
Management Audit of the Guam Election Commission

A Report to the
Governor, the
Judiciary
and the
Legislature of
the Government of
Guam



**THE PUBLIC AUDITOR
GOVERNMENT OF GUAM**

OVERVIEW

Management Audit of the Guam Election Commission

SUMMARY

The Guam Election Commission (Commission), a quasi-judicial body governed by the Board of Directors, is conducting elections for public offices in a fair, orderly and efficient manner. We found that the Commission needs to establish a reliable and updated list of registered voters.

The Commission provides each election precinct with ten (10) ballots for every eight (8) registered voters. We found that this is consistently followed and the legal intent is to have an allowance for spoiled ballots. Since the actual spoilage is less than one percent (1%), any reduction in the printing of ballots would save cost and time spent for counting ballots. Previous election results will serve as a basis for estimating the number of ballots to be printed for subsequent elections.

The Commission has informed registered voters whether they are still qualified to vote or already cancelled in view of failure to vote at the general election. We found that notice cards have been mailed to 53,065 registered voters. If a reminder to every registrant at the time of registration is included in the registration form about cancellation for failure to vote or eligibility of voters, this could save cost of cards, postage stamps and other administrative expenses.

The Commission has carried out its responsibility to supervise filing of candidates' campaign funds reports, organizational report and financial disclosure statement. The Commission has also required the submission of public officials' financial statements annually and granted extension of 180 days for failure to file on time. We found that the Commission publishes in the newspaper those who do not file on time and submits to Office of the Attorney General the list of public officials who do not comply after several reminders as required by law.

The collection of filing fees are intact and fully supported by field receipts although there is quite a delay in the remittance to the Treasurer of Guam. In addition, there are missing original affidavits of registration which were damaged by fire according to the Commission's Executive Director that need to be restored. Finally, there are documents to be disposed with no specific dates when to dispose the records after the regulatory period of retention.

RECOMMENDATIONS AND RESPONSE

We recommend that the Board of Directors and Executive Director of the commission establish and implement internal policy guidelines to ensure the accuracy of the list of registered voters. To do so, the Commission should closely coordinate with the UOG Computer Center for updating the precinct listings.

We recommend that the Board of Directors and Executive Director of the Commission request the Legislature to reduce the required allotment of printed ballots for each election precinct. Develop and implement internal policies and procedures of informing registered voters on their voting status, and request the Legislature to repeal the legal requirement of mailing cards to registered voters to save cost.

We recommend that the Board of Directors and Executive Director establish and implement internal policies and procedures for monitoring and review of candidates' campaign contributions and expenditures reports, organizational report, and financial disclosure statement of candidates and public officials to ensure timely submission of these reports.

We recommend that the Board of Directors and Executive Director develop and implement internal policies and procedures to improve internal control of cash collection and to ensure prompt remittance to the Treasurer of Guam. Also, we recommend that they develop and implement management control policies and procedures to ensure proper filing, storage, and disposal of records after the appropriate retention period.

The Executive Director responded by citing the initiatives undertaken to address the concerns raised in our report such as to reduce ballots for every election precinct, eliminate informing voters by mailing cards, and remit collections promptly to the Treasurer of Guam.

The Executive Director responded that the Commission does not print a list of registered voters on a daily basis. In updating the list of registered voters in the computer, he contends that it is not necessary to print daily but rather as requested by the public. And that it has records retention/disposition schedule but our finding is that no specific dates are established when to dispose the records.

The Executive Director made comments on the campaign funds reports, organizational report, and financial disclosure statement. We recognize that the Commission has a responsibility to review rather than audit the reports. Our view is that there should be internal procedures and instructions to ensure timely submission of the reports to operate most effectively.

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OFFICE OF THE PUBLIC AUDITOR
UFISINAN I ADITOT PUPBLEKO
GOVERNMENT OF GUAM
P.O. BOX 23667, GMF, Barrigada, Guam 96921
(1208 East Sunset Boulevard, Tiyan)
(671) 475-0393/0394/0395 - FAX: (671) 472-7951

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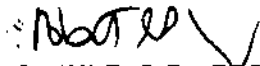
ROBERT G.P. CRUZ
PUBLIC AUDITOR

The Governor of Guam
Speaker of the Legislature
Presiding Judge of the
Superior Court of Guam
Agana, Guam 96910

Dear Governor, Speaker and Presiding Judge:

Pursuant to the Guam Code Annotated Title 1, Chapter 19, Section 1909, the Office of the Public Auditor submits its report concerning the management audit of the Guam Election Commission for fiscal years 1993, 1994 and 1995 (to June 30, 1995). This report consists of introduction, findings and recommendations, and response of the affected agency received September 27, 1995.

Respectfully submitted,


ROBERT G.P. CRUZ
Public Auditor

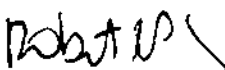
Enclosure

PA-01-95

Foreword

The Guam Election Commission is the agency conducting elections for public offices of the Government of Guam. In 1994 general election, there were 53,065 registered voters and 44,866, or 85%, participated in this election. Also, Guam Election Commission compiles and reviews candidates' campaign funds reports, organizational report, and financial disclosure statement of candidates as well as public officials. The audit was conducted pursuant to Guam Code Annotated Title 1, Chapter 19, Section 1909, which requires the Public Auditor to conduct audits of the Executive, the Legislative, and the Judicial branches.

We wish to express our appreciation for the cooperation and assistance extended to us by officials and staff of the Guam Election Commission.


ROBERT G.P. CRUZ
Public Auditor

INTRODUCTION

BACKGROUND

The Guam Election Commission (Commission) was created on December 12, 1972 by Guam Public Law (P.L.) 11-202, as amended, as a quasi-judicial body. The Commission is governed by the Board of Directors which is comprised of three (3) members recommended by the two (2) recognized political parties of the territory of Guam and a seventh member selected by the appointed members. The members serve for a period of two (2) years. Their primary responsibility is to direct and supervise the election process in accordance with the election laws.

The Commission fulfills a variety of responsibilities, including the following:

- * Conducting elections for public offices in a fair, orderly and efficient manner;
- * Educating the candidates and the general public on the election laws, administrative policies, procedures and requirements;
- * Enforcing election laws judiciously, preparing and disseminating a comparative analysis of the voting activities and political trends of the people of Guam;
- * Supervising the requirements of candidates or committees supporting a candidate (with his or her consent) or political parties to file campaign contributions and expenditures reports as required under the Election Campaign Contributions and Expenditures Act (P.L. 18-30); and
- * Supervising its officials as defined within the Public Official Financial Disclosure Act (P.L. 12-153, as amended) to file with the Commission a complete financial statements showing the assets, liabilities and networth including income of the official or candidate and that of any spouse and dependent children.

In 1972, there were fifty (50) official precincts. This number increased to seventy-six (76) official precincts in 1991 with approximately 500 voters per precinct. However, P.L. 21-100 enacted on March 31, 1992 reduced the official precincts to seventy (70) located throughout the nineteen (19) election districts and simultaneously increased the number of registered voters per precinct which must not substantially exceed 700 voters. The Commission's records showed that there were 15,786 out of 36,152 registered voters or 44% voted at the special election for one (1) senatorial position on October 9, 1993; 34,846 out of 47,102 registered voters or 74% voted at the

primary election on September 3, 1994; and 44,866 out of 53,065 registered voters, or 85% voted at the general election on November 8, 1994 for the public offices of Governor, Lieutenant Governor, Washington Delegate, Senators and members of Territorial Board of Education. The Commission incurred \$520,949.89 total expenditures in fiscal year (FY) 1993, \$95,988.30 in the 1993 special election and \$559,733.20 in FY 1994. The primary, general and special elections conducted in the territory of Guam are 100% locally funded.

The Guam Code Annotated (GCA) Title 3, Chapter 19 established requirements for all candidates, committees, and political parties to file with the Commission an organizational, preliminary, final, and supplemental reports of election campaign funds. In addition, GCA Title 4, Chapter 13 requires all elected public officials and any person appointed with concurrence by the Legislature for which such person is paid annual compensation of \$5,000 or more to file annual financial statements.

OBJECTIVE AND SCOPE

The objective of our audit was to determine whether 1) the Commission has provided the people of Guam a fair, honest, and orderly election process; 2) the Commission has required all candidates, committees, and political parties to file a duly certified report of campaign contributions and expenditures; and 3) the Commission has required all officials and candidates to comply with Public Official Financial Disclosure Act.

To determine the reliability and accuracy of the list of registered voters per precinct, we reviewed the records related to voters registration, such as the affidavits of registration, voter registration precinct listing, and registration log book. We reviewed the monthly list of deaths furnished by the Guam's Department of Public Health and Social Services, cancelled affidavits of registration for failure to vote at the last regular general election, and the requests for transfer or cancellation of registration to ascertain if their names were purposely deleted from the list of registered voters.

Moreover, we included the review of purchase orders and vendor's invoices, to determine whether the Commission complied with the requirement of printing a suitable quantity ballots on or before the time established by law. We reviewed the actual quantity of printed ballots, used and spoiled ballots, and the unused ballots and the cost of these unused ballots.

To determine whether the Commission complied with the requirements of sending notices to eligible and cancelled registered voters, we reviewed the notices sent to each registered voter prior to beginning of registration period indicating that he is

eligible to vote at the next election without the necessity of registering. We also reviewed the notices of cancellation of non-voting registrants at the last regular general election which notified them of such cancellation. We evaluated the procedure of sending notice to eligible or cancelled registered voters to determine whether it is practical, cost efficient and effective.

To determine whether the Commission strictly required each candidate to submit election campaign funds reports and financial disclosure statements, we reviewed the financial reports if these were submitted on time and what subsequent actions were taken for those who failed to comply with the legal requirement. In addition, we reviewed the financial statements submitted by elective and appointive officials, to determine if the submission was in compliance with the existing laws and regulations.

To determine the actual cash received from candidates' filing fee and copying fee paid by candidates and the public for obtaining documents from the Commission, we reviewed the documentation and the procedures in handling cash collections and remittances to the Treasurer of Guam to be credited to the General Fund.

To determine whether the Commission complied with election laws and regulations governing preservation of records subject to public inspection, we reviewed the original affidavits of registration, candidacy and nomination papers, original certificates of election for every person elected, ballots cast and all rosters, campaign contributions and expenditures reports, and financial disclosure statements.

The scope of our audit covered the Commission operations for FYs 1993, 1994 and 1995 (to June 30, 1995) and financial status reports prepared for the Commission for FYs 1993 and 1994.

Audit work was performed at the Guam Election Commission, University of Guam, and Department of Administration. To accomplish our objective, we interviewed employees and reviewed relevant laws and regulations, policy and procedures manuals, permanent files, board meeting minutes, budgets, election comparative analysis reports, organizational and campaign contributions and expenditures reports, financial statements and other supporting documents.

This performance audit was conducted from March 23, 1995 through August 15, 1995, was made, as applicable, in accordance with the generally accepted government auditing standards. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances.

As part of the review, we evaluated the Commission's internal control mechanism on the election process to the extent what we considered necessary to accomplish the

audit objective. Significant internal control procedures were identified in the following areas: registration of voters, inventory of ballots, mailing of notice to eligible and cancelled registered voters, election campaign funds reports, financial disclosure statements, filing and copying fees collection, and preservation of election records. Our audit showed that the internal control procedures for registration of voters, notices to registered voters, inventory of ballots and collection of fees were not properly implemented. The audit disclosed weaknesses in the methods used to preserve election records and followup on non-submission of financial reports. These weaknesses are discussed in the Findings and Recommendations section of this report. Our recommendations, if implemented, should improve the internal controls in these areas.

PRIOR AUDIT COVERAGE

No audit has been conducted since 1972 when the Guam Election Commission was created by P.L. 11-202.

FINDINGS AND RECOMMENDATIONS

The efforts of the Guam Election Commission (Commission) to provide the people of Guam a fair, honest, and orderly election have been reviewed in several reports and documents, including election campaign fund reports and financial disclosure statements filed with the Commission. The Commission's management and operations, practices to accomplish its defined mission, objectives, and responsibilities remain to be of concern to the public. In this section, we examine these practices.

SUMMARY OF FINDINGS

The Commission has carried out its mandated responsibilities under the Elections Law, Election Campaign Contributions and Expenditures Act, and Public Official Financial Disclosure Act with the following observations:

1. The Commission has not established a reliable and updated list of registered voters for each precinct, and affidavits of registration to support the voters registration precinct listing in its files are not complete.
2. The printing of official ballots is substantially in excess of actual ballots cast by registered voters for every election. The Commission has not used the previous election results to estimate the printing of ballots although it complies with the legal provision to provide ten (10) ballots for every eight (8) voters registered in the election precinct.
3. Inadequate information dissemination on the voting status of registered voters.
4. The Commission has not strictly monitored the timely submission of the required candidate's election campaign funds reports.
5. The Commission has not clearly established a list of public officials required to file financial disclosure statements annually.
6. The Commission's fees collected are properly documented and recorded but there has been significant delay in the remittance to the Treasurer of Guam.
7. The Commission has failed to maintain permanent records subject to public inspection which reflects poor management of records.

RELIABLE AND UPDATED LIST OF REGISTERED VOTERS

The mission of the Commission is to conduct the election for public offices in fair, orderly, and efficient manner for the people of Guam. The Commission cannot achieve this objective without first establishing a reliable and updated list of registered voters. This means that only eligible registered voters are in the voters registration precinct listing on the date of every election fully supported by affidavits of registration.

Updating List of Registered Voters

A continuous pruning the list of registered voters commences immediately after the regular general election. The non-voting registrants are cancelled after the completion of the canvassing of returns of any regular general election or not later than January first of the following year. The affidavits of registration are cancelled upon the request of voter, insanity of person, if the person is serving a criminal sentence, death, court judgment directing cancellation or if there is a failure to vote at the last regular general election.

The Guam's Department of Public Health and Social Services provides a report of deaths within fifteen (15) days of each month for all decedents eighteen (18) years of age or over showing the individual personal circumstances. Upon receipt of the report of deaths monthly, the Commission should delete the names of those who are deceased from the list of registered voters. In addition, the Commission should cancel from the list of registered voters any registration made illegally or those adjudged incompetent by the Superior Court.

The Commission accepts new registrants before the special, primary, and general elections through the registration clerks assigned at the district or municipality or in the office of the Commission. The new registrants are entered in the registration log book and update the list of registered voters based on the duly accomplished affidavits of registration. The registration clerks are temporarily appointed by the Commission to handle the registration eight (8) to ten (10) days before the election. The registration rolls are closed ten (10) days prior to election and no further registrants should be accepted by the Commission. The Commission then transmits instruction to the University of Guam (UOG) Computer Center to input any deletion or addition to the voters registration precinct listing. The affidavits of registration (original and duplicate copies) should be in the Commission files unless cancelled pursuant to Title 3, Guam Code Annotated (GCA) Section 3122 (a-f).

Discrepancies in the List of Registered Voters

We reviewed the voters registration precinct listing prepared by the UOG Computer Center and we noted that the precinct listings were less than the reported number of registered voters per precinct. We were able to determine that there were registered voters not included in the precinct listing or registered voters who died in 1994 still included in the precinct listing prior to the primary and general elections.

The increase in the number of registered voters from 1992 to 1994 was more than the number of registrants recorded in the registration log book. This simply means that there were registered voters not recorded in the registration log book. Moreover, any registered voter not included in the registration log book nor in the precinct listing may be allowed to vote provided that the affidavit of registration is readily available to justify the voter's eligibility to vote subject to Commission's approval.

Lack of Supervisory Review and Coordination

We believe that the failure of the Commission to update the list of registered voters was due to lack of supervisory review of the precinct listing computer printout. The supervisor has to review if the non-voting registrants were deleted from the list of registered voters in compliance with Title 3, GCA Section 3124 after the regular general election. The supervisor also has to review if the deaths and cancellation requests were deleted or new registrants were included in the list of registered voters. It is the primary responsibility of the supervisor to review whether the cancellations or additions to the list of registered voters were accurately inputted in the precinct listing computer printout.

The erroneous inclusion of cancelled registered voters or exclusion of new registrants in the precinct listing may be attributed to lack of close coordination with the UOG Computer Center to ensure accuracy of the precinct listing. Updating the precinct listing at UOG Computer Center has to be done periodically in order to have ample time to review the voters registration precinct listing.

Fair and Orderly Election Process

Maintaining a reliable and updated list of registered voters will contribute to a smooth and orderly process of election. Registered voters intending to vote and not listed in the precinct listing will slow down the progress of election at the precinct level. Verification of authenticity of voter's affidavit of registration has to be decided by the precinct board or the Commission to allow the person to vote. To achieve a fair and honest election, the non-voting registrants at the previous general election are to be deleted from the list of registered voters and not allowed to vote without registering

again. To ensure fairness and efficiency of election process, only those listed in the precinct listing which comprised of new registrants and registrants who voted at the previous general election are allowed to vote.

MORE ECONOMICAL NUMBER OF BALLOTS

A reduction in the printing of ballots would enable the Commission to save at least 25% of ballot printing costs. The ballots provided to every precinct substantially exceed the actual ballots cast by voters for every election. However, with limited number of ballots delivered to the polling places would reduce the printing cost and time spent counting ballots whether at the Commission or precinct level.

Determining the Number of Ballots to be Printed

In accordance with Title 3, GCA Section 7109, the Commission shall provide each election precinct with ten (10) ballots for every eight (8) voters registered in the election precinct. Before placing the requisition for printing of ballots, the Commission determines the number of ballots to be printed based on total number of registered voters plus 25% allowance for spoilage. If there is an increase in number of registered voters during the registration period prior to election, additional ballots are to be ordered through the General Services Agency (GSA) to meet the eight (8) to ten (10) ratio requirement.

Excessive Unused Ballots

In reviewing the purchase orders for printing of ballots, we found that the Commission consistently followed the provision to provide ten (10) ballots for every eight (8) voters registered in the election precinct. Hence, the printed ballots were more than the total registered voters (see Table 1) and the printed ballots substantially exceeded the total ballots used in 1993-1994 elections (see Table 2) as shown below:

Table 1
Registered Voters, Printed Ballots, and Excess Ballots
1993-1994

	<u>Registered Voters</u>	<u>Printed Ballots</u>	<u>Excess Ballots</u>	<u>%</u>
<u>1993 Special Election:</u>				
Legislature	36,152	46,500	10,348	28.6
<u>1994 Primary Election:</u>				
Governor/Lt. Governor	47,102	61,600	14,498	30.8
Legislature	47,102	61,600	14,498	30.8
Washington Delegate	47,102	61,600	14,498	30.8
<u>1994 General Election:</u>				
Governor/Lt. Governor, Legislature and School Board Members	53,065	65,612	12,547	23.6
Washington Delegate	53,065	66,702	13,637	25.7

Table 2
Printed Ballots, Used Ballots, and Unused Ballots
1993-1994

	<u>Printed Ballots</u>	<u>Used Ballots</u>	<u>Unused Ballots</u>	<u>%</u>
<u>1993 Special Election:</u>				
Legislature	46,500	15,889	30,611	65.8
<u>1994 Primary Election:</u>				
Governor/Lt. Governor	61,600	35,034	26,566	43.1
Legislature	61,600	35,236	26,364	42.8
Washington Delegate	61,600	34,940	26,660	43.3
<u>1994 General Election:</u>				
Governor/Lt. Governor, Legislature and School Board Members	65,612	45,303	20,309	31.0
Washington Delegate	66,702	45,026	21,676	32.5

The legal intent to provide ten (10) ballots for every eight (8) voters registered in the election precinct is to have an allowance for spoiled ballots. However, the actual spoilage was much less than the 25% allowance of the total printed ballots in 1993-1994 elections (see Table 3) as shown below:

Table 3
Printed Ballots and Spoiled Ballots
1993-1994

	<u>Printed Ballots</u>	<u>Spoiled Ballots</u>	<u>%</u>
<u>1993 Special Election:</u>			
Legislature	46,500	103	0.22
 <u>1994 Primary Election:</u>			
Governor/Lt. Governor	61,600	190	0.30
Legislature	61,600	394	0.63
Washington Delegate	61,600	96	0.15
 <u>1994 General Election:</u>			
Governor/Lt. Governor, Legislature and School Board Members	65,612	447	0.68
Washington Delegate	66,702	160	0.23

The number of unused ballots ranged from 31% to 66% and the total spoiled ballots was 0.15% to 0.68% or less than 1.0% of the total printed ballots in 1993 and 1994 elections. The 25% allowance for spoiled ballots is unrealistic compared to less than 1.0% spoilage of the total printed ballots as experienced in the past. The allowance for spoilage resulted in the excessive printing of ballots which increased the election expenses and required more time to count the excess ballots.

Participation in Previous Elections

The Commission continued to comply with the requirement of providing ten (10) ballots for every eight (8) voters registered in the election precinct in spite of the waste incurred on excess ballots at previous elections. Based on the election comparative analysis reports, the average number of voters who participated in the last ten (10) years' special, primary and general elections was 42%, 65%, and 80%, respectively, out of the total registered voters. It is evident that the Commission did not use the previous election results to estimate the number of ballots to be printed and used for the succeeding elections. Estimating the cost and time spent at every election is part of the planning activity to forecast the outcome of subsequent events. Also, utilizing the historical data will serve as a guide to optimize the use of the government's limited resources.

Savings in Printing Limited Number of Ballots

If the Commission deviates from the usual ten (10) ballots for every eight (8) voters to eight (8) ballots for every eight (8) voters registered in the election precinct, there is potential savings in every election and a reduction in time spent counting unused ballots at the Commission and precinct level. Table 4 below indicates how much would be the savings if there was no provision for spoiled ballots.

Table 4
Printed Ballots, Excess Ballots, Unit Cost and Savings
1993-1994

	<u>Printed</u> <u>Ballots</u>	<u>Excess</u> <u>Ballots</u>	<u>Unit</u> <u>Cost</u>	<u>Savings</u>
<u>1993 Special Election:</u>				
Legislature	46,500	10,348	\$.0225	\$233
<u>1994 Primary Election:</u>				
Governor/Lt. Governor	61,600	14,498	.0182	264
Legislature	61,600	14,498	.0182	264
Washington Delegate	61,600	14,498	.0182	264
<u>1994 General Election:</u>				
Governor/Lt. Governor, Legislature and School Board Members	65,612	12,547	.0118	148
Washington Delegate	66,702	13,637	.0110	150

If the Commission had provided eight (8) ballots for every eight (8) voters registered in the election precinct, the Commission could have saved \$233 in 1993 special election and a total of \$1,090 in 1994 elections from the cost of printing ballots alone. Additionally, there could have been a considerable reduction in time spent counting excess ballots of 10,348 in 1993 and 69,678 in 1994 elections. The savings in cost and time by limiting the number of ballots can improve the performance of the Commission's operations. A margin of one or two percent of extra ballots would be more appropriate than the margin of twenty-five percent used in the past.

EFFECTIVE INFORMATION DISSEMINATION

The Commission has a significant responsibility to inform the registered voters whether they are still qualified to vote or have been cancelled in view of their failure to vote in the last general election. It is equally important to inform the public to register on specific date before the election. The public has the right to know the registration period so that majority of the people can exercise their right of suffrage under the democratic process.

Mailing Notice to Registered Voters

The Commission is required to send notice by mail to those who failed to vote during the last general election informing them of cancellation of their registration. In accordance with Title 3, GCA Section 3124 (b), on completion of the canvass of returns of any regular general election, but not later than the first day of January of the following year, the Commission shall cancel the original and duplicate affidavit of registration of all registered voters who did not vote at the last regular general election. No such person shall be permitted to vote until he has registered. According to Title 3, GCA Section 3125, when the Commission cancels the registration of any person for failure to vote, it shall notify such person by mail of such cancellation. Furthermore, Section 3121 provides that it shall be the duty of the Commission to send to each registered voter prior to beginning of registration a card indicating that he is eligible to vote at the next election without the necessity of registering.

The Commission has to order cards every two (2) years and indicate on each card whether the registered voter is cancelled or eligible to vote for the next election. The Commission pastes the voter's address label and postage stamp to the card, and then mail it to the addressee through the Postal Service.

Voluminous Mailing Notices to Registered Voters

In the review of mailing notices to registered voters, we found that the Commission procured 53,120 cards to send to each registered voter at the 1994 general election. It was noted that the Commission started sending notice cards to 8,199 cancelled non-voting registrants after the due date of January 1, 1995; and it is currently sending notice cards to 44,866 voters who are still qualified to vote without the necessity of registering. The Commission sent notice by mail to 11,825 cancelled non-voting registrants and did not send notice to 34,856 eligible voters after the 1992 general election. Some of these notice cards were returned to the Commission because of change of address or the registered voter transferred to another village or state.

Unrealistic Policy of Mailing Notice to Registered Voters

Mailing over 50,000 cards to registered voters is not an easy task. Furthermore, the number of registered voters increases every general election. The Commission may be in compliance with Title 3, GCA Sections 3121, 3124 (b), and 3125, but we believe it is an unrealistic policy to send notice card by mail to all registered voters from the previous election. This tradition entails heavy workload for the Commission without mentioning the cost of cards, postage stamps, labels, and man-

hours. The Commission's responsibility to educate the general public on election laws, policies, and procedures can be undertaken at the time of registration and then followup through print media, radio, television, use of banner, and civic organizations at minimum cost or free as a public service.

Savings and Effective Means of Communication

In February 1995, the Commission has incurred \$1,660 for 53,120 cards and \$8,915 (53,065 registered voters at \$0.168 bulk rate) for postage stamps excluding the cost of manpower and other expenses. By eliminating the mailing of notice cards to registered voters could result in the savings cost of cards, postage stamps, supplies, manpower, and incidental expenses.

At the time of registration, the Commission could immediately inform and emphasize to the registrants about cancellation of registration and how to remain an eligible voter. The cancellation for failure to vote at the general election can be included in the affidavit of registration as an important reminder to be aware of their voting eligibility. The Commission could also make announcements over the radio and television as a public service or through the newspaper of general circulation without cost. Furthermore, it could distribute brochures or copies of primer on election laws informing the public of their right to vote and disqualification during the campaign period. The Commission could post banners indicating "Register Now and Vote in the Upcoming Election" in conspicuous areas. This type of media blitz could be done at less cost if properly coordinated with the media and civic organizations.

TIMELY SUBMISSION OF FINANCIAL REPORTS

In a political arena, regardless of party affiliation or level of position the candidate is aspiring for, a candidate is required to file financial reports from the date of filing candidacy to post-election. The Commission could ensure the timely submission of the required financial reports by advising the candidates of the due dates. An effective monitoring and evaluation of financial reports can help gain public confidence in the government. And therefore, to undertake the review much attention must be focused on the reliability and completeness of financial reports.

Legal Basis of Filing Financial Reports by Candidates

Interested parties and the public in general need some kind of information that describes the financial condition of every candidate during the period of election. They need to know how much contributions the candidate received from his political supporters, how these campaign funds were spent, and how much was the cash balance. To obtain this type of information, the Commission has to require all

candidates, political parties, or committees supporting particular candidates to file a certified report of election campaign contributions and expenditures subject to public inspection in accordance with Title 3, GCA Section 19102. Each candidate who is not an official shall file with the Commission on the date he files his petition for candidacy, a written report containing a complete account of the candidate's gross income and that of his spouse and dependent children in accordance with Title 4, GCA Sections 13103 and 13104.

Title 3, GCA Section 19104 provides that each candidate, committee or political party shall file an organizational report on or before the day of filing for nomination or election, and by the tenth day after receiving any contributions for the next campaign in an aggregate amount of more than \$100,000 or the making or incurring of any expenditures for the next campaign in excess of \$100,000.

Title 3, GCA Section 19113 provides that each candidate, committee or political party shall file a preliminary report with the Commission not later than the tenth day prior to each primary or election, as the case may be. The preliminary report has to be current with a cut-off date of the fifteenth calendar day prior to primary or election.

Title 3, GCA Section 19115 provides that each candidate whether or not successful in a primary or election, committee or political party shall file a final primary report not later than the tenth day after the primary, and final general report not later than the twentieth day after a general or special election. A candidate who is unsuccessful in a primary election need not file a final general report. Title 3, GCA Section 19115 (c) provides that in case of a deficit, the candidate or committee shall, every three (3) months until the deficit is eliminated, file a supplemental report, the first of which shall be due not later than sixty (60) days after the election. Title 3, GCA Section 19115 (d) provides that in case of a surplus, the candidate or committee shall maintain the cash surplus in a financial depository, and every six (6) months, until he becomes a candidate again, file supplemental reports. The first report is due not later than sixty (60) days after the election.

Whatever financial reports submitted by each candidate, committee or political party shall be reviewed by the Commission, and shall notify the persons who failed to file or who filed a substantially defective or deficient report which must be corrected and explained in writing within a reasonable time after the notification of the failure to file or deficiency. And failure to properly respond to the notification shall constitute a violation and the request for prosecution has to be initiated by the Commission. The Commission shall develop and adopt reporting forms and preserve all financial reports required for at least five (5) years from the date of receipt.

Late and Non-filing of Financial Reports

The Commission carried out its responsibility to supervise campaign contributions and expenditures including the candidates' financial disclosure statement when filing for nomination or election. The following is the status of the financial reports filed with the Commission as of June 30, 1995:

Table 5
Status of Financial Reports
1994-1995

	Total	Filed	Not Filed	On Time	Late
Financial Disclosure Statement	61	61	-0-	58	3
Organizational Report	57	57	1	56	-0-
Primary Preliminary Report	57	57	-0-	37	20
Primary Final Report	57	55	2	43	12
General Preliminary Report	41	37	4	28	9
General Preliminary Report	41	41	-0-	28	13
Supplemental Report	<u>25</u>	<u>25</u>	<u>-0-</u>	<u>12</u>	<u>13</u>
Total	<u>339</u>	<u>332</u>	<u>7</u>	<u>262</u>	<u>70</u>
Percent	<u>100%</u>	<u>98%</u>	<u>2%</u>	<u>79%</u>	<u>21%</u>

In reviewing the financial reports, we found that not all candidates complied with the requirement to submit the above-stated reports and on time. The financial disclosure statement and organizational report should be filed on or before the day of filing for nomination or election. However, three (3) candidates did not file financial disclosure statement on time and one (1) candidate did not file organizational report.

The primary reports are to be submitted ten (10) days before and after the primary election. Two (2) candidates did not file a primary final report, twenty (20) primary preliminary and twelve (12) primary final reports were filed late. On the other hand, the general reports are to be submitted ten (10) days before and twenty (20) days after the general election. The first supplemental report should be filed sixty (60) days after the general election. It is reflected in the status of financial reports that four (4) candidates did not file the general preliminary report, nine (9) general preliminary, thirteen (13) general final, and thirteen (13) supplemental reports were filed late. Thus we have observed that 98% of the required financial reports were filed by the candidates and 21% of these financial reports were filed late.

The Commission did not closely monitor the financial reports and no adequate review has ever been conducted to identify any error or violation committed by a candidate or donor. In the final analysis, the Commission has not initiated any review to provide valuable information on the status of financial reports and effectiveness of policies and procedures such as who among the candidates are required to file supplemental reports after the primary and general elections. Followup the supplemental reports to monitor if the candidate's cash deficit has been eliminated or the candidate's cash surplus has been used with the knowledge of his designated Treasurer or Deputy Treasurer.

Insufficient Management Attention to Followup the Financial Reports

The Commission should have taken the initiative to inform the candidates or committees supporting particular candidates that they have not filed the required financial reports or failed to file a correct financial reports. Failure to file or failure to correct the financial reports is a justification to request for prosecution if the candidate did not take action to resolve the issue within a reasonable time provided by the Commission. Based on the status of financial reports (see Table 5), seven (7) financial reports were not submitted by the candidates but the Commission did not take action to advise those candidates to comply with the election law. Those who filed late should have been informed earlier to file the financial reports on time.

The Commission is responsible for monitoring the financial reports regularly to ensure their submission on time. However, the Commission lacks written procedures specific to campaign contributions and expenditures reports on how it will carry out this responsibility. It has no instruction in its manual on how to initiate and monitor the financial reports. The manual only provides general instruction without specific functions assigned to specific employees to monitor and review the financial reports.

Effective Monitoring

The late and non-filing of financial reports precludes the Commission from reviewing contributions received and expenditures incurred by the candidates. Without the financial reports, the Commission has no basis to review and detect any error or violation committed by the candidate or donor. Inadequate monitoring of financial reports could lead to possible misuse of campaign funds for personal rather than political activities.

The importance of filing the financial reports on time should be emphasized to the candidates at the early stage. Copies of Election Campaign Contributions and Expenditures Manual and reporting forms are provided to candidates during the orientation workshop conducted by the Commission and at the time of filing for

nomination or election. In addition, the candidates should be provided with the list of due dates as a reminder when to file the financial reports. Otherwise, the candidates would tend to forget unintentionally the due dates of filing financial reports because they are busy during the campaign period. Constant followup is the key to ensure filing of financial reports on time. Whoever is responsible to monitor and followup, he has to prepare and submit a status of financial reports periodically to the Executive Director and Board of Directors.

IMPROVED FILING OF FINANCIAL DISCLOSURE STATEMENTS

The potential impact of the law requiring public officials to file financial disclosure statements is a leadership challenge. To disclose financial information to the people is a function quite difficult to implement effectively. To restore integrity and accountability to the public is a step forward to achieving "public office is a public trust" which presents an awesome challenge to the Commission. And to see public officials filing financial disclosure statements annually is a welcome sign that they are taking the law seriously.

Need for Financial Disclosure Statements

The submission of financial disclosure statements although need not be audited creates a serious constraints in meeting established deadlines. According to Title 4, GCA Section 13103 (a) each official shall file with the Commission, on or before April 22 of each calendar year, a written report containing the required information for the preceding calendar year. The Executive Director of the Commission shall grant extensions for the filing of reports by officials; provided, however, that such extension shall not exceed 180 days beyond April 22 of each calendar year. The official required to file is any person elected to any public office in Guam and any person appointed, with legislative concurrence or by the Legislature, to any public office for which such person is paid annual compensation of \$5,000 or more pursuant to Title 4, GCA Section 13102 (a).

Title 4, GCA Section 13104 requires that the report of the official shall include a complete account of the official's gross income and that of his spouse and dependent children. Title 4, GCA Section 13105 provides that on or before May 1, of every calendar year, the Commission shall cause to have published in a newspaper of local circulation for a period of three (3) consecutive days a report containing therein the names of all officials who have not filed their reports as required.

Title 4, GCA Section 13106 provides that any official who fails to file a report as required or who knowingly and willfully files a false report shall be guilty of misdemeanor. The Commission shall report to the Attorney General for appropriate

action the name of any official including candidate who fails to file a report or who in its professional judgment has knowingly filed a false report. This shall not be construed to permit prosecution of a person who unintentionally filed an erroneous report, which report shall be subject to correction. Validating the financial disclosure statements is not the ultimate goal. However, the required reports need to be meaningful and useful to protect public trust and to restore respect for public officials.

Extension and Non-Filing of Financial Disclosure Statements

Timeliness and relevance are important factors to be considered in the preparation of financial statements. The submission of financial disclosure statement which is due April 22 every year comes one (1) week after the deadline for filing individual income tax return with the Department of Revenue and Taxation. According to the Commission, those who were not able to file on the due date, the Executive Director granted extension of 180 days up to October 18, 1995 as requested to file their financial disclosure statements for 1994. The following is the status of financial disclosure statements filed by public officials of previous and present administrations as of June 30, 1995:

Table 6
Status of Financial Disclosure Statements
For Calendar Year 1994
As of June 30, 1995

	<u>Total</u>	<u>Filed</u>	Not <u>Filed</u>	<u>Extended</u>
Former Public Officials	28	14	14	13
Incumbent Public Officials	<u>72</u>	<u>54</u>	<u>18</u>	<u>32</u>
Total	<u>100</u>	<u>68</u>	<u>32</u>	<u>45</u>

Our review showed that one (1) former public official did not file or request for an extension of time to file financial disclosure statement for 1994. The Commission made a followup but no response was received from the former public official concerned. Sixty-eight (68) public officials who filed financial disclosure statements sixteen (16) were filed late, forty-five (45) requested for extension, and thirty-two (32) did not file as of June 30, 1995.

The Commission had forwarded to the Attorney General's Office the names of three (3) public officials who failed to file financial disclosure statements for 1993 on January 6, 1995 but they subsequently complied with the requirement.

We were able to determine that the Commission published in the newspaper of local circulation on May 1, 1995 twenty-eight (28) incumbent public officials who failed to file financial disclosure statements for 1994 not including the fourteen (14) former public officials. We believe the filing of financial disclosure statement is very important, especially for outgoing public officials. After serving the government for a number of years, the final filing of financial disclosure statement by a public official is a matter of public interest.

Lack of Constant Followup Filing of Financial Disclosure Statements

After the general election, the Commission should have anticipated that the public officials under the previous administration have to exit or to be replaced by the new public officials under the present administration. Former public officials should have been reminded that the financial disclosure statement must be filed after their term has expired. Also, the new public officials should have been reminded upon election or appointment after confirmation or concurrence by the Legislature to immediately file financial disclosure statement for 1994. We believe that late filing or request for extension to file financial disclosure statements could have been minimized if the Commission made constant followup before the due date or after the extension of time has been granted.

Furthermore, the Commission failed to identify and establish how many public officials are required to submit financial disclosure statement for 1994. We found that there are names not included in the list of seventy-two (72) public officials who are agency heads such as fifteen (15) directors and three (3) administrators, with some of them on acting capacity awaiting confirmation by the Legislature.

The financial disclosure statement should reflect the assets, liabilities, net worth, and the gross income including that of public official's spouse and dependent children. The Commission should conduct review upon receipt of the financial disclosure statements and properly advise the public official should there be any error or false information in the financial disclosure statement. Followup with the public official should be made if he or she failed to respond within a reasonable period. Failure to correct any false or misleading financial information should be referred to the Attorney General's Office for resolution.

Ensure Compliance with Financial Disclosure Act

Pursuing an aggressive effort aimed to improve the quality, timeliness and relevance of financial disclosure statements, formulation of specific policies and procedures focusing on financial information system is required. Financial statements are not always simplified and individual accounts do not always give a true picture of the

financial condition. Financial statements need to be interpreted and summarized in such form clearly understood where the public official stands financially from the historical and present perspective. It is imperative for the Commission to provide guidelines for analyzing the financial condition of public official. The quality of the financial data gathered has been a concern for integrity which should not only be seen as a compliance or checklist exercise. The intent and purpose of the law which requires public officials to file financial disclosure statement is to monitor whether they have undue accumulation of wealth from the assumption to expiration of term of office. This is the ultimate reason why the financial disclosure statements should be open for public inspection. Unfortunately, the Commission has not taken any action to date requiring public official to correct any error or inaccurate information stated in the financial disclosure statement. Therefore, to ensure compliance with the Financial Disclosure Act, send copies of financial disclosure statement forms to public officials required to file, constant followup, compile, and review the financial disclosure statements.

ADEQUATE CONTROL OF CASH COLLECTED

An adequate internal control system over fees collected by the Commission must ensure that the collections are properly documented and recorded, kept in the safe deposit box, and remitted promptly to the Treasurer of Guam. There must be a review of field receipts and other documents to determine whether the established controls are implemented.

Registration and Copying Fees

Title 3, GCA Section 3131 provides that upon written demand of any candidate or his campaign committee, the Commission shall furnish him one (1) copy of the index of registration of voters for such election, at a charge as may be prescribed in the Election Manual. All moneys collected shall be remitted to the Treasurer of Guam. According to Title 3, GCA Section 16206, there shall be a fee of \$100 for each nomination on account of the expenses attending the holding of the primary which shall be paid to the Treasurer of Guam through the Commission. Furthermore, Section 17104 (c) provides that the proponents of any initiative or referendum measure shall, at the time of submitting the draft of the measure to the Commission, pay a non-refundable fee of \$200 to help defray the cost of preparing the measure for the ballot. No fee shall be charged for legislative submission.

Miscellaneous fees collected by the Commission originate from copying documents particularly the alpha listing, precinct listing, absentee listing, petitions and other documents related to elections, initiatives, or referenda.

Delayed Remittance of Collections to Treasurer of Guam

We reviewed the collection of various fees in FYs 1993, 1994 and 1995 (cut-off date May 30, 1995) and found them to be complete in documents such as remittance slips, field receipts and official receipts issued by the Treasurer of Guam upon receipt of cash from the Commission. All cash receipts are kept in the safe deposit box and properly recorded in the Cash Receipts Book. However, it has been observed that the collections were not promptly remitted to the Treasurer of Guam. The delay in the remittance of fees collected ranges from minimum period 3 - 18 days to maximum period 20 - 143 days. The total collections per Cash Receipts Book for FYs 1993, 1994 and 1995 (cut-off date May 30, 1995) were \$922.05, \$6,361.95 and \$2,714.55, respectively and remitted intact to the Treasurer of Guam per official receipts in-files. The duplicate copies of prenumbered field receipts were reconciled with the amounts shown in the remittance slips, official receipts and Cash Receipts Book and found them to be in order and without discrepancy.

Lack of Written Policies and Procedures for Cash Collected

The internal controls over collection of fees were not clearly defined and monitored in view of lack of written policies and procedures for the following:

1. Procedural steps to account for the sequential prenumbered field receipts and to check on any missing field receipts.
2. Supervisory control to ensure the daily remittance of collections (if any).
3. Procedural steps and designation of specific employee, other than the assigned collecting officer, to compare collection records with validated remittance slips and official receipts.
4. Physical control and limited access to cash and checks before remittance and unused field receipts.
5. Supervisory review by a designated official to ensure that the established controls over collections are followed and proper documentation procedure to show that actual review is performed.

Prompt Remittance of Fees Collected

To ensure an adequate internal control system over cash collected, there should be written policies and procedures to improve the control environment particularly on the proper documentation and recording of cash receipts, safeguarding and daily

remittance of collections, and supervisory review of all documents pertaining to collections. The present practice of not promptly remitting the collections to the Treasurer of Guam weakens and endangers the control over the cash collected. The designated official to conduct the review must check and remind the collecting officer to remit the collections daily to be free from any cash accountability. Since cash is a liquid asset and susceptible to loss, it is risky to maintain cash on hand in the office at the end of each day. The official receipt is the evidence to prove that the collection was remitted to the Treasurer of Guam. The amount indicated in the official receipt should match the corresponding remittance slip and the field receipts pertaining to that particular remittance.

EFFECTIVE MANAGEMENT OF RECORDS

Records are important to the conduct of a successful management of government agencies. Historical data are gathered from the records of past events and serve as a tool for making decision in the future. To have a basis for reliable decision, the records must be complete and easily accessible to the users. To achieve this aim, management must institute proper controls over the filing, maintenance, and disposal of records.

Established Retention Periods of Records

Maintaining records in the office or record center would cost a lot of money. Compare the cost of keeping records to the value of records in files. If the retention periods have been established for all records, there must be a disposition schedule to clear out all records no longer needed after the retention periods. The following are the retention periods established under Title 3, GCA:

1. Voter's affidavit of registration - permanent file unless cancelled for any cause
- Section 3121
2. Declaration of candidacy and nomination papers - ten (10) years - Section 6113
3. Original certificates of election for every person elected to office - ten (10) years - Section 11133
4. Ballots cast, rosters, and certificates delivered by the precinct boards - five (5) years - Section 11139
5. Initiative and referendum petition - four (4) years - Sections 17209 and 17308, respectively.

6. Financial disclosure statement, organizational report, primary and general preliminary reports, primary and general final reports, and supplemental reports - five (5) years - Section 19102 (c).

Missing Records and No Schedule for Disposal

We reviewed the voters' affidavits of registration which should be permanently filed unless cancelled for any cause. We have matched the names of voters in the precinct listings with affidavits of registration and found that some of them were missing. We were able to identify 324 missing affidavits of registration out of 2,862 voters from three (3) precincts selected for testing. The total number of registered voters 53,065 in 1994 times 11.3% is equivalent to approximately 6,000 missing affidavits of registration in files. Under the circumstances, no voter is allowed to vote without the necessary affidavit of registration on file although the name is listed in the precinct listing. The declaration of candidacy, nomination papers, ballots cast, rosters, and certificates prepared by precinct boards were forwarded by the Commission to the GSA immediately after every election for maintenance and disposal after the retention periods. The copies of original certificates of election, initiative and referendum petition, financial disclosure statements, and other financial reports filed by candidates are maintained in the office of the Commission without definite schedule for disposal.

Poor Controls Over the Records

The Commission lacks an adequate control system for its records. We found no specific policies, procedures, or standard guidelines for staff to follow in managing records. Thus the Commission has no system to protect the security and integrity of its records. The original affidavits of registration must remain as permanent records unless cancelled for any cause. The duplicate copies of affidavit of registration should be used for updating the voters registration precinct listings instead of original copies. Updating the precinct listing takes place in case of death or disqualification of registered voter whereby the voter's affidavit of registration should be cancelled and removed from the permanent file. Also, the new registrants are to be included in the precinct listings based on the affidavits of registration.

The records forwarded to GSA for safekeeping should not remain with GSA beyond the retention periods of four (4), five (5), or ten (10) years. The schedule of disposal is the Commission's responsibility to get rid of those records still existing beyond the retention periods which should be coordinated with GSA.

Records Maintenance and Disposition Program

The Commission needs better controls over the original records such as affidavits of registration, nomination papers, certificates of election, ballots cast, rosters, and financial reports. It should establish standards for maintaining and protecting vital records. The standards should emphasize that vital records are irreplaceable and original copies must be kept for legal purposes. All documents received must be immediately recorded in the log book and adequately secured. It takes considerable time to identify the voters when there are missing affidavits of registration.

The Commission has to 1) improve its recordkeeping to save space, money, and time maintaining inactive records beyond the retention periods; 2) conduct physical inventory of documents and determine the importance of its records; and 3) develop a retention and disposition schedule of records not needed for everyday operations that no longer have any significant value after the retention periods.

RECOMMENDATIONS

1. We recommend that the Board of Directors and Executive Director should establish and implement written guidelines for updating the list of registered voters and closely coordinate with UOG Computer Center to ensure the accuracy of voters registration precinct listings.
2. We recommend that the Board of Directors and Executive Director should request the Legislature to amend Title 3, GCA Section 7109 to reduce the required allotment of printed ballots to each precinct.
3. We recommend that the Board of Directors and Executive Director should develop and implement new policies and procedures to inform registered voters on their voting status and then request the Legislature to repeal Title 3, GCA Sections 3121 and 3125 to save cost of mailing cards to registered voters.
4. We recommend that the Board of Directors and Executive Director should establish and implement written policies and procedures for monitoring and review of candidates' campaign contributions and expenditures reports and financial disclosure statement.
5. We recommend that the Board of Directors and Executive Director should develop and implement written policies and procedures for monitoring and review of public officials' annual financial disclosure statement.

6. We recommend that the Board of Directors and Executive Director should develop and implement written policies and procedures to improve internal control of cash collection and remittance to Treasurer of Guam.
7. We recommend that the Board of Directors and Executive Director should develop and implement written management control policies and procedures to ensure proper filing, storage, and disposal of records.

RESPONSE OF THE AFFECTED AGENCY

Comments on Agency Response

We transmitted a draft of the report to the Guam Election Commission on August 25, 1995. A copy of the Commission's response received September 27, 1995 is included as Attachment 1.

The Commission generally concurs with our findings and recommendations. The Executive Director of the Commission cites initiatives undertaken that are intended to address concerns raised in our report. The initiatives include proposed legislations to reduce ballots for every election precinct and to eliminate informing the voters that they are eligible to vote at the next election to realize favorable cost savings in every election. The Commission agrees with us that collections should be remitted promptly to the Treasurer of Guam.

The Commission says that many original affidavits of registration were damaged by fire that occurred at the old General Services Agency building where files were stored. Further, the Commission made attempts to restore the files of affidavits of registration by having affected voters sign a duplicate affidavit of registration. The Commission also says that the Commission's effort was not 100% successful to restore the files. The Commission fails to establish the exact number of missing files if the estimated 6,000 missing affidavits of registration is unfounded.

The Commission contends that it does not print a list of registered voters on a daily basis after the transmission of affidavits to the UOG Computer Center. The Commission misses the point --- the point is that updating the list of registered voters in the computer means you have to input new registrants, delete deceased voters, or make changes for transferees on a monthly basis. It is not necessary to print a listing daily after updating the list of registered voters unless requested by the public. The Commission says that it has a records retention/disposition schedule of all documents and also has a Records Management Handbook and Records Transfer and Receipt indicating the disposition of records. Again, the Commission misses the point. Our finding is that no specific dates are established when to dispose the records after the regulatory period of retention.

The Executive Director also comments on the distinction between organizational report and election campaign contributions and expenditures report including financial disclosure statement. We note that the Commission has to review rather than audit the reports. We believe that a certain level of written procedures and instructions is required for any organization to ensure the timely submission of the reports and to operate effectively.



GUAM ELECTION COMMISSION

Kumision Eleksion Guahan

Territory of Guam

P.O. Box 88 • Agaña, Guam 96910

Received by Office of the Public Auditor
29 Sept 1995



Attachment

September 26, 1995

Robert G.P. Cruz, Esq.
Office of the Public Auditor
P.O. Box 23667
GMF, Guam 96921

RE: Draft Audit Report
Guam Election Commission (GEC)

Dear Atty. Cruz:

The Commission acknowledges the draft audit report conducted between March 23, through August 15, 1995. With certain exceptions of the Auditors findings, the Commission provides the following:

FINDINGS: GEC did not establish a reliable and updated list of registered voters.

COMMENTS: 1) Prior to 1972, the office of the Chief Commissioner of Guam was responsible for conducting the Territorial elections. However, since the inception of the GEC in 1972, there were many original affidavits of registration that were damaged from fire that occurred at the old General Services Agency (GSA) building where files were stored by the office of the Chief Commissioner. In two general elections, the Commission made attempts to restore the complete file of affidavits of voters listed on the signature roster by having them sign a duplicate affidavit of registration. Although, the Commission's efforts was not 100% successful, we were able to reach many of these voters.

2) The Commission removes the names of the deceased voter only when it receives a list from the Department of Public Health and Social Services. For those deceased voters abroad, the Commission would not have a certification nor a list to substantiate its removal from other jurisdictions. Their names would be removed after a general election.

3) The Auditor was informed that the precinct listing as of November 4, 1994 would not correspond when verifying against the list of voters on the district registration log book. The precinct listing includes all registered voters executed by Volunteer Registrars and the Commission's office while the district registration log book list those registered at the district level.

4) The Auditor failed to realize that the Commission does not print a list of registered voters on a daily basis after transmission of affidavits by the Commission. Reason being, the Commission is charged an assessment fee of printing cost by the UOG Computer Center for every report requested. As a cost saving measure, rather than printing the entire list, the Commission uses the edit list which enables us to detect non-voting registrants who were either deceased, cancelled, requests for cancellation, or transferred. Based on the last general election, registered voters not listed on the signature roster amounted to a maximum of 25 voters or .05% from the overall total of registered voters. With only 10 days before the election and with an abundance of documents (affidavit of registration), the Commission is proud that it succeeded in achieving its goals and objectives.

FINDINGS: GEC did not procure an economical number of ballots.

COMMENTS: 1) The Commission acknowledges the Auditor's findings that it has consistently followed Section 7109 of Title 3, GCA to provide 10 ballots for every 8 voters registered in the election precinct. However, the Auditor failed to realize that the order of paper stock is supplied from an off-island vendor which would normally take 3 months to receive. Also, upon 60 days prior to an election, the Commission must have the paper stock to commence the printing of the official ballots to accommodate the federal recommendation of 45 days ballot transit time for Absentee Voters.

In addition, the Commission takes into consideration a projection based on the growth of registered voters from prior years before ordering the paper stock. The Auditor should also realize that the percentage turnout of voters differs each election year where you would anticipate a great number of unused ballots when voter turnout is low.

During the Commission's audit, the Board of Directors had proposed legislation to amend Section 7109 of Title 3, GCA to read 10 ballots for every 9 voters registered in the election precinct. If such were enacted, the Commission would realize favorable cost savings in every election. (copy attached)

FINDINGS: GEC did not timely inform non-voting registrants from the last general election.

COMMENTS: 1) Pursuant to Section 3124(b) of Title 3, GCA, the Commission cancels those registered voters who failed to vote at the general election. Section 3125 mandates the Commission to send a notice, by mail, informing the non-voters of their status and advising them to re-register. Also, Section 3121 mandates the Commission to send a notice, by mail, informing the active voters that they are eligible to vote at the next election.

2) The Commission reaches out to potential registered voters by means of electronic media, print media and closely coordinates its Voter Outreach Program with the Private Sectors, Political Parties, Candidates and the Mayors Office. At any rate, the Commission welcomes the Auditor's suggestion on informing the general public on election laws, policies and procedures.

Again, during the Commission's audit, the Board of Directors had proposed legislation to amend Section 3121 which relieves the Commission's duty of informing the voters that they are eligible to vote at the next election. If such were enacted, the Commission would realize favorable cost savings in every election. (copy attached)

FINDINGS: GEC did not ensure timely submission of candidates Election Campaign Contribution and Expenditures (ECCER) report.

COMMENTS: 1) The Auditor failed to realize the distinction between the Election Campaign Contribution and Expenditures report versus the Financial Disclosure Statement. In regards to the ECCER, the Commission insures that each candidate files an Organizational report detailing the Officers of his Committee as well as contributions and expenditures incurred in aid of his campaign. An incumbent candidate is not required to file an Organizational report if his Committee members had not changed from prior elections. Additionally, the Commission does not prohibit a candidate from submitting combined reports whenever no changes are made to contributions and expenditures.

To comment on the timely submission of reports, candidates are issued the ECCER Manual and a handbook which clearly entails all filing dates of the reports that must be filed with the Commission and the Political Parties are informed as well. In addition, the Political Parties are constantly informed whenever a candidate misses a reporting period. The Commission further extends its effort by informing the candidates of their responsibilities by conducting a Candidate's Orientation Seminar; and upon receipt of a report, they are reminded about the next reporting period. It is affirmed that there were candidates who failed to comply with this law, however, the Commission never neglects its duty to refer the respective candidate(s) to the Attorney General's Office for further action.

Although candidates are not beyond the law, and for legitimate reasons, the Board of Directors considers receipt of the report. Before hand, notices of noncompliance are issued to the candidates prior to Board action.

2) The Commission does review the ECCER for any one donor who may contribute more than \$1,000 per candidate per election. Technically, the Commission scrutinizes the names and addresses of the donors ensuring that the \$1,000.00 limitation has not exceeded. The Auditor should have taken the initiative to request such information before making any conclusive remarks without substantial evidence. Also, the Auditor should realize that the Commission is not automated to quickly determine if there is a violator in this regard, since the report is reviewed manually.

The Auditor failed to realize that the Commission staff are trained, not only to handle a specific assignment, but to handle other areas within the Commission as evidently proven by its success and achievement in the conduct of its mission.

FINDINGS: GEC did not establish a complete list of public officials required to file annual Financial Disclosure Statements (FDS).

COMMENTS: 1) Prior to 1982, it was the Territorial Auditor who was responsible for receiving the FDS report for those Officials that fall under the Public Official Financial Disclosure Act. When the Territorial Auditor was abolished, the responsibility was transferred to the Guam Election Commission which lacked the knowledge and skills in the auditing profession. The Board of Directors is not in a position to act as Quasi Auditor. The Commission, for several years, has been requesting for such position or a private auditing firm to conduct the audit of the Financial Disclosure Report, but to no avail. Perhaps the Public Auditor's office can recommend some suggestions for the Commission to obtain a qualified Auditor, and/or propose legislation to transfer this responsibility to the Public Auditor's office. The Commission at this stage is considered a depository for this document. Administratively, the Commission is in compliance with the Act, insuring that "officials", by definition, files an FDS report accordingly.

2) The Commission disagrees with the Auditors findings that a complete list of public officials required to file a FDS was not established. Two types of lists were provided to the Auditor: a list of the "officials" and "former officials". Because of the change in Administration, the Commission monitored the confirmation of new officials with the Legislative Secretary of the Twenty-Third Guam Legislature, who keeps record of confirmed officials. In addition, the Auditor should realize that only those who are confirmed prior to April 22, 1995 shall file the FDS. Also, not all Agency Heads fall within this Act.

The Auditor was informed about several department/agency heads wherein the Commission was uncertain whether or not they fall under the definition of "official". Those department/agencies being the Guam Museum, Guam Public Auditor, Adjutant General of the Guam National Guard, Guam Health Planning & Development Agency and the Territorial Board of Education members.

In regards to the former officials, the Commission ensures that they are notified of their commitment to file the report. The only two ways they can be contacted is by the address they indicate on their prior year report and the voter roster. It is done this way since the Commission cannot predict that they will serve as "officials" for the following year, especially when the Administration's term is coming to an end.

Any document(s) filed with the Commission is open to public scrutiny. As stated earlier, the Commission does not have the knowledge or skills to audit a report, but administratively complies with the Act. The Board of Directors would ensure that all avenues are taken into consideration. Notices of noncompliance are mailed out at least three times to include telephone calls.

Again, the Auditor failed to realize that the Commission staff are trained, not only to handle a specific assignment, but handles other areas within the Commission as evidently proven by its success and achievement in the conduct of its mission.

FINDINGS: GEC did not promptly remit cash collections to Treasurer of Guam.

COMMENTS: It is affirmed that collections were not promptly remitted to Treasurer of Guam. The findings of the discrepancy is commended to the Auditor. Rest assured that this occurrence will cease to exist. The Commission does have in its possession a written procedure of which indicates the submission on a daily basis any collections to the Treasurer of Guam. It is with determination from here on that this procedure shall be adhered accordingly.

FINDINGS: GEC did not have good management of records.

COMMENTS: 1) As stated in the findings of the Auditor, 6,000 affidavits of registration are not on file. This number is unfounded. As the Auditor had claimed, the affidavit of registration was restored, however, the Commission will continuously search to account such affidavits.

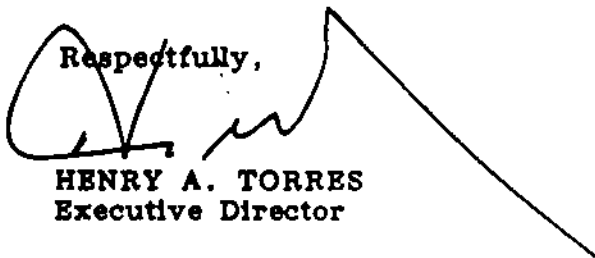
2) The Commission has a Records Retention/Disposition Schedule (copy attached) of all documents to include those identified under Title 3, GCA. The Commission also has a Records Management Handbook and Records Transfer and Receipt which indicates the disposition of records. The Commission believes pursuant to law, that permanent records must be within reach and not transferred to GSA. It is the purview of the Records Management section of GSA to closely communicate with the Commission on any files transferred for disposal purposes. The Commission does protect and secure the integrity of its documents filed in its office.

The Commission does fiscal inventory (calendar year) of its documents to determine the importance of its records and then transmits those for disposal that are no longer valuable to its mission in accordance with the Records Management Act. The Commission will continue to pursue the accountability of every record filed and every affidavit of registration executed by a registrar of the Territory.

During the audit, staff mentioned that the Board of Directors are currently reviewing proposed recommendations for amendments to Title 3, GCA, other than those mentioned in our comments. Until such time that it is approved to submit to the Legislature, your office will receive a copy. Any support you can give in making our proposed legislations enacted is greatly appreciated.

Please contact our office if you have any questions or comments concerning our response.

Respectfully,

A handwritten signature in black ink, appearing to read 'Henry A. Torres', is written over the word 'Respectfully,'. The signature is stylized and extends to the right, ending in a long, thin horizontal stroke.

HENRY A. TORRES
Executive Director

Attachments

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST REGULAR SESSION)

Attachment I-7

BILL NO. _____

INTRODUCED BY: _____

AN ACT TO AMEND SECTION 7109 OF TITLE 3 GUAM
CODE ANNOTATED, CHAPTER 7 BALLOTS

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Section 7109 of Title 3 Guam Code Annotated is amended

to read:

Section 7109. Ballots Furnished to Precincts. For each election, the Commission shall provide each election precinct with (10) ballots for every eight ~~(8)~~ nine (9) or fraction of eight-~~(8)~~ nine (9) voters registered in the election precinct.

BILL NO. _____

INTRODUCED BY: _____

AN ACT TO AMEND SECTION 3121 OF TITLE 3 GUAM
CODE ANNOTATED, CHAPTER 3 VOTERS

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Section 3121 of Title 3 Guam Code Annotated is amended
to read:

Section 3121. Permanence of Records. The registration of a voter is permanent for all purposes during his life, unless and until the affidavit of registration is cancelled by the Commission for any of the causes specified in this Chapter.

~~It shall be the duty of the Commission to send to each registered voter prior to the beginning of registration, a card indicating that he is eligible to vote at the next election without the necessity of registering.~~