

**Guam Economic Development Authority
Qualifying Certificate
Community Cash Contributions**

**Performance Audit
October 1, 2012 to September 30, 2017**

**OPA Report No. 18-08
December 2018**



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Executive Summary
Guam Economic Development Authority
Qualifying Certificate Community Cash Contributions
OPA Report No. 18-08, December 2018

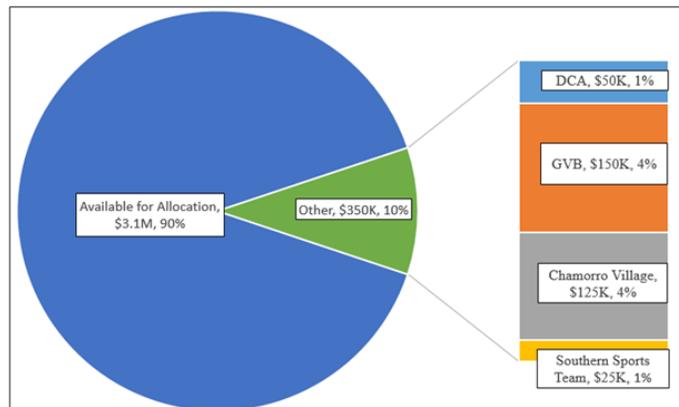
The Guam Economic Development Authority (GEDA) administered 20 active Qualifying Certificates (QC) as of fiscal year (FY) 2017. Of these 20 QCs, 14 required community cash contributions. Our review found the following:

- There was a lack of monitoring on certain community cash contributions; and
- GEDA has wide discretion over the allocation of community cash contributions, and as a result, GEDA allocated 73% [or \$2.2 million (M)] to its own marketing and economic development operations.

Allocation of Community Cash Contributions

Of the required \$3.4M cash contributions from FY 2013 to FY 2017, \$3.1M was available for GEDA to allocate toward various purposes, while \$350K was allotted to certain agencies and organizations specified in the certificates. Refer to the chart below.

Allocation of \$3.4M Community Cash Contributions



Lack of Monitoring on Certain Community Cash Contributions

Of the 14 active QCs with community cash contributions, three were tested based on tax rebated. We found one with a \$15K discrepancy in the collection and the other with a \$3K in uncollected contribution from 2013. Only when OPA brought these to their attention did GEDA follow up and collect the balances owed. We also found a potential community cash contribution from a beneficiary who failed to obtain a tax rebate, which was not followed-up by GEDA. As a corrective action, GEDA implemented a collection system wherein beneficiaries are billed with the required contribution amount.

Wide Discretion over the Allocation of Funds

Per Title 12 of the Guam Code Annotated Chapter 58, GEDA has the authority to administer the QC process and recommend the award to beneficiaries. This includes the formulation of benefits, conditions, and other requirements. The law gave GEDA wide discretion over how the community cash contributions will be allocated. Eight QCs have requirements to allocate the community cash

contributions to economic development and marketing. Meanwhile, four QCs specified allocation to various purposes, in addition to economic development and marketing. However, since the QCs were written in a way that gave GEDA flexibility to determine the amount, timing, and grantee, GEDA allocated 73% (or \$2.2M) of the remaining community cash contribution to its own marketing and economic development operations.

On QCs with specified allocation to various purposes, GEDA inconsistently allocated the community cash contributions. Specifically, 20% (or \$600K) was allocated to healthcare, 1.9% (or \$57K) to public safety, and 0.9% (or \$27K) to higher education and cultural preservation. Five percent (or \$154K) remains unallocated.

Utilization of Community Cash Contributions

While the contributions allocated to GEDA's marketing expenses were tracked, the contributions allocated to economic development were not monitored separately from general operations. To ensure accountability on the use of community contributions specific to economic development, we recommend that GEDA track how the funds were utilized.

Community Cash Contributions Not Advertised

Although the community cash contributions granted to support public safety and higher education were utilized in accordance with the requirements of the certificates, they were awarded to those agencies and organizations who had knowledge of its existence. This gives the impression that contributions benefit only those who have knowledge of its availability. We recommend that GEDA consider advertising the availability of the community cash contribution so that eligible agencies can avail of the funding.

Conclusion and Recommendation

GEDA's main objective is to assist in the development of Guam's economy by supporting local enterprise and attracting new investments. The community cash contributions received by GEDA is one of the resources to achieve its main objective. The law gave GEDA the authority to administer the QC process and recommend the award to beneficiaries. In addition, the requirements of the QC certificates were written in a way that gave GEDA flexibility over the allocation of the community cash contributions. Accordingly, GEDA allocated 73% (or \$2.2M) of the community cash contributions to its own marketing and economic development operations.

To ensure that community cash contributions are fairly and equitably distributed, and to promote accountability and transparency, we recommend that GEDA indicate the specific amounts or percentages of allocation on the QCs; as well as advertise the availability of funding. We also recommend that GEDA track how the community cash contributions pertaining to economic development were utilized.

Our recommendations to indicate specific amounts or percentages and to advertise available funding were addressed for two existing QCs in November 2018. We commend GEDA for the immediate actions in addressing these recommendations.

Benjamin J.F. Cruz
Public Auditor



Introduction

This report presents the results of our performance audit of the Guam Economic Development Authority's (GEDA) Qualifying Certificate (QC) Community Cash Contributions from October 1, 2012 through September 30, 2017 and received as of March 2018. This audit was initiated based on a request from a Senator in the 34th Guam Legislature, regarding the community cash contributions mandated by certain QCs administered by GEDA.

Our audit objective was to determine how GEDA distributed and utilized the cash received from the QC community contributions. Our audit objective, scope, methodology, and prior audit coverage are detailed in Appendices 1 and 2.

Background

GEDA is a public corporation responsible for the centralized direction, control, and supervision of the economic development of Guam through its programs and offerings. GEDA's main objective is to assist in the development of Guam's economy by supporting local enterprise and attracting new investments. GEDA is an autonomous agency, whose primary sources of revenue are: (1) rental income from industrial parks; (2) application and surveillance fees from QC beneficiaries; and (3) management of the Guam Ancestral Land Commission (GALC) property leases. GEDA also receives a non-recurring annual income, such as bond fees and federal or local grants.

For fiscal years (FY) 2013 through 2017, GEDA reported revenues amounting to \$13.5 million (M). Of this amount, \$2.7M, or 20%, was from QCs. Refer to Tables 1 and 2 for details.

Table 1: Breakdown of GEDA Revenue from FY 2013 – FY 2017

Revenues	2013	2014	2015	2016	2017	Total	%
Rental Income	\$ 1,182,977	\$ 1,080,091	\$ 1,106,981	\$ 1,183,006	\$ 1,171,329	\$ 5,724,384	42%
Qualifying Certificates	\$ 401,463	\$ 448,415	\$ 342,187	\$ 873,765	\$ 646,910	\$ 2,712,740	20%
Bond Fees	\$ 1,386,626	\$ 576,460	\$ 722,744	\$ 927,877	\$ 249,378	\$ 3,863,085	29%
GALC lease commission	\$ 94,545	\$ 89,089	\$ 89,534	\$ 80,221	\$ 105,278	\$ 458,667	3%
Grants Revenue	\$ 222,599	\$ 22,701	\$ 3,677	\$ 1,591	\$ -	\$ 250,568	2%
Others	\$ -	\$ -	\$ -	\$ -	\$ 469,175	\$ 469,175	3%
Total Revenue	\$ 3,288,210	\$ 2,216,756	\$ 2,265,123	\$ 3,066,460	\$ 2,642,070	\$ 13,478,619	100%

Table 2: Breakdown of Qualifying Certificate Revenue

Qualifying Certificate Revenues	2013	2014	2015	2016	2017	Total
Surveillance	\$ 123,165	\$ 187,665	\$ 166,437	\$ 161,165	\$ 158,285	\$ 796,717
Application	\$ 3,000	\$ 750	\$ 15,750	\$ 8,100	\$ -	\$ 27,600
Economic Development - Community Contributions	\$ 200,000	\$ 200,000	\$ 100,000	\$ 624,500	\$ 418,625	\$ 1,543,125
Marketing - Community Contributions	\$ 75,298	\$ 60,000	\$ 60,000	\$ 80,000	\$ 70,000	\$ 345,298
Total QCs	\$ 401,463	\$ 448,415	\$ 342,187	\$ 873,765	\$ 646,910	\$ 2,712,740

QC revenues include surveillance fees, application fees, and community cash contributions for economic development and marketing purposes. GEDA recognizes QC contributions as revenue if allocated to GEDA's operations for economic development or marketing purposes. Otherwise, it will be recorded as either a payable or a direct expense. QCs allocated to specific government agencies and non-government organizations are recorded as payables.

Our audit only covered the community cash contributions required under the QC program from FY 2013 through FY 2017 and received as of March 2018.

Qualifying Certificate Program

The QC program is an economic incentive tool to encourage investment in activities that would strengthen Guam's economy, enrich its growth, and enhance the quality of life in Guam. The QC program was created under Public Law (P.L.) 8-80 in August 1965 and was amended under P.L. 20-178 and P.L. 22-159. A QC is a contract between the Government of Guam and the beneficiary (the QC recipient) for a given period. A QC is executed by the Governor of Guam upon the recommendation of GEDA.

Based on Title 12 of the Guam Code Annotated (GCA) Chapter 58, a QC is awarded to eligible beneficiaries on a priority basis depending on the activity type. Some of the incentives offered include the following:

- Up to 75% income tax rebate for up to 20 years.
- Up to 75% corporate dividends tax rebate for up to five years.
- Up to 100% real property tax abatement for up to 10 years on property utilized by the QC beneficiary to operate its business.
- Up to 100% abatement of the business privilege tax on income derived from the sale of alcoholic beverages and petroleum products manufactured in Guam for up to 10 years.

These tax incentives are available in return for meeting certain employment, investment, and other requirements to promote economic improvement through the following:

- Creation of employment; plus
- Replacement of imports; or
- Reduction in consumer prices; or
- Creation of affordable housing or other facilities; or
- Creation of economic activity that is of value to the territory; or
- Establishment of Guam as a financial/insurance center for the Pacific and increasing the availability and lowering the cost of insurance in Guam.

In addition, possible terms and conditions that shall be considered by GEDA are included in the QCs. An example of this is public investment in the form of community cash contributions. 12 GCA Chapter 58 defines public investments as conditioning the tax benefits on the beneficiary's investing in or creating public improvements separate from its proposed activities. Refer to Appendix 3 for details of the law.

Special Hotel Qualifying Certificate

In December 2014, P.L. 32-233 enacted the Special Hotel QC to address the projected and desired growth in Guam's hotel industry by requiring the development of an additional 1,600 new hotel

rooms. It is the goal of the Guam Visitors Bureau (GVB), under their Vision 2020, to build 1,600 new hotel rooms by 2020. Hotel QC allows each developer a tax rebate, exemption, and abatement equal to 10% of the total construction cost. These can be applied to business privilege tax, income tax rebate, real property tax abatement, and/or use tax exemption for a period of one to 20 years, depending on the type of tax. In exchange for these benefits, QC beneficiaries are required to remit to GEDA community cash contributions equal to 0.5% of the total hotel construction cost.

Our audit included two Special Hotel QCs, which require community cash contributions. However, only one Special Hotel QC was included in the review, because community cash contributions are not yet due for the other special hotel QC.

Administrative Responsibility

The following divisions at GEDA are responsible for the administration of the QC program: a) Business Development Division, b) Loans and Compliance Division, and c) Administrative Services Division. Refer to Figure 1.

The Business Development Division processes QC applications and makes recommendations to the Governor of Guam regarding the issuance of QCs.

The Loans and Compliance Division monitors the compliance of beneficiaries with the requirements indicated on the QCs. They also handle the review and processing of community cash contributions to government and non-government agencies.

The Administrative Services Division, which includes GEDA's Accounting Department, records the community cash contributions in the financial system. They also manage the allocation of the community cash contributions that were allotted to government or non-government agencies.

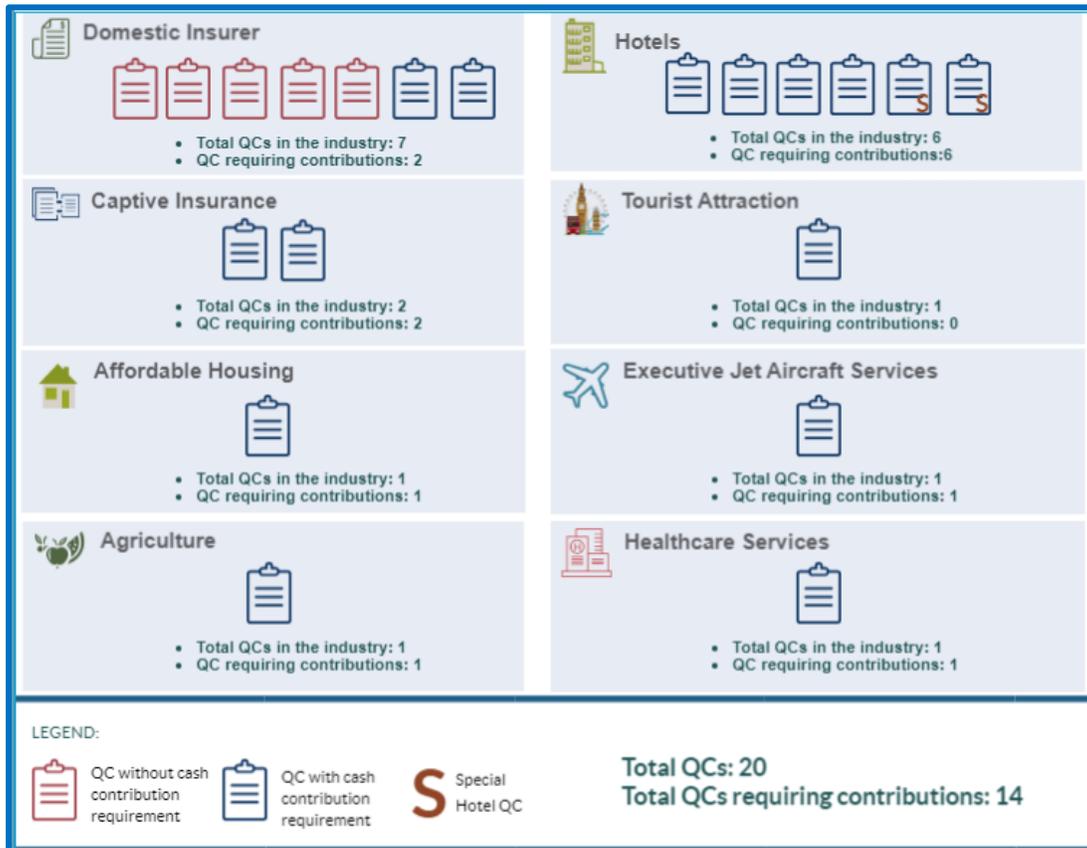
Figure 1: GEDA Divisions' QC Community Contributions Roles and Responsibilities



Qualifying Certificates with Community Cash Contributions

As of FY 2017, there were 20 active QCs, extended over eight different industries: seven domestic insurers, six hotels, two captive insurance, one tourist attraction, one affordable housing, one executive aircraft service, one agriculture, and one healthcare service. Of the six QCs in the hotel industry, two were special hotel QCs. Refer to Figure 2.

Figure 2: Qualifying Certificates by Industry



Of the 20 active QCs, 14 required annual community cash contributions for a specified number of years. Of the 14 QCs, one was a new Special Hotel QC with contributions not yet due. Therefore, our audit focused on the contributions provided by the remaining 13 QCs between FY 2013 and FY 2017. As of March 2018, two of the 13 QCs were undergoing revocation¹. Refer to Appendix 4 for details.

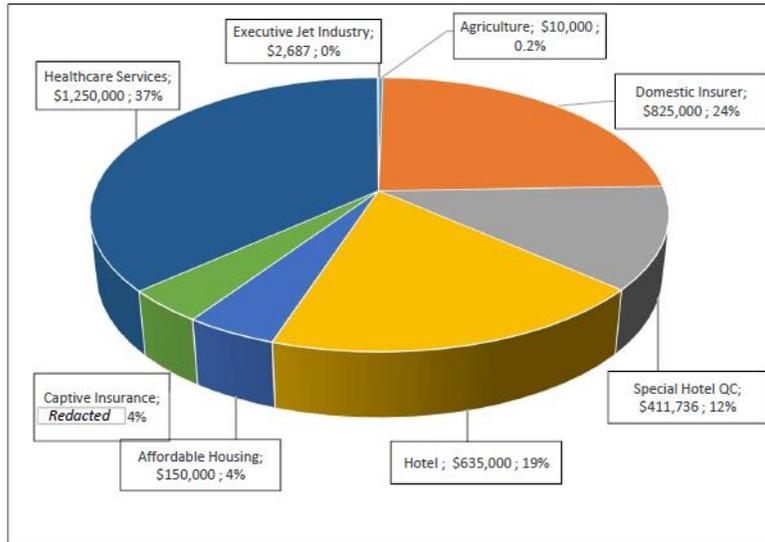
\$3.4M in Community Cash Contributions from FY 2013 to FY 2017

For FY 2013 through FY 2017, the community cash contributions of 13 QC beneficiaries amounted to \$3.4M. Of the \$3.4M, 36% (or \$1.3M) were contributed by beneficiaries from the healthcare services, 24% or [\$825 thousand (K)] from domestic insurers, 19% (or \$635K) from the hotel industry, 12% (or \$412K) from special hotel QCs, 4% (or \$150K) from affordable

¹ Revocation is a cancellation, withdrawal, or termination of an act, offer, or power. A QC may be suspended, rescinded, or revoked by the Governor of Guam upon the recommendation of GEDA for the following reasons: fraud, non-compliance with the certificate, bankruptcy, dissolution, death, or non-compliance with laws and rules.

housing, 4% (or \$117K) from captive insurance, 0.2% (or \$10K) from the agriculture industry, and 0.08% (or \$3K) from the executive jet industry. Refer to Figure 3.

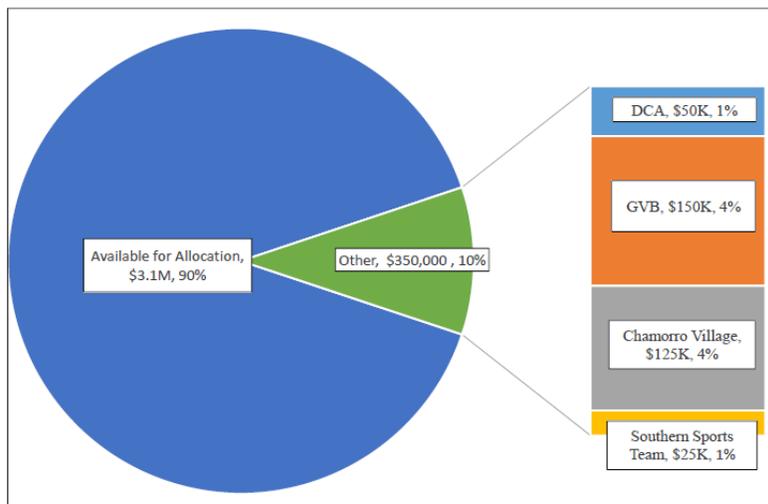
Figure 3: \$3.4M in Community Cash Contributions by Source



Depending on the individual contracts of each QC beneficiary, community cash contributions were to be allocated to either: a) agencies specified in the contract; b) marketing; c) economic development; and/or d) other various purposes.

Of the \$3.4M, 10% (or \$350K) was allocated to the agencies specified in the QCs, while 90% (or \$3.1M) was for GEDA to allocate to marketing, economic development, and/or other purposes. Refer to Figure 4.

Figure 4: Allocation of \$3.4M in Community Cash Contributions



Results of Audit

Our review of the QC community cash contributions found:

- There was a lack of monitoring on certain community cash contributions; and
- GEDA has wide discretion over the allocation of community cash contributions, resulting in a 73% (or \$2.2M) allocation to itself for marketing and economic development purposes.

Lack of Monitoring on Certain Community Cash Contributions

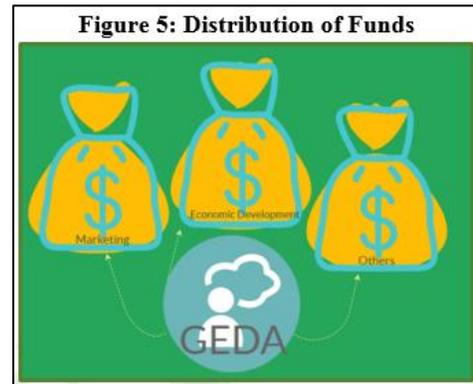
Of the 14 QCs, the required contributions of nine QCs were fixed amounts, while two were based on a percentage of total construction costs, and three were based on the tax-rebated amounts. In reviewing the amounts due from these three beneficiaries and the collections made by GEDA, we found the following deficiencies:

- a. QC# 8 Underpaid FY 2013 Community Cash Contributions by \$15K
Payments made under QC# 8 for FY 2013 were short by \$15K. The initial record provided to us did not show this discrepancy. GEDA coordinated with the beneficiary when we brought this to their attention. The beneficiary reconciled their records and concurred with the underpayment. The beneficiary remitted the \$15K discrepancy in November 2018.
- b. QC # 12 Unpaid FY 2013 Community Cash Contributions
QC# 12 is currently under revocation. The last community cash contribution required to be paid by the beneficiary was for FY 2013 but was still unpaid. This was brought to the attention of GEDA, who acted and a \$3K payment was received in October 2018.
- c. QC# 13 Potential Community Cash Contributions Not Followed-Up
Our review of QC# 13 showed that the beneficiary did not remit the required community cash contribution for the five-year period. When we initially inquired, GEDA stated that QC# 13 had no income. We independently reviewed QC# 13 and found that although the beneficiary paid taxes, it did not receive rebates as part of its QC benefit. According to GEDA, the beneficiary was not aware that it should initiate the tax rebate at DRT to claim the benefits. Since no rebate was received, the beneficiary did not pay the required community cash contributions. Although GEDA had annual face-to-face meetings with the beneficiary, the non-receipt of the rebate was not brought up. Likewise, GEDA did not follow-up with the payment.

The outstanding balances for QC# 8 and QC# 12 were collected after we brought the matter to GEDA's attention. In order to avoid recurrence, GEDA implemented a procedure to bill beneficiaries, which took effect in November 2018. GEDA also met with the beneficiary of QC# 13 to explain the rebate process and provided the billing statement. We commend GEDA for their immediate action in addressing these deficiencies in the collection process.

Wide Discretion over the Allocation of Funds

Pursuant to 12 GCA Chapter 58, GEDA is authorized to administer the QC process and recommend the award to beneficiaries. Included in this administrative authority is the formation of the details of the QCs, such as the amount of the community cash contribution and how it will be utilized. Of the \$3.4M, 10% (or \$350K) was allocated to the agencies specified in the QCs, while 90% (or \$3.1M) was for GEDA to allocate to marketing, economic development, and/or other purposes. The provision in the QCs gave GEDA wide discretion over how the community cash contributions will be allocated. Accordingly, GEDA allocated a majority of the remaining contribution or 73% (or \$2.2M) to its own marketing and economic development purposes.



Community Cash Contributions for Economic Development and/or Marketing

Eight QCs totaling \$648K in community cash contributions require that it be utilized for economic development and marketing purposes. Specifically, some of the provisions in the certificates were stated as follows:

- *To be administered by GEDA for the Guam Industry Promotions Fund*
- *For the promotion and development of the insurance industry in Guam*
- *To contribute to GEDA to assist with the economic development of Guam, which contributions shall not be used for employee's salaries or benefits*
- *Shall be used exclusively for the expenses related to the development, production, purchase, and distribution of promotional materials, and for expenses related to GEDA's attendance and hosting of a Guam exhibit booth at conferences, seminars, and forums*
- *To assist GEDA in promoting Guam as an investment destination*

GEDA allocated the \$648K community cash contributions to its marketing expenses and economic development. Refer to Table 3.

Table 3: Various QCs Breakdown from FY 2013 to FY 2017

QC No.	Required Annual Contribution	Actual Amount Contributed	Allocated to	Actual Amount Allocated	% of allocation
5	\$ 100,000	\$ 71,877	GEDA Marketing	\$ 71,877	100%
6	\$ 100,000	\$ 100,000	GEDA Marketing	\$ 100,000	100%
7	\$ 100,000	\$ 100,000	GEDA Marketing	\$ 100,000	100%
8	\$ Redacted	\$ Redacted	GEDA Marketing	\$ Redacted	100%
9	\$ 160,000	\$ 160,000	GEDA Economic Development	\$ 160,000	100%
10	\$ 100,000	\$ 100,000	GEDA Marketing	\$ 100,000	100%
12	\$ Redacted	\$ Redacted	GEDA Marketing	\$ Redacted	0%
13	\$ Redacted	\$ Redacted	GEDA Marketing	\$ Redacted	0%
Total	\$ 696,176	\$ 648,583		\$ 648,583	

Community Cash Contributions for Various Purposes

Unlike the first eight QCs, four QCs had provisions to allocate for other various purposes, in addition to economic development and/or marketing. However, the QCs were written in a way that gave GEDA flexibility on how community cash contributions will be distributed.

- a. QC #3 contributed \$10K from FY 2014 through FY 2015. The QC specified that community cash contributions should be utilized as follows:
- *to GEDA’s marketing budget to aid in stimulating local economic development for agriculture or tourism, and/or promoting Guam as an investment destination, and/or*
 - *to assist other agencies in providing additional public educational, recreational, and/or commercial facilities, and/or*
 - *to build new and/or improve existing public recreational facilities.*

With GEDA’s administrative authority, the \$10K in community cash contribution was entirely allocated to GEDA’s marketing expense. Refer to Table 4.

Table 4: QC #3 Breakdown

QC No.	Required Annual Contribution	Actual Amount Contributed	Allocated to	Actual Amount Allocated	% of allocation
3	\$ 10,000	\$ 10,000	GEDA Marketing and/or	\$ 10,000	100%
			Assistance to Other Agencies	\$ -	0%

Note: QC# 3 was under revocation as of November 2018. No contributions were required from FY 2016 to current.

- b. QC #1 contributed \$700K from FY 2013 through FY 2017. The QC specified that community cash contributions should be utilized as follows:
- *to aid in stimulating local economic development, promoting Guam as an investment destination, and/or*
 - *to assist other agencies in providing additional public educational, recreational, and/or commercial facilities, and/or*
 - *to build new and/or improve existing public recreational facilities.*

Subject to interpretation, the requirements of the QC were written in a way that could mean community cash contributions should be allocated either to any or to all the specified purposes. GEDA allocated the community cash contributions to its marketing expenses. Refer to Table 5.

Table 5: QC #1 Breakdown

QC No.	Required Annual Contribution	Actual Amount Contributed	Allocated to	Actual Amount Allocated	% of allocation
1	FY 2013 \$200,000	FY 2013 \$200,000	GEDA Marketing	\$ 700,000	100%
	FY 2014 \$200,000	FY 2014 \$200,000			
	FY 2015 \$100,000	FY 2015 \$100,000	Economic Development	\$ -	0%
	FY 2016 \$100,000	FY 2016 \$100,000	Assistance to Other Agencies	\$ -	0%
	FY 2017 \$100,000	FY 2017 \$100,000			

- c. QC #2 contributed \$412K from FY 2016 through FY 2017. The QC specified that community cash contributions should be utilized as follows:
- *to fund the maintenance and upkeep of certain tourist attractions or to support other tourism projects,*
 - *to economic development with a priority on the promotion of industry and small business, and*
 - *to higher education and cultural preservation.*

Like other QCs, the provisions of QC# 2 gave GEDA wide discretion over the allocation of community cash contributions. As such, \$343K was allocated by GEDA to its own economic development. In FY 2018, GEDA allocated the remaining \$69K toward other purposes. Refer to Table 6.

Table 6: QC #2 Breakdown

QC No.	Industry	Required Annual Contribution	Actual Contribution	Allocated to	Amount Allocated		% of allocation	
					FY 2016	FY 2017	FY 2016	FY 2017
2	Special Hotel QC	FY 2016 - \$274,500 FY 2017 - \$137,236	FY 2016 - \$274,500 FY 2017 - \$137,236	Economic Development	\$ 274,500	\$ 68,618	100%	50%
				Higher Education and Cultural Preservation	\$ -	\$ 2,000	0%	1%
				Tourism Projects, Tourist Attractions	\$ -	\$ -	0%	0%
				Unallocated*	\$ -	\$ 66,618	0%	49%
				TOTAL	\$ 274,500	\$ 137,236		

Note: *Funding for higher education purposes amounting to \$25K was granted on March 2018.

- d. QC #4 generated \$1.3M in community cash contributions from FY 2016 through FY 2017. The QC specified that contributions should be utilized as follows:
- *healthcare [priority to the Guam Memorial Hospital Authority (GMHA) and the Department of Public Health and Social Services],*
 - *Medicaid matching,*
 - *Medically Indigent Program (MIP) payments,*
 - *public safety,*
 - *economic development with a priority on the promotion of the medical industry and small businesses; and*
 - *higher education and cultural preservation.*

The \$250K community cash contributions received from QC #4 in FY 2016 was allocated entirely to GEDA's economic development purposes. Meanwhile, of the \$500K received in FY 2017, \$250K was again allocated for economic development purposes. The remaining \$250K was booked to a special account for other purposes, of which \$57K was disbursed to support public safety and \$25K for higher education. Refer to Table 7.

Table 7: QC #4 Breakdown

QC No.	Industry	Required Annual Contribution	Actual Contribution*	Allocated to	Amount Allocated		% of allocation	
					FY 2016	FY 2017	FY 2016	FY 2017
4	Healthcare Industry	FY 2016 - \$500,000	FY 2016 - \$250,000	Economic Development	\$ 250,000	\$ 250,000	50%	33%
				Public Safety	\$ -	\$ 56,620	0%	8%
		FY 2017 - \$750,000	FY 2017 - \$500,000	Higher Education and Cultural Preservation	\$ -	\$ 25,000	0%	3%
				Healthcare	\$ -	\$ -	0%	0%
		Medicaid	\$ -	\$ -	0%	0%		
		MIP	\$ -	\$ -	0%	0%		
		Unallocated**	\$ 250,000	\$ 418,380	50%	56%		
		Total	\$ 500,000	\$ 750,000				

Note: *Remaining contribution of \$500K was received as of March 30, 2018, which fully paid the required contribution for FY 2016 - FY 2017.

**GMHA requested for funding in Dec 2017. GEDA's board of directors approved the allocation of \$600K in May 2018.

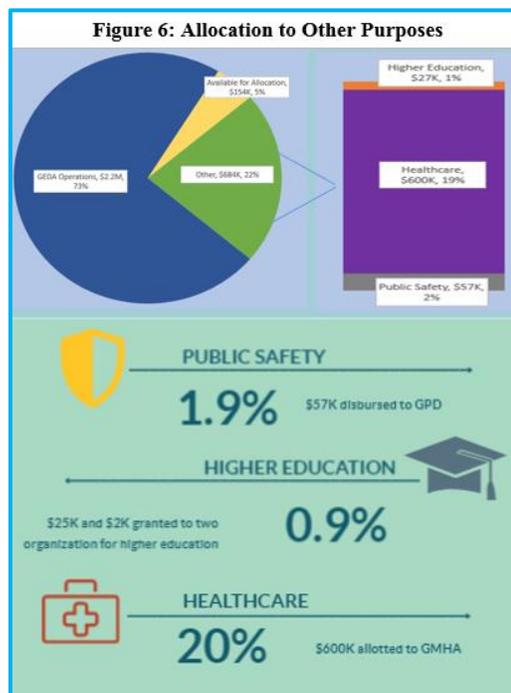
As of March 2018, the remaining \$500K was received bringing the unallocated portion to \$668K. After GEDA received requests to allocate funding to GMHA, the GEDA Board of Directors approved the award of \$600K to GMHA in May 2018. No allocation was made to Medicaid matching or MIP as required by the QC.

Inconsistent Percentage of Allocation

With no amounts or percentages specified on the QCs, GEDA had wide discretion to allocate funding. GEDA being one of the receivers of the community cash contributions may be in conflict in determining whether to distribute the funds or utilize for its own operations. Of the \$3.1M that was not allotted to specific agencies and organizations, GEDA allocated 73% (or \$2.2M) to marketing and economic development purposes.

On the other hand, GEDA allocated between 0.9% to 20% to purposes other than economic development and marketing. Specifically, 0.9% (or \$27K) was given to higher education and cultural preservation, and 1.9% (or \$57K) to public safety. In May 2018, 20% (or \$600K) was subsequently allotted to healthcare, while 5% (or \$154K) remains unallocated.

To ensure that funds are fairly and equitably distributed, we recommend that the QCs include specific amounts or percentage of allocation on the current active QCs and QCs to be issued going forward.



After our discussion with GEDA, they issued a guideline in November 2018 specifying the percentage of allocation for community cash contributions made on two existing QCs. Such allocation is subject to change by the GEDA Board of Directors. Although this was addressed for the two QCs, we still recommend GEDA to include specific amounts or percentage of allocation on the QCs to be issued going forward. We also encourage GEDA to review the requirements of the other active QCs and ensure that allocations are fair and equitable.

Utilization of Community Cash Contributions

As required in the QCs, GEDA allocated \$350K to specific government and non-government organizations. The remaining \$3.1M was allocated as follows: (a) \$2.2M was allocated to GEDA’s marketing and economic development purposes; (b) \$684K was allotted by GEDA for other purposes such as public safety, higher education, and healthcare; and (c) \$154K remains unallocated.

\$2.2M Allocated to GEDA

Of the \$2.2M, \$355K was utilized for marketing expenses. Our testing found that the expenses were related to trade missions, hotel investment conferences, airline meetings, brochure/industry guide, and forums. These expenses were in accordance with the requirement of the QCs.



GEDA represented that the remaining \$1.8M was used for economic development, which unlike the marketing expenses, GEDA does not monitor separately from its general operations. This could mean that cash contributions may have funded GEDA’s normal daily requirements such as payroll, supplies, etc. In order to ensure accountability on the use of community cash contributions, we recommend GEDA track how the funds were utilized.

\$350K Allocated to Agencies and Organizations

Five of the 11 QCs specified to allocate community cash contribution to certain government and non-government agencies, namely Chamorro Village, GVB, Department of Chamorro Affairs, and Southern Sports Team in Guam. The QCs also specified what activity to be funded. Refer to Figure 8.

Figure 8: QC Requirements for Specific Agencies and Organizations



From FY 2013 through 2017, five QC beneficiaries were required to contribute a total of \$350K. The GEDA compliance team administered the award of these funds to the respective agencies. We sampled two documents detailing expenses by DCA and GVB. The funds were utilized for printing books on Chamorro Heritage and landscaping for the anti-graffiti program, both of which complied with the requirements of the certificate. Based on these two sampled documents, GEDA effectively implemented this process. For government agencies, the compliance team required that funding is used only for its specified purpose and that these agencies comply with the Guam Procurement Law. For the Southern Sports Teams, GEDA required applicants to submit a form found on their website.

Community Cash Contributions Not Advertised

We observed that GEDA did not advertise the available community cash contributions. The other possible recipients were not notified when funding is available for purposes other than economic development and marketing. We noted the following as of March 2018:

- Two QC beneficiaries remitted community cash contributions for purposes including higher education and cultural preservation projects as early as FY 2016. Only two organizations submitted requests and were granted funding in FY 2017 and FY 2018. Another request was submitted, however, by the QC beneficiary itself on behalf of an agency, but the request was not granted since no formal request was submitted by the agency.
- One request was received and granted in relation to public safety.
- No requests were received for Medicaid matching, MIP payments, tourism projects, and assistance to agencies for education, recreation, and commercial facilities.

However, for the QC requiring cash contribution allocation to Southern Sports Teams, GEDA’s website showed an advertisement for a Southern District Youth Sports Grant. Out of 43 requests submitted for this grant between CY 2013 and CY 2017, GEDA awarded funds to 13 recipients.

Without announcing that funding is available, this gives the impression that community cash contributions benefit only those who have knowledge of its existence. We recommend GEDA to advertise the availability of the community cash contributions so that eligible agencies can avail of the funding.

After discussions with GEDA, they immediately acted to implement a guideline to advertise available funding specific for two QCs. The “Grant Program Application” form was posted on their website in November 2018.

Figure 9: QC Advertisement



Conclusion and Recommendations

As of FY 2017, GEDA administered 20 active QCs, of which 14 were required to give community cash contributions. From FY 2013 through 2017, community cash contributions amounted to \$3.4M. Of this amount, \$3.1M was available for GEDA to allocate toward various purposes, while \$350K was allotted to the agencies and organizations specified in the QCs.

GEDA's main objective is to assist in the development of Guam's economy by supporting local enterprises and attracting new investments. The community cash contributions received by GEDA is one of the sources available to achieve such an objective. In our audit, we found the following:

- There was a lack of monitoring on certain community cash contributions; and
- GEDA has wide discretion over the allocation of community cash contributions, and as a result, GEDA allocated 73% (or \$2.2M) to its own marketing and economic development operations.

To ensure that community cash contributions are fairly and equitably distributed, and to promote accountability and transparency, we recommend the following to the GEDA Administrator:

1. Indicate the specific amounts or percentages of allocation on the current active QCs and on the QCs to be issued going forward,
2. Create a monitoring system of projects and expenses related to economic development, and
3. Advertise the availability of funding.

We acknowledge GEDA's efforts in the immediate corrective actions taken prior to the release of the audit. Our recommendation to indicate specific amounts or percentages of allocation, and to advertise available funding, were addressed in November 2018, when GEDA issued the QC Community Contributions Guidelines for the two existing QCs.

Classification of Monetary Amounts

Finding Description	Questioned Costs	Potential Savings	Unrealized Revenues	Other Financial Impact ²
1. Lack of Monitoring on Certain Community Cash Contributions	\$ -	\$ -	\$ -	\$ 18,000
2. Wide Discretion Over the Allocation of Funds	\$ -	\$ -	\$ -	\$ -
3. Utilization of Community Cash Contributions	\$ -	\$ -	\$ -	\$ -
4. Community Cash Contributions Not Advertised	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ -	\$ -	\$ -	\$ 18,000

² Other financial impacts are amounts identified in the audit but do not fit the other categories. The \$18K represents outstanding balances on QCs that were collected by GEDA after OPA's review.

In December 2018, a draft report was transmitted to GEDA for their official response. In the same month, we met with GEDA officials to discuss our findings and recommendations. We acknowledge GEDA's partial implementation of two of the three recommendations prior to the issuance of this report.

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

1. No Follow-Up on Long Outstanding Community Contributions

GEDA explained further on the circumstances why the community cash contributions on three QCs were not collected.

OPA Reply: During our exit meeting, GEDA explained that for QC# 13, the community cash contributions were not deemed outstanding since the tax was not rebated. We considered this and made changes in this section. While we acknowledge that corrective action was implemented, the audit finding still stands.

2. Wide Discretion Over the Allocation of Funds

GEDA explained that the categories were there to establish eligibility categories and “does not set a mandatory requirement that the funds must be distributed equally.” They also emphasized, “none of the subsections in the QC establish allocation rules, rather they clearly state that only GEDA's Board of Director's determines allocation of these funds.”

OPA Reply: GEDA drafts the rules and requirements on the QCs, which gives them wide discretion over how the cash contributions would be allocated. Providing specific amounts or percentages of allocation on, not just existing QCs, but future QCs as well will promote an equitable and fair distribution of funds.

3. Utilization of Community Cash Contributions – Economic Development Expenses Not Monitored

GEDA emphasized, “GEDA operations and all of its staff have a role in the agency's economic development mission therefore any expenditures incurred by the agency in fulfilling its mission from whatever sources is considered a function of economic development.”

OPA Reply: Tracking the utilization of the funds, such as how much and where it was spent, will promote accountability and transparency, both to the QC beneficiary and the Government of Guam. With this, our finding still stands.

4. Other Matters – Community Contributions Not Advertised

GEDA posted the notice of availability of funding in their website.

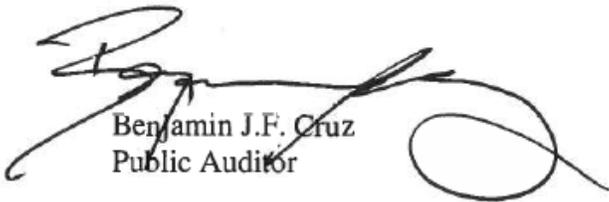
OPA Reply: We acknowledge that GEDA addressed this recommendation for two active QCs. However, our recommendation remains open, as this also should apply to QCs to be issued going forward.

See Appendix 5 for GEDA'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 GEDA to provide a target date and title of the official(s) responsible for implementing the recommendation.

We appreciate the cooperation given to us by GEDA during this audit.

OFFICE OF PUBLIC ACCOUNTABILITY



Benjamin J.F. Cruz
Public Auditor

Appendix 1: Objective, Scope & Methodology

Our audit objective was to determine how GEDA distributed and utilized the cash received from QC community contributions.

The scope of the audit was from October 1, 2012 through September 30, 2017 (or FY 2013 - FY 2017).

Audit Methodology

To accomplish our objective, we reviewed laws, policies, and prior audits related to the QC community cash contributions. We also performed the following audit procedures:

1. Obtained an understanding of the nature of the QC program by conducting interviews and walkthrough with GEDA.
2. Obtained and analyzed:
 - a. Active QCs as of FY 2017;
 - b. QC community cash contributions administered by GEDA for FY 2013 through 2017;
 - c. GEDA's Budget Allocation for FY 2013 through 2018;
 - d. Documents related to the allocation and utilization of the community cash contributions.
3. Tested five QCs with community cash contributions to determine if collections were allocated in accordance with the certificate.
4. Tested five QCs to determine whether the community cash contributions allotted to a specific agency or organization were utilized in compliance with the individual QC.
5. Tested seven marketing expenses to determine the following:
 - a. If allocated contributions were utilized in accordance with the QCs; and
 - b. If expenses are properly supported.

We conducted this performance audit in accordance with the Generally Accepted Auditing Standards issued by the Comptroller General of the United States. 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 identified one audit report related to the Qualifying Certificates program:

OPA Report No. 13-02: Guam Economic Development Authority Qualifying Certificate Program

The audit determined the following:

- The financial impact of the QC program was unknown;
- QCs were awarded regardless of the economic impact to the Government of Guam and the insurance industries received more generous tax benefits than any other industries;
- A tax benefit may have been granted to an ineligible QC beneficiary; and
- Tax benefits were not processed in accordance with the law.

We provided three recommendations on this audit, but one remains open as of December 2018. The open recommendation suggested that DRT, as the tax administrator, perform its own due diligence in determining the appropriate tax benefits of eligible QC beneficiaries.

Excerpts of 12 GCA Chapter 58, Qualifying Certificates

12 GCA Chapter 58 Qualifying Certificates

§ 58100. Legislative Findings and Intent. The Legislature recognizes that the QC program of GEDA was conceived as an economic incentive tool to entice investors into Guam. [...]

§ 58105 and § 58105.1 through § 58105.6. Promotion of General Economic Improvement. No QC shall be issued unless GEDA finds that the proposed activities of the beneficiary shall promote the general economic development of the territory by:

1. Creation of employment; plus
2. Replacement of imports; or
3. Reduction in consumer prices; or
4. Creation of affordable housing or other vitally needed facilities; or
5. Creation of economic activity of value to the territory; or
6. Establishment of Guam as a financial/insurance center for the Pacific and increasing the availability and lowering the cost of insurance in Guam.

§ 58110. Conditions of Benefits. In its recommendation of specific tax benefits, GEDA shall consider the following as possible terms and conditions to such benefits:

- a. **Percentage of Investment.** Limiting the tax benefits to a percentage of the capital investment in Guam to be made by the Beneficiary;
- b. **Variable Rate.** Varying the rate of tax benefits over the term of the QC;
- c. **Limitation on Amount.** Limiting the tax benefits to a fixed dollar amount;
- d. **Public Investments.** Conditioning the tax benefits on the Beneficiary's investing in or creating public improvements separate from its proposed activities;
- e. **Local Shareholders.** Requiring the Beneficiary to offer 10% or more of its corporate equity to qualified residents of Guam on terms and conditions established by GEDA;
- f. **Profit-Sharing, etc.** Requiring the Beneficiary to establish profit-sharing and stock ownership programs and other similar benefits for its employees;
- g. **Training.** Requiring the Beneficiary to: (1) utilize locally-based and locally-owned training services as needed; or (2) establish in-house training programs that consult with locally-based experts to ensure compliance of pertinent local rules and regulations as needed; or (3) make contributions to an independent training or scholarship fund. [...]
- h. **Local Purchaser.** Requiring the Beneficiary to procure services or products supplied by Guam-licensed vendors if the total cost does not exceed 110% of the cost of the same services or products available from off-island vendors.
- i. **Local Professional Advice and Support.** Requiring the Beneficiary to procure and utilize Guam-licensed entities or employ Guam residents that provide professional advice and support in the areas of records access and legal services. [...]

Excerpts of 12 GCA Chapter 58, Qualifying Certificates

§ 58127, § 58127.1 through § 58127.6 Tax Abatements.

Subject to the provisions of this Chapter, the Governor is authorized to issue a QC abating the following taxes on the following terms:

1. *Property Taxes.* All taxes now levied by 11 GCA Ch.24 [Real Property Tax Law] shall be abated for a period up to 10 years from the effective date of the QC, and as long as said QC is in force and effect. [...]
2. *Rental of Land, Building, or Equipment.* All taxes now levied on income derived from the lease of land, buildings, machinery or equipment [...], known as business privilege taxes, shall be abated for a period up to 10 years, from the effective date of a QC therefore, and as long as said Certificate is in force and effect. [...]
3. *Sale of Alcoholic Beverages.* All taxes now levied [...], known as business privilege taxes, shall be abated for a period up to 10 years from the effective date of a QC therefore, and as long as said Certificate is in force and effect. [...]
4. *Sale of Petroleum Products.* All taxes levied or paid [...] known as business privilege taxes, shall be abated or rebated for a period up to ten (10) years from the effective date of the Qualifying Certificate therefore, for those gross receipts derived from the sale of petroleum products manufactured in Guam and sold to agencies or instrumentalities of the United States of America, or agencies or instrumentalities of the government of Guam, by the manufacturer thereof; provided, that a Qualifying Certificate for such a tax rebate or abatement is granted pursuant to the provisions of this subsection; and provided, further, that at any such time that a manufacturer possessing such a Qualifying Certificate no longer continues to qualify for the Certificate, the taxes shall no longer be abated or rebated.
5. *Insurance Premiums.* All taxes now levied [...], known as business privilege taxes, shall be abated for a period of up to 20 years from the effective date of the QC therefore, for those gross receipts derived from underwriting insurance risks either in or out of Guam, including gross receipts derived from investing funds generated from insurance underwriting in Guam by an insurance company that has qualified and continues to qualify for a QC. Such insurance QCs may be renewed for additional periods for 20 years at the conclusion of the first or later periods so long as the Beneficiary remains in good standing under the laws of Guam and under GEDA's rules and regulations.
6. *Development of Affordable Housing.* All taxes levied [...], known as business privilege taxes, shall be abated for a period up to 20 years from the effective date of the QC therefore, for those gross receipts derived from the construction of affordable housing [...]. The Beneficiary may be a developer, contractor or subcontractor or a combination of two or more thereof so long as all the receipts the subject of the abatement are derived from the construction of no less than 25 affordable housing units, [...].

Excerpts of 12 GCA Chapter 58, Qualifying Certificates

§ 58128.1 Tax Rebates. Subject to the provisions of this Chapter, the Governor is authorized to issue a QC, which establishes the following tax rebate:

Income Tax Rebate. A rebate of up to 75% of all income tax paid to Government of Guam by a Beneficiary on income received from those activities identified in the QC may be issued for a period not to exceed 20 consecutive years from the effective date of a QC.

§ 58130. Income Tax Rebate on Dividends. A rebate of up to 75% of the income tax paid by the shareholders of a corporation on the dividends of that corporation may be granted for a period not to exceed five (5) consecutive years.

§ 58132. Modification of Tax Benefits. In the event that a Beneficiary proposes to substantially expand or add to its activities and desires to obtain a modification of its original QC to include its proposed additional activities, then upon GEDA's findings and recommendations, the Governor may modify the original QC, subject to the following conditions:

- (a) Findings. GEDA specifically finds that the additional proposed activities of the Beneficiary satisfy the requirements of § 58103 (Benefits of a QC) and § 58106 (Issuance of QC), and that GEDA makes recommendations required by § 58109 (GEDA's Findings on Applications);
- (b) Cancellation of the original Certificate. The original QC shall be surrendered and canceled; and
- (c) Changes in benefits. The tax benefits applicable to the additional activities may be at rates or for a term different from those tax benefits applicable to the activities described in the original QC, and the new QC may include terms, conditions, rebates or abatements different from those in the original QC.

§ 58142. Investment of Abated or Rebated Tax in Guam. Each QC, except for a QC issued to an insurer pursuant to the provisions of §§ 58127 and 58128 of this Article, shall require a Beneficiary to invest within Guam no less than 50% of any taxes rebated or abated under §§ 58127 and 58128 of this Article for a period of 5 years following the rebate or abatement. A Beneficiary shall report all such investments to GEDA.

Appendix 4: QCs with Community Cash Contributions FY 2013 – 2017

QC No.	Industry	Required Annual Contribution	Actual Amount Contributed	Allocated to	Actual Amount Allocated	% of Allocation	Decision Required
1	Domestic Insurer	\$ 700,000	\$ 700,000	Marketing	\$ 700,000	100%	GEDA
				Economic Development	\$ -	0%	
				Assistance to Other Agencies	\$ -	0%	
1	Domestic Insurer	\$ 25,000	\$ 25,000	Various Southern Sports Team	\$ 25,000	100%	GEDA
2	Special Hotel QC	\$ 411,736	\$ 411,736	Economic Development	\$ 343,118	83%	GEDA Board Decision
				Higher Education and Cultural Preservation	\$ 2,000	0.5%	
				Tourism Projects, Tourist Attractions	\$ -	0.0%	
				Unallocated	\$ 66,618	16%	
3	Agriculture	\$ 10,000	\$ 10,000	Marketing	\$ 10,000	100%	GEDA
				Assistance to Other Agencies	\$ -	0%	
4	Healthcare Industry	\$ 1,250,000	\$ 1,250,000	Economic Development	\$ 500,000	40%	GEDA Board Decision
				Public Safety	\$ 56,620	5%	
				Higher Education and Cultural Preservation	\$ 25,000	2%	
				Healthcare	\$ -	0%	
				Medicaid	\$ -	0%	
				MIP	\$ -	0%	
Unallocated	\$ 668,380	53%					
5	Domestic Insurer	\$ 100,000	\$ 71,877	Marketing	\$ 71,877	100%	GEDA
6	Hotel	\$ 100,000	\$ 100,000	Marketing	\$ 100,000	100%	GEDA
6	Hotel	\$ 50,000	\$ 50,000	DCA	\$ 50,000	100%	
7	Hotel	\$ 100,000	\$ 100,000	Marketing	\$ 100,000	100%	GEDA
7	Hotel	\$ 100,000	\$ 100,000	GVB	\$ 100,000	100%	
8	Captive Insurance	\$ <i>Redacted</i>	\$ <i>Redacted</i>	Marketing	\$ <i>Redacted</i>	100%	GEDA
9	Hotel	\$ 160,000	\$ 160,000	Economic Development	\$ 160,000	100%	GEDA
10	Affordable Housing	\$ 100,000	\$ 100,000	Marketing	\$ 100,000	100%	GEDA
10	Affordable Housing	\$ 50,000	\$ 50,000	GVB	\$ 50,000	100%	
11	Hotel	\$ 125,000	\$ 125,000	Chamorro Village	\$ 125,000	100%	GEDA
12	Executive Jet Industry	\$ <i>Redacted</i>	\$ <i>Redacted</i>	Marketing	\$ <i>Redacted</i>	0%	GEDA
13	Captive Insurance	\$ <i>Redacted</i>	\$ <i>Redacted</i>	Marketing	\$ <i>Redacted</i>	0%	GEDA
14	Special Hotel QC			Economic Development			GEDA Board Decision
				Higher Education and Cultural Preservation			
				Tourism Projects, Tourist Attractions			
Total		\$ 3,417,912	\$ 3,370,319		\$ 3,370,319		

Note: 1. QC no.8,12 & 13 - Amounts were redacted because contributions were based on tax.
2. QC no.12 - QC is being revoked due to non-compliance.
3. QC no.14 - New QC. Payment of cash contribution not due as of audit cut-off period of Mar 2018.

Appendix 5: QC Community Contributions Guidelines

EDDIE BAZA CALVO
Governor of Guam
I Magsa'lahen Guahan

RAY TENORIO
Lt. Governor of Guam
I Segundo Na Magsa'lahen Guahan



Aturidää ñadiläänton Ilu puunihan Guahan

JAY ROJAS
Administrator
Administradot

MANA SILVA TAIJERON
Deputy Administrator
Sigundo Na Administradot

Sept. 20, 2018

TO: GEDA Board of Directors

FR: Jay Rojas, Administrator *JR*

RE: QC Community Contributions Guideline

GEDA receives from several QC Beneficiaries cash and holds it in trust to be disbursed for Community Contributions as required in their QC. We have created a guideline for administering the allocation of funds and available to ensure parity and transparency in the use of these funds.

The two specific QC Beneficiaries and their current annual contribution:

QC	Beneficiary	Annual Contribution Amount	Eligible Purpose
252	Guam Regional Medical City	\$1,000,000.00	a. Health Care (priority to GMH & Public Health), Medicaid matching, MIP payments
			b. Public Safety
			c. Economic Development with priority on the promotion of Medical Industry and Small Business
			d. Higher Education & Cultural Preservation
254	TNN Guam Inc. dba Tsubaki Hotel	\$137,236.22	a. Tourist Attractions/Tourism Projects (maintenance and upkeep)
			b. Economic Development with priority on the promotion of Industry and Small Business
			c. Higher Education & Cultural Preservation

ALLOCATION RECOMMENDATION:

- GEDA Administrator's authorization is limited to an equal share of each QC's annual community contribution funds per category (i.e. GRMC \$1 million/4 = \$250k).
- GEDA board may set different allocation amounts among the categories as necessary depending on need.



QC Community Contributions Guidelines

NOTICE OF AVAILABILITY OF GRANT FUNDS

The Guam Economic Development Authority (GEDA) is hereby providing public notice of the availability of grant funds. GEDA continues to encourage recipients of its Qualifying Certificate ("QC") Program to give back to our local community. The following QC beneficiaries are generously funding annual grants to be used to support various activities, events and endeavors that will benefit our island community.

QC	Beneficiary	Annual Contribution Amount	Eligible Purpose
252	Guam Regional Medical City	\$1,000,000.00	a. Health Care (priority to GMH & Public Health), Medicaid matching, MIP payments b. Public Safety c. Economic Development, with priority on the promotion of Medical Industry and Small Business d. Higher Education & Cultural Preservation
254	TNN Guam Inc. dba Tsubaki Hotel	\$137,236.22	a. Tourist Attractions/Tourism Projects (maintenance and upkeep) b. Economic Development with priority on the promotion of Medical Industry and Small Business c. Higher Education & Cultural Preservation

GRANT CRITERIA:

- Applicants must submit request in writing.
- Request must be made for a specific purpose and must be identified in the request letter.
- Grant funds cannot be awarded to an individual or for profit business.
- Grant funds cannot be used for salaries and employee benefits.
- Event sponsorships funded with grant funds is limited to \$10,000.
- If grant approved awardee must publicly acknowledge QC contributor.
- GEDA will not consider more than one grant request from the same applicant in a twelve (12) month period.

QC Community Contributions Guidelines

GRANT CRITERIA:

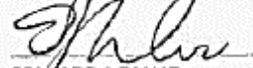
- Applicants must submit request in writing.
- Request must be made for a specific purpose and must be identified in the request letter.
- Grant funds cannot be awarded to an individual or for profit business.
- Grant funds cannot be used for salaries and employee benefits.
- The GEDA Board of Directors must approve all requests unless approval delegated to GEDA Administrator.
- GEDA requires Government awardees to conform to the Government of Guam Procurement Law.
- Non-government awardees must at a minimum provide three (3) vendor quotes for item to be purchased.
- Event sponsorships funded with grant funds is limited to \$10,000.
- If grant approved awardee must publicly acknowledge QC contributor.
- GEDA will not consider more than one grant request from the same applicant in a twelve (12) month period

PUBLICIZING:

- GEDA will provide public notice of the availability of these grant funds on our website. Notice will include: contribution amount, identity of QC contributor, eligibility (uses) category, and the grant criteria.

BOARD ACTION: APPROVED / ✓

DISAPPROVED / /


EDWARD J. CALVO
Chairman

DATE: 11/15/18

EDDIE BAZA CALVO
Governor of Guam
I Maga'Lehen Guahan

RAY TENORIO
Lt. Governor of Guam
I Segundo Na Maga'Lehen Guahan



JAY ROJAS
Chief Executive Officer/Administrator
Takkilid na Ofisiat Eksekutibu/Administrador

December 28, 2018

Benjamin J. F. Cruz
Public Auditor
Suite 401 DNA Building
238 Archbishop Flores St.
Hagatna, Guam 96910

Hafa Adai Mr. Cruz;

The following is the Guam Economic Development Authority's (GEDA) Management Response to the findings listed in your Performance Audit Report on GEDA Qualifying Certificate Community Cash Contributions. GEDA welcomes this opportunity to provide you with some clarity on the issues raised in the report. The four areas as identified in the report are highlighted and GEDA management's response follows.

1. NO FOLLOW-UP ON LONG STANDING COMMUNITY CONTRIBUTIONS

a. The initial payment received report provided to the OPA did not show the discrepancy; however, this has and is being tracked on the Annual Compliance Reviews. It is GEDA's best interest to track and collect the 4% of rebates and abatements to off-set it's promotion expenses to market Guam as an investment destination; therefore, we do track and monitor the payment obligation which usually runs on a two year cycle when benefits are claimed. In this case it wasn't on the payment-received report, as it wasn't received at that time.

As confirmed by the OPA's independent review of the beneficiary's income tax returns, all but two years show income taxes due which would have been their benefit had they submitted their application to the Department of Revenue and Taxation. The Beneficiary has been in compliance with the terms and conditions of its QC contract and has annually been receiving its Certificate of Compliance "COC." It behooves GEDA to speculate as to why they would not pursue what they should perceive as their benefit otherwise why would they apply and conform to a QC contract with the government? The OPA had noted that there was a communication gap between the beneficiary and GEDA; however, it is not accurate as the Certificate of Compliance is the document that is issued by GEDA which states in no uncertain terms of the benefit it is entitled to for the respective calendar year. They were advised of the

procedures to claim their benefits with DRT. It is up to the beneficiary and most likely advice from their CPA/accounting firm to pursue the benefits; however, it is not until such time that the benefits are realized when the 4% of rebates and abatements obligation is due and payable to GEDA. This too is tracked on the Annual Compliance Reviews.

As with all the other QCs, this is also being tracked on the Annual Compliance Reviews. The QC has been going through a staffing revolving door and has proven to be somewhat of a challenge for GEDA; however, as was noted by the OPA, it is going through the revocation process and GEDA has been consistent in following up on the outstanding obligation and just recently collected the year in question.

As a result of the regular communication between the OPA and GEDA, we had immediately implemented a new policy to invoice the respective beneficiaries having this requirement upon receipt of their filed income tax return; however, we do not see this as an audit concern as the only aggrieved party is GEDA. No other party was denied any claims or benefits if these payments were not made.

2. WIDE DISCRETION OVER THE ALLOCATION OF FUNDS

The audit report itself acknowledges that the QC contracts as negotiated and agreed to between the QC Beneficiaries and the government of Guam gave GEDA authority over the dispensation of the funds. The only caveat that disbursements are to be made within specified categories identified in the QC. Accordingly, community contributions under these QC's shall only be granted to entities in those specific categories. In addition, the categories identified under the community contribution section of the QC's cited in the audit are there to establish "eligibility" categories and does not set a mandatory requirement that the funds must be distributed equally among these categories. Furthermore, none of the subsections in the QC establish allocation rules rather they clearly state that only GEDA's Board of Director's determines allocation of these funds.

3. UTILIZATION OF COMMUNITY CASH CONTRIBUTIONS – ECONOMIC DEVELOPMENT EXPENSES NOT MONITORED

It appears that OPA's review is fixated on the use of the QC community funds by GEDA. But again the report itself recognizes community contributions under these QC's shall only be granted to entities in specific categories of which economic development is one. GEDA has been mandated by law as the government agency tasked with managing the general economic development of Guam through the administration of its programs and activities, but also by serving as the central, business-centric representative of the government of Guam. GEDA operations and all of its staff have a role in the agency's economic development mission therefore any expenditures incurred by the agency in fulfilling its mission from whatever

sources is considered a function of economic development. GEDA'S enabling statute sets forth, "the corporation (GEDA) is authorized to use its funds, from whatever source derived (such as QC community contributions) in the exercise of its corporate powers and functions" as an economic development agency.

4. OTHER MATTERS – COMMUNITY CASH CONTRIBUTIONS NOT ADVERTISED

Notice of availability of these funds is available on GEDA's website.

Should you have any questions contact Claire L. Cruz, Compliance Division Manager at 647-4332.

Sincerely,



JAY ROJAS

Chief Executive Officer/Administrator

Appendix 7: Status of Audit Recommendations

No.	Addressee	Audit Recommendation	Status	Action Required
1.	GEDA Administrator	Indicate the specific amounts or percentages of allocation on the current active certificates and on the qualifying certificates to be issued going forward.	OPEN Implemented for two QCs. To review implementation for future QCs.	Please provide target date and title of official(s) responsible for implementing the recommendation.
2	GEDA Administrator	Create a monitoring system of projects and expenses related to economic development.	OPEN	Please provide target date and title of official(s) responsible for implementing the recommendation.
3.	GEDA Administrator	Advertise the availability of funding.	OPEN Implemented for two QCs. To review implementation for future QCs.	Please provide target date and title of official(s) responsible for implementing the recommendation.



**Guam Economic Development Authority
Qualifying Certificate Community Cash Contributions
Report No. 18-08, December 2018**

ACKNOWLEDGEMENTS

Key contributions to this report were made by:
Amacris Legaspi, CGFM, Auditor-in-Charge
Clariza Roque, CICA, Audit Supervisor
Llewelyn Terlaje, CGAP, CGFM, CFE, Audit Supervisor
Benjamin J.F. Cruz, Public Auditor

MISSION STATEMENT

**To ensure 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.

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.**

REPORTING FRAUD, WASTE, AND ABUSE

- Call our HOTLINE at 47AUDIT (472-8348)
- Visit our website at www.opaguam.org
- Call our office at 475-0390
- Fax our office at 472-7951
- Or visit us at Suite 401, DNA Building in Hagåtña;

All information will be held in strict confidence.