

Guam Police Department
Bid No. GSA-081-10 Police Patrol Vehicles

Review
July 2010 through January 2011

OPA Report No. 11-04
May 2011



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EXECUTIVE SUMMARY
Guam Police Department Review of Bid No. GSA-081-10 Police Patrol Vehicles
Report No. 11-04, May 2011

At the request of a senator from the 30th Guam Legislature, we conducted a review of the procurement of Guam police vehicles via Invitation for Bid (IFB) No. GSA-081-10. We found that this procurement bypassed the Attorney General's (AG) review because the initial requisition of \$515,940 was subsequently lowered to \$490,000. The bid was amended five times to change the bid opening date; one amendment changed 10 bid specifications to make the requisition less restrictive as the initial bid was brand-specific. We also found that the General Services Agency (GSA) awarded the bid to a vendor whose Certificate of Authority was expired at bid opening and as such was non-responsive. However, 14 police patrol vehicles which met the bid requirements were received on December 30, 2010.

Revised Requisition Avoided AG Review

P.L. 30-72 requires the AG to review and approve procurements over \$500,000. The initial requisition was for 12 police patrol vehicles at \$42,995 each totaling \$515,940. Accordingly, the requisition was routed between GSA and the Office of the Attorney General (OAG) in April 2010. Nearly two months later, on June 24, 2010, GPD was instructed by the OAG to resubmit the requisition to GSA in accordance with the recently established review process for purchases over \$500,000. Instead of attempting to secure OAG approval, GPD revised the requisition to prevent further delays. The number of vehicles was increased from 12 to 14 and the per-unit cost was reduced from \$42,995 to \$35,000, dropping the total cost from \$515,940 to \$490,000, thereby avoiding the \$500,000 threshold. Thus, the requisition did not undergo the AG's review.

IFB Amended Five Times, Materially Altering Specifications

On July 9, 2010, the police patrol vehicles IFB was publicly announced. After the IFB was issued, a vendor raised several questions about the specifications. Between July 23, 2010 and August 12, 2010, the IFB was amended five times, primarily to move the bid opening date and time. The vendor's questions led to the issuance of Amendment No. 4 on August 11, 2010, which, in addition to another date and time change, also changed 10 of the IFB's specifications to include engine size, wheel base, electrical system, brakes, seats, tires and wheels, and exhaust system.

Restrictive Specifications

The IFB's specifications were restrictive as they were brand-specific. The Acting Chief of Police maintained that the original specifications were tailored to a specific vehicle brand and that Amendment No. 4 was intended to broaden the specifications and invite more prospective bidders. Had GSA properly utilized the AG's review and approval process, the brand-restrictive specifications in GPD's vehicle procurement could have been avoided.

Successful Bidder's Bid Non-Responsive

GSA erred in accepting and awarding the bid to an unqualified bidder. The bidder was *non-responsive* in that the bidder's certificate expired on July 1, 2010. The bids were opened on August 20, 2010 by GSA. It was not until OPA brought this deficiency to GSA's attention on November 4, 2010 that GSA learned of the defect. GSA asserted that the expired certificate was deemed as a "minor informality since it is based on form and not of substance." As such, GSA instructed the winning bidder to submit a current certificate on November 9, 2010.

Based on OPA's legal counsel review, we disagree with GSA's contention that this was a minor informality and that the subsequent submission cured the defect. Because this was an IFB, the winning bidder was non-responsive at bid opening. Had this procurement gone through the AG's review, this defect may have been discovered and the other vendor awarded this bid.

Conclusion and Recommendation

The errors disclosed in our review of IFB No. GSA-081-10, as well as the number and nature of procurement appeals brought before the Public Auditor, underscore the need for more procurement training and legal advice at GSA. This review also brought to light the need for more secondary reviews of solicitations processed by GSA and to ensure that the AG's office thoroughly review purchases in excess of \$500,000. Given the significant number of procurements and amounts, GSA should have its own full-time legal counsel to advise and guide them throughout the procurement cycle.



Doris Flores Brooks, CPA, CGFM
Public Auditor



Review of Bid No. GSA-081-10 GPD Police Patrol Vehicles¹

May 5, 2011

Honorable Adolpho Palacios, Sr.
Senator, 31st Guam Legislature
Chairman, Committee on Public Safety, Law Enforcement, and Judiciary
155 Hesler Place
Hagatna, Guam 96910

Subject: Procurement Process Review of Bid No. GSA-081-10 Police Interceptor Vehicles

Dear Senator Palacios:

In response to your October 22, 2010 request to review the procurement process relative to the Guam Police Department's (GPD) Invitation for Bid (IFB) No. GSA-081-10, we provide this report.

Your committee's October 19, 2010 public hearing revealed that the bid invitation for police cruisers was amended several times after bids were received and that certain specifications (safety cage, radio, etc.) were deleted to allow a vendor to win the bid at \$1,000 less per vehicle. As you requested, OPA addressed the following issues:

1. Did the amended specifications materially alter the nature/character of the bid such that re-bidding would be necessary?
2. Between the successful (awarded) and the unsuccessful (rejected) bidder, which bidder would be able to provide GPD with fully-equipped patrol vehicles at the least total cost?
3. How long did the bid amendments delay delivery of the police cruisers to GPD?

We reviewed other aspects of the original and amended bid to provide this assessment for your guidance.

¹ References to police patrol vehicles, interceptors, or police pursuit vehicles all pertains to police patrol vehicles required by the bid.

Summary of Review

The procurement of new police patrol vehicles and associated equipment² was funded by a grant from the U. S. Department of Interior's Office of the Insular Affairs in October 2009. The grant stemmed from GPD's 2011 Needs Assessment and Cost Presentation Report, which identified the need for pursuit vehicles of a specific make. In February 2010, the Governor released \$527,026 in Compact Impact funds for the purchase.



Image 1: GPD's new police patrol vehicles was delivered on December 30, 2010, in accordance with the bid requirements.

GPD sent its vehicle requisition with a suggested supplier source to the General Services Administration (GSA) on April 29, 2010. Since Public Law (P.L.) 30-72 requires the Attorney General (AG) to review and approve procurements over \$500,000, the requisition was routed between GSA and the Office of the Attorney General (OAG), prompting the two agencies to meet to decide how to handle large procurements. Nearly two months later, on June 24, 2010, GPD was instructed by OAG to return the requisition to GSA. Between April and August 2010, the Police Chief was replaced by two different acting chiefs.

Instead of attempting to secure OAG approval, GPD revised the requisition. GPD's Administrative Services Officer (ASO) was instructed by Acting Chief of Police #2 to make the revisions to prevent further delays. The number of vehicles was increased from 12 to 14 and the per-unit cost was reduced from \$42,995 to \$35,000. The total cost dropped from \$515,940 to \$490,000, thereby avoiding the \$500,000 threshold. Thus, the requisition did not require the OAG's review. GSA received the revised requisition on June 28, 2010 and the IFB was publicly announced on July 9, 2010.³

Before bids were opened on August 20, 2010, five amendments were made to the IFB. All amendments changed the bid opening dates and times. Amendment No. 4 included specification changes pertaining to the vehicles themselves (see Appendix 3 for details). Email exchanges and other correspondences among the bidder, the Acting Police Chief #2, and GSA's Chief Procurement Officer (CPO) indicated a need for clarification. A written memo dated July 15, 2010 was submitted by a bidder to GSA outlining concerns and requested for clarifications on bid specifications. The Acting Chief of Police #2 maintained that the original specifications were tailored to a specific vehicle brand and Amendment No. 4 was intended to broaden the specifications and invite more prospective bidders. Only two bids were received and a contract was awarded on August 30, 2010.

We found in our review that the winning bidder's Certificate of Authority was expired. GSA was not aware of the expired certificate until we pointed it out on November 4, 2010. On this issue alone, GSA should have rejected the winner's bid. The IFB specifically stated that "*failure to*

² GPD OIA Grant Project Status Report for Period Ending June 30, 2010 indicates the associated equipment to include "a police radio mobile radio with siren/PA system and speaker and installation, emergency lights and installation, vehicle identification graphics and installation, and vehicle partition (aka "cage")."

³ Bid was issued by GSA on July 6, 2010.

submit a valid...Certificate of Authority...is cause for rejection of bid.” GSA asserted the issue was minor and subsequently instructed the bidder to submit a valid certificate. GSA’s action was prejudicial to the unsuccessful bidder and violated Guam Procurement Regulations, Title 2 Guam Administrative Rules and Regulations (G.A.R.) §3109(m)(1), which states:

“Correction or withdrawal of a bid because of an inadvertent, nonjudgmental mistakes in the bid requires careful consideration to protect the integrity of the competitive bidding system, and to assure fairness. If the mistake is attributable to an error in judgment, the bid may not be corrected. Bid correction or withdrawal by reason of a nonjudgmental mistake is permissible, but only to the extent it is not contrary to the interest of the territory or the fair treatment of other bidders.”

We fault GSA’s knowing acceptance and announcement of an IFB that had been revised to circumvent the \$500,000 procurement threshold and which contained specifications that restricted competition. These actions are contrary to the CPO’s duties under Title 5 of the Guam Code Annotated (G.C.A.) §5113 (c)(1) “to supervise the procurement of supplies and services needed by the Territory;” as well as 5 G.C.A. §5001(3) “to provide for increased public confidence in the procedures followed in public procurement;” and §5001(b)(7) “to provide safeguards for the maintenance of a procurement system of quality and integrity.” We do not condone GPD’s attempt to bypass the OAG review and approval process by changing both the costs and specifications of its vehicle requisition to favor a particular outcome. Title 5 G.C.A. § 5265 requires specifications to seek to encourage competition and to not be unduly restrictive. Had GPD’s IFB undergone proper review and approval by the AG, the defects we identified in this review may have been detected and prevented.

Responses to Questions

1. Did the amendments to the bid specifications materially alter the nature/character of the bid such that re-bidding would be necessary?

Yes. The revised specifications, the multiple deadline changes, the vendor questions, the lack of a pre-bid conference, and the winning bidder’s expired certificate would have and should have necessitated a re-bidding. The IFB was not cancelled or re-issued because GPD relied on GSA’s expertise and knowledge of the procurement process.

The IFB was amended five times, mainly to move the bid opening date and time. After the IFB was issued, a vendor raised several questions about the specifications. As such, the bid opening had to keep changing while GSA waited for GPD to provide answers.

The vendor’s questions led to the issuance of Amendment No. 4, which, in addition to another date and time change, also changed 10 of the IFB’s specifications to include the following:

- Engine
From: 5.4 Liter V8 or larger
To: 4.6 Liter V-8 235 Horsepower or larger

- Wheel Base
From: 120” minimum
To: 110” or greater
- Electrical System
From: 12 volt negative ground, 160 Amp Alternator
To: 12VDC volt negative ground, 160 Amp Alternator or greater
- Suspension
From: Front and rear suspension and shock absorbers designed for police work
To: Electronic stability program with brake assist and traction control

See Appendix 3 for details of the specification changes.

The Governor’s appointment of two GPD officials to serve as acting Chief of Police on four different occasions (see Appendix 4) added to the confusion surrounding this IFB. Acting Chief of Police #2 determined that the original bid specifications favored a specific vehicle model. The amendment, he maintained, ensured that the bid specifications were not restrictive to one particular model and would allow maximum opportunity for qualified bidders to compete. The IFB was not cancelled or re-issued because GPD relied on GSA’s expertise and knowledge of the procurement process.



Image 1: A radio system installed to the new police patrol vehicles, which was taken from old patrol vehicles.

GSA allowed only two weeks, from bid issuance on July 6, 2010 to the initial due date of July 26, 2010

for prospective bidders to examine the invitation and decide whether to bid.⁴ GSA also did not hold a pre-bid conference, as recommended by Guam Procurement Regulations,⁵ to explain or clarify the IFB’s procurement requirements or allow prospective bidders to ask questions and discuss IFB requirements at the same place and time, on a level playing field. Vendor questions led directly to the need for amendments which could have and should have been clarified in a pre-bid conference.

2. *Between the successful (awarded) bidder and unsuccessful (rejected) bidder, which bidder would be able to provide GPD with fully-equipped patrol vehicles at the least total cost?*

Both bidders offered police patrol vehicles that met the specifications of the IFB according to GSA. As specified by the IFB, both offered vehicles that had been tested and surveyed by the

⁴ The bid was publicly announced on July 9, 2010.

⁵ Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an IFB. The conference shall be held long enough after the IFB has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. 2 G.A.R. § 3109 (g)(4).

Michigan State Police Department and both met the requirements of a police pursuit vehicle.⁶ The award made was based on price. In an IFB, the award is made to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the IFB, 5 G.C.A. § 5211(g).

The price variance between the bids was \$1,105. The successful bid was for \$33,890 per vehicle and the losing bid was for \$34,995. The higher bid price included additional equipment and features that were not specified in the IFB. These included:

- A 5.7 Liter V8 368 Horsepower engine (instead of the minimum 4.6 Liter V8 235 Horsepower engine);
- A 5-year warranty or 100,000-mile power train warranty (instead of a 5-year/60,000 miles limited power train warranty); and
- A radio communication system compatible with GPD's existing system (the radio system was removed from the original IFB to lower costs).

3. How long did the bid amendments delay delivery of the police cruisers to GPD?

There was no delay. The award for the vehicles was issued on August 30, 2010 with delivery within 120 days. The 14 patrol vehicles were delivered to DPW on December 30, 2010.

Delivery would have been delayed by at least 120 days if the IFB had undergone AG review. That is the average time it takes for procurement requests over \$500,000 to clear the OAG. The real delay occurred not in the delivery, but in the procurement process.

Ten months elapsed between GPD's receipt of the grant funding in February 2010, to the delivery of the new cruisers in December 2010. The IFB was amended five times to push the bid opening date back 25 days, from the original July 26, 2010 to August 20, 2010. It took nearly 60 days to route the requisition back and forth between GPD, GSA and OAG, in the attempt to comply with the law. The timeline is presented below.

- November 27, 2009 - P.L. 30-72 requires that the AG act as legal advisor during all phases of the solicitation and procurement process resulting in an award of \$500,000 or more.
- April 29, 2010 - GSA receives GPD's Requisition No. Q101200043, authorized by the Chief of Police, for the purchase of 12 patrol vehicles at \$42,995 each and totaling \$515,940 from a suggested supplier. This is a process required by GSA.
- May 7, 2010 - GSA returns the requisition informing GPD that it requires the AG's review since total cost is over \$500,000.
- May 10, 2010 - GSA Circular No. 2010-002 notifies all agencies that procurements in excess of \$500,000 must have AG approval prior to submission to GSA.

⁶ State of Michigan - Department of State Police – Police Vehicle Evaluation Model Year 2010.

- June 11, 2010 - GPD's ASO emails Assistant AG for assistance on how to comply with P.L. 30-72. The ASO noted that GPD "*submitted the requisition to GSA in April 2010 only to be advised to have it routed to the AG's Office.*"
- June 14, 2010 - The Assistant AG responds that GPD's vehicle requisition prompts a meeting with GSA's CPO to discuss how OAG and GSA will handle procurements above \$500,000.
- June 24, 2010 - OAG instructs GPD to send the requisition directly to GSA for review.

The ASO was instructed by the Acting Chief of Police #2 to revise the requisition, changing the number and unit price for vehicles from 12 at \$42,995 to 14 at \$35,000. The revision lowered the total cost from \$515,940 to \$490,000, just \$10,000 below the \$500,000 threshold. As such, the requisition bypassed the OAG and went straight to GSA on June 28, 2010. Had the OAG reviewed this IFB, the brand specific vehicle specifications may have been discovered and corrected before the IFB's issuance and the numerous amendments avoided. Appendix 5 continues the IFB's chronology of events.



Image 2: The fleet of 14 police patrol vehicles delivered at the GPD headquarters in Tiyan as displayed in January 2011.

4. Review of other aspects of the bid (original and amended), and provide this office with your assessment, for guidance.

We noted several issues and offer suggestions to safeguard the integrity of future procurement and ensure compliance with Guam Procurement Law and Regulations.

Successful Bidder's Bid Non-Responsive

GSA erred in accepting and awarding GPD's IFB to an unqualified bidder. The bidder was **non-responsive** at bid opening as it did not comply with the IFB's guarantee requirement for a current Certificate of Authority. The bidder's certificate, while provided, expired on July 1, 2010. The bids were opened on August 20, 2010.

We brought the deficiency to GSA's attention on November 4, 2010. On November 9, 2010, GSA instructed the bidder to submit a current certificate, asserting that the expired certificate was deemed a "minor informality since it is based on form and not of substance." Based on OPA's legal counsel review, we disagree with GSA's contention that this was a minor informality and that the subsequent submission cured the defect. Under the IFB's terms and conditions, Item No. 11, Bid Guarantee Requirements, states "*failure to submit a valid...Certificate of Authority on the surety is cause for rejection of bid.*" The formality of this statement is undeniable.

GSA's instruction did not correct the defect but instead compounded it by allowing a bid to be changed not only after bid opening but also after contract award. Because this was an IFB, the winning bidder was non-responsive at bid opening. GSA's belated acceptance of the bidder's renewed Certificate of Authority was prejudicial to the other bidder whose certificate was current and had been properly submitted by the bid opening date.⁷ Refer to Appendix 6 for more information on bidder's responsiveness and procurement appeal decisions.

Restrictive Specifications

Guam Procurement Law prohibits brand specific specifications. Pursuant to 5 G.C.A. § 5265, specifications should encourage competition and not be unduly restrictive. Section 5268(a) requires specifications to list only essential functions and characteristics to meet minimum needs and specifically prohibits requirements so narrow as to limit competition. All government agencies and GSA must diligently ensure that their procurement requirements allow for maximum competition.

We contend that if GSA had properly utilized the AG's review and approval process, the brand-restrictive specifications in GPD's vehicle procurement could have been avoided.

In the spirit of "an ounce of prevention being worth more than a pound of cure," we recommend GSA's CPO consider hiring an in-house legal counsel to review requisitions and provide legal assistance in other matters to ensure compliance with the Guam Procurement Law and Regulations.

Need For More Government-Wide Procurement Training

The errors revealed in our review of IFB No. GSA-081-10, to include the winning bidder's expired certificate and lack of a pre-bid conference, as well as the number and nature of procurement appeals brought before the Public Auditor, underscore the need for more training to ensure proficiency among the staff who administer procurement processes. In light of the procurement issues that continue to vex our government, procurement training is needed government-wide. Complying with complex procurement laws and regulations is very demanding and should never be relegated to untrained staff.

The OPA has conducted training in the past and will continue to do so. We held three training sessions in 2009 designed specifically for three government agencies with the highest number of procurement appeals filed against them. We also worked with the Association of Government Accountants Guam Chapter and offered training for participants from the public and private sectors of our community in June 2010. We are also aware that the CPO conducted a government-wide training session last year. The need for continued training is obvious and offering and conducting training remains a high priority for OPA. In fact, efforts are now underway to offer more courses in the coming months.

⁷ 2 G.A.R. §3109(m) (4)(B).

Management Response

On February 25, 2011, OPA transmitted the draft report to the Police Chief and the Acting Chief of Police #2. The Police Chief approved the draft and concurred with the result of the review. The Acting Chief of Police #2 disagreed with certain aspects of the draft report. We appreciate the cooperation shown by the staff and management of GPD and GSA.

Conclusion

The failure to ensure that GPD's police vehicle IFB specifications were not restrictive (brand-specific), lack of a pre-bid conference to explain and clarify the IFB's requirement on a level-playing field, and understanding the significance of bidder responsiveness were factors in this particular procurement. Our review of the procurement records underscored the government of Guam's need for continuous training of all personnel involved with procurement.

This review also brought to light the need for more secondary reviews of solicitations processed by GSA for government line agencies to ensure that the AG's office review purchases in excess of \$500,000. Thorough reviews would detect and prevent errors at all phases of the procurement process – from the initial development of bid specifications to final award. Given the significant number of procurements and amounts, GSA should have its own full-time legal counsel to advise and guide them throughout the procurement cycle.

Senseramente,



Doris Flores Brooks, CPA, CGFM
Public Auditor

Appendix 1:
Review Objective, Scope & Methodology

The objective of this review was to respond to the request made by the senator relative to the IFB No. GSA-081-10 and review other bid aspects and provide guidance of future procurement in ensuring compliance with the Guam Procurement Laws and Regulations.

The scope of this engagement is from July 2010 through January 2011, and other periods deemed necessary.

Our methodology included gaining an understanding of the policies, procedures, applicable laws and regulations pertaining to the IFB; reviewing the procurement record of the IFB; and interviewing pertinent officials from the Guam Police Department and General Services Agency,

We conducted this review 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 assessment to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The evidence obtained provides a reasonable basis for our assessment and conclusions based on our objectives. However, we did not assess internal controls relative to the subject IFB's procurement process. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions.



Thirtieth
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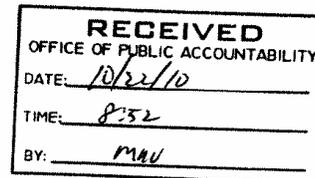
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Chairman

October 22, 2010

Doris Flores Brooks
Public Auditor
Office of Public Accountability
Suite 401, DNA Building
238 Archbishop Flores Street
Hagåtña, Guam, 96910



SUBJECT: Request for Review of and Inquiry into
BID #GSA 081-10 Re: Police Vehicle

Dear Ms. Brooks:

Buenas yan Háfa Adai! This office formally requests that the Office of Public Accountability (OPA) conduct a review and inquiry into the processing and eventual award of BID #GSA 081-10.

Testimonies provided by Guam Police Department (GPD) staff during the public hearing at the Guam Legislature on October 19, 2010 (10/19/2010), during the discussion on the need to fund for the repair of Police Cruisers, it was revealed that the recent bid for Police Cruisers were amended several times after bids were received in response to the original bid.

Testimonies revealed that the amended bid reflects the deletion of certain specifications (safety cage, radio, etc.), and thus enable a vendor with one thousand dollars (\$1,000.00) less per vehicle to prevail.

It is the belief of this office that the amendment altered materially the nature of the bid, and thus would require the re-announcement of the bid, with new submittal to be turned in which would be based on the amended bid.

It was further revealed that the vendor that prevailed, with a one thousand dollars (\$1,000.00) less per vehicle will provide for a basic vehicle without the security cage, radio, etc., thus requiring the Guam Police Department (GPD) to install these accessories at the cost of four thousand dollars (\$4,000.00) to eight thousand dollars (\$8,000.00) per vehicle. Whereas, the unsuccessful vendor whose bid is one thousand dollars (\$1,000.00) more per vehicle, would provide a completely outfitted Cruiser at no additional cost. The bottom line is, that while the prevailing vendor is one thousand

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dollars (\$1,000.00) less per vehicle, it actually would cost the people of Guam at least three thousand dollars (\$3,000.00) more per vehicle than the bid of the unsuccessful vendor, in the end.

This office requests specifically that the Office of Public Accountability (OPA) review the entire bid process and provide an opinion on the following points:

1. Did the amendments on the bid specifications materially alter the nature/character of the bid such that a re-bidding would be necessary?
2. Between the successful bidder and the unsuccessful bidder, which bidder would be able to provide the Guam Police Department with the least total cost, to put the vehicles to patrol duty (vehicle fully-equipped)?
3. Because of the amendments made to the bid, by how many months delay would the Cruiser finally get to the Guam Police Department? It was revealed during testimony that had the original bid not been cancelled, the Cruisers would already be on the way. Please verify.
4. Please review other aspects of the bid (original and amended), and provide this office with your assessment, for guidance.

Sincerely,



ADOLPHO B. PALACIOS, SR., MPA, BS/CJA
Chairman

Amendment No. 4 changed the vehicle specifications as follows:

1. Engine

From: 5.6 Liter V8 or larger

To: 4.6 Liter V-8 235 Horsepower or larger

2. Electrical System

From: 12 volt negative ground, 160 Amp Alternator

To: 12VDC volt negative ground, 160 Amp Alternator or greater

3. Wheel Base

From: 120" minimum

To: 110" or greater

4. Suspension

From: Front and rear suspension and shock absorbers designed for police work

To: Equip vehicles with electronic stability program with brake assist and traction control

5. Brakes

From: The vehicle shall be equipped with an electronic stability program with brake assist and traction control. The brakes shall be power assisted and feature an anti-lock brake system (ABS). All four wheels shall be equipped with disc brakes. Friction material shall be designed for police applications.

To: The brakes shall be power assisted and feature an anti-lock brake system (ABS). All four wheels shall be equipped with disc brakes. Friction material shall be designed for police applications.

6. Tires and Wheels

From: Lug nuts shall be covered with a full size wheel cover. Manufacturer's Standard Tire Pressure Monitoring System shall be supplied.

To: Manufacturer's Standard Tire Pressure Monitoring System shall be supplied. The bidder shall provide a list of manufacturer tests and certification of tires as acceptable for original equipment and replacement installation on the police package vehicle specified.

7. Seats

From: Front seat shall be bucket type accommodating a center console. The driver's seat shall be power adjustable and shall be designed for maximum comfort, support, and durability. The front and rear seat upholstery shall be woven synthetic cloth fabric. Rear seat shall be bench type with plastic overlay.

To: Front seat shall be bucket type to accommodate a police-type communication center console. Three point active type seat belts for the front seat and rear outboard seats with lap belt in the center.

8. Exhaust System

From: Dual Exhaust System.

To: Police Standard, Dual, Stainless Steel.

9. Miscellaneous Equipment

Item #21

Amend to delete: Police radio compatible with existing communication system.

Item #23

From: Left and right remote control outside mirrors.

To: Left and right remote control outside rearview mirrors.

10. Delivery

From: 90 to 120 days upon receipt of purchase order.

To: Not greater than 120 days upon receipt of purchase order.

Appendix 4:**GPD Acting Police Chiefs Timeline**

Three different chiefs were at the helm of GPD at the beginning, middle, and end of the police vehicle procurement process. The Chief who initiated the solicitation and appointed the exploratory team of police officers who developed the initial specifications and submitted the requisition to GSA in April 2010 was replaced by two acting chiefs. The second acting chief initiated the amendment that changed the vehicle specifications. The first acting chief was reappointed and was at the helm when the new vehicles were delivered on December 30, 2010. See timeline below for details.

1. May 17, 2010 : Police Chief Resigns
2. May 18, 2010 : Acting Chief of Police #1
3. June 22, 2010 : Acting Chief of Police #2
4. July 26, 2010 : Acting Chief of Police #1
5. September 21, 2010 : Acting Chief of Police #1

- February 29, 2008: Chief of Police assigns a committee to explore and determine the best choices for future GPD police vehicle and motorcycle purchases.
- November 27, 2009: P.L. 30-72 was enacted requiring the Attorney General to act as legal advisor during all phases of the solicitation and procurement process for any procurement estimated resulting in an award of \$500,000 or more. In addition, the Attorney General shall determine the legality and the correctness of the contracts' form.
- February 18, 2010: Bureau of Budget, Management and Research (BBMR) receives the Department of the Interior Office of Insular Affairs' authorization to use \$527,026 in Compact Impact funds to purchase police vehicles.
- February 26, 2010: At GPD's request, a vendor submits a price quotation of \$42,995 for each police vehicles. GSA requires procuring agencies to provide a detailed description, quantity, and price quote of the intended purchase, and a suggested supplier.
- April 2, 2010: The Chief of Police authorizes Requisition No. Q101200043 for the purchase of 12 police patrol vehicles totaling \$515,940, which is at the price of \$42,995 quoted by the suggested source.
- April 29, 2010: GSA receives technical specifications and Requisition No. Q101200043.
- May 7, 2010: GSA returned the requisition informing GPD that Requisition No. Q101200043 requires the AG review since total cost is over \$500,000.
- May 10, 2010: GSA issues Circular No. 2010-002 informing departments and agencies that procurement in excess of \$500,000 must be approved by the OAG prior to submission to GSA.
- June 11, 2010: GPD's ASO seeks assistance from an Assistant Attorney General on how to comply with P.L. 30-72. The ASO noted that GPD "*submitted the requisition to GSA in April 2010 only to be advised to have it routed to the AG's Office.*"
- June 14, 2010: The Assistant AG responds that the OAG and GSA's CPO will meet to discuss how to work together on procurements above \$500,000, acknowledging that GPD's requisition prompted the meeting.
- June 24, 2010: The OAG instructs GPD to send the requisition directly to GSA to review procurement over \$500,000 and tells GPD that OAG will not work directly with purchasing agency in these reviews.

Appendix 5:
Bid No. GSA-081-10 Sequence of Events

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- June 28, 2010: GSA received the revised Requisition No. Q101200043 from GPD, increasing the number of vehicles to 14, lowering the per-unit cost to \$35,000 and the total cost to \$490,000, and bypassing the need for OAG for review and approval.
- July 6, 2010: IFB No. GSA-081-10 was issued by GSA.
- July 9, 2010: GSA publicly announces IFB No. GSA-081-10.
- July 15, 2010: A prospective bidder submits questions relative to the bid specifications.
- July 20, 2010: Acting Chief of Police #2 sends a memo to GSA's CPO to amend the bid specifications by changing engine size from 5.4L V8 to 4.6L V8 or greater.
- July 23, 2010: Amendment No. 1 changes the bid opening from July 26, 2010 to August 2, 2010.
- July 30, 2010: Amendment No. 2 changes the bid opening from August 2, 2010 at 10:00 am to August 10, 2010 at 10:00 am.
- August 5, 2010: Amendment No. 3 changes the bid opening from August 10, 2010, 10:00 am to August 13, 2010 at 11:00 am.
- August 11, 2010: Amendment No. 4 changes the bid opening date and time from August 13, 2010 at 11:00 am to August 16, 2010 at 10:00 am and changes 10 vehicle specifications as listed in Appendix 3.
- August 12, 2010: Amendment No. 5 changes the bid opening date and time from August 16, 2010 at 10:00 am to August 20, 2010 at 3:00 pm.
- August 20, 2010: Bids are opened. Two vendors submit bids. Both are evaluated by GSA.
- August 30, 2010: GSA notifies the unsuccessful bidder of the bid result.
- August 30, 2010: Successful bidder received purchase order (P106A06807) for \$474,460 for 14 police patrol vehicles at \$33,890 each, with delivery to DPW within 120 days of the order or before December 31, 2010.
- September 2, 2010: The unsuccessful vendor submits a protest letter to GSA arguing that its \$1,105 higher per-unit price was due to an offering of additional equipment and features.

Appendix 5:**Bid No. GSA-081-10 Sequence of Events****Page 3 of 3**

September 11, 2010: GSA's Acting CPO upholds GSA's decision and rules the protest to be without merit.

October 22, 2010: Senator Adolpho Palacios makes a formal request to OPA to review the IFB No. GSA-081-10 procurement process.

December 30, 2010: Successful bidder delivers 14 police patrol vehicles to DPW.

January 27, 2011: Successful bidder receives payment of \$474,460 for completed delivery.

Appendix 6:**Bidder's Responsiveness and OPA Appeals Decisions**

The purchasing agency's determination of a bidder's responsiveness to an IFB's requirements on the bid opening date is crucial to the competitive sealed bidding process and equal treatment of all bids submitted. The Guam Procurement Law, 5 G.C.A. §5201(g) defines a responsive bidder as a person who has submitted a bid which conforms in all material respects to the IFB. The Public Auditor has ruled on this matter in several procurement appeal cases.

1. Decision of Appeal No. OPA-PA-07-007: The decision concluded that the Guam International Airport Authority's rejection of the appellant's bid was proper because the appellant failed to submit the required C41 licenses or the resumes of the key personnel to perform the work as required by the bid and argues that these were not merely informalities. The decision determined that the appellant's bid was non-responsive.
2. Decision of Appeal No. OPA-PA-10-005: The decision ordered the Guam Community College to terminate the award to the successful bidder for telephone system equipment because the successful bidder failed to submit a true and accurate Affidavit Disclosure of Major Stockholders and was non-responsive to the IFB's requirements.

