persons bound by the Code shall avoid any situation that could lead to conflicts of interest." The FIFA Code of Ethics define private or personal interests to include gaining possible advantage for the persons bound by the code themselves, their family, relatives, friends, and acquaintances.

Our review of the spending of the \$500K and \$600K appropriations, including the corresponding matching funds, showed that eight vendors were contracted to provide services to GFA. Four of these vendors were a relative or acquaintance of the executives of GFA. Specifically:

- Project A for \$22K, fully funded by GovGuam, was awarded to a company owned by an immediate family member of a GFA executive. The vendor was contracted to install a fence for the upper field with artificial turf.
- Project B for \$15K, fully funded by GovGuam, was awarded to a company owned by an immediate family member of the former GFA President. The vendor installed the typhoon shutters of the newly constructed GFA classroom.
- Project C for \$755K, of which GovGuam funded \$243K, was awarded to a company owned by an acquaintance of the former GFA President. The former GFA President and the president of the contracted company were officers of the same civic organization on Guam. The vendor installed a 100kW Grid-Tie Solar Energy System expected to produce approximately 234,000 kWh of electricity per year with an estimated service lifespan of 20 years. According to GFA, there were limited renewable energy vendors during the

inception of the project. However, per our inquiry with DRT, there were at least five vendors³ registered to provide solar power systems on Guam in 2012.

- Project D for \$1.2M, of which GovGuam funded \$54K, was awarded to a vendor who provided services to a company owned by the family of two GFA executives. The contracted vendor had renovated the family restaurant of the former GFA President and homes owned by a GFA executive. The vendor constructed the GFA National Academy Center (new building).

For five of the eight projects, we noted that GFA did not advertise in a local newspaper nor solicit quotations or proposals, a standard practice that helps entities determine if they are getting the best offer. GFA officials indicated that they had solicited bids for Project D, but could not find the proposals submitted by the prospective vendors. Therefore, we could not validate whether the contract was awarded to the best offeror. Moreover, since the vendor for Project D also provided services to the GFA executives, it appears that such vendor had an advantage over the other prospective contractors.

Upon discussion with GFA on this issue, GFA recognized the potential conflict and shared that FIFA also cited findings on conflict of interest. GFA explained that this might be due to a lack of clear procurement policy and to correct the issue, they started to draft the policy in August 2017, prior to the inception of this audit. This policy was approved by the Executive Committee in December 2017, which details the procedure to ensure procurements are competitively sourced and documented. Therefore, our recommendation to implement a procurement policy as a result of this finding was closed.

Although the recommendation was closed, we suggest that as a best practice, construction bids more than \$100K be advertised in a local newspaper and posted on the GFA website similar to the GovGuam policy. We further suggest the GFA Executive Committee to consider posting the procurement policy on the GFA website to promote transparency to GFA's sponsors and contributors.

Checks Issued To and Signed By Payee

Of all the assets of an organization, cash is the most susceptible to fraud and the easiest to misappropriate. In order to avoid this, internal controls over check disbursements is important.

In our review of the documents submitted by GFA, we noted instances where the payee also co-signed the check. Eight checks amounting to \$99K were payable to and at the same time co-signed by GFA Executives.

These checks were reimbursements related to the FIFA World Cup Qualifier matches.

We recognized that there were mitigating controls, such as dual signatories on checks, check disbursement approval by the Executive Board and a requirement to submit supporting documents; however, in order to avoid the appearance of gaining any possible advantage and ensure proper and independent authorization, reimbursements should not be signed, even co-signed, by the

³ The audit team did not confirm whether these vendors were capable of installing the specification for a solar power system required by GFA.

payee. GFA advised that a policy wherein check signatory no longer signs checks issued to them was implemented back in December 2016.

Therefore, our recommendation to implement a policy prohibiting this conflict as a result of this finding was closed.

DPR Failed to Create an MOU

P.L. 27-85 enacted in April 2004, states that as a condition for GFA’s contributors to be entitled to the tax benefits of the program, the soccer stadium and facilities must be available to the general public in accordance with an MOU between GFA and DPR governing use of the property.

Our review revealed that DPR failed to create an MOU for the use of the Northern Soccer Stadium. DPR further confirmed that there is no oversight or coordination between DPR and GFA for its use. Since DPR failed to oversee and establish GovGuam’s presence in the soccer stadium operations, this created an impression that the Northern Soccer Stadium is privately owned by GFA. As a result, the public was unaware that the Northern Soccer Stadium was constructed with the intent that it will be available to the general public.

GFA stated that the Northern Soccer Stadium is available to the public, as specified in the law. GFA further advised that anyone who needs to use the property should coordinate with their office to check the availability of the fields. They also confirmed that there is no MOU on the use of the property, but instead referred us to the License Agreement between DPR and GFA issued in 1999 to develop the soccer stadium and facilities.

The Northern Soccer Stadium is currently utilized by the GFA League for practice and during competitions. GFA also has 13 member clubs who use the Northern Soccer Stadium during competitions. These 13 member clubs have designated locations throughout the island for practice, mostly on unfenced vacant lots set-up for soccer practice. Private schools and other soccer clubs that do not have their own field are also utilizing these same fields.

The Northern Soccer Stadium can be rented by member clubs and private schools for practice or games. The rates range from \$50 to \$150 depending on the purpose and type of field. In comparison, a commercial soccer field rental fee is \$80 per hour while the University of Guam Soccer Field rental fee ranges from \$25 to \$100 depending on its purpose. Refer to Table 2 below.

Table 2: Soccer Field Rental Fee

Field Type	Northern Soccer Field	Commercial Soccer Field	University of Guam Soccer Field
Upper / Lower Field (Artificial Turf)	\$75-\$90 per hour	no artificial turf	no artificial turf
Mini-pitch (Artificial Turf)	\$65 per hour	no artificial turf	no artificial turf
Futsal Court (Artificial Turf)	\$50-\$75 per hour	no artificial turf	no artificial turf
Natural Turf / Grass Field	\$50 per hour	\$80 per hour	\$25 per hour
Game Type			
Middle School Competition	\$100 per game (Artificial Turf)	\$80 per hour (Natural Turf)	\$100 per game (Natural Turf)
High School Competition	\$150 per game (Artificial Turf)	\$80 per hour (Natural Turf)	\$100 per game (Natural Turf)

We recognize that GFA has made significant improvements to the Northern Soccer Stadium and facilities and has maintained and safeguarded the property. The lack of MOU may have had little

impact on the property’s development and maintenance, but the MOU would have clarified the public’s use of the property. In order to attain the soccer stadium’s intended purpose, we recommend that DPR and GFA prepare the MOU as required by law and for DPR to closely liaise with GFA on the use of the property.

Delays in Remitting Event Admission Assessment Fees

Pursuant to Title 12 Guam Code Annotated §77303, organizers of any event held at the soccer stadium and facilities for which a fee is charged for admission, shall pay to GovGuam, an admission assessment of two dollars (\$2.00) per paid admission or ten percent (10%) of the admission charged, whichever is less. However, no timeline for remittance was stipulated in this law.

One finding in OPA Report No. 07-15, was that the Event Admission Assessment Fees were only paid after OPA initiated the audit. The current audit found that from CY 2012 to CY 2016, GFA remitted the fees, but with significant delays ranging from 125 to 990 days. For instance, we found 2015 fees for Independent Interscholastic Athletic Association of Guam (IIAAG) Championships held in May 2014 were remitted in January 2017 and fees for FIFA events held in June 2015 were remitted in July 2017. For these two examples, it took GFA 990 and 769 days, respectively, to submit payments to GovGuam. Refer to Table 3.

We also noted that FIFA event fees were only paid after the legislative inquiry in June 2017.

Table 3: Event Admission Assessment Fee⁴

Calendar Year	Event Date	Event	GFA Payment	Date Paid	Days Lapsed
2014	May 14-17, 2014	IIAAG Girls HS Soccer Championships	\$ 285.30	1/31/2017	990
2014	December 16-20, 2014	IIAAG Boys HS Soccer Championships	\$ 427.50	1/31/2017	773
2015	June 11, 2015	2018 FIFA World Cup	\$ 2,244.50	7/19/2017	769
2015	June 16, 2015	2018 FIFA World Cup	\$ 2,617.50	7/19/2017	764
2015	September 08, 2015	2018 FIFA World Cup	\$ 2,316.60	7/19/2017	680
2015	May 23-26, 2015	IIAAG Girls HS Soccer Championships	\$ 303.00	1/31/2017	616
2015	November 17, 2015	2018 FIFA World Cup	\$ 1,371.00	7/19/2017	610
2016	May 18-21, 2016	IIAAG Girls HS Soccer Championships	\$ 253.50	7/19/2017	424
2015	December 16-19, 2015	IIAAG Boys HS Soccer Championships	\$ 354.70	1/31/2017	409
2013	May 13-17, 2013	IIAAG Girls HS Soccer Championships	\$ 270.30	6/20/2014	399
2012	May 15-18, 2012	IIAAG Girls HS Soccer Championships	\$ 240.60	4/26/2013	343
2016	December 17, 2016	IIAAG Boys HS Soccer Championships	\$ 190.51	7/19/2017	214
2013	December 17-21, 2013	IIAAG Boys HS Soccer Championships	\$ 372.30	6/20/2014	181
2012	December 18-22, 2012	IIAAG Boys HS Soccer Championships	\$ 340.40	4/26/2013	125
Total			\$ 11,587.71		

In response, GFA advised that their policy changed in July 2017 to remit the fees the following month after the event. For example, the event fees for a recent IIAAG event held in December 2017 were remitted to GovGuam in January 2018.

Therefore, our recommendation for GFA to implement a policy to timely remit admissions fees as a result of this finding was closed. However, we recommend that DPR include the provisions of this policy in the MOU with GFA.

⁴ The audit team did not verify the accuracy of the event admission fees collected by GFA.

GVB Did Not Request an Accounting of the \$400K Contributed to GFA

To comply with P.L. 33-89, GVB disbursed \$400K to GFA in February 2016 for the 2018 FIFA World Cup and 2019 AFC Asian Cup preliminary joint qualification matches. Upon our inquiry on how the funds were utilized, GVB advised that an accounting of the funds was not requested from GFA. The law did not specifically require GFA to submit supporting documents to GVB since this was a pass-through appropriation. From the documentation provided by GFA to OPA, we tested eight expenses and determined that all eight tested samples amounting to \$133K were used for its intended purpose.

Although funds were expended as required by the law, it is best practice for the authorizing agency to account for how funds were utilized. We recommend that GVB request an accounting of pass-through funds disbursed to other entities to ensure that all public funds are expended properly.

Other Matters

Our review of GFA's financial statements from CY 2012 – CY 2016 found that GFA received a total of \$8.3M from donors and sponsors averaging 75% of GFA's total income. Refer to Table 4.

Table 4: GFA Revenue for CY 2012 – CY 2016

	2012	2013	2014	2015	2016	Total
Unrestricted/Restricted Revenues and Support:						
Grants/Donations/Contributions	\$765,345	\$1,148,483	\$1,152,635	\$3,205,726	\$2,056,810	\$8,328,999
Leagues/Dues/Other Income	\$201,847	\$562,418	\$684,070	\$766,045	\$605,292	\$2,819,672
Total Income	\$967,192	\$1,710,901	\$1,836,705	\$3,971,771	\$2,662,102	\$11,148,671
% of Grants/Donations/Contributions over Income	79%	67%	63%	81%	77%	75%

The financial statements for CY 2014 – CY 2016 were audited by an external auditor and received unmodified “clean” opinions for three consecutive years. Financial statements for CY 2013 and prior were not externally audited and only an agreed upon procedure was performed.

OPA acknowledges that as a requirement, GFA's annual financial statements are submitted to OPA and the Legislature and posted on their website. However, GFA does not post historical financial statements and their audit reports on their website. To demonstrate transparency to their sponsors and contributors, we recommend that GFA post all audited financial statements to the GFA website.

Conclusion and Recommendations

Since fiscal year (FY) 1997, GovGuam has contributed \$1.2M⁵ in tax credits and leased to GFA 30,623 sq. m. of land in Dededo and 48,492 sq. m. of land in Agat for \$1 per year for 30 and 25 years, respectively. In addition, GovGuam contributed \$1.4M⁶ in appropriated funds from FY 2012 to 2016 for the construction of soccer stadium and facilities.

Overall, we found the GovGuam funds were used to advance the growing sport of soccer on Guam. However, accountability for use of these funds can be improved. Soccer is a popular sport with generous sponsors that include GovGuam. Therefore, accountability and transparency are very important parts of this venture. Moreover, recent events that culminated with the former GFA President pleading guilty in April 2017 in the U.S. District Court to corruption charges in his role at GFA, prompted a closer look at the use of these funds.

Our audit of these contributions found the following:

- GFA officials did not follow FIFA and AFC codes of ethics provisions related to conflicts of interest;
- DPR failed to create an MOU for the use of the Northern Soccer Stadium as required by law;
- GFA significantly delayed remitting the Event Admission Assessment Fee; and
- GVB did not request for an accounting of the \$400K funds granted to GFA.

Therefore, we recommend the following:

1. To GFA:
 - Implement a procurement policy to ensure procurement is competitively and fairly sourced and documented;
 - Implement a check disbursement policy to prohibit conflicts whereby the payee is also a check signatory;
 - Implement a policy to timely remit admissions fees no later than the month following an event held at the soccer stadium; and
 - Post historical GFA financial statements and audit reports on the GFA website.
2. To DPR:
 - Prepare and execute an MOU governing the use of the Northern Soccer Stadium to include timely payments of the Event Admission Assessment Fees.
3. To GVB:
 - As a best practice, request an accounting of pass-through funds disbursed by GVB to other entities to ensure that all public funds were expended properly.

We acknowledge the efforts of GFA to proactively address several findings and recommendations and that these corrective actions, such as creating policies and procedures for procurement, check disbursements, and remitting admissions fees to GovGuam, were initiated prior to the inception of our audit. Therefore, these recommendations have been implemented and closed as of the issuance of this report.

⁵ \$200K of this tax credit, allocated to the Southern Sports Complex, has not been expended.

⁶ This does not include \$400K of the \$600K appropriated per P.L. 32-207 that has not been paid by GovGuam.

Classification of Monetary Amounts

Finding Description	Questioned Costs	Potential Savings	Unrealized Revenues	Other Financial Impact
1. Conflict of Interest in Awarding Projects and Reimbursement				
Project Awarded to a Close Relative	\$ 36,689	\$ -	\$ -	\$ -
Project Awarded to an Acquaintance	\$ 297,154	\$ -	\$ -	\$ -
Checks Issued and Signed by the Same Signatory	\$ 98,518	\$ -	\$ -	\$ -
Subtotal	\$ 432,361	\$ -	\$ -	\$ -
2. DPR failed to create a MOU				
Delay in Remitting Event Admission Assessment Fees	\$ -	\$ -	\$ -	\$ 11,588
3. GVB did not request an Accounting of \$400K contribution to GFA	\$ -	\$ -	\$ -	\$ 400,000
TOTAL	\$ 432,361	\$ -	\$ -	\$ 411,588

A draft report was transmitted to GFA, DPR, and GVB in February 2018 for their official responses. We met with GFA officials on February 14, 2018 to discuss our findings and recommendations where GFA expressed their general concurrence with the findings and recommendations.

On February 26, 2018, GFA provided their official response and concurred with the recommendations. We acknowledged that GFA had already implemented three of the four recommendations prior to this report. The fourth recommendation to post historical financial statements and audit reports on their website is projected for implementation on March 31, 2018.

In their response, GFA provided additional commentary to certain findings in the draft report:

1. Projects Awarded to Close Relative and Acquaintance

GFA explained circumstances for the procurement for Projects A, C, and D.

OPA Reply: Regardless of the explanations provided, the projects were awarded without a documented competitive process to include lack of advertisement for projects amounting to more than \$500K to justify awarding these projects to relatives and acquaintances of GFA executives, including the former GFA President. The recently approved GFA procurement policy addressed this, however, we suggest that the bids be advertised in the local newspaper and posted on the GFA website.

2. DPR Failed to Create a MOU

GFA contended that the January 1999 License Agreement between DPR and GFA authorized by P.L. 24-33 is the MOU required by P.L. 27-85.

OPA Reply: The License Agreement does not address public access to the Northern Soccer Stadium as specified in P.L. 27-85, which authorized tax credits for those who financially assist with creating the stadium. Conversely, P.L. 24-33 provided the land for the facilities.

See Appendix 3 for GFA's management response.

On March 1, 2018, DPR provided their official response indicating the MOU will be completed in March 2018.

See Appendix 4 for DPR's management response.

On February 28, 2018, GVB provided their official response disagreeing with our recommendation to request an accounting of pass-through funds although not specified in law. GVB stated it does not have the authority to impose additional requirements not provided in the law.

OPA Reply: We realize the law did not require GVB to obtain a report on the use of the \$400K appropriation and recommended GVB to *request* an accounting of the funds as a best practice to demonstrate accountability for public funds. Requesting the accounting of the funds does not require legislation.

See Appendix 5 for GVB's management response.

The legislation creating the Office of Public Accountability requires agencies to prepare a corrective action plan to implement audit recommendation, to document the progress of implementing the recommendation, and to endeavor to complete implementation of the recommendation no later than the beginning of the next fiscal year. We will be contacting GFA, DPR, and GVB to provide a target date and title of the official(s) responsible for implementing the recommendation.

We appreciate the cooperation given to us by GFA, DPR, and GVB during the course of this audit. We further acknowledge GFA's assistance by providing us with requested documents and responses to our inquiries immediately.

OFFICE OF PUBLIC ACCOUNTABILITY



Doris Flores Brooks, CPA, CGFM
Public Auditor

Appendix 1: Objectives, Scope & Methodology

The audit objectives were to determine if:

- (1) GFA reasonably and properly expended GovGuam funds;
- (2) GFA promptly remitted Event Admission Assessment Fees; and
- (3) Authorizing agencies complied with laws, rules, and regulations.

The scope of the audit was January 1, 2012 (CY 2012) thru December 31, 2016 (CY 2016), covering the cash appropriations and sponsorship amounting to \$1.4M granted by GovGuam.

Audit Methodology

To accomplish our objectives, we reviewed the laws, policies, and prior audits related to GFA. We also performed the following audit procedures:

1. Obtained an understanding of the nature of the appropriations by conducting interviews and/or walkthroughs with GFA and the authorizing agencies namely GEDA, DPR, and GVB.
2. Obtained and analyzed:
 - a. Evidence of matching grant funds;
 - b. Project plans;
 - c. Subsequent invoices for projects funded by the appropriation.
3. Tested supporting documents for the \$500K and \$600K appropriations to determine:
 - a. If the matching funds and subsequent use of funds were supported by an invoice and payment receipt;
 - b. If the funds were used according to its intended purpose;
 - c. If the projects have corresponding project plans; and
 - d. If the projects were properly procured.
4. Tested eight transactions for the \$400K appropriation to determine:
 - a. If the matching funds and subsequent use of funds were supported by an invoice and payment receipt;
 - b. If the funds were used according to its intended purpose; and
 - c. If the projects were properly procured.
5. Tested 24 transactions for the Event Admission Assessment Fees:
 - a. 14 transactions were tested by tracing from GFA records to the supporting documents to determine if the computation of assessment fees were accurate; and
 - b. 10 transactions were tested by tracing from the supporting documents to GFA records to determine if transactions were recorded.

We conducted this audit in accordance with the standards for performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix 2: Prior Audit Coverage

We noted two audit reports related to the tax credit program that directly cited GFA:

OPA Report No. 07-15 (Released in 2007): Government of Guam Tax Credit Programs

The audit noted that GEDA did not effectively monitor the tax credit programs. Specifically on the soccer stadium, they found that:

- There was lack of public announcement to invite companies to participate in any of the tax credit program, which allowed groups to select favored companies;
- There was lack of verification and documentation of the dollar for dollar matching requirement paid by GFA amounting to \$595K;
- A former GEDA Acting Administrator authorized four soccer stadium tax credits of \$398,663 for the subsidiary company and was hired by the parent company; and
- A current GEDA Acting Administrator authorized tax credits of \$167,827 to the subsidiary company where a close relative was employed by the parent company.

Five related recommendations were made for this audit, and all were closed as of January 2018.

OPA Report No. 15-06 (Released in 2015): Government of Guam Tax Credit Programs

The audit team found that admission assessment payments were not being monitored by the Department of Administration, DRT, or GEDA. The audit team recommended the agencies to develop proper protocols to ensure that the required admission assessments for the Soccer Stadium are collected and recorded.

This audit recommendation is still open and will be addressed through the DPR recommendation.

26 February 2018

Doris Flores Brooks, CPA, CGFM
Public Auditor
Office of Public Accountability
238 Archbishop Flores Street
Hagatna, GU 96910

Subject: Draft Audit Report – Guam Football Association Soccer Stadium Contributions

Håfa Adai Ms. Brooks:

On behalf of the Guam Football Association, thank you and your team for the time and effort put into conducting a performance audit of GFA. This audit will conclude GFA's sixth audit in 2017 alone. We have always welcomed audits as it can only help us improve as an organization. As mentioned in your report, three of the four recommendations addressed to GFA were already implemented or in the process of being implemented even prior to the initiation of the OPA audit. The fourth recommendation, which is not a requirement for a non-government entity, will be addressed later in our letter.

We acknowledge that without GovGuam's support and contributions, GFA would not have the world-class facility that the community enjoys today nor have hosted such a successful FIFA World Cup Qualifiers that soccer fans in Guam and from around the world witnessed, and gave Guam unprecedented global sports media coverage. GFA's Executive Committee members, past and present, have always acted in the best interest of GFA, including its fiscal responsibility. Like most non-profit organizations, we must operate frugally to sustain so that our funds can be directed towards programs for our youth, men and women. I believe the outcome – the infrastructure and development of soccer in Guam – is a testament to this, though GFA acknowledges that the process in realizing the outcome could have been better. With this mind, GFA has worked tirelessly to improve our processes to ensure transparency, accountability, and effectiveness, and will continually strive to improve our financial management and governance so that we can make the maximum impact for the community with the funds available.

Though GFA acknowledges the findings in your report, we would like to provide you with background information that will give proper context to the report. We will also be commenting on OPA's recommendation for an MOU between DPR and GFA.

1. "Guam finished in fourth place and earned a berth in the AFC Asian Cup UAE 2019 qualifiers. However, in January 2017, Guam withdrew from the AFC tournament due to lack of funds."


The \$400K appropriated to GFA through GVB by P.L. 33-89 and the \$300K sponsorship by GVB to host the FIFA World Cup Qualifiers were never intended to fund the Men's National Team's participation in the AFC Asian Cup. The FIFA World Cup Qualifiers served as a joint qualifier for the FIFA World Cup 2018 and AFC Asian

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BY: AL

DATE: 02/26/2018

TIME: 4:10 AM PM














GUAM FOOTBALL ASSOCIATION

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Cup, but from the beginning, it was GFA's intent to use the \$700K solely for the World Cup Qualifiers. The costs for hosting four home games and competing in four away games was astronomical, especially considering the National Teams had to travel to Iran, Turkmenistan, India and Oman, and hold training camps to prepare for the matches. The \$700K partially funded Guam's hosting and participation in the World Cup Qualifiers, but consistent with what was stated in the public hearing, the GVB funds were never budgeted for Guam's participation in the AFC Asian Cup. Upon OPA's request, GFA submitted all the supporting documents – copies of checks, receipts, invoices, itineraries – for the accounting of the \$400K, and as stated in the report, your office determined it was used for its intended purpose.

The phrase "lack of funds" also requires clarification. Some may wonder why GFA lacked the funds to send the Men's National Team to the AFC Asian Cup when they see in the media that GFA has been the recipient of hundreds of thousands in FIFA and AFC funds. As a Member Association of FIFA and AFC, GFA is eligible to apply for various development grants of determined dollar amount for operational costs, infrastructure, travel, etc. In applying for each development grant, a budget must be submitted by GFA outlining how the funds will be spent, and must be approved by FIFA or AFC. Therefore, funds received are considered restricted as it must be used for a particular purpose or project, meaning, for example, \$250K funds received for infrastructure cannot be used for travel, and so forth. Redirecting funds available to finance participation in the AFC Asian Cup would have jeopardized receipt of future FIFA and AFC grants since funds would not have been used for its intended purpose.

2. "Project A for \$22K, fully funded by GovGuam, was awarded to a company owned by an immediate family member of a GFA executive. The vendor was contracted to install a fence for the upper field with artificial turf."

GFA initially reached out to an established fence installation contractor for this project, but the quote received was much higher than anticipated. GFA, in trying to keep the costs low, sought assistance from a family member of a GFA executive, who would be able to complete the project at nearly half the price that was quoted by the other contractor. Yes, in trying to spend less, the services of a family member of an executive was used. The result was that GFA was able to complete the fence project at great savings to GFA but we recognize the process could have been better, and our current policy and procedures address these type of issues. To provide perspective, the amount paid for this project made up 1.6 percent of GovGuam contributions from years 2012 – 2016.

3. "Project C for \$750K, of which GovGuam funded \$243K, was awarded to a company owned by an acquaintance of the former GFA President. The former GFA President and the president of the contracted company were officers of the same civic organization on Guam. The vendor installed a 100kW Grid-Tie Solar Energy System expected to produce approximately 234,000 kWh of electricity per year with an estimated service lifespan of 20 years. According to GFA, there were limited renewable energy vendors during the inception of the project. However, per our inquiry with DRT, there were at least five vendors registered to provide solar power systems on Guam in 2012."

Project C, the installation of solar power system at the GFA headquarters, was the first-ever FIFA Income Generation Project. In present day, solar power systems are more affordable and prevalent than it was six years ago. The vendor of the project was an established solar energy

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provider who had the expertise and capacity for the installation and maintenance of a project that was, at the time, Micronesia's largest solar project to date – 416 solar panels, 416 mini-inverters, 21 standalone LED street lights, and seven LED street lights. In your report, it is stated that at least five vendors were registered to provide solar power systems on Guam in 2012, but it is also noted that the audit team did not confirm whether these vendors were capable of installing the specification for a power system required by GFA. Firstly, a business that is registered does not necessarily translate to operational. The vendor may have filed its articles with Revenue & Taxation, obtained a business license, etc. but could still have been in the start-up phase, as many companies were jumping on the solar bandwagon as solar technology became more affordable and market demand increased. Secondly, what is considered "registered to provide solar power systems"? If a vendor is in the business of only installing solar water heaters, would this vendor be considered a solar power system provider, too? Based on this, the actual number of vendors capable of completing a project of GFA's specification was likely less than what is stated on the report.

4. "Project D for \$800K, of which GovGuam funded \$54K, was awarded to a vendor who provided services to a company owned by two GFA executives. The contracted vendor had renovated the family restaurant of the former GFA President and constructed one of the business facilities and homes owned by a GFA executive."

Project D was primarily funded by FIFA and partially funded by GovGuam matching grants. As a project in which FIFA would be responsible for paying the vendor directly for FIFA's obligation, GFA was required to provide proof of proposals from a minimum of three different vendors as evidence that the contract was awarded to the best offeror. FIFA would have never funded the project without the fulfillment of this requirement as the contract for this project was a binding agreement between FIFA and the vendor, not with GFA. Unfortunately, amid the chaos of the World Cup Qualifiers, GFA misplaced copies of the three bid proposals. GFA was only able to provide to OPA the acknowledgement receipt of the bid packets that were picked up by four vendors. GFA did reach out to the vendors who were not awarded the contract for a copy of the bid proposal, but each of them had already removed the proposal from their records and were not able to provide a copy. GFA also contacted FIFA for a copy of the three bid proposals, but due to the reform that FIFA has gone through in recent years and personnel changes, FIFA was unable to locate the bid proposals in time for the issuance of the OPA report. If GFA should receive copies of the three bid proposals from FIFA at a later date, we will forward it to OPA for your records.

Because this was a project that was awarded by FIFA, not GFA, the fact that the vendor had performed work for GFA executives is irrelevant, and thereby did not create an "advantage" over other prospective vendors. If the vendor demonstrated quality workmanship and delivered a project on time, and based on this, a person chose to use the vendor's services for his/her private business using his/her own funds, this was a good business decision, not something that merits an audit finding.

5. "Our review revealed that DPR failed to create an MOU for the use of the Northern Soccer Stadium. DPR further confirmed that there is no oversight or coordination between DPR and GFA for its use...They also confirmed that there is no MOU on the use of the property but instead they referred us to the License Agreement between DPR and GFA issued in 1999 to develop the soccer stadium and facilities."

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P.L. 24-33 gave authority to DPR to enter into a license agreement with GFA. One of the requirements of this license agreement was for DPR to negotiate an operating agreement with GFA for the management and maintenance of the facilities (Section 3(a) of P.L. 24-33).

In 1999, DPR and GFA entered into a license agreement, in which Section 9.1(k) of the License Agreement states, "This license shall be the operating agreement as required by P.L. 24-33", and outlines the management and maintenance of the facilities. An MOU is defined as a document that expresses mutual accord on an issue between two or more parties. Though the specific term "Memorandum of Understanding" was not stated on this document, clearly the language within the license agreement meets the very definition of an MOU, and therefore, GFA respectfully disagrees with the statement in the report that DPR failed to create an MOU.

The first reference to an MOU is found in 2004 in P.L. 27-85, in which Section 77307 states, "...the soccer stadium must be available to the general public in accordance with the Memorandum of Understanding with the Department of Parks and Recreation governing use of the property." P.L. 27-85 does not give DPR a mandate to create an MOU, but implies that an MOU had already been established by DPR, which was the Operating Agreement within the License Agreement that governs the use of the property.

Though the recommendation to create an MOU is addressed to DPR, even if we agree to disagree as we feel the License Agreement is the MOU, we wanted to state that GFA will work in full cooperation with DPR to execute an MOU as recommended in your report. GFA is appreciative of its partnership and working relationship with DPR, as we both share a common goal of promoting a healthy lifestyle to our community members by providing a safe environment to be active. On February 19, 2018, a meeting between GFA and DPR was held to initiate the MOU.

6. *"OPA acknowledges that as a requirement, GFA's annual financial statements are submitted to OPA and the Legislature and posted on their website. However, GFA does not post historical financial statements and their audit reports on their website. To demonstrate transparency to their sponsors and contributors, we recommend that GFA post all audited financial statements to the GFA website."*

In addition to submitting GFA's audited financial statements to OPA and the Legislature, and posting on our website, GFA, as a 501(c)(3) organization, publishes its financial statements annually in the newspaper as required by Guam law.

GFA is a non-profit organization under section 501(c)(3) of the Internal Revenue Code and in full compliance with Guam law for non-profits. Guam law for non-profits have transparency requirements already built into it, so by being in compliance, GFA has demonstrated and is committed to transparency.

As a Member Association of FIFA and AFC, we are bound by the regulations of the two football governing bodies, and of course, by GFA's Statutes. All three regulations/statutes include requirements for transparency. For example, each Member Club must be provided with the financial statements and audit report prior to the GFA Congress, the annual membership meeting. FIFA and AFC have further taken the direction of transparency with more oversight of its Member Associations than ever before, as has GFA.

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By complying with the requirements of a non-profit organization, and the FIFA, AFC, and GFA statutes and regulations, GFA has already demonstrated transparency. Though GFA is not a government entity and not required to, in our commitment to transparency to our sponsors and community, GFA will post its historical audit reports on the GFA website by March 31, 2018. GFA's Chief Financial Officer will be responsible for implementing this recommendation.

Audit Recommendation

No. 4
Addressee: GFA
Audit recommendation:

Post historical financial statements and audit reports on the GFA website.

Status: Open

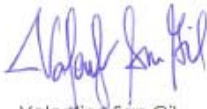
Action required:

- Target date – March 31, 2018
- Title of official responsible for implementing the recommendation: CFO

Thank you for this opportunity to comment on the OPA audit report. We appreciate the findings and recommendations, but as noted in your report, all but one recommendation have already been addressed, and the only open recommendation is not required for a non-governmental entity such as GFA. There is likely no non-profit organization in Guam that must go through annually, at a minimum, an independent audit and two agreed-upon procedures. OPA's report will be the last of six audits/agreed-upon procedures in 2017. We believe improvement is a continuous process, and will use each audit to further advance GFA to become the best federation we can be for Guam.

As GFA continues to grow and evolve, the Executive Committee and GFA staff are fully committed to realizing GFA's vision of ensuring every person is given an opportunity to be involved in all the wonderful aspects of football as a lifelong commitment for an active, healthy and positive lifestyle while obtaining a lifelong passion for the sport. To realize this vision, we understand that a critical component is good financial management and governance, including integrity, transparency, and accountability. We are committed to this. GFA has come such a long way, from the boonies along Harmon Loop Road to a world-class soccer facility, but we are only getting started. Plans to develop football pitches in the Southern and Central locations are already in the works, and we hope for development in more locations to invest in our youth and National Teams. As Guam's soccer federation, we will continue to invest in Guam's future through the game we play and love.

Senseramente,



Valentín San Gil
President
Guam Football Association

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Appendix 4:
DPR Management Response



Eddie B. Calvo
Governor

Ray Tenorio
Lt. Governor

Department of Parks and Recreation
Depattamenton Plaset yan Dibuetsion
Government of Guam

P.O. Box 2950 Hagatna, Guam 96932
No. 1 Paseo de Susana Hagatna, Guam 96910
Director's Office
Parks & Recreation Divisions: (671) 475-6288
Facsimile: (671) 477-0997
Guam Historical Resources Division: (671) 475-6295
Facsimile: (671) 477-2822



William N. Reye
Director

Johnny P. Taitano
Deputy Director

March 01, 2018

MEMORANDUM

To: Public Auditor, Office of Public Auditor
From: Director, Department of Parks and Recreation
Subject: MOU Guam Football Association

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BY: AL
DATE: 03/01/2018
TIME: 4:03 AM PM

Hafa Adai,

This is to advise that the Department of Parks and Recreation is aggressively working with Mr. Bill Bordallo of the Guam Football Association (GFA) on completing the Memorandum of Understanding (MOU) for the use of GFA Soccer Stadium.

Additionally, the completion of this MOU shall be no later than close of business, Friday March 16, 2018.

Thank you for your patience and understanding.

Any questions or concerns, please feel free to contact my office at 475-6288.


WILLIAM N. REYE
Director, DPR

Appendix 5:
GVB Management Response



February 28, 2018

The Honorable Doris Flores Brooks, CPA, CGFM
Public Auditor
Office of Public Accountability
Suite 401, DNA Building
238 Archbishop Flores St.,
Hagatna, Guam 96910

RECEIVED
OFFICE OF PUBLIC ACCOUNTABILITY
BY: A. S. WITWANA
DATE: 02/28/2018
TIME: 3:30 AM PM

RE: Management Response to GFA Soccer Stadium Contributions Performance Audit

Dear Madam Auditor,

GVB does not agree with the OPA's finding that cites GVB for not requesting an accounting of the \$400,000 appropriated by P.L. 33-89. The law, which was a supplemental appropriation, was very clear in its intent and did not include reporting requirements.

GVB's enabling statutes are contained in Chapter 9 of Title 12 of the Guam Code Annotated (known as the "The Guam Visitor's Bureau Act"). It is a non-profit membership public corporation operating under its bylaws to carry out statutory purposes in 12 G.C.A. 9104. In reference to GFA contributions, GVB had carried out its duties by law.

12 G.C.A. § 9104 requires GVB "To assist, when requested, both government and private entities in the development, implementation and promotion of programs to further education, training, employment assistance and entrepreneurial development; ... To promote and assist in the development of adequate tourist facilities and attractions; ... [and] To engage in all lawful activities to promote tourism reasonable or incidental thereto." Further, the Legislature passed Substitute Bill 152-33, which appropriated \$400,000.00 from the Fiscal Year 2014 Hotel Occupancy Tax Surplus Fund to GVB for the purpose of participating in the FIFA 2018 World Cup and the AFC Asian Cup 2019 preliminary joint qualification matches.

In carrying out its statutory duties in its enabling laws, and specifically contained Public Law 33-89, GVB issued a check to GFA for their appropriate use.

The OPA's draft audit report recommends that GVB implement practices to "Request an accounting of pass-through funds disbursed by GVB to other entities to ensure that all public funds were being expended properly." Draft Audit Report a p. 12. However, the recommendation is not based on any statutory or legal requirement on GVB to do so.





GVB operates at the direction of its board in carrying out its statutory duties in Chapter 12¹. The OPA's recommendation appears to improperly impose additional requirements on GVB, where it otherwise has discretion to use certain funds to meet lawful objectives. Further, the appropriating legislation, itself, did not confer authority to GVB to require reporting.

In contrast, recent budget laws that appropriate monies as a pass-through and the GVB as the overseeing entity, a section for reporting requirements follows, as well as a supplemental section for reporting requirements for non-profit organizations receiving funding pursuant to the budget act. For example, P.L. 33-66, Chapter X, Section 25 and Chapter XIII, Section 6 reads as follows:

"Chapter X, Section 25. Service and Reporting Requirements.

- (a) Organizations receiving funding from the TAF shall provide community service in the amount of ten (10) hours of service per One Thousand Dollars (\$1,000) appropriated to them for activities and/or events. These services shall be provided pursuant to the respective TAF appropriations.
- (b) All the organizations that receive Tourist Attraction Funds pursuant to this Act shall provide a budgetary breakdown, by object category, to the Guam Visitors Bureau. These organizations shall attest under penalty of perjury that they are meeting the requirements of this Section.

Chapter XIII, Section 6. Reporting Requirements for Non-Profit Organizations. All non-profit organizations that receive funds pursuant to this Act shall maintain financial records that accurately account for said funds, and shall provide a budgetary breakdown by object category to the department or agency that oversees the appropriation. The non-profit organization shall be provided a copy of this Section by the department or agency overseeing such appropriation, but this duty shall not prevent any non-profit organization from carrying out its responsibilities under this Section. The non-profit organization shall also provide to said department:

- (a) a quarterly report describing its activities during the reporting period and the results it achieved, no later than twenty (20) days after the end of each quarter;

¹ GVB is not a governmental instrumentality. It operates pursuant to Chapter 12 and general corporation laws. 12 GCA § 9102. In distinguishing GVB's legal status to that of other government entities, the Guam Supreme Court stated "The Ninth Circuit has indirectly addressed a similar though substantively different issue...in *Laguana v. Guam Visitor's Bureau*, 725 F.2d 519 (9th Cir.1984), and *Bordallo v. Reyes*, 763 F.2d 1098 (9th Cir.1985)... The court found that the Legislature had expressly designated certain public corporations such as the Guam Airport Authority, the Guam Telephone Authority, and the Port Authority of Guam as instrumentalities of the government. *Bordallo, id.* at 1103. Based on this fact, the court held that the explicit listing of such public corporations as 'instrumentalities' to the omission of others, indicated a legislative intent to limit the designation of 'governmental instrumentalities' to only those public corporations that were particularly designated as such. *Id.* Accordingly, the court affirmed the lower court's ruling and held that there was no conflict with the Organic Act and that GVB was not an instrumentality of the government. *Id.* at 1103." *Guam Radio Services, Inc. v. Geda*, 2000 Guam 1.





- (b) notification of all procurement of equipment and services of Five Thousand Dollars (\$5,000.00) or more prior to awarding the contract therefore;
- (c) access to the overseeing department or agency's duly authorized representative, and government of Guam auditors, to appropriate records for the purpose of audit and examination of books, documents, papers and records of funds expended under the appropriation;
- (d) submission of a detailed inventory listing of each year's purchases, as certified by its certifying officer;
- (e) a final report to the overseeing department or agency for submission to I Liheslaturan Guåhan containing a full disclosure of all expenditures of funds appropriated by this Act no later than November 15, 2016. The overseeing department or agency shall post the same on its website; and
- (f) non-compliance with these reporting requirements will subject the non-profit organization to a three percent (3%) reduction of its appropriation(s), and the overseeing agency's contract with the organization shall so provide."

Finally, the draft report findings appear to contradict its recommendations. The audit states that GVB complied with P.L. 33-89 in its disbursement of \$400,000.00 and that the funds were used for their intended purpose. Draft Report at p. 10.

We do agree with the OPA that entities receiving public funds should be required to account for how those funds were utilized. In fact, GVB advocated for these very reporting requirements cited above to be added to the budget bill for non-profit organizations receiving pass-through appropriations from GVB. It is important that these authorizations are provided to GVB through the legislation, otherwise GVB has no authority or jurisdiction to impose additional requirements not provided in the law.

Senseramente,


JON NATHAN DENIGHT
President & CEO



Appendix 7: Status of Audit Recommendations

No.	Addressee	Audit Recommendation	Status	Action Required
1.	GFA	Implement a procurement policy to ensure procurements are competitively and fairly sourced and documented.	CLOSED	None
2.	GFA	Implement a check disbursement policy to prohibit conflicts whereby the payee is also a check signatory.	CLOSED	None
3.	GFA	Implement a policy to timely remit admissions fees no later than the month following an event held at the soccer stadium.	CLOSED	None
4.	GFA	Post historical financial statements and audit reports on the GFA website.	OPEN	Please provide target date and title of official(s) responsible for implementing the recommendation.
5.	DPR	Prepare an MOU governing the use of the Northern Soccer Stadium to include timely payments of the Event Admission Assessment Fees.	OPEN	Please provide target date and title of official(s) responsible for implementing the recommendation.
6.	GVB	Request an accounting of pass-through funds disbursed by GVB to other entities to ensure that all public funds were being expended properly.	OPEN	Please provide target date and title of official(s) responsible for implementing the recommendation



**Guam Football Association
Soccer Stadium Contributions
Report No. 18-02, March 2018**

ACKNOWLEDGEMENTS

Key contributions to this report were made by:

Ira Palero, Audit Staff
Amacris Legaspi, Auditor-in-Charge
Yukari Hechanova, CPA, CIA, CGFM, CGAP, CGMA, Deputy Public Auditor
Doris Flores Brooks, CPA, CGFM, Public Auditor

MISSION STATEMENT

**To ensure the public trust and assure good governance,
we conduct audits and administer procurement appeals,
independently, impartially, and with integrity.**

VISION

**The Government of Guam is the model for good governance in the Pacific.
OPA is a model robust audit office.**

CORE VALUES

**Objectivity: To have an independent and impartial mind.
Professionalism: To adhere to ethical and professional standards.
Accountability: To be responsible and transparent in our actions.**

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