

**Guam Regional Transit Authority  
Procurement and Billing of Public  
Transit Services**

**Performance Audit  
October 1, 2014 through September 30, 2017**

**OPA Report No. 18-01  
February 2018**



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**EXECUTIVE SUMMARY**  
**Guam Regional Transit Authority Procurement and**  
**Billing of Public Transit Services**  
**OPA Report No. 18-01, February 2018**

Our audit of the Guam Regional Transit Authority (GRTA) found that the procurement for the outsourced management and operations of public transit services did not comply with applicable laws and regulations and GRTA's billing review was inadequate to identify overcharges. Specifically, the Multi-Step Invitation for Bids' (MSBs) procurement record was incomplete and inadequate to support the sole-source contract awarded to the vendor. In addition, there was no formal contract that defined the specifications and deliverables for the management and operations of the public transit system.

We found that GRTA did not diligently review invoices against daily manifests and heavily relied on contractor-provided invoices. As a result, we found: (1) the daily manifests did not have sufficient information to justify billed hours for fixed route services; (2) 374 hours, or \$23,246, were overbilled for paratransit services; (3) \$350,260 in unauthorized charges of contractor-provided equipment for fixed route and paratransit services; and (4) \$217,450 in charges that exceeded the amounts authorized in purchase orders (POs).

**Procurement of Public Transit Services**

In January 2017, GRTA began a three-year arrangement with the vendor for the management and operations of Guam's public transit system. GRTA negotiated hourly rates of \$50.93 for fixed route services and \$51.42 for paratransit services with the use of GRTA-provided equipment. This contract ended a more than decade-long month-to-month service contract for public transit service operations. However, we found the procurement record to be incomplete and insufficient to support the sole-source contract awarded to the vendor. The files did not include any record of meetings that related to the procurement, any sound recordings of any meetings to discuss the procurement, or any written justification for transitioning from an MSB to a sole-source.

**No Formal Contract for Public Transit Services**

Contracts represent a tool that parties use to safeguard their resources. There was no formal contract for the management and operations of public transit services between GRTA and the vendor. Instead, GRTA relied on three POs issued by the General Services Agency (GSA) to carry out the services. For a public service costing substantial annual amounts (\$4.0 million (M) in FY 2017, \$3.5M in FY 2016, and \$3.9M in FY 2015), a formal contract with the Attorney General's (AG) guidance, is necessary to establish rates for services, state expectations of parties, and resolve any negative situations.

**Insufficient Information to Support Fixed Route Billing**

There was no time-related information in the fixed route daily manifests to support hours charged for fixed route billings. For example, a semimonthly invoice for fixed route services indicated 1,653 hours, or \$102,485; however, the daily manifests had no indication of actual start and end times to support exactly how many hours were provided for bus services.

### **Overbilling for Paratransit Services**

Our testing of two semimonthly invoices (October 1-15, 2016 and July 1-15, 2017) found that the vendor overbilled GRTA by 374 hours or \$23,246 for paratransit services. Before GRTA submitted the invoices to the Department of Administration (DOA) for payment processing, GRTA merely matched the invoices to attached summary sheets. Our testing included comparing these invoices and summary sheets to the daily manifests.

The invoices were not regularly reviewed between August 2015 and March 2017. GRTA officials explained that they resumed invoice verification against the daily manifests in March 2017. Since resuming verification, GRTA has not identified any billing errors. In addition, GRTA did not find the overbilled hours that we identified in this audit.

### **Unauthorized Charges for Public Transit Services**

The FY 2017 POs specified hourly rates of \$50.93 for fixed route services and \$51.42 for paratransit services. We noted the invoices from January 2017 through September 2017 included hourly charges for contractor-provided equipment for fixed route services at \$73.33 and paratransit services at \$73.74. Although these contractor-provided equipment hourly rates were part of the vendor's price proposal sheet from their bid submission, these rates were not specified in the POs. Therefore, we questioned \$350,260 in unauthorized charges.

We also compared the vendor invoices against the three POs and supplemental POs issued, and found \$217,450 in charges that exceeded the authorized PO amounts. This occurred because GRTA did not monitor the balances as invoices were received.

### **Conclusion and Recommendations**

The procurement record for the management and operations of the public transit services was incomplete and could not support the sole-source awarding to the vendor, and a formal contract was not issued. In addition, GRTA management did not perform its due diligence when reviewing and approving. As a result, GRTA was overbilled and overcharged.

We recommend the GRTA Executive Manager: (1) work with the AG's office to formalize a contract with the vendor; (2) formalize a review process for contractor-provided invoices to ensure accuracy of hours charged; and (3) seek clarification from the AG's office on the appropriateness of charges for contractor-provided equipment. We also recommend the GSA Chief Procurement Officer to direct staff to prepare the necessary documentation to complete the procurement record, including the justification of the sole-source award.

GRTA management disagreed with our findings on the incomplete procurement file, overbilling for paratransit services, and unauthorized charges. GSA also disagreed with our finding on the incomplete procurement file. Due to reasons stated in the report, these findings remain.

Doris Flores Brooks, CPA, CGFM  
Public Auditor



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## Introduction

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This report presents the results of our performance audit of the Guam Regional Transit Authority's (GRTA) procurement and billing of public transit services. The scope of this audit was from Fiscal Year (FY) 2015 through FY 2017 or October 1, 2014 through September 30, 2017. This audit was requested by a Senator in the 34<sup>th</sup> Guam Legislature after a GRTA Board Member expressed concerns regarding "billing improprieties for services not rendered."

The objectives of our audit were to determine whether:

- 1) The procurement of the management and operations of the public transit system was conducted in accordance with applicable laws, rules, and regulations; and
- 2) Public transit vendor invoices were accurately charged for paratransit and fixed route services to GRTA.

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

### **Background**

In January 1980, Public Law (P.L.) 15-92 established the Guam Mass Transit Authority (GMTA) to establish, develop, promote, and/or operate the public transit systems on Guam. In March 2002, P.L. 26-76 abolished the GMTA and transferred the power, duties, and responsibilities to the Department of Administration (DOA).

In March 2009, P.L. 30-05 created GRTA to plan services, establish, develop, coordinate, promote, own, and operate facilities and services that support public transportation and public parking within Guam. The GRTA is mandated to (1) operate a system of public transportation and (2) establish operational routes, schedules, fares, and policies consistent with the purpose of the Authority.

### **Public Transit Services**

GRTA offers two types of services:

- The fixed route service operates on a fixed schedule with designated stops between major transfer stations.
- The paratransit service is provided to certified Americans with Disabilities Act (ADA)-eligible passengers. In order to avail of this service, passengers must be certified by GRTA.

### **Funding Sources**

GRTA derives its funding through annual Government of Guam (GovGuam) appropriations and federal funding as noted in Table 1.

<b>Fiscal Year</b>	<b>Guam Highway Fund</b>	<b>Public Transit Fund</b>	<b>Federal Funding</b>	<b>Total</b>
2017	\$ 3,211,082	\$ 452,876	\$ 1,149,240	\$ 4,813,198
2016	\$ 3,213,290	\$ 450,668	\$ 1,136,189	\$ 4,800,147
2015	\$ 3,265,475	\$ 326,641	\$ 860,961	\$ 4,453,077

- **Guam Highway Fund:** The Guam Highway Fund was created for the maintenance and construction of highways and for the implementation of highway safety plans, programs, and projects. Revenues are derived from federal grants, certain liquid fuel taxes, vehicle registration fees, and certain licenses.
- **Public Transit Fund:** The Public Transit Fund was created by P.L. 26-76 under the authority of DOA to operate Guam’s mass transit system. All revenues resulting from the operation of Guam’s mass transit system, including fares and fees collected from riders, are deposited in the Public Transit Fund.
- **Federal Funding:** GRTA receives and disburses federal funds, submits project grant applications, program of projects to Federal agencies, and enters into formal agreements concerning projects with federal agencies.

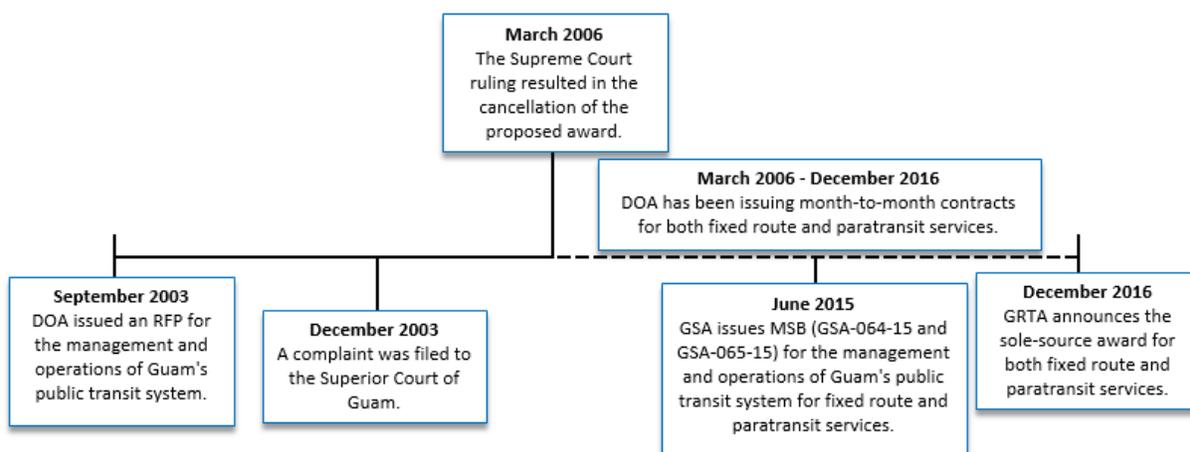
# Results of Audit

Our audit found that the GRTA procurement for the outsourced management and operations of public transit services did not comply with applicable laws and regulations and GRTA’s billing review was inadequate to identify overcharges. Specifically, we found that:

- The procurement record for the Multi-Step Invitation for Bids (MSBs) of the management and operations of the public transit system was incomplete and inadequate to support the sole-source contract awarded to the vendor.
- There is no formal contract in place that defined the specifications and deliverables for the operation and management of the public transit system.
- GRTA did not perform its due diligence in its review of invoices and daily manifests and heavily relied on contractor-provided invoices. Our review of two invoices identified:
  - Insufficient information in daily manifests to justify billed hours for fixed route services; and
  - 374 hours or \$23,246<sup>1</sup> overbilled for paratransit services.
- There were \$350,260 in unauthorized charges from January 2017 to September 2017 on invoices for contractor-provided equipment because these rates were not included in the purchase orders (POs).
- We also questioned \$217,450 in charges that exceeded amounts authorized in the POs.

## Procurement of Public Transit Services

In January 2017, GRTA began a three-year arrangement for the management and operations of the Guam public transit system. GRTA negotiated an hourly rate of \$50.93 for fixed route services and \$51.42 for paratransit services with the use of GRTA-provided equipment. This contract ended a more than decade-long month-to-month service contract for public transit services operations. See timeline of events below for the procurement of public transit services.



In September 2003, DOA issued a Request for Proposal (RFP) for the operation, management, and maintenance of the Guam Public Transit System. After the award was made, a series of protests

<sup>1</sup> Overbilled amount does not include contractor-provided equipment as this was questioned in overcharged services.

over the handling of the award resulted in a complaint filed with the Superior Court of Guam in December 2003. The protest of the intent to award resulted in a years-long legal battle that was ultimately decided at the Supreme Court of Guam in March 2006.

The Supreme Court of Guam invalidated the procurement process used by DOA and determined the only remedy available was the cancellation of the proposed award. In addition, the Supreme Court held that the procurement of the public transit system mandated the use of the competitive sealed bidding process, not the RFP.

Since the 2003 protest, GSA had been issuing month-to-month service contracts for over a decade. The procurement process began in June 2014, which resulted in the issuance of two MSBs in June 2015 and ultimately ended in December 2016 when GSA completed its procurement. GSA subsequently issued three POs to the winning bidder in January 2017. See Appendix 3 for a detailed timeline of events.

The two MSBs (Bid No.: GSA-064-15 and GSA-065-15) were issued for the management and operations of the Guam public transit system paratransit and fixed route services. The purpose of both MSBs were to solicit bids for a public transit system operator to provide safe, reliable, and sound transit services to GRTA's constituents. The broad area of responsibilities included the operations, vehicles, maintenance, personnel, records, and marketing of the public transit system. The Attorney General's (AG's) office assigned an Assistant Attorney General (AAG) to assist with the procurement of the long-term contract. The AAG assisted by putting together the procurement documents with input from bidders and was present for procurement deliberation and negotiation.

In December 2016, GRTA management announced the sole-source award of the long-term bus service contract to the vendor. The contract was for three-years with an option to extend for two additional one-year terms.

The original procurement process used for the public transit system was the multi-step competitive sealed bid; however, the procurement record indicates that the method was changed to sole-source procurement in late 2016.

Based on Chapter 5 of the Guam Code Annotated (GCA) § 5249 Record of Procurement Actions, each procurement officer shall maintain a complete record of each procurement, including the date, time, subject matter, and names of participants at any meetings related to the procurement; a log of all communications related to the procurement; sound recordings of all pre-bid conferences, etc. However, we found the procurement record to be incomplete and inadequate to support the sole-source contract awarded to the vendor. The files did not include any record of meetings that related to the procurement, any sound recordings of meetings to discuss the procurement, or any written determination to justify the reasoning behind the sole-source decision. As a result, the procurement did not comply with applicable laws and regulations.

GSA subsequently submitted supporting documents as part of its management response, including the bid status, written determination for sole-source, the three POs, and a "February 3, 2017" meeting minutes to discuss the MSB cancellation. Therefore, our recommendation for the GSA

Chief Procurement Officer direct staff to prepare the necessary documentation to complete the procurement record, including the written justification of the sole-source award, was closed.

### **No Formal Contract for Public Transit Services**

Contracts represent a tool that parties use to safeguard their resources. We found that GRTA did not have a formal contract with the vendor for the management and operations of the public transit system; instead, they relied on three POs issued by GSA. A formal contract should provide for the type of data to be collected to support invoices and establish agreed-upon rates for contractor-provided equipment. For a public service costing substantial annual amounts (\$4.0 million (M) in FY 2017, \$3.5M in FY 2016, and \$3.9M in FY 2015), a formal contract with the AG’s guidance is necessary to establish rates for services, state expectations of parties, and resolve any negative situations.

We recommend the GRTA Executive Manager, or his designee, to work with the AG’s office to formalize a contract with the vendor for public transit services. The contract should address, among other safeguards, a prescribed billing format that ensures sufficient data for validating the charges and confirmed rates for billing GRTA-provided and contractor-provided equipment.

### **Insufficient Information to Support Fixed Route Billing**

There was no time-related information on the fixed route daily manifests to support the hours charged for fixed route billing. For example, a semimonthly invoice for fixed route services indicated 1,653 hours, or \$102,485; however, the daily manifests had no indication of actual start and end times to support the charges.

### **Overbilling for Paratransit Services**

GRTA receives an invoice semimonthly from the vendor, which includes a summary sheet and daily manifests of each of the routes for paratransit and fixed route services. GRTA officials claim they verify billing accuracy by matching the summary sheets against the daily manifests and then remit them to the DOA for payment processing. See Table 2 for total amounts billed by fiscal year.

<b>Fiscal Year</b>	<b>Fixed Route</b>	<b>Paratransit</b>	<b>Total</b>
2017	\$2,228,705	\$1,808,743	\$4,037,448
2016	\$1,599,414	\$1,910,087	\$3,509,501
2015	\$1,887,544	\$1,965,960	\$3,853,504

We reviewed two invoices, one prior to and one after the January 2017 sole-source award to the vendor to determine if GRTA was charged accurately for public transit services. The invoices charged hourly rates for paratransit and fixed route services, so our review focused on comparing actual hours in the daily manifests versus billed hours in the summary sheets. Our review identified paratransit overbilling of 374 hours, or \$23,246, for the two invoices reviewed.

We could not conduct a similar evaluation of the fixed-route billing, due to inadequate information on the daily manifests.

### **Deadhead Compensation Not Allowed per MSB**

GRTA explained that the vendor was entitled to deadhead time compensation of 30 minutes prior to the start of the shift and 30 minutes after the end of a shift, for a total of up to 60 minutes or one hour per shift per day which included the bus driver's pre- and post-trip inspections. With up to 16 routes a day, GRTA is allowing up to 16 hours, or \$823, of deadhead compensation for paratransit services per day. The MSB defines deadhead as the miles and hours that a vehicle travels when it is not providing revenue-generating services, such as leaving or returning to the garage or yard facility or changing routes. Deadhead does not include charter service, school bus services, operator training, or maintenance training.

While it may be reasonable to allow for deadhead compensation based on GRTA's explanation and the MSB's definition of deadhead, a section in the MSB stated that "GRTA does not pay deadhead travel time." The MSB was silent as to whether deadhead compensation was allowed. Without other supporting documentation, such as the PO or contract that explicitly entitled the vendor to deadhead compensation, the statement within the MSB governs. Accordingly, deadhead compensation is not allowed.

### **October 1-15, 2016 Invoice**

The invoice for October 1-15, 2016 had 13 days of service, or 156 total routes. During this period, paratransit daily services consisted of 12 routes—six morning routes from 5 am to 1 pm and six afternoon routes from 2 pm to 9 pm. Our comparison of the invoice charges versus actual hours for daily manifests identified 256 hours, or \$17,901, were overbilled.

Examples of overbilling within October 1-15, 2016 include:

- On October 1, 2016, billed hours for Freedom 2 PM was seven hours (from 2:00 pm to 9:00 pm). The manifest reported a start time of 2:35 pm and end time of 5:24 pm, or two hours and 49 minutes of actual service. GRTA was overbilled by four hours and 11 minutes, or \$293.
- On October 3, 2016, billed hours for Freedom 3 AM was eight hours (from 5:00 am to 1:00 pm). However, the manifest reported a start time of 5:40 am and end time of 8:32 am, or two hours and 52 minutes of actual service. GRTA was overbilled by five hours and eight minutes, or \$359.
- On October 15, 2016, billed hours for Freedom 3 PM was seven hours (from 2:00 pm to 9:00 pm). However, the manifest reported a start time of 2:22 pm and end time of 5:21 pm, or two hours and 59 minutes of actual service. GRTA was overbilled by four hours and one minute, or \$281. There was also a break in service from 2:38 pm to 5:01 pm, or two hours and 23 minutes due to the cancellation of five appointments scheduled in between.

Because paratransit riders are required to reserve pick-up times one to two days in advance, appointment times vary and there can be gaps in transportation services. However, rather than being billed for the actual times when services were rendered, we noted there were no breaks in the hours billed.

### **July 1-15, 2017 Invoice**

The invoice for July 1-15, 2017 had 12 days of service, or 192 total routes. Paratransit daily services consisted of 16 routes—eight morning routes from 5 am to 1 pm and eight afternoon routes from 2 pm to 9 pm. Our comparison of the invoices versus daily manifests identified 119 hours, or \$5,344, were overbilled.

Examples of overbilling for July 1-15, 2017 include:

- On July 5, 2017, billed hours for Freedom 3 AM was eight hours and 30 minutes (from 5:00 am to 1:30 pm). The manifest reported a start time of 6:12 am and end time of 12:56 pm, or six hours and 44 minutes of actual service. GRTA was overbilled by one hour and 46 minutes, or \$91.
- On July 11, 2017, billed hours for Freedom 6 PM was six hours and 30 minutes (from 2:00 pm to 8:30 pm). The manifest reported a start time of 2:06 pm and end time of 6:50 pm, or four hours and 44 minutes of actual service. GRTA was overbilled by one hour and 46 minutes, or \$91.
- On July 15, 2017, billed hours for Freedom 3 AM was three hours and 30 minutes (from 10:00 am to 1:30 pm). The manifest reported a start time of 11:54 pm and end time of 1:25 pm, or one hour and 31 minutes. GRTA was overbilled by one hour and 59 minutes, or \$102.



**Image 1: A GRTA bus on a fixed route schedule awaits passengers at the Agana terminal.**

Therefore, we questioned a total of 374 hours, or \$23,246, for overbilled hours for paratransit services.

### **Unauthorized Charges for Contractor-Provided Equipment**

In November 2016, GSA issued three POs for the management and operations of the public transit system for the remainder of FY 2017 (January 2017 to September 2017). The three POs specified hourly rates of \$50.93 for fixed route services and \$51.42 for paratransit services. On the invoices for January 2017 through September 2017, the vendor included hourly charges for contractor-provided equipment for fixed route services at \$73.33 and paratransit services at \$73.74. Although these rates were part of the vendor's price proposal submission, they were not specified in the POs. Therefore, we questioned \$350,260 in unauthorized charges for these services (the difference in costs between the amounts authorized in the POs and the unauthorized contractor-provided costs). See Table 3 for the calculation of the unauthorized charges.

<b>Route</b>	<b>GRTA Equipment Rate/Hour</b>	<b>Contractor- Provided Equipment Rate/Hour</b>	<b>Difference</b>	<b>Hours Charged (Jan-Sept. 2017)</b>	<b>Total</b>
Fixed Route	\$ 50.93	\$ 73.33	\$ 22.40	11,688.25	\$ 261,817
Paratransit	\$ 51.42	\$ 73.74	\$ 22.32	3,962.5	\$ 88,443
<b>Total</b>					<b>\$ 350,260</b>

Between August 2015 and March 2017, GRTA explained that invoice monitoring ceased due to the resignation of a staff member in August 2015. Since resuming their invoice verification in March 2017, GRTA’s Administrative Officer and Planning Technician said they have not identified any errors that required adjustments to billings. Since GRTA reinstated the review process, we noted it as an improvement in GRTA’s process. Nevertheless, it appears that GRTA heavily relied on the billing invoices provided by the vendor and merely submitted them to DOA for payment processing. Although GRTA indicated that invoice monitoring was being done since March 2017, the review process was not adequate to identify the unauthorized charges in invoices from that time through October 2017.

As a result of the overbilling, we recommend the GRTA Executive Manager, or his designee, to formalize a review process for contractor-provided invoices to ensure billings are accurate and correspond with the terms of the PO and contract. We also recommend GRTA seek clarification from the AG’s office on the appropriateness of charges for contractor-provided equipment.

### **Total FY 2017 Invoices Exceed Authorized PO Amounts**

The three POs issued by GSA in November 2016 included one for fixed route services (P176A00756 – \$1,000,000) and two for paratransit services (P176A00757 for \$384,945 and P176A00758 for \$606,132). Altogether, the three POs totaled \$1,991,077.

We identified the vendor’s billing between January 2017 and September 2017 and found they billed \$1.8M for fixed route services and \$1.3M for paratransit services, totaling \$3.2M. The POs were exceeded by \$1.2M. In order to offset the excess amounts billed, GSA issued three supplemental POs:

- One for paratransit services (P176A04735 for \$5,900) issued on August 3, 2017;
- One for both fixed route and paratransit services (P176A04956 for \$122,000) issued on August 16, 2017; and
- One additional to cover August 2017 through October 2017 (P186A01003 for \$760,984) issued on December 1, 2017.

However, even with the supplemental POs, we calculated a shortfall of \$217,450. See Table 4 for POs and vendor billings calculation.

<b>Table 4: Calculation of Excess Amounts Billed Against POs (FY 2017)</b>				
<b>Type of Service</b>	<b>PO Date</b>	<b>PO #</b>	<b>PO Amount</b>	<b>Total</b>
Fixed Route	11/23/2016	P176A00756	\$ 1,000,000.00	
Paratransit	11/23/2016	P176A00757	384,945.00	
Paratransit	11/23/2016	P176A00758	606,132.00	
		<b>Subtotal POs</b>		\$ 1,991,077.00
Paratransit	8/3/2017	P176A04735	\$ 5,900.00	
Fixed Route & Paratransit	8/16/2017	P176A04956	122,000.00	
Not Specified	12/1/2017	P186A01003	760,984.00	
		<b>Less: October 2017</b>	(272,412.25)	
		<b>Subtotal Supplemental POs</b>		616,471.75
<b>Total POs</b>				\$ 2,607,548.75
		<b>Less: Total FY 2017 Invoiced for Fixed Route</b>	(1,834,815.37)	
		<b>Less: Total FY 2017 Invoiced for Paratransit</b>	(1,340,442.88)	3,175,258.25
		<b>Less: Unauthorized Charges</b>		350,260.00
		<b>Total Excess Amount Invoiced</b>		<u>\$ 217,449.50</u>

## Other Matters

During our audit, other matters have come to our attention that warrant a separate review. We learned that GRTA maintains a checking account for its Non-Appropriated Funds (NAF), which does not go through DOA. Because of the internal control risks associated with government entities maintaining separate checking accounts based on the Office of Public Accountability's previous audits of NAFs, we plan to conduct an audit of GRTA's NAF.

In December 2015, GRTA's Board of Directors authorized the establishment of a bank account<sup>2</sup> for GRTA. In April 2016, GRTA management officially opened a checking account with a local bank to deposit bus fares collected by the vendor.

Based on bank statements obtained from GRTA, there were \$152,041 in deposits, \$102,936 in withdrawals, and \$48 in service charges between April 2016 and July 2017. See Table 5 for a breakdown by month of the checking account activity.

<sup>2</sup> GRTA Resolution No. 2016-007, Opening of GRTA Bank Account. The Board cited 12 GCA § 6204 that allowed GRTA to establish the NAF which shall be separate and apart from other funds of GovGuam.

**Table 5: GRTA Checking Account**

	Month	Deposits/Credits	Withdrawals/Debits	Service Charge	Ending Fund Balance
FY 2016	Apr-16	\$ 32,861.88	\$ -	\$ 3.00	\$ 32,858.88
	May-16	\$ -	\$ 313.64	\$ 3.00	\$ 32,542.24
	Jun-16	\$ -	\$ -	\$ 3.00	\$ 32,539.24
	Jul-16	\$ 30,082.76	\$ -	\$ 3.00	\$ 62,619.00
	Aug-16	\$ -	\$ 300.00	\$ 3.00	\$ 62,316.00
	Sep-16	\$ -	\$ -	\$ 3.00	\$ 62,313.00
FY 2017	Oct-16	\$ 19,332.49	\$ 291.00	\$ 3.00	\$ 81,351.49
	Nov-16	\$ 20,207.69	\$ -	\$ 3.00	\$ 101,556.18
	Dec-16	\$ 36.56	\$ 391.56	\$ 3.00	\$ 101,198.18
	Jan-17	\$ -	\$ 773.18	\$ 3.00	\$ 100,422.00
	Feb-17	\$ 22,940.45	\$ -	\$ 3.00	\$ 123,359.45
	Mar-17	\$ 4,342.99	\$ 347.72	\$ 3.00	\$ 127,351.72
	Apr-17	\$ 6,522.71	\$ 120.50	\$ 3.00	\$ 133,750.93
	May-17	\$ 2,964.55	\$ 100,180.42	\$ 3.00	\$ 36,532.06
	Jun-17	\$ 3,081.33	\$ 217.72	\$ 3.00	\$ 39,392.67
	Jul-17	\$ 9,667.36	\$ -	\$ 3.00	\$ 49,057.03
	<b>Total</b>	\$ 152,040.77	\$ 102,935.74	\$ 48.00	

**Public Transit Fund**

Prior to the establishment of the GRTA checking account, bus fare revenues were deposited into the Public Transit Fund at DOA. Based on GovGuam’s audited financial statements, the Public Transit Fund’s revenues have been declining since FY 2015 because of the opening of the checking account. See Table 6 for the Public Transit Fund’s revenues.

**Table 6: Public Transit Fund Revenues**

Fiscal Year	Revenues
2016	\$ 38,772
2015	\$ 109,334
2014	\$ 135,168

Although required by 12 GCA § 6204 to be annually audited by an independent certified public accountant or by the Office of the Public Accountability, GRTA confirmed that they have not been audited since the July 2001 issuance of *OPA Report No. 01-01, GMTA Credit Cards*.

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## Conclusion and Recommendations

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We found the procurement record for the MSBs of the management and operations of the public transit system to be incomplete and inadequate to support the sole-source contract awarded to the vendor.

Other than three initial POs and three supplemental POs, there was no formal contract for the GRTA outsourced public transit services, which cost GRTA \$4M in FY 2017. GRTA depended heavily on contractor-provided invoices and did not diligently review invoices to ensure their accuracy or consistency with PO terms. As a result, GRTA did not identify overbilling of at least \$23,246, \$350,260 in unauthorized charges for contractor-provided equipment for paratransit and fixed route services, and \$217,450 for invoices that exceeded authorized PO amounts. There was also insufficient information in daily manifests to verify billed hours for fixed route services.

We recommend the GRTA Executive Manager, or his designee:

- (1) Work with the AG's office to formalize a contract with the vendor for public transit services. The contract should address, among other safeguards, a prescribed billing format that ensures sufficient data for validating the charges, and confirms rates for billing, GRTA-provided and contractor-provided equipment;
- (2) Formalize GRTA's review process for invoices to ensure accuracy and correspond with the terms of the PO and contract; and
- (3) Seek clarification from the AG's office on the appropriateness of charges for contractor-provided equipment.

We also recommend the GSA Chief Procurement Officer (CPO) to direct staff to prepare the necessary documentation to complete the procurement record, including the written justification of the sole-source award.

## Classification of Monetary Amounts

	Finding Description	Questioned Costs <sup>3</sup>	Potential Savings	Unrealized Revenues	Other Financial Impact
1	Procurement of Public Transit Services	\$ -	\$ -	\$ -	\$ -
2	No Formal Contract for Public Transit Services	\$ -	\$ -	\$ -	\$ -
3	Insufficient Information to Support Fixed Route Billing	\$ -	\$ -	\$ -	\$ -
4	Overbilling for Paratransit Services	\$23,246 <sup>4</sup>	\$ -	\$ -	\$ -
5	Unauthorized Charges for Contractor-Provided Equipment	\$ 350,260	\$ -	\$ -	\$ -
6	Total FY 2017 Invoices Exceed Authorized PO Amounts	\$ 217,450	\$ -	\$ -	\$ -
7	Other Matters	\$ -	\$ -	\$ -	\$ -
	<b>Totals</b>	<b>\$ 590,956</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

<sup>3</sup> Questioned costs are expenditures of funds that are unsupported, unallowable, or otherwise improper.

<sup>4</sup> Overbilled amount does not include contractor-provided equipment as this was questioned in overcharged services.

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# Management Response and OPA Reply

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A draft report was transmitted to GRTA and GSA in February 2018 for their official response. We met with GRTA officials in February 2018 to discuss our findings and recommendations, and GRTA expressed their general concurrence.

In February 2018, GRTA provided their official response wherein the Executive Manager agreed with the findings pertaining to the lack of a formal contract and insufficient information to support fixed route billing. However, GRTA disagreed with the following findings:

1. *Procurement of Public Transit Services*

GRTA disagreed with the procurement record for the two MSBs being incomplete and insufficient to support the sole-source contract that was awarded to the vendor. GRTA stated that any recordings, logs, and communications with the vendor are with GSA. Additionally, only RFPs require sound recordings, but this was not an RFP procurement.

**OPA Reply:** Based on the review of MSBs GSA-064-15 and GSA-065-15, the procurement started as a multi-step bid and was later awarded as sole-source. However, the procurement record did not include any record of meetings that related to the procurement, any sound recordings of meetings to discuss the procurement, or any written determination to justify the reasoning behind the sole-source decision. Therefore, the finding remains.

2. *Overbilling for Paratransit Services.*

GRTA explained that billing verification was not conducted for the October 1-15, 2016 invoice due to employee turnover and shortage of manpower. The invoices for July 1-15, 2017 were, however, coordinated with the vendor when discrepancies were identified. The manifests do not match the invoice because billed service covers the period when the operator conducts both pre- and post-inspections at the beginning and end of transit service, respectively.

**OPA Reply:** Although it is reasonable to allow for deadhead compensation (i.e., pre- and post-inspection time), we could not identify a contract or document that specifically allows deadhead compensation of 30 minutes prior to the start and 30 minutes after the end of a shift. Without a formal contract that spells out what are allowed or disallowed, the MSBs state that GRTA does not pay deadhead travel time. Therefore, the finding remains.

3. *Unauthorized Charges for Public Transit Services.*

GRTA disagreed with the unauthorized charges for public transit services. They argued that GSA was in agreement with the rates charged based on their approval of GRTA's ratification request for billing payments, which included contractor-provided equipment at \$73.33 per hour for fixed route and \$73.74 per hour for paratransit services.

GRTA recognizes that there is a concern in using POs instead of a formal contract. They have requested a meeting with GSA and the AG's Office to discuss and move forward in formalizing a contract for transit services.

**OPA Reply:** At the time of review, GRTA informed the audit team that the three POs served as the contract and the basis of payment for public transit services. However, POs only included the hourly rates for government-owned equipment, which were at \$50.93 for fixed route and \$51.42 for paratransit services. The contractor-provided equipment hourly rate of \$73.33 for fixed route and \$73.74 for paratransit services were not included in any of the three POs. Therefore, the finding remains.

See Appendix 4 for GRTA's management response.

In February 2018, GSA also submitted its management response and disagreed with our finding that the procurement record for the two MSBs were incomplete and insufficient to support the sole-source contract that was awarded to the vendor.

**OPA Reply:** GSA submitted supporting documents as part of its management response, including the bid status, written determination for sole-source, the three POs, and a "February 3, 2017" meeting minutes to discuss the MSB cancellation. During our thorough review of the procurement record at GSA in September 2017, there were no evidence of meeting minutes or a written sole-source determination within the file. While we could not authenticate as part of the procurement file the submitted "February 3, 2017" meeting minutes that was purportedly for a meeting that was to have taken place in February 2016, we accept the written sole-source determination. Accordingly, we deem the recommendation for GSA to complete the procurement record as closed.

See Appendix 5 for GSA's management response.

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

We appreciate the cooperation given to us by the staff and management of GRTA and GSA during the course of this audit.

OFFICE OF PUBLIC ACCOUNTABILITY



Doris Flores Brooks, CPA, CGFM  
Public Auditor

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**Appendix 1:****Objective, Scope, and Methodology**

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The objectives of our audit were to determine whether: (1) the procurement of the management and operations of the public transit system was conducted in accordance with applicable laws, rules, and regulations, and (2) public transit vendor invoices were accurately charging for paratransit and fixed route services to GRTA.

The scope of the survey was from FY 2015 through FY 2017 or October 1, 2014 through September 30, 2017. Our review included GRTA's billing, monitoring, and procurement of the paratransit and fixed route contract services.

**Methodology**

The methodology included the review of pertinent laws, rules and regulations, policies and procedures, and other relevant documents pertaining to GRTA's management and operations of the Guam public transit system. The work was carried out primarily at GRTA's office in the Department of Public Works compound in Upper Tumon, Guam and GSA's office in Piti, Guam.

We also:

- (1) Researched hotline tips and similar audit reports with the same topic.
- (2) Conducted interviews and walkthroughs with GRTA officials (Executive Manager, Chief Planner, Transportation Supervisor, and Planning Technician), a board member, staff, and an Assistant Attorney General to gain an understanding of procurement, billing, and monitoring of the public transit system.
- (3) Obtained POs issued by the GSA for the management and operation of the public transit system. We utilized the POs to identify the terms of agreement between GRTA and the vendor.
- (4) Obtained vendor billing invoices, summary sheets, and daily manifests for fiscal years 2015 to 2017 to identify specific services provided. We judgmentally selected two semimonthly invoices, one before and after (October 1-15, 2016 and July 1-15, 2017) the long-term agreement was executed.
- (5) Obtained bank statements (April 2016 to July 2017) from GRTA as part of the data-gathering phase. The bank statements were summarized for informational purposes and will be used to conduct a future audit on GRTA's NAF.
- (6) Reviewed the procurement file (Multi-Step Bid Nos.: GSA-064-15 and GSA-065-15) at the GSA to determine compliance with procurement laws, rules, and regulations.

Our audit was conducted in accordance with the standards for performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America. Those 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.

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**Appendix 2:****Prior Audit Coverage**

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***OPA Report No. 01-01, GMTA Credit Cards (Issued July 2001)***

The OPA highlighted evidence that supported allegations reported in the OPA hotline that persons within the GMTA were using GMTA-issued credit cards for personal purposes.

***Guam Highway Fund FY 2016 Financial Audit***

Finding No. 2016-001 – During FY 2016, local funds were utilized for GRTA bus transportation expenditures, which demonstrated no competitive procurement or which were procured through an inappropriate method. Specifically, bus transportation services were procured through sole-source method. This matter was subsequently resolved through the procurement process resulting in an award issuance on November 23, 2016.

***Financial Audit***

Although required by 12 GCA §6204 to be annually audited by an independent certified public accountant or by the Office of the Public Accountability. GRTA confirmed that they have not been audited since *OPA Report No. 01-01, GMTA Credit Cards*.

***Other Reports, Studies, etc.***

Despite becoming an autonomous agency in 2009, GRTA has yet to issue a Citizen-Centric Report outlining their mission, progress, financial information, or future challenges.

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## **MSB Timeline of Events**

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June 23, 2014 – GRTA Board authorized the initiation of the MSB for fixed route and paratransit services.

December 5, 2014 – GRTA’s Executive Manager submits draft MSB documents to the AG’s Office for their review.

March 23, 2015 – GRTA’s Executive Manager submits final MSB documents to GSA.

April 10, 2015 – GSA transmits the revised MSB for management and operations of Guam Public Transit to the AG’s Office.

May 7, 2015 – The AG’s Deputy Attorney General returns the MSB packages to GSA noting several concerns to be addressed.

May 21, 2015 – GRTA’s Executive Manager transmits GRTA Resolution 2015-007 to GSA’s CPO. The resolution references the MSB for the long term bus service contract as required by the AG’s Office in order for the procurement package to be considered approved and complete.

June 4, 2015 – GSA issues on behalf of GRTA the MSB for the management and operations of the Guam Public Transit System (GSA-064-15 and GSA-065-15). Seven amendments were issued for each MSB. Six different companies picked up the MSB packages.

June 8, 2015 – All six companies attended the mandatory pre-bid conference.

August 14, 2015 – Deadline for MSB unpriced technical offers, but only one company submitted a technical offer.

December 22, 2015 – The lone Bidder requested an update on the MSB status.

February 12, 2016 – GRTA memorandum to GSA “resubmitting” GRTA’s request to reject MSB GSA-064-15 and GSA-065-15.

February 12, 2016 – GSA Memorandum signed by GSA’s Administrative Counsel advising GRTA for the cancellation of MSB GSA-064-15 and GSA-065-15.

February 17, 2016 – Lone Bidder received a Bid Status letter from GSA stating their bid was rejected due to “Others” and was based on “*Change of specifications, due to the receipt of ten (10) new vans. Federal grantor require competition and the change of specification may lead to competition.*”

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**MSB Timeline of Events**

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March 1, 2016 – Bidder through its Legal Counsel protests the cancelation of MSB GSA-064-15 and GSA-065-15.

April 1, 2016 – GSA issues a revised Bid Status based on protest submitted on March 1, 2016, which was found to have merit. Lone Bidder’s technical proposal is accepted.

October 14, 2016 – GRTA Memorandum to GSA with the final price bids.

November 23, 2016 – The long-term public transit service contract is awarded to the lone Bidder through three POs.

December 7, 2016 – A press release is issued announcing the award and allows for 14 days to elapse after a contract has been awarded in case of a protest.

January 1, 2017 – vendor begins the three-year agreement.

# GRTA Management Response



## GUAM REGIONAL TRANSIT AUTHORITY Government of Guam

Eddie B. Calvo, Governor  
Raymond S. Tenorio, Lt. Governor  
Enrique Agustin, Executive Manager

P.O. Box 2896  
Hagatna, Guam 96932

Phone: (671) 475-4686 or 475-4616  
Fax: (671) 475-4600



February 16, 2018

### MEMORANDUM

**TO:** Public Auditor, Office of Public Accountability  
Attn: GRTA Audit Team

**FROM:** Executive Manager, Guam Regional Transit Authority

**SUBJECT:** OPA Draft Discussion Findings- GRTA response

*Hafa Adai!*

GRTA has reviewed the draft discussion findings and submits these comments.

#### **Finding #1: No Formal Contract for Mass Transit Services**

GRTA agrees with this finding; however, GRTA gives the information below as an explanation.

- The formal contract for the management and operations of the Guam Mass Transit services was guided and instructed GRTA by the Attorney General’s Office (AG) and the General Services Agency (GSA) that the purchase orders (PO) issued by GSA serve as the binding contract along with the scope of work and clarification documents during the procurement process. What the Chief Procurement Officer (CPO) at GSA opted to exercise is the use of PO as the legal document that is widely utilized and authorized as a binding document involving contracts for the Government of Guam. (*GCA Ch. 5 §5121 c. Authority to Contract for Certain Services and Approval of Contracts*)
- GRTA has researched the appropriate Guam Code Annotated (5GCA) and did not discover where the procurement policy office has promulgated a regulation in which contracts have to be in a format that is considered formal, nor does it reference that upon reaching a specified dollar threshold that a formal contract must be signed by all parties to the contract.
- The federal acquisition regulation (FAR part 13.302) as an example states that, the contracting officer should always require a written acceptance of the PO by the contractor when binding a PO between the Government and the contractor. The PO falls under the simplified acquisition procedure. Additionally, a large portion of funds for bus services are funded by the federal government, GRTA is required to follow federal guideline in order to remain in compliance with federal requirements. These are all covered in FTA Circular 4220.1F, single bid or single proposal received.

# GRTA Management Response



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Enrique Agustin, Executive Manager

P.O. Box 2896  
Hagatna, Guam 96932

Phone: (671) 475-4686 or 475-4616  
Fax: (671) 475-4600



- In accordance with 5 GCA Chapter 5, Article 10 §5501 Federal funds compliance with federal requirements, where a procurement involves the expenditures of federal assistance or contact funds, all persons within the Government of Guam shall comply with such federal law and regulations.

### Corrective Action:

GRTA recognizes that there is a concern and will consult with GSA and the AG's Office. A memo was delivered to these two agencies on Wednesday, February 14, 2018 requesting a meeting to discuss and move forward in formalizing the transit services.

### Finding #2: Overbilling for Paratransit Services

GRTA disagrees for the overbilling and provides the below explanation.

- For invoices from October 1-15, 2016, verification of submitted billings against the manifest were not conducted due to employee turnover and shortage of manpower. At that time GRTA only had 5 employees to include the Executive Manager that were handling other duties.
- GRTA verification of billing against the manifest were coordinated with the vendor should some discrepancies were identified. GRTA reviewed the overbilling identified by OPA for July 1-15, 2017 some of the hours were incorrectly indicated by the auditing team.
- What is not shown in the manifest does not reflect the billing. For example, the pre and post inspections required as part of GRTA's maintenance plan is conducted 30 minutes before and after service. The billed service starts at 5:00 am when the operator conducts the pre-inspection and the transit service starts at 5:30 am and respectively, for the post-inspection. (*Long-term Bus Service Scope of Work pg. 62 & Clarification documents under "maintenance"; GRTA Maintenance Plan; FTA C. 9040.1G, Ch.V; National Public Transportation Safety Plan*).

### Corrective Action:

GRTA recognizes that there is a concern in using purchase orders, instead of the formal contracts. Accordingly, GRTA will consult with the GSA and the AG's Office. A memo was delivered to these two agencies on Wednesday, February 14, 2018 requesting a meeting to discuss and move forward in formalizing the transit services.

# GRTA Management Response



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Eddie B. Calvo, Governor  
Raymond S. Tenorio, Lt. Governor  
Enrique Agustin, Executive Manager

P.O. Box 2896  
Hagatna, Guam 96932

Phone: (671) 475-4686 or 475-4616  
Fax: (671) 475-4600



### **Finding #3: Insufficient Information to Support Fixed Route Billing**

GRTA agrees with this finding, however, GRTA gives the information below as an explanation.

- What is not shown in the manifest does not reflect the billing. For example, the pre and post inspections required as part of GRTA's maintenance plan is conducted 30 minutes before and after service. The billed service starts at 5:00 am when the operator conducts the pre-inspection and the transit service starts at 5:30 am and respectively, for the post-inspection. (*Long-term Bus Service Scope of Work pg. 62 & Clarification documents under "maintenance"; GRTA Maintenance Plan; FTA C. 9040.1G, Ch.V; National Public Transportation Safety Plan*).
- GRTA Fixed Route is already a fixed schedule service starting from 5:30 AM – 8:30 PM. This is reflective of GRTA's Fixed Route Bus Schedule which has designated times and locations for bus service. Daily Fleet Status is submitted to GRTA everyday which list the assigned buses (contractor-owned or government-owned) and routes scheduled for that day.

### **Corrective Action:**

GRTA recognizes that there is a concern and will consult with the GSA and the AG's Office. A memo was delivered to these two agencies on Wednesday, February 14, 2018 requesting a meeting to discuss and move forward in formalizing the transit services.

### **Finding #4: Unauthorized Charges for Mass Transit Services**

GRTA disagrees with this finding. GRTA gives the information below as an explanation.

- FY 2016 GRTA was still running a month-to-month contracting service (Sole Source), wherein GRTA and the service provider were able to negotiate the monthly hourly cost of operation. FY 2017 GRTA awarded the long-term service contract (November 2017), however, it was not in effect until mid- January 2017.
- GSA has instructed GRTA to prepare and process a ratification request to pay for the contractor's invoices for the remainder of FY 2017 (August 15, 2017 through September 30, 2017) for paratransit and fixed route services due to their late issuance of the PO prior to the end of fiscal year 2017. In the POs the costs stated were: Contractor-owned vehicles \$73.74/hr for Paratransit and \$73.33/hr for Fixed Route.
- The calculation of the hours of operation should have been based upon the total daily hour of service per vehicle (16 hours) to include pre/post inspections and fueling of gas midday and evening. The GSA approval of our ratification request for billing payments for the remainder of FY 2017, which were from August 15, 2017 through September 30, 2017, had resulted in the inclusion of contractor-owned vehicle hourly rates of \$73.33 for fixed route and \$73.74 for paratransit in the purchase orders. This suggests that contractor-owned vehicles hourly rates should have been shown in the original FY 2017 purchase orders which were from mid-January 2017 to August 14, 2017 of the transit long-term contracts. In spite of this, amendments were not performed to these purchase orders resulting in overcharging computations. Moreover, this

# GRTA Management Response



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Eddie B. Calvo, Governor  
Raymond S. Tenorio, Lt. Governor  
Enrique Agustin, Executive Manager

P.O. Box 2896  
Hagatna, Guam 96932

Phone: (671) 475-4686 or 475-4616  
Fax: (671) 475-4600



suggests that GSA was in agreement that these hourly rates in questions were properly clarified with the vendor and concurred by GRTA. Accordingly, these hourly rates charges for the contractor-owned vehicles were authorized charges-please refer to the attached respond of the transit provider dated February 15, 2018.

- GSA ratified the unit costs of contractor-owned or government-owned vehicles for the FY 2018 purchase orders.

### **Corrective Action:**

GRTA recognizes that there is a concern and will consult with the GSA and the AG's Office. A memo was delivered to these two agencies on Wednesday, February 14, 2018 requesting a meeting to discuss and move forward in formalizing the transit services.

### **Finding #5: Procurement of Mass Transit Services**

GRTA disagrees with this finding. GRTA gives the information below as an explanation.

- GSA is the lead agency for government procurement. Any recordings, logs (meetings, communications between vendors, etc), are with GSA. What GRTA does have are communications between GRTA and GSA and GRTA and the AG. Additionally, IFB's do not require sound recordings only RFPs and this was not an RFP. ( 2 GAR Division 4)
- Although agencies like GRTA are ultimately the end users of the solicited goods and services, GSA has been bestowed by law the procurement authority to solicit bids for the end users. Therefore, GRTA has to abide by GSA's procurement solicitation guidance and instructions.
- GSA IFB Requirements were not enforced until February 2017.
- The long-term transit procurement did not start off as sole source procurement; but, as a multi-step bid (MSB). GRTA went through the entire MSB procurement process and at the final stage of the solicitation process, GSA recommended to cancel the MSB in its entirety and proceed with sole source procurement. As a single bid, the procurement law allowed GSA to proceed with this approach which resulted in price negotiation and the final award of the contract utilizing the purchase order method. (GAR & FTA C 4220.1F Ch. 6 § 3i(1)(b)2)
- Currently, GRTA has no delegation of procurement authority, all our procurement requirements are handled by GSA. GRTA relies on GSA's recommendations and guidance as they are there to assist Gov-Guam agencies pertaining to procurement issues. In reference to the long term contract, GRTA believes that the procurement process was properly conducted and in conformance with Guam procurement rules and regulations.

# GRTA Management Response



## GUAM REGIONAL TRANSIT AUTHORITY Government of Guam

Eddie B. Calvo, Governor  
Raymond S. Tenorio, Lt. Governor  
Enrique Agustin, Executive Manager

P.O. Box 2896  
Hagatna, Guam 96932

Phone: (671) 475-4686 or 475-4616  
Fax: (671) 475-4600



### Corrective Action:

GRTA recognizes that there are concerns and will consult with GSA. A memo was delivered to GSA on Wednesday, February 14, 2018, requesting a meeting to discuss and move forward in resolving these issues.

Should you have any questions or concerns please do not hesitate to contact me or Mr. Rally Pilipina, Chief Planner at 300-7260 or 300-7261.

Respectfully,

A blue ink signature of Enrique Agustin, written over the name 'ENRIQUE AGUSTIN'.

ENRIQUE AGUSTIN

# GRTA Management Response



## GUAM REGIONAL TRANSIT AUTHORITY Government of Guam

Eddie B. Calvo, Governor  
Raymond S. Tenorio, Lt. Governor  
Enrique Agustin, Executive Manager

P.O. Box 2896  
Hagatna, Guam 96932

Phone: (671) 475-4686 or 475-4616  
Fax: (671) 475-4600



February 19, 2018

### MEMORANDUM

**TO:** Public Auditor, Office of Public Accountability  
Attn: GRTA Audit Team

**FROM:** Executive Manager, Guam Regional Transit Authority

**SUBJECT:** OPA Draft Discussion Findings- GRTA response- Minor Correction on Finding #4.

*Hafa Adai!*

GRTA has a minor correction of Finding #4- first bullet, regarding the date the long-term bus service contract was awarded. Previously, it sated November 2017, however, it is November 2016 (corrected below).

**Finding #4: Unauthorized Charges for Mass Transit Services**

GRTA disagrees with this finding. GRTA gives the information below as an explanation.

- FY 2016 GRTA was still running a month-to-month contracting service (Sole Source), wherein GRTA and the service provider were able to negotiate the monthly hourly cost of operation. FY 2017 GRTA awarded the long-term service contract (November 2016), however, it was not in effect until mid- January 2017.

Should you have any questions or concerns please do not hesitate to contact me or Mr. Rally Pilipina, Chief Planner at 300-7260 or 300-7261.

Respectfully,



ENRIQUE AGUSTIN

# GSA Management Response

Eddie Baza Calvo  
Governor



**GENERAL SERVICES AGENCY**  
(Ahensian Setbision Hinirat)  
Government of Guam  
148 Rt. 1 Marine Corps Dr. Piti Guam 96915  
Ph: 475-1707/ 1720 Fax:475-1727/472-4217  
Email: gsaprourement@gsadoa.guam.gov

Ray Tenorio  
Lt. Governor

Edward M. Birn  
Acting Director,  
Dept. of Administration

Vincent P. Arriola  
Deputy Director  
Dept. of Administration

February 27, 2018

Doris Flores Brooks, CPA, CGFM  
Public Auditor  
Office of the Public Auditor  
Suite 401, Pacific Daily News Building  
238 Archbishop Flores Street  
Hagatna, Guam 96910

Dear Ms. Brooks:

Hafa Adai! This is our response to your draft audit report dated 13 February 2018 for the Guam Regional Transit Authority (GRTA) Billing and Procurement of Mass Transit Services. The following is the response to the audit findings relative to procurement:

**Finding:** On page 2 Procurement of Public Transit Services stated in part: "...the procurement record for the management and operation of public transit services was incomplete and insufficient to support the sole-source determination that was awarded to the contracted vendor. The files did not include any record of any meetings to discuss the procurement, or any written determination to justify the reasoning behind the sole-source decision."

GSA's Response:

**We disagree with finding.** Pursuant to 2GAR Div.4 §3102(1)(c) states in part: "If only one responsive bid is received in response to an Invitation for Bid (including multi-step bidding), the bid may be rejected and if the Chief Procurement Officer determines in writing that the need for the supply or service continues .... and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted under 3112 (Sole Source Procurement or 3113 (Emergency Procurement), as appropriate.

On 27 October 2016, GSA issued a bid status to the sole bidder indicating that their bid submittal is being rejected and that we will revert to 3112 (Sole Source Procurement), since the GSA and GRTA believes that we can acquire better pricing if we can negotiate the terms on GSA-064-15 and GSA-065-15. (See Attached Copy)

## GSA Management Response

Based on the comment regarding “No Formal Contract” noted on the draft audit, we **disagree** because a purchase order is also a formal contract. The written determination dated 28 October 2016 indicates that we reverted to the Sole Source Procurement as authorized under 2GAR Div.4 §3102(1)(c). The procurement record is clear that GSA and GRITA will negotiate the price and terms on GSA-064-15 and GSA-065-15). (See Attached Copy)

It is evident on the record that we were in constant communication with the Office of the Attorney General (OAG) throughout the procurement process for GSA-064-15 and GSA-065-15. Documents in the procurement record indicate the involvement of the OAG, throughout the procurement process for both GSA-064-15 and GSA065-15. The OAG was aware that GSA was going to issue the award via a purchase order through the Sole Source Procurement Method.

Based on the draft audit it indicated that no recordings were found in the procurement file. We **disagree** because there were several minutes that are in the procurement file to include sound recordings. (See Attached Copy)

GSA will continue to improve the processes within the procurement activities of this government.

If you should have any questions or concerns regarding our response, please contact me at 475-1700.

Sincerely,

  
CLAUDIA S. ACFALLE  
Chief Procurement Officer

**NOTE:** We included in this Appendix only the main body of the CPO’s response. The attachments will be made available to the public upon official request to OPA.

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**Appendix 6:****Status of Audit Recommendations**

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No.	Addressee	Audit Recommendation	Status	Action Required
1	GRTA Executive Manager or designee	Work with the AG's office to formalize a contract with the vendor for public transit services. The contract should address, among other safeguards, a prescribed billing format that ensures sufficient data for validating the charges, and confirms rates for billing GRTA-provided and contractor-provided equipment.	OPEN	Provide evidence of correspondence with the AG's Office that a formal contract has been completed.
2	GRTA Executive Manager or designee	Formalize GRTA's review process for invoices to ensure accuracy and correspond with the terms of the purchase order and contract.	OPEN	Provide Standard Operating Procedure for billing review process.
3	GRTA Executive Manager or designee	Seek clarification from the Attorney General's office on the appropriateness of charges for contractor-provided equipment.	OPEN	Provide evidence of correspondence with the AG's Office that clarification was sought for the appropriateness of these charges.
4	GSA Chief Procurement Officer or designee	Prepare the necessary documentation to complete the procurement record including the written justification of the sole-source award.	CLOSED	None



**Guam Regional Transit Authority  
Procurement and Billing of Public Transit Services  
Report No. 18-01, February 2018**

## **ACKNOWLEDGEMENTS**

**Key contributions to this report were made by:**

Ira Palero, Audit Staff

Vincent Duenas, Auditor-in-Charge

Yukari Hechanova, CPA, CIA, CGFM, CGAP, CGMA, Deputy Public Auditor

Doris Flores Brooks, CPA, CGFM, Public Auditor

## **MISSION STATEMENT**

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

## **VISION**

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

## **CORE VALUES**

**Objectivity: To have an independent and impartial mind.**

**Professionalism: To adhere to ethical and professional standards.**

**Accountability: To be responsible and transparent in our actions.**

## **REPORTING FRAUD, WASTE, AND ABUSE**

- **Call our HOTLINE at 47AUDIT (472-8348)**
- **Visit our website at [www.opaguam.org](http://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.**