



## **Investigative Report on the Mayors' Offices of Barrigada, Chalan Pago-Ordot and Inarajan**

**October 1, 1999 through December 31, 2000**

**OPA Report No. 01-02  
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### **Distribution:**

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## **Introduction**

On January 16, 2001, newly inaugurated Mayor Vicente I. Aguon of Chalan Pago-Ordot requested in writing that the Office of the Public Auditor (OPA) audit the funds and transactions executed by the former Mayor.

On February 8, 2001, the Public Auditor attended an orientation meeting into the operations of the mayoral offices and the Mayors' Council of Guam. Senator Eddie Baza Calvo, chairman of the Legislature's committee having oversight of the Mayors' Council, also attended the orientation presented by Frank Camacho, Executive Director of the Mayors' Council.

Among the subjects discussed at the meeting were the actions of outgoing Mayors, especially in the period following an election loss. Newly elected Mayors expressed certain allegations and concerns about their predecessors' practices regarding procurement, fixed assets, "immediate humanitarian services," record keeping, and over expenditure of Fiscal Year 2001 budgets. At a subsequent meeting that the Public Auditor had with the Mayors' Council, individual Mayors reasserted their allegations and/or concerns about the itemized issues.

On February 20, 2001, newly inaugurated Mayor Franklin M. Taitague of Inarajan requested in writing that the OPA investigate his office to verify the status of its accounts and its inventory of physical property.

On March 15, 2001, the members of the Barrigada Municipal Planning Council adopted Resolution No. 2001-01 requesting "the Public Auditor to conduct a 'fact finding audit' on the expenditures during the first quarter of fiscal year 2001 to show that no accountability of funds and fraud to deceive the government existed". Newly inaugurated Mayor Peter S. Aguon of Barrigada initiated the resolution after he conducted a review of all equipment, projects and accounts, and found questionable expenditures and properties unaccounted for.

On April 2, 2001, Mayor Aguon requested in writing that the OPA audit his office to verify the status of its accounts and its inventory of physical property.

## **Jurisdiction to Investigate**

The Public Auditor is required to annually audit "all the transactions and accounts of all departments, offices, corporations, authorities, and agencies in all of the branches of the government of Guam."<sup>1</sup> The Public Auditor has the duty to "communicate directly with any person or with any department, officer or person having official relations with the office in any matter relating to the expenditures of government funds and property or to the settlement thereof."<sup>2</sup> The 19 Mayors

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<sup>1</sup> 1 GCA § 1908.

<sup>2</sup> 1 GCA § 1909(c).

and five Vice Mayors of Guam are municipal officials elected every four years in the even-numbered year in which the Governor and Lieutenant Governor are not elected.<sup>3</sup> Because the OPA was invited to perform this investigation, the investigation was coordinated in advance with the Mayors of Barrigada, Chalan Pago-Ordot, Inarajan and the Mayors' Council. The Public Auditor acknowledges that she is the first cousin of the spouse of the incumbent Mayor of Inarajan.

### **Background Information**

The Mayor of a municipality has a myriad of powers, duties and responsibilities. Among other things, a Mayor is the direct administrative representative of the municipality, must oversee, coordinate or undertake beautification programs, coordinate with all other government departments, serve as a peace officer, issue citations to owners who fail to remove unsafe buildings, enforce sanitary, health and litter laws, and act as the municipality's official representative at executive and legislative public hearings.<sup>4</sup> In addition, a Mayor is responsible for "general minor repair and maintenance" of public streets, roads, streetlights, the Mayor's office and any community center in the municipality. Furthermore, the Mayors of Barrigada, Chalan Pago-Ordot and Inarajan are specifically responsible for the maintenance of the Barrigada Recreation Area, the Jose U. Atoigue Memorial Park, and the Recreation Area I, Recreation Area II, and the Malojloj Recreation Area, respectively.<sup>5</sup>

Other duties of a Mayor include disbursing funds for "group transportation" for participation in programs and activities for municipal residents, purchasing services and equipment, "including food . . . for official functions . . . essential to sports, recreation, cultural and civic activities" and "providing immediate humanitarian services in case of emergency or unforeseen circumstances."<sup>6</sup>

The Mayors' Council was created to assist with the administrative functions of the Mayors' offices. The Mayors' Council is comprised of all Mayors and Vice Mayors. The Mayors' Council elects its officers, a President, Vice-President, Secretary, Treasurer, and a Sergeant-at-Arms.<sup>7</sup> The Mayors' Council may hire personnel necessary to carry out the purposes of the Mayors' Council. The Executive Director, who is also the Executive Secretary of the Mayors' Council, is responsible for the day-to-day operations and acts as Certifying Officer for the Council and the nineteen municipal funds.<sup>8</sup>

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<sup>3</sup> 5 GCA § 40101 et seq.

<sup>4</sup> 5 GCA §§ 40112, 40115.

<sup>5</sup> 5 GCA § 40113.

<sup>6</sup> 5 GCA § 40118

<sup>7</sup> 5 GCA § 40105

<sup>8</sup> 5 GCA § 40107

In recent years the Legislature has delegated increasing spending authority to the Mayors and loosened the procurement requirements.<sup>9</sup> The Legislature appropriated \$8,569,350<sup>10</sup> for FY 2001 and \$7,150,000<sup>11</sup> for FY 2000 to the Mayors' Council. The funds appropriated for each Municipal Fund are expended directly by the Mayor with the concurrence of the Municipal Planning Council of the particular municipality.<sup>12</sup>

As a part of the enactment of the General Appropriations Act of 2001<sup>13</sup>, the Legislature created the Village Streets Fund, which is exempt from control of the Bureau of Budget and Management Research. A total of \$1,800,000 was appropriated to the fund for FY 2001, to be distributed as provided by law.

By law, unencumbered appropriations to the Mayors' Council do not lapse at the end of a fiscal year but carry forward to the next fiscal year. Accounting procedures for the fund are to be prescribed by the Mayors' Council. Although the Village Streets Fund is under the control of the Mayors' Council by statute, in practice decisions regarding the expenditure of funds allocated for each municipality appear to be made by the respective Mayor and the Municipal Planning Council of each village and not the Mayors' Council.<sup>14</sup>

The management of municipal funds appears to be further complicated by the existence of a third statutory fund, the Community Development Fund.<sup>15</sup> Money in this fund is restricted for "personnel services, contractual services or a combination thereof." This law permits a Mayor to "directly solicit and administer contracts for construction, road repair and beautification projects in accordance with procurement laws, and procurement rules and regulations, and availability of funds not to exceed a cost of Fifty Thousand Dollars (\$50,000.00) per contract."

The same statute makes the Mayors' Council responsible for the issuance and administration of purchase orders approved by the Department of Public Works. It also allows the Mayors' Council to "procure supplies or services of less than Fifteen Thousand Dollars (\$15,000.00) without the approval of the General Services Administration." Expenditures under this law are expressly linked to the duties a Mayor has to perform under 5 GCA § 40113.

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<sup>9</sup> In an uncodified provision found at PL 22-50, § 8, for instance, the Mayors' Council was authorized to procure supplies "without going through normal government procurement procedures; provided that the purchases do not exceed Five Hundred Dollars (\$500) per purchase." See, also, PL 24-143 § 16, and PL 24-184 § 2.

<sup>10</sup> PL 25-164 §§ 20, 21

<sup>11</sup> PL 25-72 § 15

<sup>12</sup> 5 GCA § 40118.

<sup>13</sup> PL 25-164, Chapter III, § 20.

<sup>14</sup> 5 GCA § 1504(k), as amended by PL 25-164, Chapter III, § 20.

<sup>15</sup> 5 GCA § 40119.

The Legislature has also created the Municipal Litter and Defacement Fund<sup>16</sup> and the Municipal Planning Council Revolving Fund.<sup>17</sup> The former is designed to be funded from littering fines imposed in each municipality and the latter is funded with the proceeds of community fund-raising activities and fees.

In summary, the laws pertaining to the Mayors, their duties and their spending authority appear confusing and contradictory. As will be seen from the examples cited in this report, the maze of laws seems to invite practices that are the antithesis of an orderly and accountable procurement process.

### **Objective**

The objective of our investigation was to gather and analyze evidence to form a conclusion as to whether or not the evidence supports the following allegations. The allegations, derived from our meetings with the new Mayors of Barrigada, Chalan Pago-Ordot, Inarajan and the Mayors' Council, are as follows:

**Allegation #1:** The former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan did not follow proper procurement practices.

**Allegation #2:** The former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan did not maintain sufficient control over fixed assets, i.e. government property, furniture and equipment.

**Allegation #3:** The former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan did not properly control payment of Humanitarian Assistance.

**Allegation #4:** The former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan disproportionately expended the fiscal year 2001 budget allocated to the Office.

### **Scope and Methodology**

The scope of the investigation and evaluation was limited to the office operations and assessment of internal controls in the areas listed below of the former Mayors of Barrigada, Chalan Pago-Ordot, and Inarajan from October 1, 1999, through December 31, 2000:

- General Accounting Practices
- Fixed Asset Activity
- Humanitarian Assistance
- Procurement Practices
- Expenditure Activity

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<sup>16</sup> 5 GCA § 40131.

<sup>17</sup> 5 GCA § 40135.

## **Overall Conclusion**

The available evidence gathered and analyzed supports Allegations 1, 2 and 4, but it does not support Allegation 3. In addition, we identified other concerns related to the operation of and accounting by the Mayors' offices. Refer to detailed discussions under "Other Findings Not Specifically Related to the Allegations."

The specific findings, conclusions, and other concerns are presented in detail in the following sections of this report.

## **Specific Findings and Conclusions**

**Allegation #1:** The former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan did not follow proper procurement practices.

**Finding:** The Mayors' Council is authorized to purchase equipment, supplies or services up to \$500 in value without going through normal government procedures; for purchases of equipment, supplies or services valued more than \$500 up to \$1,000 the Mayors' Council need only obtain "a minimum of three (3) informal written or telephonic quotations from vendors." The law includes a limitation that "none of the purchases under this section shall be artificially divided to meet the requirements of the Section."<sup>18</sup>

A later enactment authorizes the Mayors' Council to procure supplies and services having a value of less than \$15,000 without obtaining the approval of the General Services Agency.<sup>19</sup>

During our investigation, we noted several instances where a series of vendor invoices were processed for goods or services for a single vendor on either consecutive days or within a few days in a very short time span. The goods purchased were either identical or pertain to the same purpose. Also, the work descriptions were either similar or identical for road maintenance and road repair work. The available evidence indicates the former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan may have artificially divided the workload so as to avoid complying with the proper procurement process.

### **Barrigada Mayor's Office**

Out of eighty-one (81) transactions reviewed for Barrigada, we noted the following transactions where available evidence indicated proper procurement procedures were not followed.

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<sup>18</sup> PL 24-184, § 2; see also PL 22-50, § 8.

<sup>19</sup> PL 25-118, § 4, adding Section 40119(c) to Title 5 of the Guam Code Annotated.



Individual invoices reviewed for vendors listed below are less than \$500, and thus, not subject to procurement procedures. However, further review of the invoices indicated that many of the vendors were paid for work on the same or similar projects on consecutive or nearly consecutive days based on sequential or nearly sequential invoice numbers. When the invoices for a project or service are totaled the sum exceeds \$500 and thus, evidence indicates that these purchases may have been artificially divided to avoid compliance with procurement regulations.

The following are examples of this finding:

- Three canopies were purchased from vendor number M9676001 on September 1, 2000 for a total amount of \$680. The combined purchase of \$680 meets the Public Law 24-184 requirement for purchases exceeding \$500 to obtain a minimum of three informal written or telephone quotations. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
M9676001	D002820756	7545	9-1-00	\$ 380.00
M9676001	D002820757	7546	9-1-00	300.00
<b>TOTAL</b>				\$ 680.00

- Items to upgrade a computer system were purchased from vendor number C0096104, from October 28, 1999, to November 1, 1999, for a total amount of \$1,197. However, the purchase appears to have been artificially broken as the vendor issued three invoices during three (3) consecutive dates. Each consecutive invoice is \$500 or less. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
C0096104	D002820056	31788	10-28-99	\$ 500.00
C0096104	D002820057	31790	10-29-99	490.00
C0096104	D005820058	31904	11-1-99	207.00
<b>TOTAL</b>				\$ 1,197.00

- Rental of a D-2 Dozer for repair of secondary roads in Barrigada was obtained from vendor number C0097193 for a total amount of \$3,295. The purchase appears to have been artificially broken with four (4) consecutive invoices in April 2000 and three (3) consecutive invoices in July 2000 all for the same work. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
C0097193	D002820430	2154	4-24-00	\$ 500.00
C0097193	D002820431	2155	4-25-00	400.00
C0097193	D002820432	2156	4-26-00	500.00
C0097193	D002820433	2158	4-28-00	455.00
C0097193	D002820547	7755	7-13-00	480.00
C0097193	D002820548	7756	7-14-00	480.00
C0097193	D002820549	7757	7-17-00	480.00
<b>TOTAL</b>				\$ 3,295.00

- Backhoe rental for the cleaning of roadways (Manibusan Road and Aspengao Road) was performed by vendor number J2165401 during June 2000 for a total amount of \$1,440. It appears the purchase was artificially broken as four (4) consecutive invoices were issued on four (4) consecutive dates. Each invoice is less than \$500. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
J2165401	D002820742	26861	6-6-00	\$ 360.00
J2165401	D002820743	26862	6-7-00	360.00
J2165401	D002820744	26863	6-8-00	360.00
J2165401	D002820745	26864	6-9-00	360.00
<b>TOTAL</b>				\$ 1,440.00

- A robin engine including accessories used for village street maintenance was purchased from vendor number S0151001 from February 22-23, 2000, for a total amount of \$665.10. The purchase appears to have been artificially broken as two (2) consecutive invoices were issued during two (2) consecutive dates, with each invoice less than \$500. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
S0151001	D002820322	43753	2-22-00	\$ 430.00
S0151001	D002820322	43756	2-23-00	235.10
<b>TOTAL</b>				\$ 665.10

- Rental services for a tractor mower were obtained from vendor number J2976001 on November 30 and December 1, 2000, for a total amount of \$962.50. The purchase appears to have been artificially broken as three (3) consecutive invoices were issued during two (2) consecutive dates. Each invoice is less than \$500. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
J2976001	D012800290	6667	11-30-00	\$ 357.50
J2976001	D012800291	6668	11-30-00	385.00
J2976001	D012800292	6669	12-1-00	220.00
<b>TOTAL</b>				\$ 962.50

- Equipment rental for removal of debris along the roadside in Barrigada was obtained from vendor number F3665401 in November and December 2000 for a total amount of \$1,680.00. The purchase appears to have been artificially broken as five (5) consecutive invoices, all below \$500, were issued during several consecutive dates. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
F3665401	D012800359	674	12-6-00	\$ 320.00
F3665401	D012800360	673	12-1-00	440.00
F3665401	D012800361	661	11-30-00	320.00
F3665401	D012800362	660	11-29-00	320.00
F3665401	D012800363	646	11-28-00	280.00
<b>TOTAL</b>				\$ 1,680.00

- The following transactions are related to the Barrigada Annual Christmas Tree Lighting Event. Purchases from vendors N2722201 and A0083001 were made in two (2) to three (3) consecutive days with amounts exceeding \$500. Additionally, a purchase of \$2,800 was made from vendor L3461701. In all instances, no documentation was available to indicate proper procurement procedure had been followed. The following are details of the transaction:

Vendor	Document Number	Invoice Number	Invoice date	Amount
N2722201	D012806629	6737	12-14-00	\$ 283.16
N2722201	D012800633	6695	12-13-00	51.50
N2722201	D012800633	6698	12-13-00	178.21
N2722201	D012800633	6721	12-14-00	70.24
Total				\$ 583.11
A0083001	D002800667	143981	12-2-99	467.49
A0083001	D002800668	143916	12-1-99	436.47
A0083001	D002800668	125234	12-1-99	40.46
A0083001	D002800669	80236	11-30-99	375.70
Total				\$ 1,320.12
L3461701	P01050015	8161	12-15-00	\$ 2,800.00

- We requested procurement documents, i.e. informal written or oral quotations and purchase order evaluation sheets, for the purchase of tractor mower parts. The only documents provided were vendor's invoice no. 033000-2 for

\$705.44 and purchase order number P0096531, without any vendor quotations.

Additionally, we selected three (3) invoices for road-repair related work during the investigation period and performed an on-site visit to observe evidence to confirm the work was actually completed. In two instances (i.e. Kaila Street and Canada Barrigada Road), payment of the equipment rental appeared to be justified, as there were indications of recent coral repairs made to the street. However, in one instance (Sgt. Henry Pereda Street), equipment rental does not appear to be warranted, as we could see no trace of gravel loaded or work done and there were no signs of repair work where coral was used.

In all three cases, we noted a single signature acknowledging equipment rental for roadwork performed for Kaila Street (\$740), Sgt. Henry Pereda Street (\$420), and Canada Barrigada Road (\$1,355) on July 24, 2000, December 20, 2000, and April 25, 26 and 28, 2000, respectively, which appear to be that of the former Mayor. The above practice does not achieve proper segregation of duties as the former Mayor both authorized and acknowledged receipt of the work performed.

#### Chalan Pago-Ordot Mayor's Office

Similar to Barrigada, at Chalan Pago-Ordot we noted several instances where a series of invoices were provided by a single vendor on either consecutive days or within a few days in a very short time span, or no vendor quotations available for total work exceeding \$500.

The following are examples of this finding:

- There was a contract attached to the direct payment requests in the amount of \$1,000 to vendor number S0097185. However, the Mayor's office received two invoices, each in the amount of \$500. One invoice was dated June 20, 2000, the second invoice June 24, 2000. Details follow.

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
S0097185	D002820636	006	6-20-00	\$ 500.00
S0097185	D002820637	007	6-24-00	500.00
TOTAL				\$ 1,000.00

- Grass cutting and cleaning services were obtained from vendor number G8606001 during October and November 2000 for amounts totaling \$2,500. Details of purchase are as follows:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
G8606001	D012820496	7418	11-6-00	\$ 500.00

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
G8606001	D012820497	6142	10-5-00	\$ 500.00
G8606001	D012820498	7413	11-1-00	500.00
G8606001	D012820499	6141	10-3-00	500.00
G8606001	D012820500	7401	10-20-00	500.00
<b>TOTAL</b>				<b>\$ 2,500.00</b>

- Three 20x30 canopies were purchased from vendor number S0096465 on July 18 and 24, 2000, for a total amount of \$900. In addition, we noticed that the dates shown on the invoice #5470 and #5469 may have been altered. Details of purchase are as follows:

Document Number	Invoice Number	Original Invoice Date	Changed Invoice Date	Invoice Amount
D002820728	5469	7-18-00	7-14-00	\$ 300.00
D002820729	5471	7-24-00	no change	300.00
D002820730	5470	can not clearly see	7-18-00	300.00
<b>TOTAL</b>				<b>\$ 900.00</b>

- The amount of \$20,919.45 was disbursed to vendor no. A0096666 for road maintenance. Of this amount, \$12,769.45 was for work performed from October 4 to November 16, 2000. All of the invoices related to these expenditures were in amounts under \$500.

VENDOR	DATE	DOC. NO.	INVOICE DATE	INVOICE NO.	AMOUNT
A0096666	10/10/2000	D002820828	7-10-00	C-116	\$ 348.00
A0096666	10/10/2000	D002820829	7-12-00	C-117	432.00
A0096666	10/11/2000	D002820849	7-14-00	C-118	488.00
A0096666	10/11/2000	D002820850	7-17-00	C-119	498.00
A0096666	10/11/2000	D002820851	7-20-00	C-120	478.00
A0096666	10/11/2000	D002820852	7-24-00	C-121	436.00
A0096666	10/11/2000	D002820853	7-28-00	C-122	498.00
<b>FY 2000 Subtotal, Operations Fund</b>					<b>\$ 3,178.00</b>
A0096666	8/16/2000	D002820553	6-8-00	C-105	485.00
A0096666	8/16/2000	D002820554	6-22-00	C-111	498.00
A0096666	8/24/2000	D002820601	6-8-00	C-107	430.00
A0096666	8/24/2000	D002820602	6-21-00	C-108	490.00
A0096666	8/24/2000	D002820603	6-21-00	C-109	430.00
A0096666	8/24/2000	D002820604	6-21-00	C-110	448.00
A0096666	10/2/2000	D002820734	6-8-00	C-106	368.00
A0096666	10/11/2000	D002820855	7-1-00	C-112	468.00
A0096666	10/11/2000	D002820856	7-3-00	C-113	485.00
A0096666	10/11/2000	D002820857	7-5-00	C-114	472.00

VENDOR	DATE	DOC. NO.	INVOICE DATE	INVOICE NO.	AMOUNT
A0096666	10/11/2000	D002820858	7-Jul	C-115	\$ 398.00
<b>FY 2000 Subtotal, Village Streets Fund</b>					<b>\$ 4,972.00</b>
<b>TOTAL - FY2000</b>					<b>\$ 8,150.00</b>
A0096666	10/27/2000	D012800100	10-4-00	C-123	487.65
A0096666	10/27/2000	D012800101	10-7-00	C-124	440.00
A0096666	10/27/2000	D012800102	10-10-00	C-125	468.00
A0096666	10/27/2000	D012800103	10-11-00	C-126	489.80
A0096666	10/27/2000	D012800104	10-12-00	C-127	280.00
A0096666	11/16/2000	D012800117	10-13-00	C-128	484.00
A0096666	11/16/2000	D012800118	10-14-00	C-129	490.00
A0096666	11/16/2000	D012800119	10-16-00	C-130	398.00
A0096666	11/16/2000	D012800120	10-16-00	C-131	344.00
A0096666	11/16/2000	D012800121	10-16-00	C-132	294.00
A0096666	11/16/2000	D012800122	10-17-00	C-133	394.00
A0096666	11/16/2000	D012800123	10-18-00	C-134	482.00
A0096666	11/16/2000	D012800124	10-18-00	C-135	460.00
A0096666	11/16/2000	D012800125	10-19-00	C-136	492.00
A0096666	11/16/2000	D012800126	10-20-00	C-137	496.00
A0096666	11/16/2000	D012800127	10-21-00	C-138	482.00
A0096666	12/21/2000	D012800330	11-10-00	C-139	498.00
A0096666	12/21/2000	D012800331	11-10-00	C-140	490.00
A0096666	12/21/2000	D012800332	11-11-00	C-141	486.00
A0096666	12/21/2000	D012800333	11-13-00	C-142	479.00
A0096666	12/21/2000	D012800334	11-13-00	C-143	486.00
A0096666	12/22/2000	D012800342	11-14-00	C-145	488.00
A0096666	12/22/2000	D012800343	11-14-00	C-144	494.00
A0096666	12/22/2000	D012800344	11-15-00	C-147	464.00
A0096666	12/22/2000	D012800345	11-15-00	C-146	466.00
A0096666	12/22/2000	D012800346	11-15-00	C-148	478.00
A0096666	12/22/2000	D012800347	11-16-00	C-149	467.00
A0096666	12/22/2000	D012800348	11-16-00	C-150	492.00
<b>1st Quarter FY 2001 Subtotal, Village Streets Fund</b>					<b>\$ 12,769.45</b>
<b>TOTAL- FY2000 &amp; 1ST QTR OF FY2001</b>					<b>\$ 20,919.45</b>

This vendor (A0096666) is the spouse of an employee of the Mayors' Council. There is no written acknowledgement or disclosure of this relationship in the files. There were no written quotations or other bidding documents for the work for \$20,919.45. Proper procurement procedures for work mentioned should have gone through the General Services Agency (GSA) as the work amount exceeded \$15,000.<sup>20</sup>

<sup>20</sup> By definition, routine road maintenance is not construction and therefore does not qualify for the \$50,000 expedited procurement procedure. See 2 GAR 1106, pg 4 (definition of construction)

The same vendor was paid \$11,033 for road maintenance service from November 2000 to December 2000 for Inarajan. Refer to details on pages 15-16.

Most of the above payments were for road maintenance or road improvement. In each of the instances listed above, we were not provided with any documentation to confirm that procurement procedures were followed, i.e. obtaining a minimum of three written vendor quotations. Additionally, we were unable to obtain a scope of work, a detailed work plan, work milestones, or other information that would typically be available for review of road maintenance and repair projects.

The lack of this information diminishes the audit trail that would have enabled us to confirm that the projects were actually completed. The incompleteness of the procurement record will adversely affect the work of the OPA in its duty to annually audit the Village Street Fund as required by law.<sup>21</sup>

#### Inarajan Mayor's Office

At Inarajan we noted similar indications that purchases appear to have been artificially divided to avoid bidding requirements. There were no vendor quotations for work exceeding \$500. Further, there was no procurement documentation reflecting any type of bidding process for any part of the budget.

The following are examples of this finding:

- The GSA chief procurement officer authorized purchase order no. P06A01210 (dated 12/28/99) from vendor number E0611901 for a total amount of \$1,000. We were not provided with any documentation to indicate proper procurement procedures, i.e. obtain a minimum of three vendor quotations, were followed.
- In three cases services were contracted for between \$800 and \$1,800. There were no written or oral quotations for any of the agreements. The details of the purchases follow:

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and 2 GCR 204.03.1 as amended April 22, 1999 (25<sup>th</sup> Legislature's document 00034). See also PL 25-118, § 3(b).

<sup>21</sup> 5 GCA § 1504(k)(7), as amended by PL 25-164, Chapter III, § 20.

Date	Contract No.	Services	Invoice Date	Invoice No.	Contract Amount
12/17/99	C000600350	Janitorial & Lawn	11-14-99	1856/1857	\$ 1,200.00
12/17/99	C000600340	Lawn Care	11-14-99	None	\$ 1,800.00
12/17/99	C000600330	Community services	11-30-99	1861	\$ 800.00

- Equipment rental services to load gravel for village maintenance and flooding control were procured from vendor number I0096029 from July 17, 2000, to July 31, 2000, for a total amount of \$3,200. In all instance, invoice amounts were below \$500. Details follow:

Vendor Number	Document Number	Street	Invoice Number	Invoice Date	Invoice Amount
I0096029	D002820648	Tun Jesus M. Crisostomo Dr., Tun Jose L. San Nicolas St.	4450	7-17-00	\$ 400.00
I0096029	D002820649	Malojloj Highway, San Nicolas Road	4451	7-18-00	400.00
I0096029	D002820650	Malojloj Highway, Chagamin Lagu Avenue	4452	7-19-00	400.00
I0096029	D002820651	Inalahan Highway, Tun Jose L. San Nicolas St.	4453	7-20-00	400.00
I0096029	D002820652	Inalahan Highway	4454	7-24-00	400.00
I0096029	D002820777	Malojloj Highway, Ija	4455	7-27-00	400.00
I0096029	D002820778	Kahet Road, Tun Jose L. San Nicolas St.	4456	7-28-00	400.00
I0096029	D002820779	Ija, Sigidiyas St.	4457	7-31-00	400.00
<b>TOTAL (Village Street Fund)</b>					<b>\$ 3,200.00</b>

- The former Mayor authorized the purchase of tractor parts from vendor number B5792201 on October 17, 2000, for a total amount of \$1,771.68. Each invoice is below \$500, and thus, projects an appearance that the purchase may have been artificially broken to avoid procurement regulations. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
B5792201	D012800150	41041	10-17-00	\$ 442.92
B5792201	D012800151	41045	10-17-00	442.92
B5792201	D012800152	41047	10-17-00	442.92
B5792201	D012800153	41049	10-17-00	442.92
<b>TOTAL, Village Street Fund FY 2001</b>				<b>\$ 1,771.68</b>



- Rental service of heavy equipment to transport coral in the village was obtained from vendor number D1626701 from October 12 to December 15, 2000, for a total amount of \$11,760.00. Each invoice is below \$500. Detail of the purchases follow:

Vendor Number	Document Number	Street	Invoice Date	Invoice Number	Amount
D1626701	D012800154	Tun Jose T. Chargualaf Ln	10/17/00	14787	\$ 294.00
D1626701	D012800155	Tun Jose T. Chargualaf Ln	10/16/00	14786	336.00
D1626701	D012800156	As Ap'man Dr.	10/12/00	14782	210.00
D1626701	D012800157	As Ap'man Dr.	10/18/00	14784	336.00
D1626701	D012800158	Tun Jose L. San Nicolas St.	10/29/00	14788	336.00
D1626701	D012800159	Tun Santiago N. Paulino St.	10/19/00	14789	336.00
D1626701	D012800160	Chalan Gue'Fan St.	10/29/00	14790	336.00
D1626701	D012800161	Chagamin Lagu Ave., As Gue'fan St.	10/29/00	14791	336.00
D1626701	D012800162	Chagamin Lagu Ave., P.F.C. Roy F. Meno St.	10/24/00	14792	336.00
D1626701	D012800163	P.F. C. Roy F. Meno St.	10/29/00	14793	336.00
D1626701	D012800164	Chagamin Lagu Avenue	10/29/00	14794	336.00
D1626701	D012800189	Guefan St., Malojloj Well Drive, Ates St.	10/27/00	14795	336.00
D1626701	D012800190	Malojloj Well Dr., Chalan Fangualuan	10/30/00	14796	336.00
D1626701	D012800191	Malojloj Well Dr., Chalan Fangualuan	10/31/00	14797	336.00
D1626701	D012800192	Malojloj Dr., AtMagoso St.	11/01/00	14798	336.00
D1626701	D012800193	Chamorro Dr., San Isidro, Malojloj Dr.	11/02/00	14799	315.00
D1626701	D012800241	Pale Jesus Baza Duenas St.	11/06/00	15102	336.00
D1626701	D012800242	Chagamin Lagu St.	11/08/00	15103	336.00
D1626701	D012800243	Salok Street	11/09/00	15104	336.00
D1626701	D012800380	At'magoso St.	11/14/00	15107	420.00
D1626701	D012800381	Tongan Way	11/22/00	15113	399.00
D1626701	D012800382	A'tes Street	11/24/00	15115	420.00
D1626701	D012800440	Tun Leocardio Paulino St.	12/07/00	15126	420.00
D1626701	D012800441	Chalan Cabesa	12/07/00	15132	399.00
D1626701	D012800442	Paulino Heights	12/09/00	15127	399.00
D1626701	D012800443	Chalan Tan Lea	12/11/00	15128	399.00
D1626701	D012800444	Tipiku Street	12/12/00	15129	399.00

Vendor Number	Document Number	Street	Invoice Date	Invoice Number	Amount
D1626701	D012800445	SP4 Victor P. SanNicolas St.	12/04/00	15123	\$ 399.00
D1626701	D012800446	Belen Avenue	11/29/00	15120	378.00
D1626701	D012800447	SP4 Victor P. SanNicolas St.	11/28/00	15119	378.00
D1626701	D012800448	Chalan Fangualuan	11/27/00	15118	357.00
D1626701	D012800449	Kalamasa Street	11/25/00	15117	399.00
D1626701	D012800450	Pvt. Francisco C. Castro St.	12/15/00	15133	399.00
<b>Total, 1<sup>st</sup> Qtr FY 2001 (Village Street Fund)</b>					<b>\$ 11,760.00</b>

- Vendor number T1081101 provided beautification services for Chief Gadao Park from November 1 to November 4, 2000, for a total amount of \$1,870.00. Our inspection of the site, performed five (5) months later on April 19, 2001, did not indicate any significant beautification efforts performed for the park. Detail of the purchases follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Funding	Invoice Amount
T1081101	D012800223	0001	11-1-00	Village Street Fund 2001	\$ 390.00
T1081101	D012800224	0003	11-2-00	Village Street Fund 2001	500.00
T1081101	D012800225	0004	11-3-00	Village Street Fund 2001	500.00
T1081101	D012800226	0005	11-4-00	Village Street Fund 2001	480.00
<b>TOTAL</b>					<b>\$ 1,870.00</b>

- Ground maintenance services on roadsides were provided by vendor number A0096666 during the 1<sup>st</sup> Qtr of FY2001 for total services amount of \$11,033.00. Each invoice is below \$500. Detail of the purchases follows:

Vendor Number	Document No.	Street	Invoice Date	Invoice No.	Amount
A0096666	D012800267	Kalamasa Circle	11/16/00	1-101	\$ 486.00
A0096666	D012800268	Malojloj Basketball Ct., Barcinas Road	11/17/00	1-102	468.00
A0096666	D012800269	Chalan Fangualuan	11/17/00	1-103	496.00
A0096666	D012800270	Chalan Dokdok	11/18/00	1-104	482.00
A0096666	D012800271	Malojloj Well Drive	11/20/00	1-105	486.00
A0096666	D012800272	Chotda Drive	11/20/00	1-106	477.00
A0096666	D012800273	Post office, PUAG treatment road areas	11/21/00	1-107	464.00
A0096666	D012800274	Francisco Asanoma Street	11/21/00	1-108	454.00
A0096666	D012800275	Chagamin Lagu Avenue	11/22/00	1-110	494.00

Vendor Number	Document No.	Street	Invoice Date	Invoice No.	Amount
A0096666	D012800276	Belen Avenue	11/22/00	1-109	\$ 496.00
A0096666	D012800277	Tun Juan & Rosa Paulino St.	11/24/00	1-111	488.00
A0096666	D012800278	Chalan Ayuyu	11/24/00	1-112	474.00
A0096666	D012800279	Chalan Kafe	11/25/00	1-113	438.00
A0096666	D012800435	Chalan Tun Jesus Meno	11/27/00	1-114	492.00
A0096666	D012800436	Chalan Asiga	11/27/00	1-115	472.00
A0096666	D012800437	Chalan Cruz	11/28/00	1-116	488.00
A0096666	D012800438	Chalan Tan Maria	11/28/00	1-117	476.00
A0096666	D012800439	Chalan Laman	11/29/00	1-118	484.00
A0096666	D012800416	Alageta Circle	11/30/00	1-119	466.00
A0096666	D012800417	Nijok Ln.	11/30/00	1-120	494.00
A0096666	D012800421	Cepeda Dr.	12/01/00	1-121	484.00
A0096666	D012800429	Flores Circle	12/01/00	1-122	478.00
A0096666	D012800430	Chalan Tun Manuel Meno	12/02/00	1-123	496.00
<b>Total for 1st Qtr. Of FY2001, Village Street Fund</b>					<b>\$ 11,033.00</b>

This vendor (A0096666) is the spouse of an employee of the Mayors' Council. There is no written acknowledgement or disclosure of this relationship in the files. The same vendor received \$20,919.45 for road maintenance service from June 2000 to November 2000 from the former Chalan Pago-Ordot Mayor. Refer to details on page 11.

- Heavy equipment rental to deliver coral was obtained from vendor number J2165401 from October 20 to December 8, 2000, for a total amount of \$28,300.00. Each invoice is below \$500. Details of the purchase follow:

Vendor Number	Document No.	Street	Invoice Date	Invoice No.	Amount
J2165401	D012800165	Tun Jose Crisostomo Dr.	10/20/00	28171	\$ 350.00
J2165401	D012800166	Tun Jose L. SanNicolas	10/20/00	28172	375.00
J2165401	D012800167	Chagamin Lagu	10/20/00	28173	400.00
J2165401	D012800168	Chagamin Lagu	10/20/00	28174	400.00
J2165401	D012800169	Chagamin Lagu, PFC Roy F. Memo Street	10/20/00	28166	400.00
J2165401	D012800170	Inalahan Hwy, PFC Roy F. Meno St.	10/26/00	28165	400.00
J2165401	D012800171	Aha'yan Way	10/26/00	28551	425.00
J2165401	D012800172	PFC Roy F. Meno St, Chalan Gue'fan, Chagamin Lagu	10/27/00	26942, 26944	500.00
J2165401	D012800173	Chagamin Lagu St., Tun Santiago N. Paulino St.	10/27/00	28164	450.00
J2165401	D012800174	Pale Jesus Baza St., Y-Peca Ln.	10/31/00	26947	400.00

Vendor Number	Document No.	Street	Invoice Date	Invoice No.	Amount
J2165401	D012800175	Chagamin Lagu Avenue	10/27/00	28552	\$ 475.00
J2165401	D012800176	Malojloj Hwy.	10/30/00	28553	475.00
J2165401	D012800177	Inalahan Hwy	10/31/00	28554	425.00
J2165401	D012800178	Tipo'ku St.	11/01/00	28622	425.00
J2165401	D012800179	Pale Jesus Baza St., Inarajan Plaza	11/03/00	28623	475.00
J2165401	D012800180	Pale Jesus Baza St., Inarajan Plaza	11/03/00	28552	475.00
J2165401	D012800181	Niyoc Lane, Majojloj Hwy	10/27/00	26945	425.00
J2165401	D012800182	Malojloj Hwy, Chagamin Lagu	10/30/00	26946	425.00
J2165401	D012800245	Chalan Fan'gua'lu'an, San Isidro Dr., Malojloj Well Dr.	11/02/00	28559	425.00
J2165401	D012800252	Tabetna Way	11/06/00	28624	400.00
J2165401	D012800253	Pale Jesus Baza Duenas St.	11/06/00	28558	475.00
J2165401	D012800254	Chagami Way	11/10/00	28562	450.00
J2165401	D012800255	Y-Peca Lane	11/13/00	28628	450.00
J2165401	D012800256	Malojloj Well Dr.	11/13/00	28563	450.00
J2165401	D012800257	At'magoso St.	11/14/00	28629	450.00
J2165401	D012800259	MISSING DOCUMENT	11/14/00	28564	475.00
J2165401	D012800260	Lemai Street	11/15/00	28565	475.00
J2165401	D012800364	Chalan Tun Juan Taitague	11/09/00	28626	450.00
J2165401	D012800365	Chalan Tun Jesus Meno Cir.	11/10/00	28627	450.00
J2165401	D012800366	Aha'yan Way	11/24/00	28832	500.00
J2165401	D012800367	Ata'u' Dr.	11/22/00	28803	500.00
J2165401	D012800368	Chalan Laman	11/01/00	28555	450.00
J2165401	D012800369	Inalahan Highway	11/21/00	28831	475.00
J2165401	D012800370	Tongan Way	11/22/00	28802	500.00
J2165401	D012800371	Kalamasa St.	11/20/00	28568	500.00
J2165401	D012800372	A'tes St.	11/24/00	28804	500.00
J2165401	D012800373	Alageta Circle	11/25/00	28833	475.00
J2165401	D012800374	Lemai St.	11/21/00	28801	475.00
J2165401	D012800375	Chalan Asiga	11/27/00	28834	425.00
J2165401	D012800376	Chalan Kantit	11/27/00	28806	425.00
J2165401	D012800377	Bilembines St.	11/25/00	28055	475.00
J2165401	D012800378	Chalan Tun Manuel C. Meno	11/16/00	28566	475.00
J2165401	D012800379	Kahe't Lane	11/17/00	28567	475.00
J2165401	D012800383	Barcinas Drive	11/09/00	28561	475.00
J2165401	D012800384	Tipo'ku St.	11/08/00	28560	450.00
J2165401	D012800420	Pale Bernabe Circle	12/07/00	28843	325.00

Vendor Number	Document No.	Street	Invoice Date	Invoice No.	Amount
J2165401	D012800423	Chalan Elaine & Alice Flores St.	10/06/00	28842	\$ 50.00
J2165401	D012800424	Tun Leocardio Paulino St.	12/07/00	28814	500.00
J2165401	D012800425	Ap'man Drive	12/06/00	28813	475.00
J2165401	D012800427	MISSING DOCUMENT	12/01/00	28839	475.00
J2165401	D012800521	Chagamin Lagu St.	11/08/00	28625	450.00
J2165401	D012800522	Malojloj Well Dr.	11/28/00	28807	475.00
J2165401	D012800523	Sigidiyas St.	11/28/00	28835	475.00
J2165401	D012800524	Chandiha Way	11/29/00	28808	450.00
J2165401	D012800525	Biradan Pulan	11/29/00	28836	450.00
J2165401	D012800526	Friholes Drive	11/30/00	28838	450.00
J2165401	D012800527	Papya Lane	11/30/00	28809	450.00
J2165401	D012800528	Barcinas Drive	12/1/00	28810	475.00
J2165401	D012800529	Tun Felipe Meno Dr.	12/4/00	28811	475.00
J2165401	D012800530	Ap'man Drive	12/4/00	28840	475.00
J2165401	D012800531	Tun Juan & Rosa Paulino	12/5/00	28812	475.00
J2165401	D012800532	Chalan Juan A. Lujan	12/5/00	28841	475.00
J2165401	D012800533	Chalan Cabesa	12/8/00	28815	75.00
<b>Total for 1<sup>st</sup> Qtr. of FY2001, Village Street Fund</b>					<b>\$ 28,300.00</b>

Most of the above payments were for routine road maintenance or road improvement. These contractual services occurred from October 2000 to December 2000, i.e. nearly all in the months after the defeat of the former Mayor. In each of the instances noted above, we were not provided with any documentation to confirm that procurement procedures were followed, i.e. obtaining a minimum of three bids. However, amounts paid collectively to these vendors without going through bidding procedures ranged from \$11,000 to \$28,300 per vendor. See list of such vendors below.

<u>Vendor</u>	<u>Amount Paid</u>
D1626701	\$11,760
A0096666	11,033
J2165401	28,300

Additionally, we were unable to obtain a scope of work, a detailed work plan, work milestones, or other information that would typically be available for review of contracted road maintenance and repair projects.

The lack of this information diminishes the audit trail that would have enabled us to confirm that the projects were actually completed. The incompleteness of the

procurement record will adversely affect the work of the OPA inasmuch as it is required by law to annually audit the Village Street Fund.<sup>22</sup>

In addition, we noted that similar transactions occurred in the Mayor's Operation Fund and Stipend Fund for FY2000 and 1<sup>st</sup> Quarter of FY2001. Details follow:

- Food consumed for the village annual community gathering was purchased from vendor number P7621701 on December 16, 1999, for a total amount \$697.01. However, available evidence appears to indicate the Mayor may have artificially broken the purchases into three (3) invoices. As noted below, each consecutive purchase is less than \$500. Details of the purchase follow:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
P7621701	D002800683	192390	12/16/99	\$ 499.48
P7621701	D002800684	192391	12/16/99	97.38
P7621701	D002800685	192394	12/16/99	100.15
<b>TOTAL, Stipend FY 2000</b>				<b>\$ 697.01</b>

- Food and refreshments for a community Thanksgiving function were purchased from vendor number C5521011 on November 22, 2000, for a total amount of \$930.68. Invoices were all below \$500. Details of the purchase are as follows:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
C5521011	D012800472	65044	11/22/00	\$ 493.27
C5521011	D012800473	65047	11/22/00	437.41
<b>TOTAL, Stipend FY 2001</b>				<b>\$ 930.68</b>

- Food served for hosting the community Thanksgiving luncheon was purchased from vendor number C4811701 on November 21, 2000, for a total amount of \$559.42. Total purchase is greater than \$500 and thus, is required to obtain a minimum of three vendor quotes. Details of the purchase are as follows:

Vendor Number	Document Number	Invoice Number	Invoice Date	Invoice Amount
C4811701	D012800623	#0176	11/21/00	\$ 60.44
C4811701	D012800624	#0175	11/21/00	498.98
<b>TOTAL, Stipend FY 2001</b>				<b>\$ 559.42</b>

- Cash advances paid from the Stipends Fund were utilized for various community activities. Vendor invoices or receipts were reviewed during our

<sup>22</sup> 5 GCA § 1504(k)(7), as amended by PL 25-164, Chapter III, § 20.

investigation; however, no documentation was provided to indicate proper procurement was followed, i.e. a minimum of three vendor quotes. Details of purchase are listed below.

Date	Document Number	Amount	Purchase purpose
12/10/99	D002800339	\$ 520.00	Dinner/Gifts
12/10/99		700.00	Float/Stage/Table Setting
12/10/99		1,000.00	Utilizing Gef Pago
11/10/00	D012800409	592.99	Drinks, Charcoal, Ice, Gas
12/13/00	D012800563	589.00	Christmas candies
12/13/00		600.00	DJ Entertainment
12/13/00		2,000.00	Amusement Games
12/13/00		540.00	Christmas gifts
Total		\$ 6,541.99	

**Conclusion:** We have concluded that the available evidence supports the allegation that the former Mayors of Barrigada, Chalan Pago-Ordot, and Inarajan did not follow proper procurement practices, i.e. artificially divided invoices below \$500 so as not to go through the bidding process. Additionally, the Mayors' Council, acting as an administrative body, failed to provide guidance and appropriate checks for compliance with procurement regulations to the Mayors to prevent such actions from happening.

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**Allegation #2:** The former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan did not maintain proper control over fixed assets, i.e. government property, furniture and equipment.

**Finding:** Guam Procurement Regulations state "the Chief Procurement Officer shall have general supervision of all inventories of supplies<sup>23</sup>, whether warehoused or in use belonging to the government or any of its agencies. This responsibility shall not, however, relieve any agency of accountability for tangible personal property and other supplies under its control. All warehouses and similar storage areas shall be inventoried at least annually."<sup>24</sup>

We requested fixed asset listings from the mayoral offices of Barrigada, Chalan Pago-Ordot and Inarajan and the Mayors' Council. Barrigada provided a listing performed subsequent to January 1, 2000, while Inarajan provided a listing as of December 29, 2000. On the other hand, neither the mayoral staff nor the Mayors' Council was able to provide a fixed asset listing for Chalan Pago-Ordot.

<sup>23</sup> Supplies, for purposes of this report and as defined in GSA Procurement Regulations §8-101.01, refer to tangible personal property owned by the government.

<sup>24</sup> GSA Procurement Regulations § 8-201.03.

When we requested a listing of inventory items (i.e., canopies, tables, chairs, etc.) from the three mayoral offices, neither the Mayors' Council nor the three Mayors' offices was able to provide us with an inventory listing. We then requested copies of procedures governing the issuance of inventory items to the constituents; again, the Mayors' Council and the mayoral offices were unable to provide us with a copy of the procedures. We then obtained an oral explanation of procedures in place for loaning out inventory items and reviewed a logbook maintained by the former Mayors, which appeared to confirm the oral procedures described to us.

We requested from DOA fixed assets accounting procedures and were provided with Property Management and Procedures Manual. This manual tasks the Property Management Branch with duties and responsibilities to perform and act as the official accounting office for fixed assets owned by the Government of Guam, establish good internal control, prepare monthly statements, supervise scheduled physical inventory, control issuance of property identification tags and perform other property management as required.

#### Barrigada Mayor's Office

We requested fixed asset listings from Barrigada and the Mayors' Council for the period of the investigation; however, neither party was able to provide such a listing. However, we received a fixed assets listing from the new Mayor for a physical count performed subsequent to January 1, 2001.

Additionally, we obtained documents from the GSA of fixed assets transfers by the mayoral offices during the investigation period. Evidence gathered from the GSA Reports of Survey and Transfer of Properties indicates **no transfer** activity by the Barrigada Mayor's office for period October 1, 1999, to December 31, 2000.

We did not expand our scope of work to determine if other assets had been transferred directly to other mayoral offices. During our investigation, we noted that restrictions on transfers of assets within the government of Guam are nonexistent.

#### Chalan Pago-Ordot Mayor's Office

We requested Chalan Pago-Ordot and the Mayors' Council to provide us with a fixed asset listing covering assets owned by the Chalan Pago-Ordot Mayor's office. Neither was able to provide us with a listing.

During a site visit to Chalan Pago-Ordot, the new Mayor represented that many fixed assets had been removed from the office prior to his arrival. He indicated that there were no working vehicles at the office when it was turned over to him. Due to the lack of a fixed asset listing for the office, we were hindered in our



effort to prove or disprove his claims. However, we examined documentation of assets transferred from Chalan Pago-Ordot to GSA during the first quarter of Fiscal Year 2001. We noted the following assets were transferred to GSA on December 29, 2000:

<u>Item Description</u>	<u>Value</u>
1993 Hyundai Sonata	unknown
Executive Desk	\$950
Wooden Credenza	\$585
Wooden Credenza	\$465
Guam Flag w/post	unknown
U.S. Flag w/post	unknown
Executive Chair	unknown
80 metal folding chairs	unknown
1980 Dodge Pickup	\$500
Canon Fax machine	\$1,530
Typewriter	unknown
Kenmore Microwave	unknown
Riding Mower	unknown

Additionally, we obtained documents relating to a direct transfer of assets from Chalan Pago-Ordot to the Santa Rita Mayor's office. The items included on the documentation are as follows:

<u>Item Description</u>	<u>Value</u>
1998 4x4 Ford Ranger Pickup	\$16,469
20x20 Canopy w/pipe fittings (Green)	\$900
50 Metal Folding Chairs	\$750
2 20x30 Canopy w/pipe fittings (White)	\$600

We did not expand our scope of work to determine if other assets had been transferred directly to other mayoral offices. During our investigation, we were unable to identify restrictions on transfers of assets within the government of Guam.

#### Inarajan Mayor's Office

In order to confirm that assets were being properly controlled, we requested copies of fixed asset listings. We were provided with listings of fixed assets dated December 29, 2000, and four years earlier dated October 21, 1996. We noted that the time lapse between the inventory listings is not consistent with principles of good internal control that inventory items be physically counted at least annually.

In order to test the validity of the items in the fixed assets listing, we performed a physical count of all items in the fixed assets list. We were unable to confirm the existence of the following items:

<u>Item Description</u>	<u>Acquisition Price</u>
Canopy (2)	\$5,489
Executive Double Desk	\$299
Facsimile Machine	\$1,200
½' Drill Black and Decker	unknown
Car Amplifier	unknown
Canon PC 25	unknown
Computer, Compaq Monitor	unknown
Computer, Epson Keyboard	unknown
Bushcutter	\$695
Executive Desk	unknown
Filing, Roll Away Cart	unknown
Printer, Deskjet 690C	unknown
Scanner, Epson ES-600C	unknown
Desk Table	unknown
Horn Speaker (TC-101TE)	unknown
Microwave	unknown

The following items were included on the inventory listing with notations that they were reported to the police as stolen.

<u>Item Description</u>	<u>Acquisition Price</u>
Bushcutter	\$695
Chainsaw, Shindaiwa	unknown
Onan Generator	unknown
Hedge Trimmer	unknown
Bushcutter Shindaiwa	unknown
Bushcutter Shindaiwa	unknown

Because there was no independent verification of the fixed assets inventory at December 31, 2000, we were unable to determine the timing of the disappearance of the assets.

**Conclusion:** The available evidence supports the allegation that the former Mayors of Barrigada, Chalan Pago-Ordot, and Inarajan did not maintain sufficient controls over fixed assets during the period of our investigation. Additionally, the administrative staff of the Mayors' Council did not provide any guidance to ensure proper accountability of fixed assets to the various mayoral offices.

We are unaware of any prohibitions against asset transfers by a Mayor subsequent to an election loss. We believe such transfers by a defeated Mayor should be prohibited. The Guam Legislature appropriated the funds for the benefit of the people in each respective village. Accordingly, we believe the assets should remain in the village to benefit the community.

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**Allegation: #3:** The former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan did not properly control payment of Humanitarian Assistance.

**Finding:** We requested written procedures governing the disbursement of humanitarian assistance<sup>25</sup> from the Mayors' Council and the three mayoral offices. The Mayors' Council and the three mayoral offices were unable to provide us with a copy of such procedures. However, we were advised that the Mayors' Council staff does not process requests for humanitarian assistance unless there is documentation indicating that the expenditure of funds is necessitated by a medical emergency.

During our overall expenditure testing, we tested twenty cases in which humanitarian assistance was disbursed to residents of the three villages and noted that in each case the documentation was sufficient to demonstrate a medical need.

**Conclusion:** An effective internal control system requires that written documentation be present to ensure that all transactions are properly monitored. However, except for the lack of documentation of proper procedures, the evidence reviewed does not support the allegation that the payment of Humanitarian Assistance has not been properly controlled.

The Mayors' Council staff, as the administrative body, has exercised stringent controls despite the lack of written procedures. We applaud the Mayors' Council staff for their diligence in this area.

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**Allegation #4:** The former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan disproportionately expended the fiscal year 2001 budget allocated to each office.

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<sup>25</sup> Municipal Fund may be used to defray the cost of providing immediate humanitarian services in case of emergency or unforeseen circumstances. In no case shall such service exceed Five Hundred Dollars (\$500) in cash or materials, or services rendered. 5 GCA § 40118.

**Finding:** As a result of Public Law 25-164, § 21c, the Mayors' Council and the Mayors offices were exempted from the allotment process. The Mayors' Council allocated the funds for each municipality. Absent the purchase of large equipment in a quarter, it generally follows that each Mayor's office should expend approximately 25% of its budget in each quarter of the fiscal year. The first quarter of fiscal year 2001 represented the final quarter of an outgoing Mayors of Barrigada, Chalan Pago-Ordot and Inarajan. Therefore, it is particularly important that each Mayor's office adhere to the 25% budgeted expenditure level, during an election year, so as not to adversely impact the ability of the incoming Mayor to carry out the duties and responsibilities of the office.

#### Barrigada Mayor's Office

The amount allotted to Barrigada excluding personnel costs and utilities was as follows:

	<u>FY 2000</u>	<u>FY 2001</u>
Barrigada Mayor's Operations	\$ 18,043	\$ 7,134
Stipend	10,516	10,516
CDF/Village Street Funds	<u>17,576</u>	<u>101,600</u>
Total	<u>\$ 46,135</u>	<u>\$ 119,450</u>

We tallied the expenditures from the spreadsheet maintained by the Mayors' Council to track processed transactions. As illustrated in **Table 1**, expenditures for Barrigada Operations and Stipends Fund for the FY 2001 quarter ending December 31, 2000, was \$10,264.30. Such amount exceeds the proportional amount of the budget by \$5,851.80 (or 232.6%) and represents 58.2 per cent of the total sum set aside for Barrigada for the entire fiscal year. For the Village Street Fund, Barrigada was under the proportional amount of the budget by \$9,678.20, this represents 15.5% of the total amount set aside for Barrigada for the entire year. The FY01 budget does not allow the Mayors to transfer Village Street Fund money into other funds.

#### Chalan Pago-Ordot Mayor's Office

The amount allotted to Chalan Pago-Ordot excluding personnel costs and utilities was as follows:

	<u>FY 2000</u>	<u>FY 2001</u>
Chalan Pago-Ordot Mayor's Operations	\$ 18,043	\$ 7,134
Stipend	10,516	10,516
Transfer to Inarajan Stipend	0	(4,000)

Cont., Chalan Pago-Ordot allotment

CDF/Village Street Funds	<u>17,576</u>	<u>88,000</u>
Total	<u>\$ 46,135</u>	<u>\$ 101,650</u>

We obtained a copy of a spreadsheet maintained by the Mayors' Council to track expenditure transactions, which are processed through the Mayors' Council. Our testing was based on the data contained in that spreadsheet. Please refer to **Table 1** for Chalan Pago-Ordot expenditure analysis.

These spreadsheets indicated that in the first quarter of FY 2001 the former Chalan Pago-Ordot Mayor spent more than the amount allotted to Chalan Pago-Ordot. Expenditures amount was \$13,821.01 or 101.3 per cent of the \$13,650 sum set aside for Mayor's Operations and Stipends for the entire fiscal year. Included in the FY 2001 expenditures were a \$4,000 transfer to the Inarajan Mayor's office and \$3,288.99 for her attendance at a conference in Tacoma WA in December 2000, the month after the former Mayor was defeated in her bid for re-election. We requested but were not provided with any documentation to support the transfer of \$4,000 from the Chalan Pago-Ordot Stipend Fund to Inarajan.

For Village Street Fund, the expenditure level during the first quarter of fiscal year 2001 was consistent with the proportional share of the budget. The expenditure of \$20,140.28 was less than the quarterly allotment of \$22,000.

Inarajan Mayor's Office

The budget allotted to the Mayor excluding personnel costs and utilities was as follows:

	<u>FY 2000</u>	<u>FY 2001</u>
Mayor Mayor's Operations	\$ 18,043	\$ 7,134
Stipend	10,516	10,516
Transfer from Chalan Pago-Ordot Stipend	0	4,000
CDF/Village Street Funds	<u>17,576</u>	<u>60,800</u>
Total	<u>\$ 46,135</u>	<u>\$ 82,450</u>

We obtained a copy of a spreadsheet maintained by the Mayors' Council to track transactions, which are processed through the Mayors' Council. Our testing was based on the data contained in that spreadsheet.

These spreadsheets indicate that in the first quarter of FY 2001 the former Inarajan Mayor spent \$21,282.97 or 98.3% of the \$21,650 amount set aside for

Mayor's Operations and Stipends for the entire fiscal year. (Please refer to **Table 1** for Inarajan expenditure analysis.) The additional operation fund source includes \$4,000.00, which was transferred from Chalan Pago-Ordot.

For the Village Street Fund, the former Inarajan Mayor spent, during the first quarter of FY2001, \$59,984.68 or 98.7% of the \$60,800 sum set aside for Mayor for the entire fiscal year. Refer to **Table 1** for analysis of Inarajan expenditures during the 1<sup>st</sup> quarter of fiscal year 2001. As noted in **Allegation #1**, none of these expenditures were subjected to bidding procedures.

**Table 1: 1st Qtr, FY2001 expenditures**

FY2001 Quarter 1	Barrigada	Chalan Pago-Ordot	Inarajan
<b>Operations and Stipends Fund</b>			
Annual allocation	\$ 17,650.00	\$ 17,650.00	\$ 17,650.00
Transfers (out) in	0.00	*(4,000.00)	*4,000.00
Amended annual allocation <b>(A)</b>	17,650.00	13,650.00	21,650.00
1/4 Allocation, 1st Qtr <b>(B)</b>	4,412.50	3,412.50	5,412.50
Expenditure, 1st Qtr <b>(C)</b>	10,264.30	13,821.01	21,282.97
(Over) Under 1/4 allocation \$ <b>(B-C)</b>	(5,851.80)	(10,408.51)	(15,870.47)
(Over) Under annual allocation \$ <b>(A-C)</b>	7,385.70	(171.01)	367.03
%Spent on 1 <sup>st</sup> Qtr over 1/4 allocation <b>(C/B)</b>	232.6%	405.0%	393.2%
%Spent on 1 <sup>st</sup> Qtr over annual allocation <b>(C/A)</b>	58.2%	101.3%	98.3%
<b>Village Street Fund</b>			
Annual allocation <b>(D)</b>	\$ 101,600.00	\$ 88,000.00	\$ 60,800.00
1/4 Allocation, 1st Qtr <b>(E)</b>	25,400.00	22,000.00	15,200.00
Expenditure, 1st Qtr <b>(F)</b>	15,721.80	20,140.28	59,984.68
(Over) Under 1/4 allocation \$ <b>(E-F)</b>	9,678.20	1,859.72	(44,784.68)
(Over) Under annual allocation \$ <b>(D-F)</b>	85,878.20	67,859.72	815.32
%Spent on 1 <sup>st</sup> Qtr over 1/4 allocation <b>(F/E)</b>	61.9%	91.5%	394.6%
%Spent on 1 <sup>st</sup> Qtr over annual allocation <b>(F/D)</b>	15.5%	22.9%	98.7%

\*There was no documentation available to authorize the transfer of funds.

**Conclusion:** The available evidence supports the allegation that the former Mayors of Barrigada, Chalan Pago-Ordot, and Inarajan disproportionately expended the Fiscal Year 2001 budget for Mayors Operation and Stipend Fund for their respective village. For the Village Street Fund, the former Mayors of Chalan Pago-Ordot and Barrigada did not over expend the allotted 1<sup>st</sup> quarter amount. However, the former Mayor of Inarajan nearly expended the entire budget for fiscal year 2001 during the first quarter (October to December, 2000).

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### **Other Findings Not Specifically Related to the Allegations**

During our investigation, other concerns came to our attention pertaining to the operation and accounting for the three Mayors' offices in particular and for Mayors' offices in general and for the Mayors' Council. These concerns include the following:

**Concern #1:** The Mayors' Council's need for financial information is not being sufficiently met by the Department of Administration (DOA).

**Concern #2:** The Mayors' Council is not currently prepared to act as custodian over appropriated funds.

**Concern #3:** The mayoral staffs are not sufficiently trained and prepared to assume procurement responsibilities.

**Concern #4:** Fuel purchased by Chalan Pago-Ordot during fiscal year 2000 was excessive.

**Concern #5:** The former Mayor of Barrigada negotiated contracts with a company that did not have a valid business license.

**Concern #6:** There are no procedures in place to regulate the fundraising activities that generate non-appropriated funds for use by the Mayors and the Municipal Planning Councils.

**Concern #7:** The practice of granting cash advances to Mayors is not founded on any law.

**Concern #8:** The Malojloj Parish Social Hall was leased as the Inarajan Mayor's office without compliance with proper bidding procedures.

### **Specific Findings and Conclusions on Other Findings Not Specifically Related to the Allegations**

**Concern #1:** The Mayors' Council's need for financial information is not being sufficiently met by the Department of Administration (DOA).

**Finding:** The purpose of the accounting function in any organization is to provide timely, accurate information to management. If information is not both timely and accurate, its value to decision makers is limited. Additionally, an integral part of effective internal controls over the stewardship and accountability of public resources is written operating procedures.

Testimonial evidence provided by the Mayors' Council indicates that status reports on budget activity of the three mayoral offices have not been received

from the DOA for more than a year. The Mayors' Council logs payment requests informally on a spreadsheet; however, they have not received official reports from the DOA indicating the status of mayoral expenditures. The Mayors' Council and the Mayors' offices have been unable to respond to vendor requests for payment status information.

We obtained an expenditure listing from DOA for the three mayoral offices for the period October 1, 1999, through December 31, 2000, and compared them to the transactions listing maintained by Mayors' Council. As noted in **Table 2**, variances exist.

We also requested a copy of operating procedures that govern the flow of transactions from the Mayors' offices through the Mayors' Council to the Department of Administration. The Mayors' Council was unable to provide us with any procedures.

**Table 2: Comparison of expenditures amount**

	Per Mayors' Council	Per DOA Summary Listing	Variance (\$)	Variance (%)
<b>Barrigada</b>				
FY 2000				
Mayor's Operation	\$ 25,114.05	\$ 15,889.53	\$ 9,224.52	36.73%
Village Street Fund	16,798.75	14,250.60	2,548.15	15.17%
FY2001, 1 <sup>st</sup> Qtr				
Mayor's Operation	10,264.30	4,636.29	5,628.01	54.83%
Village Street Fund	15,706.80	14,926.80	780.00	4.97%
<b>Chalan Pago - Ordot</b>				
FY 2000				
Mayor's Operation	26,980.35	25,611.85	1,368.50	5.07%
Village Street Fund	17,251.91	17,241.08	10.83	0.06%
FY2001, 1 <sup>st</sup> Qtr				
Mayor's Operation	13,821.01	4,254.23	9,566.78	69.22%
Village Street Fund	20,140.28	16,793.55	3,346.73	16.62%
<b>Inarajan</b>				
FY 2000				
Mayor's Operation	27,990.33	20,779.21	7,211.12	25.76%
Village Street Fund	15,095.00	13,323.51	1,771.49	11.74%
FY2001, 1 <sup>st</sup> Qtr				
Mayor's Operation	21,282.97	6,159.52	15,123.45	71.06%
Village Street Fund	59,984.68	58,595.68	1,389.00	2.32%



**Conclusion:** The available evidence supports the concern that the Mayors' Council's need for timely financial information from the DOA is not being met. We recognize that the DOA has experienced difficulty implementing a new financial management system, which may be a factor for the delay in delivering current financial information to the Mayors' Council.

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**Concern #2:** The Mayors' Council is not prepared to act as custodian over appropriated funds.

**Finding:** Public Law 25-72 exempted the Mayors' Council from the allotment process and prevents the reversion of the unexpended and unencumbered appropriations back to the General Fund at the end of a fiscal year. As a result, unexpended and unencumbered balances are carried forward into the next fiscal year. The DOA is required to deliver to the Mayors' Council an amount totaling no less than one twelfth (1/12) of the balance of the appropriation on the first of every month of the Fiscal Year until such appropriation is exhausted.<sup>26</sup> The law requires that the annual budget shall be deposited in the Mayors' Council Operations Fund.<sup>27</sup> Additionally, under Public Law 25-164, the Mayors' Council obtained control of the Village Street Fund and Mayors' Council's appropriations and exemption from the control of the Bureau of Budget and Management Research (BBMR); accounting procedures for the funds shall be prescribed by the Mayors' Council.<sup>28</sup>

The provisions described above give the Mayors' Council the authority to become the custodian of funds designated for use by the Mayors and their respective Municipal Planning Councils. However, the law has not been implemented and DOA has remained the custodian of the Mayors' Council appropriations.

During our investigation, we noted that Mayors' Council does not maintain a formal financial management system, has inexperienced accounting personnel, and has no operating procedures in place to govern the processing of transactions. These items are essential for a system of internal controls. If the custodianship of funds were transferred to the Mayors' Council under present conditions, financial accountability would be greatly diminished. We inquired of Mayors' Council personnel as to why the custodianship was never implemented. They indicated they did not believe they were prepared to undertake the responsibility. We applaud the Mayors' Council's staff for recognizing its inability to be custodian over appropriated funds.

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<sup>26</sup> PL 25-72 Chapter III § 15(f)

<sup>27</sup> PL 25-72 Chapter III § 15(d)

<sup>28</sup> PL 25-164 Chapter III §§ 20(b), 21(c)

**Conclusion:** The available evidence supports the concern that the Mayors' Council is not prepared to act as custodian of appropriated funds.

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**Concern #3:** The mayoral staffs are not sufficiently trained and prepared to assume procurement responsibilities.

**Finding:** Public Law 25-118, S 3, includes the following language:

Each Mayor is hereby authorized to directly solicit and administer contracts for construction, road repair and beautification projects in accordance with procurement laws, and procurement rules and regulations, and availability of funds not to exceed a cost of Fifty Thousand Dollars (\$50,000.00) per contract. Such projects are to be reviewed by the Department of Public Works for compliance assurance within five (5) working days. The issuance and administration of purchase orders for items approved by the Department of Public Works for procurement herein shall be the responsibility of the Mayors' Council.

We are not aware of any training courses provided to mayoral staffs to become familiar with the government of Guam procurement rules and regulations. Before procurement authority is vested in the individual Mayors, they and their staff members should be adequately trained and a testing process should be established to ensure they are fully prepared for this critical responsibility.

This situation reflects the fact that purchases made by the former Mayors of Barrigada, Chalan Pago-Ordot and Inarajan during the period of investigation were almost all in amounts less than \$500 and procurement procedures were not followed. Refer to **Allegation 1**.

**Conclusion:** Because procurement training has not been provided to employees of the Mayors, the available evidence supports the concern that the mayoral staffs are not sufficiently trained and prepared to assume procurement responsibilities.

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**Concern #4:** Fuel purchases by Chalan Pago-Ordot Mayor's office during fiscal year 2000 were excessive.

**Finding:** Chalan Pago-Ordot charged gasoline purchases from vendors M5231911 for \$4,661.92 and N9732301 for \$932.71 for a total of \$6,082.64 from October 1999 through September 2000. Of these amounts of \$6,082.64 actual gasoline purchased (i.e. super unleaded, unleaded and diesel) amounted to

\$5,594.63. The remaining amount of \$488.01 was utilized for oil, car wash, battery, car care and brake fluid. There were instances when fuel was purchased for private vehicles with government funds. Refer to **Table 3** below for detail of purchases.

**Table 3: Detail of Chalan Pago-Ordot gasoline station charges, FY 2000**

	License Plate *	Fuel Charges**	Other charges	Total charges
1	1495	\$ 1,776.99	\$ 52.35	\$ 1,829.34
2	5342	197.95	16.14	214.09
3	2988	1,179.53	157.73	1,337.26
4	942	2,044.74	261.79	2,286.53
	<b>Subtotal</b>	5,199.21	488.01	5,687.22
5	MAI 195/ 942	67.28	0.00	67.28
6	MAI 195	27.49	0.00	27.49
7	MAI 195/ 1495	160.65	0.00	160.65
8	BAR 7351/ 942	85.00	0.00	85.00
9	BAR 7351/ 1495	55.00	0.00	55.00
	<b>Subtotal</b>	395.42	0.00	395.42
	<b>Grand Total</b>	\$ 5,594.63	\$ 488.01	\$ 6,082.64

\*According to the Chalan Pago-Ordot vehicle inventory listing, government vehicles utilized by the former Mayor had license plates 1495, 942, 2988 and 5342. Fuel purchased for private vehicles listed amounted \$395.42.

\*\*The charge invoices issued by vendors M5231911 and N9732301 indicated that one to ten trips per month were made by the four Chalan Pago-Ordot government vehicles for fuel purchases ranging from \$3 to \$57.65 each trip.

By comparison, fuel purchases during fiscal year 2000 was \$1,740 for Barrigada and \$2,149.45 for Inarajan.

**Conclusion:** The available evidence supports the concern that excessive fuel purchases, including purchases for private vehicles, were made by the Chalan Pago-Ordot Mayor's office during Fiscal Year 2000.

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**Concern #5:** The former Mayor of Barrigada negotiated contracts with a company that did not have a valid business license.

**Finding:** Title 11 GCA, § 70102 requires vendors/businesses to acquire a business license to ensure all necessary and reasonable control and regulation thereof are practiced for the protection of the health and safety of the people of Guam.

During our investigation of Barrigada, we attempted to verify the address for a vendor. We noted that the building containing the address on the vendor invoice was abandoned. To gather evidential information on the existence of the vendor, we made inquiries of the Tax Enforcement Administrator of the Department of Revenue and Taxation. Based on evidence provided, DOA vendor number C0097193 received a business license for the period December 1999 to June 30, 2000. The business license was not renewed thereafter. Thus, four transactions subjected to testing with dates between July 13 and July 19, 2000, totaling \$9,680, appeared to have been made to an unlicensed vendor.

**Conclusion:** Available evidence gathered supports the concern that the Barrigada Mayor negotiated transactions with a vendor that did not have a valid business license.

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**Concern #6:** There are no procedures in place to regulate the fundraising activities that generate non-appropriated funds for use by the Mayors.

**Finding:** Based on inquiries made with the three Mayors' offices, the former Mayors of the Barrigada, Chalan Pago-Ordot and Inarajan did not engage in fundraising activities. The OPA confirmed with three local banks that no bank accounts existed for such purpose for the three former Mayors. However, during a meeting with the Mayors' Council and the current Mayors of Barrigada, Chalan Pago-Ordot and Inarajan on September 28, 2001, the Chalan Pago-Ordot and Inarajan Mayors acknowledged that they do engage in fundraising activities and maintain separate bank accounts for funds generated by such activities. On the other hand, the current Mayor of Barrigada re-affirmed that he neither engages in fundraising activities nor maintains a separate bank account. Further discussions with the current Mayors revealed that no policies or procedures exist to account for the non-appropriated funds.

**Conclusion:** The available evidence supports the concern that there are no procedures in place to regulate the fundraising activities that generate non-appropriated funds raised by the Mayors.

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**Concern #7:** The practice of granting cash advances to Mayors is not founded on any law.

**Finding:** During the investigation, there were five instances wherein the former Mayor of Inarajan requested and received cash advances amounting to \$16,000. Cash advances are highly unusual in the government service. We are unaware of any law or regulation that permits a government agency to give a cash advance to a government entity or official for purchase of equipment or service.

We requested evidence of policies and procedures from the Mayors' Council regarding cash advances; however, none was provided. The DOA Controller confirmed that DOA does process cash advances only for the Mayors and not for other line agencies of the Government of Guam. We obtained oral procedures from DOA Appropriations Branch General Accounting Supervisor and Accounting Technician Supervisor that cash advances are processed for a Mayor having no cash advance outstanding. DOA's basis for allowing cash advances to the Mayors was not available.

DOA provided a cash advance form governing receipt of cash advances by the Mayors. Terms and conditions included in this form are as follows:

1. The cash advance is recorded in the books of the Division of Accounts, DOA, as a receivable due from Mayor, until all receipts and expenditures are submitted.
2. A Mayor shall submit and present no later than thirty calendar days from receipt of advance all original receipts of expenditures to the Division of Accounts, DOA. Amounts not substantiated by receipts presented within the specified period will be collected.
3. Division of Accounts, DOA will seek full recourse for all receivables due by offsetting salaries, stipends, lump sum or other payments through the Treasurer of Guam. Division of Accounts is further authorized to cancel miscellaneous payroll deductions necessary to effect immediate and full collection.

In four (4) instances (document no. D002800339, D002820084, D012800563, D012800649), invoices to support expenditures were not sufficient. Total unsupported amount was \$8,108.39. Refer to **Table 4** for details.

**Table 4: Detail of cash advances**

Document No.	Cash Advance		Accountability			
	Receipt Date	Amount	Date	Expenditures per listing	Actual invoices	Unsupported
D002800339	11/16/99	\$ 5,000.00	12/27/99	\$4,591.61	\$ 4,591.61	\$ 408.39
D002820084	01/05/00	2,500.00	none	none	none	2,500.00
<b>Total FY 2000</b>		7,500.00		4,591.61	4,591.61	2,908.39
D012800409	11/17/00	1,000.00	12/11/00	1,020.99	1,020.99	0.00
D012800563	12/11/00	5,000.00	12/21/00	5,285.09	2,585.09	2,700.00
D012800649	12/28/00	2,500.00	none	none	none	2,500.00
<b>Total FY 2001</b>		8,500.00		6,306.08	3,606.08	5,200.00
<b>Grand Total</b>		\$ 16,000.00		\$10,897.69	\$ 8,197.69	\$ 8,108.39

**Conclusion:** Available evidence supports the concern that the practice of granting cash advances to Mayors is not founded on any law. DOA could not

explain why it continued to advance cash to the former Inarajan Mayor even though previous sums advanced were not accounted for.

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**Concern #8:** The Malojloj Parish Social Hall was leased as the Inarajan Mayor's office without compliance with proper bidding procedures.

**Finding:** During the course of our investigation, we obtained a copy of the facility lease contract (Contract No. C000602030) between the Archdiocese of Agana and "the Inarajan Mayor's Office and Government of Guam". The lease covers the period October 1, 1999, to September 30, 2000, at a monthly rent of \$2,083.33 (or \$24,999.96 annually). The contract was approved by the DOA Director, Attorney General of Guam and the Governor of Guam and was finalized on September 22, 2000. Public Law 25-102 appropriated \$32,000 to the Inarajan Municipal Planning Council for the rent and utilities of the temporary office of the Inarajan Mayor and for relocation cost. The rent for the period October 1, 2000 to September 30, 2001, which was signed by the former Mayor, was increased to \$2,666.67 monthly or \$32,000 annually. The rent for the period October 1, 2001 to September 30, 2002 is \$1,800 monthly or \$21,600 annually and was signed by Mayor Franklin Taitague.

We requested from the Mayors' Council for documentation to show that proper bidding procedures were followed; however, we were not provided with any documentation. The Mayors' Council takes the position that bidding procedures were unnecessary due to the existence of the public law. It is evident from the § 2 of Public Law 25-102 that the utilization of the Malojloj Parish Social Hall as the Mayor's office was intended as a temporary measure and that a part of the appropriation was to be used for relocation of the Mayor's office to the Inarajan Community Center.

**Conclusion:** We have concluded that the available evidence supports the concern that the Malojloj Parish Social Hall was leased as an office for the former Inarajan Mayor without appropriate bidding procedures being followed. We recognize the authority of the Legislature to appropriate funding for a certain purpose, but such appropriation does not waive the requirement that appropriate procurement policies be followed.

## **Recommendations**

### **Recommendations for the Legislature**

1. Based on **Allegation #2**, we recommend that the Legislature enact legislation that prohibits the transfer of assets out of mayoral offices during the period between the date of the election in which an incumbent Mayor loses and the date in which the incumbent Mayor leaves office.

2. In order for a newly elected Mayor to carry out the duties and responsibilities of the office, sufficient funding should be available. Based on **Allegation #4**, we recommend the Legislature enact legislation that prevents a Mayor from spending more than one-fourth of the sum allotted or appropriated to that office commencing October 1 in the year of the election of Mayors.
3. As we understand it, the custodianship of funds means that the Mayors' Council will assume all accounting functions, have the ability to own a bank account, write its own checks and be treated as an autonomous agency. Given the past abuses cited in procurement, we feel that the Mayors' Council is not ready to assume this responsibility. Accounting controls should be established before an entity is given custodianship of funds. Based on **Concern #2**, we recommend the Legislature repeal the custodianship of funds to the Mayors' Council. The Department of Administration should continue to process all payments on behalf of the Mayors Council.
4. We recommend that the Legislature review the five funds, i.e. Operations Fund, Village Street Fund, Community Development Fund, Municipal Litter and Defacement Fund, and the Municipal Planning Council Revolving Fund<sup>29</sup>, it has established at the municipal level to determine whether they overlap or contradict one another and whether sufficient safeguards are in place to assure accountability of funds.

In another case the Legislature may have placed an intolerable burden on the Mayors by requiring that they "ensure the [Municipal Planning Council] revolving funds are operated in conformity with all existing statutes, rules and regulations, codes, executive orders and any other authority which is applicable to the operations of the Revolving Funds."<sup>30</sup>

5. The Legislature has responded to the Mayors' request for expeditious procurement procedures by allowing the Mayors to be exempted from procurement approval by the GSA for purchases of up to \$15,000 for supplies and services. However, bypassing the GSA imposes a burden of care on the part of the Mayors and the Mayors' Council to ensure proper procurement regulations are followed. The Legislature can and has exempted the Mayors' from going through GSA but the Legislature should not exempt the Mayors and the Mayors' Council from following established procurement regulations.
6. As mandated by 5 GCA 40119, each Mayor is authorized to directly solicit and administer contracts for construction, road repair and beautification projects without going through GSA for projects not costing more than

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<sup>29</sup> Municipal Fund (5 GCA § 40118), Community Development Fund (5 GCA § 40119), Municipal litter and Defacement Fund (5 GCA § 40131), Municipal Planning Council Revolving Fund (5 GCA § 40135), and Village Streets Fund (5 GCA § 1504(k)).

<sup>30</sup> 5 GCA § 40135.

\$50,000. Given the procurement irregularities we have discovered (refer to **Allegation 1** and **Concern #3**), we recommend the Legislature repeal this provision and have all construction, road repair and beautification projects processed through GSA and/or Public Works.

7. As discussed in **Concern #8**, the lease of an office for the Inarajan Mayor did not undergo bidding procedures following authorization by Public Law 25-102 to rent the Malojloj Parish Social Hall. While we recognize the authority of the Legislature to appropriate funding for a specific purpose, we recommend that the Legislature, in making such appropriations, make it clear that procurement regulations are not waived.

#### Recommendations for Mayors' Council and the Mayors

1. Public officials and other entrusted with handling public resources have the responsibility for (a) applying those resources efficiently, economically, and effectively to achieve the purposes for which the resources were furnished, (b) complying with applicable laws and regulations, and (c) establishing and maintaining effective controls to ensure that appropriate goals and objectives are met, resources are safeguarded; laws and regulations are followed; and reliable data are obtained, maintained, and fairly disclosed.<sup>31</sup>

As mandated by 5 GCA 40107, personnel employed at the Mayors' Council are hired to carry out the purpose of the Mayors' Council and are responsible for the day-to-day operations of the council; thus, we recommend that the Mayors' Council take a proactive approach in enforcing laws and regulations, especially procurement. The Mayors' Council should serve as the check and balance in the review and processing of all Mayors' expenditures.

2. As noted in **Allegation #1**, services procured for road repairs or maintenance did not go through the bidding procedures. We recommend that the Mayors plan their road maintenance, repair and construction needs. We recommend that such work be bid out to assure that the most competitive bidder provides the required services. The work should be documented in a written contract that contains a defined scope, detailed work plans, maps of the areas covered by the contract, procedures to ensure that appropriate milestones have been met, etc. All such work should be contracted out in accordance with procurement regulations.
3. Segregation of duties is an essential element of an internal control system. Dividing the responsibility for a transaction or a series of related transactions between two or more individuals ensures that the work of one acts as a check on the other. The Mayor is often the approver as well as the receiver of the goods or services (refer to Barrigada in **Allegation #1**). To ensure

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<sup>31</sup> Government Auditing Standards §§ 1.13(b)(c)(d)



appropriate check and balance, we recommend that all Mayors continue to serve as the approver of any and all transactions within their office. The verification of work performed, services conducted, and goods received should, however, be delegated to another member of the Mayor's staff or verified by an employee of the Mayors' Council. This segregation of functions serves as the appropriate check and balance and reduces the risk of error and fraud.

4. We commend the new Mayors of Barrigada and Inarajan for undertaking an inventory of fixed assets shortly after they assumed office in January 2001. However, based on **Allegation #2**, we recommend the Mayors' Council adopt written procedures for the control of fixed assets. Such policy should require a bi-annual or at least an annual inventory of fixed assets maintained by mayoral offices and the Mayors' Council staff should independently verify the inventory taken. The inventory documentation should include an accounting for all items that have been removed from the listing during the preceding period. We recommend the Mayors' Council create a series of tasks related to property management. The tasks should include witnessing the inventory measurements of each of the mayoral offices. This would also include taking custody of mayoral assets upon the exit of a Mayor on the last day of his term and turning custody of the assets over to the incoming Mayor on the first day of his term. In light of the unaccounted for or missing assets that were uncovered during our investigation, other tasks would be to review and approve asset transfers out of any Mayor's offices, and to train each Mayor's staff with regards to proper asset control.
5. We recognize that Mayors, as a public service, provide inventory items (i.e. canopies, tables and chairs) to their constituents. Although oral procedures are in place for loaning out inventory items, based on **Allegation #2**, we recommend that the Mayors' Council adopt written procedures governing the control of inventory items. Further, all mayoral offices should be required to file an inventory listing with the Mayors' Council annually. The listing should include an explanation of the disposition of items, which were removed from the listing during the preceding period.
6. The Mayors' Council has oral procedures in place to ensure humanitarian assistance is provided to those in need. However, no such procedures are documented. Based on **Allegation #3**, we recommend the Mayors' Council develop and adopt procedures governing the issuance of Humanitarian Assistance.
7. Based on **Concern #4**, we recommend that the Chalan Pago-Ordot Mayor monitor his office's use of its government vehicles to ensure that its vehicles are utilized only for official purposes. All Mayors should account and document the business purpose for all mileage used for the government vehicles. Additionally, we recommend that the former Mayor of Chalan Pago-

Ordot be required to reimburse the government \$395.42 for fuel purchased for private vehicles.

8. As described in **Concern #5**, available evidence indicates that transactions were negotiated with an unlicensed vendor. Procurement regulations prohibit the awarding of government contracts to an unlicensed vendor. Had the Mayors' Council staff been following proper procurement regulations and taken a proactive role by serving as a check and balance to Mayors' offices, such contracts would not have been awarded to an unlicensed vendor.
9. Based on **Concern #6**, we recommend the Mayors' Council and the Mayors adopt and develop procedures governing accounting of non-appropriated funds. Several Mayors offices are engaged in fund raising activities on behalf of their village. As elected public officials the Mayors have a duty and obligation to ensure that funds collected from the people of Guam are accounted for.
10. As discussed in **Concern #7**, cash advance are highly unusual in government transactions. We are unaware of any law or regulation that permits a government agency to give a cash advance to a government employee for the purchase of equipment or services; however, the DOA does process cash advances to the Mayors if all prior cash advances have been cleared and accounted for. The DOA has provided a form summarizing the terms and conditions for receiving advances; however, the basis in law or regulation for authorizing cash advances was not provided. Given the inability by DOA to enforce the terms and conditions governing cash advances, we recommend DOA prohibit cash advances.

Additionally, we recommend the former Mayor of Inarajan be required to reimburse the government for unsupported expenditures amounting to \$8,108.39.

11. Notwithstanding the requirement of law that the Mayors' Council shall adopt accounting procedures for the administration of the Village Streets Fund,<sup>32</sup> no such procedures have been adopted. The sum appropriated to that fund for FY 2001 is \$1.8 million.

Other:

1. We recognize that the DOA has been plagued with problems in implementing a new financial management system; however, the lack of timely financial information may be a contributing factor hindering the ability of government managers to make effective decisions and diminished the level of accountability in the three Mayors' Offices. We understand the DOA has

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<sup>32</sup> 5 GCA § 1504(k)(2).

begun to run parallel system with Bacis while the bugs of the Oracle system are still being corrected. We applaud the DOA for taking this initiative for attempting to respond to the needs of the agencies under their jurisdiction.

### **Responses and Comments**

Draft copies of our report were provided to the Mayors' Council and the Mayors of Barrigada, Chalan Pago-Ordot and Inarajan on August 31, 2000. Responses and comments by the Mayors' Council and the Mayors to the draft reports were incorporated, as necessary, in this report.

Summary of the responses to the draft report and OPA comments follows:

#### **Mayors' Council of Guam**

In a letter dated September 27, 2001, the Administrative Assistant concurred with the draft report findings pertaining to the "procurement practices, inventory control, humanitarian assistance fund disbursements, accounting procedures and the need to improve staff training". The Mayors' Council also acknowledged the recommendation for a standardized Standard Operating Procedures (SOP). Such SOP will be developed by Mayors' Council and forwarded to the OPA and the Legislature.

The Mayors' Council disagrees with Chalan Pago-Ordot **Concern #7** – conflict of interest and **Concern #2** (Barrigada, Chalan Pago-Ordot and Mayor) - custodianship of funds.

In response to Mayors' Council's letter, the **Concern #7** – conflict of interest was deleted in its entirety. The OPA has noted in this report that a contractor is the spouse of an employee of the Mayors' Council and that information should be disclosed in the procurement file. Further the awarding of the work to the contractor did not follow procurement regulations.

Regarding **Concern #2**, we disagree with Mayors' Council's position that there is no law mandating the Council to be custodian of the Mayors' Council funds. Public Law 25-72 states that Mayors' Council shall receive from DOA or its successor agency an amount totaling no less than one twelfth (1/12) of the balance of the appropriation on the first of every month of the Fiscal Year until such appropriation has been exhausted.<sup>33</sup> The annual budget shall be deposited in the Mayors' Council Operations Fund.<sup>34</sup> Additionally, under Public Law 25-164, the Mayors' Council obtained control of the Village Street Fund and Mayors' Council's appropriations and exemption from the control of the Bureau of Budget

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<sup>33</sup> PL 25-72 Chapter III § 15(f)

<sup>34</sup> PL 25-72 Chapter III § 15(d)

and Management Research (BBMR); the Mayors' Council shall prescribe accounting procedures for the funds.<sup>35</sup>

It is implicit from the preceding mandates that the Mayors' Council is the legal custodian of the funds. We again reiterate our recommendation that the Mayors' Council not become the custodian of funds and that all accounting transactions of the Mayors and the Mayors' Council continue to be processed by the Department of Administration.

#### Barrigada Mayor's Office

In his letter dated September 27, 2001, Mayor Peter Aguon of Barrigada concurred with the findings and recommendations cited in the draft report. The Mayor, however, disagrees with the statement that he is making allegations against the former Mayor. Additionally, he stated "financial records were in order during the time he requested the audit, however, he is more concerned with the actual integrity of certain purchases/payments".

In response to Mayor Aguon's letter, we revised the introduction of the report to indicate that "the newly inaugurated Barrigada Mayor" is not making the allegations and further quoted his request for an audit in a letter dated April 2, 2001.

#### Chalan Pago-Ordot Mayor's Office

In his letter dated September 24, 2001, Mayor Vicente Aguon of Chalan Pago-Ordot concurred with the findings in **Allegation #2** – proper control of fixed assets. The Mayor stated that fixed assets of one village should not be transferred to another village.

In reference to **Allegation #4** – overspending of funds during the first quarter of 2001, the Mayor strongly disagrees with the Mayors' Council's position that funds may be transferred to another village. He reemphasized his objections to the actions of the former Mayor regarding the transfer of fixed assets and transfer of funds to other villages.

#### Inarajan Mayor's Office

In his letter dated September 26, 2001, Mayor Franklin Taitague of Inarajan asserted that the former Mayor's "improprieties and poor management of public funds . . . technically handicapped the operation and responsibility of the office" during the remainder of Fiscal Year 2001. He agrees with the finding and recommendations cited in the draft report with the following recommendations/propositions (1) Delete **Allegation #3** –proper control of

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<sup>35</sup> PL 25-164 Chapter III §§ 20(b), 21(c)

Humanitarian Assistance, (2) Delete **Concern #7** – unauthorized hiring of employees (3) Addition of unaccounted items in **Allegation #2** –proper control of fixed assets.

Regarding **Allegation #3**, we recognized that there were oral procedures in existence; however, those procedures should be documented. Regarding **Concern #7**, such concern was deleted in the final report. Regarding **Allegation #2**, except for deskjet 6900, microwave, 2 drawer filing cabinet and the trailer (medium grey-wood), items listed were already included in the report. Our testing indicated that the items listed were in existence during our physical observation of the assets on August 22, 2001.

Copy of the responses and comments by the Mayors' Council and the Mayors of Barrigada, Chalan Pago-Ordot and Inarajan are attached in **Appendix A** to the report.

### **Limitations of the Report**

The period of our investigation was a 15-month period from October 1, 1999, through December 31, 2000. Our work was performed from March 2001 to October 2001, in accordance with generally accepted government auditing standards.

This report does not provide conclusions involving legal determinations. This report contains only evidentiary conclusions based on documentation available for our review. This report has been released to the Governor of Guam, the Speaker and members of the Guam Legislature, the Mayors of Barrigada, Chalan Pago-Ordot, Inarajan, the Officers of the Mayors' Council of Guam and the Attorney General of Guam. This report is a matter of public record and its distribution is not limited.

OFFICE OF THE PUBLIC AUDITOR

DORIS FLORES BROOKS, CPA  
Public Auditor

OPA Report No. 01-02  
October 2001

## **Appendix A**