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MC Fwd: OPA Report No. 19-04, Government of Guam Procurement Training and Certification

1 message

Speaker's Office <speaker@guamlegislature.org> Mon, Apr 29, 2019 at 1:14 PM
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04-29-19	12:44 PM	04-29-19	OPA Report No. 19-04, Government of Guam Procurement Training and Certification.*	Office of Public Accountability	35GL-19-0429

Sinsenru yan Minagâhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

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2019 APR 29 PM 1:14

---------- Forwarded message ---------
From: **Amacris Legaspi** <alegaspi@guamopa.com>
Date: Mon, Apr 29, 2019 at 12:44 PM
Subject: OPA Report No. 19-04, Government of Guam Procurement Training and Certification
To: <jhernandez@guamopa.com>, <alegaspi@guamopa.com>

Hafa Adai,

Transmitted electronically is OPA Report No. 19-04, Government of Guam Procurement Training and Certification. The report can also be found on our website at http://www.opaguam.org.

Regards,

Amacris V. Legaspi, CGFM

Accountability Auditor
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EXECUTIVE SUMMARY
Government of Guam Procurement Training and Certification
OPA Report No. 19-04, April 2019

Our review of the Government of Guam's (GovGuam) compliance with the Guam Community College (GCC) Procurement Program found that as of calendar year (CY) 2018, only 42 of the 62 GovGuam agencies have at least one employee who obtained Module 1 certification, the basic requirement of the procurement training. Only 26 of those 42 agencies have at least one employee who obtained certification in all four modules. Furthermore, only five of the 62 directors/administrators obtained Module 1 certification, with only two of them obtaining certification in all four modules. GovGuam personnel who are not trained and certified are prohibited from participating in government procurement.

Public Law (P.L.) 32-131 , codified as Title 5 of the Guam Code Annotated (GCA) Chapter 5 §5141 mandates all GovGuam personnel responsible in procuring goods, services, or construction to receive the training and continuing education through the GCC Procurement Program, or equivalent training. GCC administers this program since 2012. GovGuam purchasing personnel are required to obtain the following modules depending on the purchasing capacity they perform:

Module 1: Fundamentals and Principles of Procurement (Basic)
Module 2: The Procurement Solicitation Process (Advanced)
Module 3: The Procurement Review and Remedies (Administrative)
Module 4: The Management and Administration of Procurement (Administrative)

Statistics of Agencies' Compliance with GCC Procurement Program

Our survey from GovGuam agencies showed that as of CY 2018:

- Only 27 of 47 line agencies, including the executive office, have employees who obtained Module 1 certification; 13 of these agencies have employees who were certified in all four modules.
- All 11 autonomous agencies have employees who obtained Module 1 certification. However, three of these agencies have only one to two employees who obtained certification in all four modules.
- The Mayors Council of Guam (MCOG) has 15 employees who obtained Module 1 certification. However, none was certified in all four modules.
- The Judiciary of Guam has seven employees certified in all four modules.
- The Guam Legislature has four employees certified in all four modules. One of them was a Senator from the 34th Guam Legislature.

Office of Public Accountability (OPA) Compliance

The employees of OPA responsible for administering procurement appeals or auditing of the purchasing activities of GovGuam, must receive the procurement training and continuing education to the extent required by law. As a best practice, OPA requires all employees to obtain certification in Modules 1 to 4. As of CY 2018, 10 of 13 OPA employees were certified in all four modules. Currently, the remaining three employees obtained Module 1 certification, and are working on obtaining certification on the remaining three modules.

Doc. No. 35GL-19-0429.*

Decrease in Procurement Appeals
Procurement appeals submitted to OPA revealed the need for further government procurement training. We reviewed the appeals filed from CY 2012 to CY 2018 to determine the impact of the procurement training in addressing this deficiency. We found that appeals filed decreased significantly from 19 in CY 2012, when GCC started provided the procurement training, to eight in CY 2018. Of the eight appeals filed in CY 2018, two of them pertained to prior appeals, and two were consolidated because they were related to the same procurement. Six of the eight appeals were ultimately dismissed, which shows a bigger decline in the number of new appeals filed. GovGuam's partial compliance with P.L. 32-131 may have contributed to the decline in procurement appeals and the likelihood of protests.

Other Matters
Title 5 GCA Chapter 5 specified that the Guam Procurement Advisory Council (the Council) should guide the GCC Procurement Program. Our review found that the Council has been inactive since 2014. As a result, GCC and GovGuam agencies lack the guidance on matters related to the procurement training, such as the continuing education program and determining required attendees. We recommend the Governor and Legislature take action to revive the Council.

Conclusion and Recommendations
Since GCC administered the procurement program in CY 2012, GovGuam agencies have partially complied with the procurement training and certification requirements. The purpose of this program is to ensure that employees are knowledgeable of the Guam Procurement Law in order to effectively and efficiently perform their jobs. Having employees properly trained in procurement may also prevent or reduce the number of procurement protests and appeals.

GovGuam procurement personnel may not participate in the government procurement if they have not obtained the mandated training and certifications. Therefore, we recommend all directors and administrators of line and autonomous agencies, mayors, and their procurement personnel obtain the required training and certifications according to their procurement capacity. To ensure GovGuam executive and legislative officials, and their staff handling procurement, have the basic understanding of the Guam Procurement Law, we recommend that they obtain certification on Module 1 and assess obtaining the additional three modules depending on their procurement involvement.

GCC plays an important role in implementing the procurement training and certification program. As more GovGuam personnel work towards obtaining the mandated training and certifications, we recommend GCC implement the continuing education program in consultation with the Council.

Disclosure
As a matter of disclosure, the Public Auditor was previously the Speaker of the 34th Guam Legislature and the author of P.L. 32-131. OPA, as a best practice, requires all its employees to complete the training and obtain certification in all four modules.

Benjamin J.F. Cruz
Public Auditor

Government of Guam
Procurement Training and Certification

Performance Audit
January 1, 2012 through December 31, 2018

OPA Report No. 19-04
April 2019

Government of Guam
Procurement Training and Certification

Performance Audit
January 1, 2012 through December 31, 2018

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April 2019

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Benjamin J.F. Cruz
Public Auditor

Glossary of Acronyms

AG	Attorney General's Office
BBMR	Bureau of Budget and Management Research
BSP	Bureau of Statistics & Plans
CAHA	Council on the Arts & Humanities Agency
CLTC	Chamorro Land Trust Commission
CME	Chief Medical Examiner
CME	Office of the Chief Medical Examiner
CQA	Customs & Quarantine Agency
CSC	Civil Service Commission
CQA	Customs & Quarantine Agency
CSC	Civil Service Commission
DCA	Department of Chamorro Affairs
DISID	Department of Integrated Services for Individuals with Disabilities
DLM	Department of Land Management
DMA	Department of Military Affairs
DOA	Department of Administration
DOC	Department of Corrections
DOL	Department of Labor
DPHSS	Department of Public Health and Social Services
DPR	Department of Parks and Recreation
DPW	Department of Public Works
DRT	Department of Revenue and Taxation
DYA	Department of Youth Affairs
GCC	Guam Community College
GDOE	Guam Department of Education
GEDA	Guam Economic Development Authority
GFD	Guam Fire Department
GGRF	Government of Guam Retirement Fund
GHC	Guam Housing Corporation
GHURA	Guam Housing & Urban Renewal Authority
GIAA	Guam International Airport Authority
GMHA	Guam Memorial Hospital Authority
GOV	Office of the Governor
GovGuam	Government of Guam
GPA	Guam Power Authority
GPD	Guam Police Department
GPLS	Guam Public Library System
GVB	Guam Visitors Bureau
GWA	Guam Waterworks Authority
KGTF	Guam Educational Telecommunications Corporation
LT. GOV	Office of the Lieutenant Governor
MCOG	Mayors Council of Guam
OPA	Office of Public Accountability
PAG	Port Authority of Guam
PDSC	Public Defender Services Corporation
UOG	University of Guam
VAO	Veteran's Affairs Office

Introduction

This report presents the results of our review of the Government of Guam (GovGuam) entities' compliance with the procurement training and certification required by Public Law (P.L.) 32-131. Our scope covered calendar year (CY) 2012 through 2018, and included all line and autonomous agencies, the Mayor's Council of Guam (MCOG), the Office of Public Accountability (OPA), the Judiciary of Guam (Judiciary), and Guam Legislature (Legislature).

Refer to Appendix 1 for the objective, scope, and methodology.

Background

The objective of GovGuam procurement is to provide agencies with the goods and services they need to carry out their duties to the public efficiently and effectively. Those goods and services must be of the right quality and quantity at the lowest overall cost, and delivered on a timely basis. The procurement process should involve as much competition as possible, to ensure that the opportunity is open and fair to all who choose to do business with GovGuam.

Title 5 of the Guam Code Annotated (GCA) Chapter 5 and Title 2 of the Guam Administrative Rules and Regulations Division 4, collectively known as Guam Procurement Law and Regulations, provide the legal authority and guidance for GovGuam procurement. However, the laws and regulations governing the Guam procurement process are complex. Thus, P.L. 32-131, codified in 5 GCA Chapter 5 §5141, requires procurement personnel to be knowledgeable of the Guam Procurement Law and Regulations in order to effectively and efficiently perform their jobs. Refer to Appendix 2 for excerpts of 5 GCA §5141.

Training and Certification of GovGuam Procurement Personnel

P.L. 32-131 requires the Guam Community College (GCC) establish and administer an integrated program of academic, research, practical training, and continuing education, known as the "GCC Procurement Program" for GovGuam procurement personnel and other interested private or public participants. The law requires GCC to administer at least four modules of basic training, each with at least 18 hours of study and instruction.

GovGuam employees tasked to procure goods, services, or construction are required to receive the training and continuing education through the GCC Procurement Program or equivalent.

Subject matter areas are:

a) Module 1: Fundamentals and Principles of Procurement (Basic) - This is an introduction to the procurement process, specifically understanding the Guam Procurement Law.

b) Module 2: The Procurement Solicitation Process (Advanced) - This examines local Guam laws and regulations covering methods of source selection, including bidding, offers, and other methods of acquisition.

c) Module 3: The Procurement Review and Remedies (Administrative) - This covers the legal aspects of procurement law dispute and review processes, and the remedies available. This examines three types of disputes, including those involving solicitation or award of contracts.

d) Module 4: The Management and Administration of Procurement (Administrative) - This covers the management and administration of the entire procurement process, from inception to contract termination and closeout.

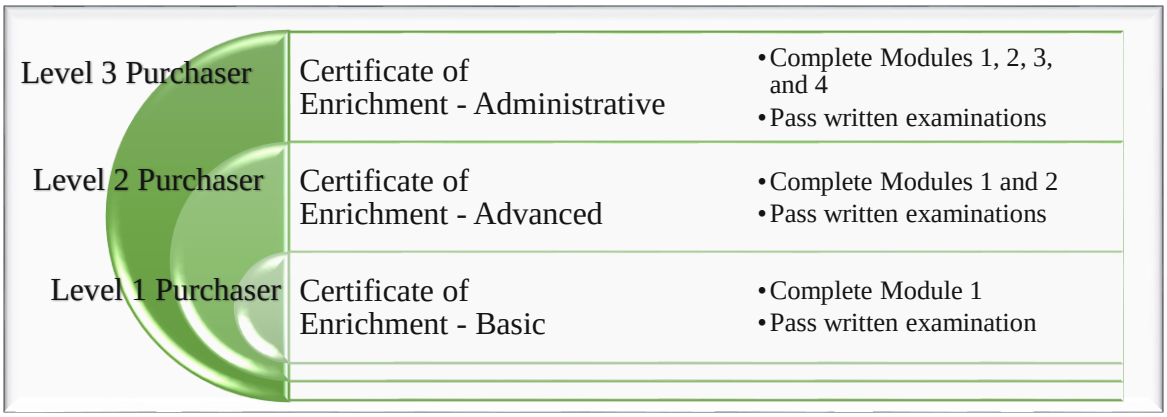
OPA employees responsible for administering procurement appeals or auditing the purchasing activities of GovGuam, must receive the procurement training and continuing education. GovGuam purchasing personnel and OPA are required to take these modules depending on the capacity they perform.

1. Level One Purchaser - which includes the procurement requisition approver, is required to obtain a Certificate of Enrichment (Basic) by taking Module 1 and passing the required written examination.

2. Level Two Purchaser - is required to obtain a Certificate of Enrichment (Advanced) by completing Modules 1 and 2, pass the written examinations, and a minimum number of years of purchasing experience prescribed by the Department of Administration (DOA).

3. Level Three Purchaser – which includes the Chief Procurement Officer (CPO), Procurement Administrator, Supply Management Administrator, Procurement Officer, or Head of Procurement, is required to obtain a Certificate of Enrichment (Administrative) by completing Modules 1 through 4, pass the written examinations, and a minimum number of years of purchasing experience as prescribed by DOA.

Chart 1: GovGuam Procurement Program



GCC is administering the GCC Procurement Program since CY 2012. The law requires reasonable hours of continuing education to maintain the certification level for each section administered by GCC in consultation with the Guam Procurement Advisory Council (the Council).

Results of Audit

Our review of GovGuam's compliance with the mandated procurement training and certification found that as of CY 2018, only 42 of the 62 GovGuam agencies have at least one employee who obtained Module 1 certification, the basic requirement of the procurement training. Only 26 of those 42 agencies have at least one employee who obtained certification in all four modules.

Furthermore, only five of 62 directors/administrators obtained Module 1 certification, with only two of them obtaining certification in all four modules. GovGuam personnel who have not obtained the mandated training and certifications are prohibited from participating in the government procurement.

Our review also found that:

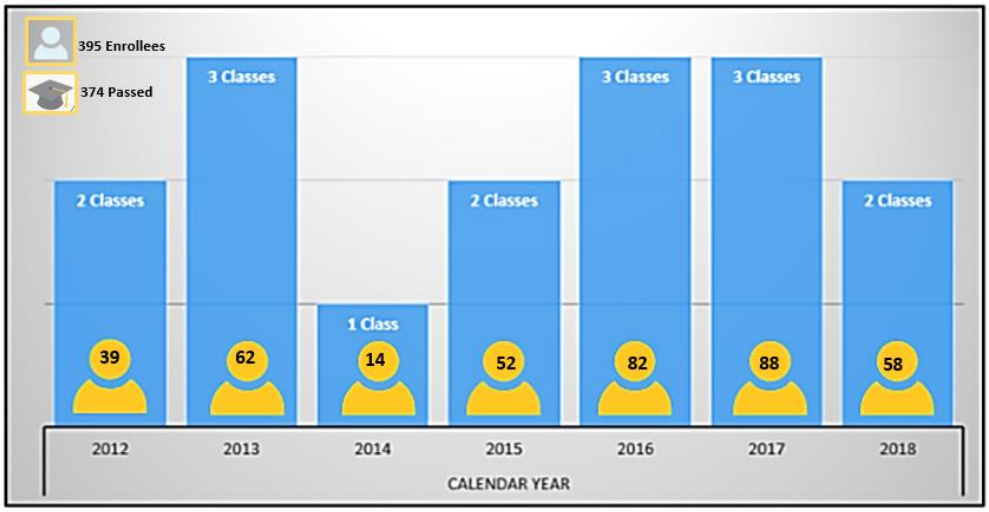
- Only 27 of 47 line agencies, including the executive office, have employees who obtained Module 1 certification; 13 of these agencies have employees who are certified in all four modules.
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- MCOG has 15 employees who obtained Module 1 certification, but no employee was certified in all four modules.
- The Judiciary has seven employees certified in all four modules.
- The Legislature has four employees certified in all four modules, one of them was a Senator from the 34th Guam Legislature.
- OPA has 10 of 13 employees certified in all four modules.

The employees of OPA responsible for administering procurement appeals or auditing of the purchasing activities of GovGuam, must receive the procurement training and continuing education to the extent required by law. As a best practice, OPA requires all employees to obtain certification in Modules 1 to 4.

GCC Procurement Program

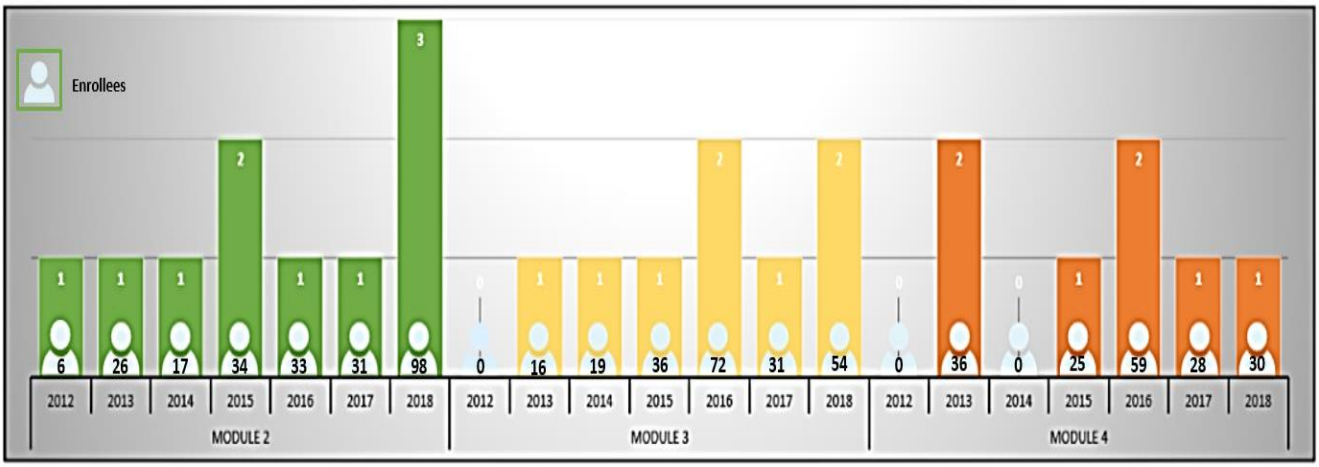
From CY 2012 to CY 2018, GCC has conducted 16 Module 1 classes, with an average of 2-3 classes per year. Enrollees during these periods totaled 395 employees, however, only 374 obtained certification. Refer to Figure 1.

Figure 1: Module 1 Enrollees (CY 2012 to CY 2018)



Module 1 is a pre-requisite in order to take any of the remaining three modules. Modules 2 to 4 are required for higher levels of procurement responsibility and can be taken in any order. From CY 2012 to CY 2018, GCC administered ten classes on Module 2, eight classes on Module 3, and seven classes on Module 4. Refer to Figure 2.

Figure 2: Modules 2-4 Enrollees (CY 2012 to CY 2018)



In comparison with Module 1, which has 395 enrollees, Modules 2, 3, and 4 had 245, 228, and 178 enrollees, respectively. This is less because the minimum requirement for GovGuam employees handling procurement activities is to obtain Module 1 certification.

Statistics of GovGuam Agencies' Procurement Certifications

We conducted a survey of all GovGuam agencies, to include all line and autonomous agencies, MCOG, Judiciary, and Legislature. We asked the number of personnel handling procurement and number of personnel who obtained the certification. Refer to Appendix 3 for the survey questions. We compared the results of the survey with procurement training data from GCC. Note that the period for our review was as of CY 2018, which would fall under the previous administration. In

addition, the position and agency of the employees listed in GCC's file may have already changed, but was not updated.

Executive Branch

The executive branch consists of five divisions: executive office, autonomous agencies, line agencies, MCOG, and OPA. GSA handles procurement for the line agencies, executive office, and certain autonomous agencies, but GSA's scope of service excludes procurement of professional services. The procurement of professional services is handled by the respective agencies. For goods and services, GSA requires agencies to submit purchase requisitions through the AS400 system and approved by the respective director.

a. Executive Office

Although we did not receive any response from the former Governor's office, data from GCC showed five employees attended Module 1, of which three completed all four modules. As for the former Lt. Governor's office, the response from the survey showed one staff handled the procurement. However, based on GCC data, no staff attended the class. Note that the data presented was from the prior administration. Refer to Figure 3.

Figure 3: Executive Office

Agency Name	No. of Employees Handling Procurement per OPA Survey	No. of Employees with Procurement Certification per GCC				
		Module 1	Module 2	Module 3	Module 4	All Modules
Governor's Office	No Response	5	3	3	3	3
Lt. Governor's Office	1	0	0	0	0	0

b. Autonomous Agencies

Employees who assist in any of the procurement activities are required to obtain certification depending on the level of their purchasing responsibility. Moreover, anyone acting in the same capacity as the CPO should obtain certification on all four modules.

Eight autonomous agencies, which include GEDA, GMHA, GPA, GHURA, GVB, UOG, GWA, and GCC, handle their own procurement. All other autonomous agencies, such as GHC, GIAA, and PAG, procure through GSA. Note that the Directors/Agency Head and unclassified employees were from the prior administration.

Since GSA requires requisitions approved by the director, and for the agencies to handle their own procurement of professional services, there should have been more than one required attendee. However, based on Figure 4, certain agencies have only one personnel who has attended the procurement training. By having only one employee trained on procurement, an agency may not be fully equipped with the proper procurement knowledge and practices.

We noted:

- GEDA's response to the survey showed only one employee handles their procurement. GEDA has only one employee who obtained certification on all four modules and one other employee on three modules.

- GHC's response to the survey showed only one employee handles their procurement. This employee did not complete all four modules.
- GVB did not respond to the survey. Per GCC data, GVB has only one employee who obtained certification in Module 4.

Moreover, of the 11 autonomous agencies, no Director/Agency Head obtained any of the procurement certifications.

Figure 4: Autonomous Agencies

No.	Agency Name	No. of Employees Handling Procurement per Survey	No. of Employees with Procurement Certification per GCC				
			Module 1	Module 2	Module 3	Module 4	All Modules
1	Guam Community College (GCC)	6	9	8	7	8	7
2	Guam Economic Development Authority (GEDA)	1	2	2	1	2	1
3	Guam Housing & Urban Renewal Authority	11	16	11	10	11	10
4	Guam Housing Corporation (GHC)	1	1	1	0	1	0
5	Guam International Airport Authority (GIAA)	7	11	7	9	8	7
6	Guam Memorial Hospital Authority (GMHA)	6	8	8	8	8	8
7	Guam Power Authority (GPA)	16	27	21	18	15	15
8	Guam Waterworks Authority (GWA)	7	14	13	6	7	6
9	Port Authority of Guam (PAG)	14	17	12	9	8	7
10	Guam Visitors Bureau (GVB)	No Response	1	1	1	1	1
11	University of Guam (UOG)	No Response	13	9	5	4	4
	TOTAL	**69**	**119**	**93**	**74**	**73**	**66**

c. Line Agencies

Of the 47 line agencies, 42 responded to the survey. Five agencies (DOL, GACS, CQA, PUC, and PDSC) did not respond. Again, the Directors/Agency Heads and unclassified employees were from the prior administration. The data obtained from the survey and GCC showed that only 28 agencies have employees who obtained certification on Module 1. Of the 28, 13 agencies have at least one employee with certification on all four modules. Refer to Figure 5.

The survey showed that only nine of the 42 agencies identified Directors/Agency Heads who handle procurement. Only five agency heads obtained Module 1 certification and only two were certified in all four modules.

Of the 42 who responded to the survey, 21 agencies identified only one to two required attendees for their agency. Given that the preparation of the requisitions or procurement of professional services involves at least three employees, this suggests that agencies lack the understanding of who should take the procurement training.

Figure 5: Line Agencies

No.	Agency Name	No. of Employees Handling	No. of Employees with Procurement Certification per GCC				
			Module 1	Module 2	Module 3	Module 4	All Modules
1	Attorney General's Office (AG)	2	5	3	3	3	3
2	Bureau of Budget & Management (BBMR)	1	1	1	0	0	0
3	Bureau of Statistics and Planning (BSP)	3	0	0	0	0	0
4	Civil Service Commission (CSC)	1	0	0	0	0	0
5	Commission on Decolonization	1	0	0	0	0	0
6	Contractor's License Board (CLB)	2	3	1	0	0	0
7	Customs and Quarantine Agency Guam (CQA)	No Response	0	0	0	0	0
8	Department of Administration (DOA)	5	20	9	6	8	2
9	Department of Agriculture	5	0	0	0	0	0
10	Department of Chamorro Affairs (DCA)	8	1	0	0	0	0
11	Department of Corrections (DOC)	3	5	0	2	3	0
12	Department of Integrated Services for Individuals with Disabilities (DISID)	2	0	0	0	0	0
13	Department of Labor (DOL)	No Response	0	0	0	0	0
14	Department of Land Management (DLM)	2	2	2	2	2	2
15	Department of Military Affairs (DMA)	2	1	0	0	0	0
16	Department of Parks & Recreation (DPR)	3	0	0	0	0	0
17	Department of Public Health & Social Services (DPHSS)	46	60	13	18	17	8
18	Department of Public Works (DPW)	5	7	0	1	0	0
19	Department of Revenue & Taxation (DRT)	1	0	0	0	0	0
20	Department of Youth Affairs (DYA)	6	9	4	2	4	2
21	Government of Guam Retirement Fund (GGRF)	2	2	0	0	0	0
22	Guam Academy Charter School (GACS)	No Response	1	0	0	0	0
23	Guam Behavioral Health & Wellness Center (GBHWC)	9	4	1	1	1	0
24	Guam Board of Accountancy	2	2	1	1	1	1
25	Guam Board of Registration for Professional Engineers, Architects and Land Surveyors (PEALS)	3	3	2	2	2	2
26	Guam Commission For Educator Certification (GCEC)	2	0	0	0	0	0
27	Guam Department of Education (GDOE)	10	25	16	17	18	13
28	Guam Developmental Disabilities Council	2	0	0	0	0	0
29	Guam Election Commission (GEC)	3	5	4	1	2	1
30	Guam Energy Office (GEO)	2	2	0	0	0	0
31	Guam Environmental Protection Agency (GEPA)	3	4	0	1	2	0
32	Guam Fire Department (GFD)	1	0	0	0	0	0
33	Guam Homeland Security/Office of Civil Defense (GHS/OCD)	7	2	1	1	1	1
34	Guam Police Department (GPD)	7	7	3	5	5	3
35	Guam Preservation Trust (GPT)	2	0	0	0	0	0
36	Guam Public Defenders Service Corporation (GuamPDSC)	No Response	1	0	0	0	0
37	Guam Regional Transit Authority (GRTA)	3	5	2	1	1	1
38	Guam Solid Waste Authority (GSWA)	6	4	3	2	1	0
39	Guam Veterans Affairs Office	1	0	0	0	0	0
40	Ilearn Academy Charter School (ILACS)	2	4	0	0	0	0
41	Office of Technology	4	0	0	0	0	0
42	Office of the Medical Examiner	1	0	0	0	0	0
43	Public Utilities Commission (PUC)	No Response	0	0	0	0	0
44	Science is Fun Academy (SIFA)	1	0	0	0	0	0
45	Serve Guam! Commission	1	0	0	0	0	0
	TOTAL	**172**	**185**	**66**	**66**	**71**	**39**

d. MCOG

Of the 19 mayor's offices, only six responded to our survey. Based on the six responses, one to two employees handle procurement for each office. GCC data showed 14 employees obtained certification on Module 1, but none on other modules. Refer to Figure 6. Further, none of the Mayors obtained certification on Module 1.

Figure 6: Mayor's Council of Guam

Agency Name	No. of Employees Handling Procurement per Survey	No. of Employees with Procurement Certification per GCC				
		Module 1	Module 2	Module 3	Module 4	All Modules
Mayor's Council of Guam	5	14	0	0	0	0

e. OPA

Title 5 GCA Chapter 5 §5141(b) requires any person within the OPA responsible for administering procurement appeals or auditing of the purchasing activities of GovGuam to receive the procurement training and continuing education to the extent required by law. As a best practice, OPA requires all employees to obtain certification in Modules 1 to 4.

As of CY 2018, 10[1] of the 13 OPA employees obtained certification on all four modules. The remaining three employees obtained certification in Module 1. Refer to Figure 7.

Figure 7: Office of Public Accountability

Agency Name	No. of Employees Handling Procurement per Survey	No. of Employees with Procurement Certification per GCC				
		Module 1	Module 2	Module 3	Module 4	All Modules
Office of Public Accountability (OPA)	13	19	14	14	11	11

Judicial Branch

Three employees handle the Judiciary's procurement per survey. GCC data showed that nine employees obtained Module 1 certification, of which seven employees obtained certification on all four modules. Refer to Figure 8.

Figure 8: Judicial Branch

Agency Name	No. of Employees Handling Procurement per Survey	No. of Employees with Procurement Certification per GCC				
		Module 1	Module 2	Module 3	Module 4	All Modules
Judiciary of Guam	3	9	8	8	7	7

Legislative Branch

Based on the survey response, one employee handles procurement. GCC data showed seven employees obtained certification on Module 1, and four obtained certification on all four modules. Note that the data obtained from the survey was from the 34th Legislature while GCC included senators and staff of the 32nd to 34th Legislature. Refer to Figure 9.

[1] Based on GCC data, at the end of CY 2018, OPA had 11 employees listed who completed all four modules. Two employees left the office and one other employee who completed all four modules was listed under a different agency.

We further reviewed the data we received from GCC to determine the attendance of Senators and found that only one from the 34th Guam Legislature has completed all four modules. The rest of the procurement training attendees were administrative staff.

Figure 9: Legislative Branch

Agency Name	No. of Employees Handling Procurement per Survey	No. of Employees with Procurement Certification per GCC				
		Module 1	Module 2	Module 3	Module 4	All Modules
Guam Legislature	1	7	4	4	5	4

Only GovGuam personnel, who obtained certification based on the GCC Procurement Program or equivalent, may participate in GovGuam procurement. Therefore, we recommend all directors, agency heads, and mayors obtain the required procurement certification and ensure their staff also receive the necessary level of procurement certifications.

To ensure our executive and legislative officials and staff handling procurement, have the basic understanding of the Guam Procurement Law, we recommend they obtain Module 1 certification and assess obtaining the additional three modules depending on their procurement involvement.

Decrease in Procurement Appeals from CY 2012 to CY 2018

Procurement appeals are complaints by aggrieved persons against the purchasing agency's decision on: a) protest of method, solicitation or award; b) debarment or suspension; c) contract or breach of contract controversy; d) award determination during a pending protest or appeal; or e) other matters. Title 1 GCA §1909(k) mandated the Public Auditor to hear and decide on procurement appeals. The procurement appeals submitted to OPA revealed the need for further government procurement training. This was addressed when the Legislature passed P.L. 32-131.

Since GCC administered the training in CY 2012, procurement appeals have significantly decreased from 19 in CY 2012 to eight in CY 2018. Of the eight appeals filed in CY 2018, two of them pertained to prior appeals, and two were consolidated because they were related to the same procurement. Six of the eight appeals were ultimately dismissed, which shows a bigger decline in the number of new appeals filed at OPA. Refer to Figures 10 and 11.

Figure 10: Number of Procurement Appeals - CY 2012 to CY 2018

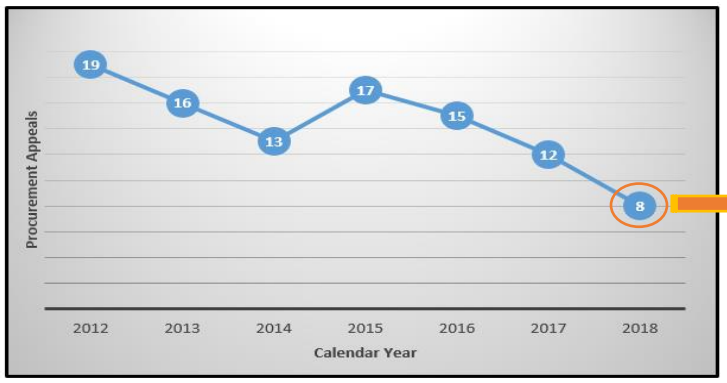


Figure 11: CY 2018 Appeals Disposition

Appeal No.	Status	Related/Consolidated with Prior Appeals
OPA-PA-18-001	Decision	-
OPA-PA-18-002	Dismissed	Related to OPA-PA-15-009
OPA-PA-18-003	Dismissed	Consolidated with OPA-PA-18-005
OPA-PA-18-004	Decision	Related to OPA-PA-12-016/017/018
OPA-PA-18-005	Dismissed	Consolidated with OPA-PA-18-003
OPA-PA-18-006	Dismissed	-
OPA-PA-18-007	Dismissed	-
OPA-PA-18-008	Dismissed	-

GovGuam's partial compliance with P.L. 32-131 may have contributed to the decline in procurement appeals and decreased the likelihood of protests. This is one indication that providing

appropriate training to employees handling GovGuam procurement equips them with the necessary knowledge in order to perform their job efficiently and effectively and overall, achieve the objective of GovGuam procurement.

Other Matters

Inactive Guam Procurement Advisory Council

Title 5 GCA Chapter 5 §5141(c) specified that guidance on the GCC Procurement Program will be provided by the Council. The establishment of the Council aimed not only to provide guidance to GCC, but more so, to improve the current GovGuam procurement process. Our review found that the Council has been inactive since 2014. As a result, GCC and GovGuam agencies do not have the guidance it needs on matters related to the procurement training.

The Council is different from the Procurement Policy Office, which was reactivated under Executive Order No. 2019-10 (refer to Appendix 5) in April 2019. They each have separate duties. The Council's purpose is to research, evaluate, analyze, review, and make recommendations to improve, address, and modernize government procurement and contracting, while the Procurement Policy Office is to promulgate regulations.

We recommend the Governor and Legislature revive the Council.

Required Continuing Education Program

Title 5 GCA Chapter 5 §5141(g) requires GCC, in consultation with the Council, to administer a continuing education program for those who were granted certifications for Modules 1, 2, 3, and 4. The renewal of the certification may be on a yearly basis or another reasonable renewal period.

We learned that there is no specific continuing education program in place. According to GCC, an alternative to achieve the continuing education requirement is for those certified individuals to attend Modules 2 to 4 as a refresher course.

As more GovGuam personnel work towards obtaining the mandated training and certifications, we recommend GCC implement the continuing education program in consultation with the Council.

Conclusion and Recommendations

Since GCC administered the procurement program, GovGuam agencies have partially complied with the required procurement training and certification. The purpose of this program is to ensure that employees are knowledgeable of the Guam Procurement Law and Regulations in order to effectively and efficiently perform their jobs. In addition, having employees properly trained in procurement may also prevent or reduce the number of procurement protest and appeals.

GovGuam procurement personnel may not participate in the government procurement if they have not obtained the mandated training and certifications. Therefore, we recommend all directors and administrators of line and autonomous agencies, and mayors, and their procurement personnel, obtain the required training and certifications according to their procurement capacity. To ensure GovGuam executive and legislative officials, and staff handling procurement, have the basic understanding of the Guam Procurement Law, we recommend that they obtain certification on Module 1 and assess obtaining additional three modules depending on their procurement involvement.

GCC plays an important role in implementing the procurement training and certification program. As more GovGuam personnel work towards obtaining the mandated training and certifications, we recommend GCC implement the continuing education program in consultation with the Council.

Classification of Monetary Amounts

Findings Description	Questioned Costs	Potential Savings	Unrealized Revenues	Other Financial Impact
1. GCC Procurement Program	-	-	-	-
2. Statistics of GovGuam Agencies' Procurement Certifications	-	-	-	-
3. Decrease in Procurement Appeals	-	-	-	-
4. Decrease in Procurement Appeal	-	-	-	-
5. Other Matters				
a. Inactive Guam Procurement Advisory Council	-	-	-	-
b. Required Continuing Education Program	-	-	-	-
TOTAL	-	-	-	-

Management Response and OPA Reply

In April 2019, we provided draft reports to the President of GCC and the Oversight Chairman on Procurement of the 35th Guam Legislature. In the same month, we met with GCC as well as the Oversight Chairman, to discuss the findings and recommendation. GCC and the Oversight Chairman generally concurred with our findings and recommendations.

GCC, the administrator of the procurement training, provided a management response. Refer to Appendix 4.

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

We appreciate the cooperation shown by GCC and all GovGuam agencies during the course of this audit.

OFFICE OF PUBLIC ACCOUNTABILITY

Benjamin J.F. Cruz
Public Auditor

Appendix 1:
Objective, Scope & Methodology

The objective of our review was to report GovGuam agencies compliance to the procurement training and certification requirement of P.L. 32-131.

The scope of our analysis were:

a. Procurement training administered from CY 2012 to CY 2018; and
b. GovGuam agencies, which include all line and autonomous agencies, MCOG, OPA, Judiciary, and Legislature.

There were no prior audits related to procurement training and certification.

Audit Methodology

To accomplish our objective, we reviewed laws, policies, and prior audits related to the GCC Procurement Program. We also performed the following audit procedures:

1. Obtained an understanding of the procurement program by conducting interviews with GCC personnel.

2. Obtained and analyzed data from GCC:
    a. Attendees of the GovGuam procurement classes from CY 2012 to CY 2018; and
    b. Procurement classes administered from CY 2012 to CY 2018.

3. Conducted a survey of all GovGuam agencies to include the following:
    a. Executive office,
    b. Line agencies,
    c. Autonomous agencies,
    d. MCOG,
    e. Judiciary, and
    f. 34th Guam Legislature.

We conducted this audit in accordance with the Generally Accepted Auditing Standards issued by the Comptroller General of the United States. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Excerpts of 5 GCA Chapter 5

§ 5141. Training and Certification of Purchasing Personnel and Vendors.

(a) GCC Procurement Program. GCC shall establish and administer an integrated program of academic, research, practical training, and continuing education, […] to be known as the "GCC Procurement Program."

(b) Mandatory Certification and Continuing Education. Notwithstanding any other provision of law or this Chapter and effective October 1, 2016, all GovGuam personnel tasked with the responsibility of purchasing or otherwise procuring goods, or services, or construction, including those employed by agencies with authority to conduct their own procurement, as well as any person within the OPA responsible for administering procurement appeals or auditing of the purchasing activities of GovGuam, must receive the training and continuing education to the extent required under this Section and offered by the GCC in consultation with the Council. A GovGuam employee who is required to receive the training may not participate in purchases by the employing agency *unless* the employee has received the required training or received equivalent training from a national association recognized by the GCC and the Council, which *shall* be the judge of equivalency. […]

(c) Consultation with the Guam Procurement Advisory Council. The Council shall, on an annual basis and to the extent of its resources, advise and consult with the GCC regarding the professional education programs contained in this Section, […]

(d) Basic Training Requirements. GCC shall provide at least four (4) modules of Procurement basic training, each with at least eighteen (18) hours of study and instruction, or more, as the GCC may determine as necessary, and shall award a Certificate of Enrichment of training to those qualifying, as required by this Section, for each module of the following subject matter areas:

Module 1. Fundamentals and Principles of Procurement (Basic).
Module 2. The Procurement Solicitation Process (Advanced).
Module 3. The Procurement Review and Remedies (Administrative).
Module 4. The Management and Administration of Procurement (Administrative).

(g) Continuing Education for Procurement Training. In consultation with the Council, the GCC *shall* require a reasonable number of hours of continuing education to maintain a certification level for each Certificate of Enrichment required in this Section. […] Maintenance of the certification level may be by yearly renewal or another reasonable renewal period comparable to nationally recognized certification requirements.

(h) Requirement of Certificate of Enrichment (Basic). The GCC's prerequisites for awarding a Certificate of Enrichment (Basic) must include the completion of the first module of procurement basic training and passage of a written examination prescribed by the GCC. From October 1, 2016, no person shall serve in the capacity of a level one purchaser, and no person shall sign for any procurement requisition, without the Certificate of Enrichment (Basic) provided by the GCC.

(i) Requirement of Certificate of Enrichment (Advanced). The GCC's prerequisites for awarding a Certificate of Enrichment (Advanced) must include the completion of the first and second modules of procurement basic training and passage of a written examination prescribed by the GCC. From October 1, 2016, no person shall serve in the capacity of a level-two purchaser, without a Certificate of Enrichment (Advanced) provided by the GCC, and a minimum number of years of purchasing experience as prescribed by the DOA. Recognizing that the GCC has been providing procurement basic training since 2012 that covers the subject matter in the first and second basic training modules required in this Section, the GCC may allow attendance at any such training given as credit toward any certification required without examination until such time as the GCC has implemented testing for such training.

(j) Requirement of Certificate of Enrichment (Administrative). The GCC's prerequisites for awarding a Certificate of Enrichment (Administrative) must include the completion of the first, second, third, and fourth modules of procurement basic training and passage of a written examination prescribed by the GCC. From October 1, 2016, no person shall serve in the capacity of a CPO or Procurement Administrator, or as a classified employee in the position of supply management administrator, procurement officer, or otherwise as the responsible head of procurement, or a level-three purchaser, of any GovGuam entity, including any governmental body, public corporation, semi-autonomous or autonomous agency, within or under the purview of the Executive Branch, without a Certificate of Enrichment (Advanced) provided by the GCC and a minimum number of years of purchasing experience as prescribed by the DOA.

§ 5101. Creation and Membership of the Procurement Policy Office.

(a) Policy Office Created. There is created in the Office of the Governor the Procurement Policy Office, which in this Chapter is referred to as the Policy Office.

(b) Membership of the Policy Office. The Policy Office shall consist of three (3) officers or employees of the GovGuam appointed by the Governor, the Director of Public Works, and the DOA, who shall serve as the chairperson. None of the three members appointed by the Governor shall act concurrently as Procurement Officer nor shall any of such members subordinates, unless such members are directors of agencies or instrumentalities act as Procurement Officer.

Excerpts of 5 GCA Chapter 5

§ 5102. Authority and Duties of the Policy Office. Except as otherwise provided in this Chapter, the Policy Office shall have the authority and responsibility to promulgate regulations, consistent with this Chapter, governing the procurement, management, control and disposal of any and all supplies, services and construction to be procured by the Territory. The Policy Office shall consider and decide matters of policy within the provision of this Chapter including those referred to it by the CPO or the Director of Public Works. The Policy Office shall have the power its regulations and the requirements of this Chapter, but shall not exercise authority over the award or administration of any particular contract, or over any dispute, claim, or litigation pertaining thereto, except that the CPO and the Director of Public Works shall exercise such authority in accordance with the provisions of this Chapter.

§ 5900. Guam Procurement Advisory Council. There is hereby established within the GovGuam, the Council to research, evaluate, analyze, review, and make recommendations to improve, address, and modernize government procurement and contracting.

§ 5901. Composition. The Council shall be comprised of the following members:

(a) a senior member of the Governor's staff designated by the Governor of Guam, who shall serve as an ex-officio member; and who shall serve as interim Chairperson and shall call for its first meeting within fifteen (15) days of enactment; such meeting for possible election of the Chairperson;
(b) the Attorney General of Guam or his designee;
(c) the Public Auditor or his designee;
(d) the Compiler of Laws;
(e) the CPO;
(f) the Director of Administration;
(g) the Director of Public Works;
(h) an attorney in private practice admitted to the Guam Bar with procurement experience, selected by the Guam Bar;
(i) a Guam resident experienced in procurement from the construction industry selected by the Governor;
(j) A Guam resident experienced in procurement from the retail or service sector selected by the Governor;
(k) The Chairman of the Board of Accountancy; and
(l) The Dean of the School of Business and Public Administration of the University of Guam.
(m) The Council shall elect its Chairperson.

Excerpts of 5 GCA Chapter 5

§ 5902. Duties.

The Council is empaneled to perform the following duties:

(a) To conduct studies, research and analysis on all matters relating to the effectiveness, responsiveness and timeliness of government procurement, including the review and comparison with model procurement code legislation and consultation with division heads, school principals and other mid-level managers, and end users of government procured goods and services;

(b) To critically examine the substantive and procedural aspects of the Guam Procurement Act and existing administrative rules and regulations governing procurement, including the legal authorities, composition, and effectiveness of the Procurement Policy Office;

(c) To review the legal infrastructure of the government procurement system to ensure the uniformity of law, regulation and practice;

(d) To propose recommendations for the improvement and modernization and the use of "best value" and "performance based" methods as the basis for evaluation of government procurement activities;

(e) To make recommendations and identify methods to address new industries and technologies and financial systems, while maintaining the general principles of procurement law;

(f) To review, make recommendations and provide advice on any aspect of law, regulation or policy that affect procurement, including laws and processes not directly found in the Guam Procurement Act; and

(g) To review the statutes and process for procurement appeals and recommend improvements, if any.

Survey Questionnaire

Compliance with P.L. 32-131, Procurement Training and Certification

* Required

1. Email address *

2. Agency *

3. Name of Agency Contact Person *

4. Email for Contact Person *

5. Phone Number for Contact Person *

6. How many personnel in your agency handle procurement? *

7. Please provide a listing of all personnel (name and job title) who handle procurement in your agency. *

8. How many personnel who handle procurement in your agency have taken Module 1, Fundamentals and Principles of Procurement (Basic), offered by the Guam Community College? *

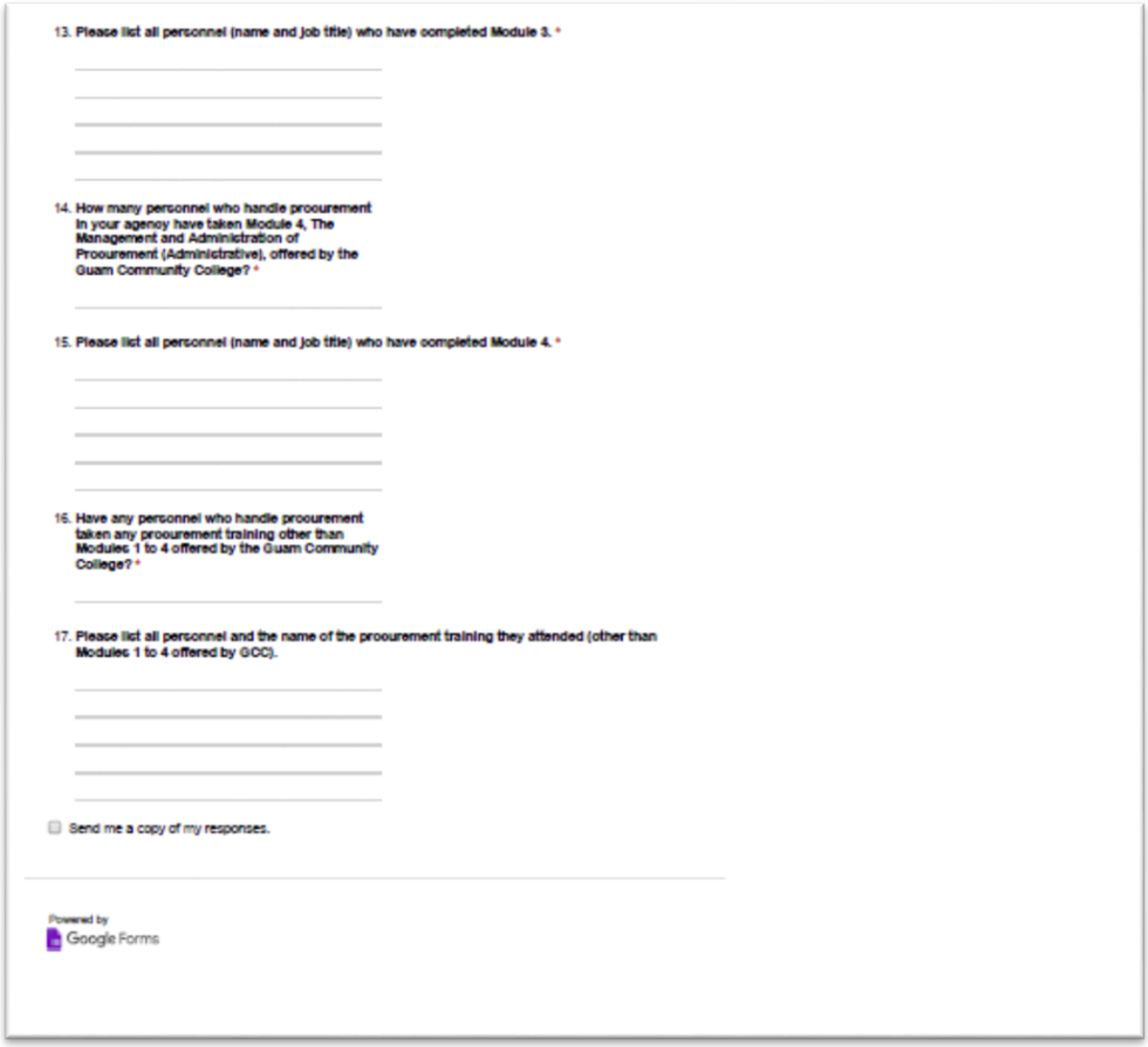
9. Please list all personnel (name and job title) who have completed Module 1. *

10. How many personnel who handle procurement in your agency have taken Module 2, The Procurement Solicitation Process (Advanced), offered by the Guam Community College? *

11. Please list all personnel (name and job title) who have completed Module 2. *

12. How many personnel who handle procurement in your agency have taken Module 3, The Procurement Review and Remedies (Administrative), offered by the Guam Community College? *

Survey Questionnaire



13. Please list all personnel (name and job title) who have completed Module 3. *

14. How many personnel who handle procurement in your agency have taken Module 4, The Management and Administration of Procurement (Administrative), offered by the Guam Community College? *

15. Please list all personnel (name and job title) who have completed Module 4. *

16. Have any personnel who handle procurement taken any procurement training other than Modules 1 to 4 offered by the Guam Community College? *

17. Please list all personnel and the name of the procurement training they attended (other than Modules 1 to 4 offered by GCC).

Send me a copy of my responses.

Powered by Google Forms

GCC Management Response

GUAMCOMMUNITYCOLLEGE

OFFICE OF THE PRESIDENT
Mary A.Y. Okada, Ed.D.

April 22, 2019
Benjamin J.F. Cruz
Public Auditor
Office of Public Accountability
Suite 401 DNA Building
238 Archbishop Flores Street
Hagatna, Guam 96910

In response to the Office of Public Accountability draft Audit Report – Government of Guam Procurement Training and Certification, the Guam Community College concurs with the findings, conclusion, and recommendations of the report. However, we offer the following revision as per our review of the draft report, discussions during the interviews, and the exit meeting with the OPA team.

1. Page 2, Executive Summary (2nd to the last paragraph) and Page 13 (last paragraph) under Conclusion and Recommendations) , revise the last sentence to read:

   "As more GovGuam personnel work towards obtaining the mandated training and certifications, we recommend GCC consider and implement the continuing education program *in consultation with the Guam Procurement Advisory Council. The Council has an integral role in providing the necessary guidance for the continuing education program. We suggest the Governor and Legislature take action to revive the Council. However, it is important to note that the Governor has exercised her authority under Executive Order No. 2019-10 to reactivate the Procurement Policy Office.*

   Further, in terms of the required purchasing experience, we recommend the Department of Administration consider and implement as prescribed by P.L. 32-131 the minimum number of years of purchasing experience relative to the levels of Certification." We suggest this information be provided government-wide for agencies to use to determine qualification of the level of experience with the level of certification as required by the law.

This revision to the aforecited sections in the Executive Summary and under Conclusion and Recommendations is based on the following;

1. The inclusion of the Guam Procurement Advisory Council is essential to the continued success of the Procurement Program. The Council plays an integral role to provide the guidance to GCC in the planning and development of the Procurement Program as referenced in P.L. 32-131 in order to raise the standard of professional expertise in the field through the continuing education program.

GCC is an equal opportunity provider and employer. Individuals requiring special accommodations, auxiliary aids, or services please contact 735-5597.
P.O. Box 23069, GMF, Barrigada, Guam 96921 • gcc.president@guamcc.edu • Phone: (671) 735-5700/5638 | Fax: (671) 734-1003 • www.guamcc.edu

GCC Management Response

2. The Governor of Guam signed the Executive Order No. 2019-10 on April 2, 2019 to reactivate the Procurement Policy Office.

3. P.L. 32-131 states the Department of Administration's (DOA) role in determining the minimum years of purchasing experience for the levels of Certification. The DOA's expertise is required in this effort especially because job titles, specifications and classifications are varied throughout all branches of the Government of Guam. The DOA's ability to set the minimum years of purchasing experience for relative positions would be able to serve as the standard to be applied government-wide for the levels of certification in procurement, inclusive of semi-autonomous and autonomous agencies.

4. A student who successfully completes each procurement module is awarded a Certificate of Enrichment and CEUs based on GCC's accreditation standards. Therefore, this same Certificate of Enrichment may be used by the Department of Administration and government agencies along with the DOA standard of the number of minimum years of purchasing experience to determine that the individual has met the level of certification required by law.

Should you have any questions or concerns, please call Rowena Ellen Perez, Assistant Director, Continuing Education and Workforce Development at 735-5574/5640 or via email at rowenaellen.perez@guamcc.edu.

Sincerely,

Mary A.Y. Okada, Ed.D.
President

GCC Letter of Response to OPA
April 22, 2019
Page 2 of 2

Executive Order No. 2019-10 (Procurement Policy Office)

ISLAND OF GUAM
OFFICE OF THE GOVERNOR
HAGÅTÑA, GUAM 96932
U.S.A.

Executive Order No. 2019-10

RELATIVE TO THE REACTIVATION OF THE PROCUREMENT POLICY OFFICE AND ASSISTANCE TO GENERAL SERVICES AGENCY

WHEREAS, the current execution of the Guam Procurement Law has shown to be inefficient, causing unnecessary transaction costs for all governmental entities at all levels; and

WHEREAS, an unacceptable number of government projects and purchases are delayed due to ineffective practices; and

WHEREAS, the Government of Guam has returned millions of dollars to federal agencies based on its inability to properly spend the funds within a timely manner; and

WHEREAS, the Procurement Policy Office has not been active for a significant amount of time; and

WHEREAS, clarification of management roles and hierarchy is needed for the General Services Agency to be more effective; and

WHEREAS, the Bureau of Statistics and Plans is in the most opportune position with its staffing pattern and expertise to temporarily assist with procurement for federal grants and awards.

NOW, THEREFORE, I, LOURDES A. LEON GUERERRO, *Maga'hågan Guåhan*, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, and the laws of Guam, do hereby:

1. Reactivate the Procurement Policy Office consistent with 5 GCA §§ 5101-5102 and 2 GAR §§ 2101- 2113;
2. Require the Procurement Policy Office to consider changes to Guam Procurement Regulations, as well as Guam Procurement law to make procurement more efficient and effective;
3. Request that the Procurement Policy Office make recommendations based on their findings through a formal report to the Governor by September 2, 2019.
4. Require that all line agency conducted federally-funded procurement activity and management of such procurement report directly to the Director of the Bureau of Statistics and Plans;
5. Order the Bureau of Statistics and Plans to oversee procurement as it pertains to federal grants and awards;
6. Order the General Services Agency and the Department of Public Works restructure its operations based on the assistance provided by the Bureau of Statistics and Plans and provide more efficiency in exercising their authority over the award or administration of any particular contract, or over any dispute, claim or litigation pertaining thereto; and
7. Mandate that any and all procurement shall be accountable to the Director of the Department of Administration.

1

Doc. No. 35GL-19-0311.

Executive Order No. 2019-10 (Procurement Policy Office)

ISLAND OF GUAM
OFFICE OF THE GOVERNOR
HAGÅTÑA, GUAM 96932
U.S.A.

Signed and Promulgated at *Hagåtña*, Guam, this 2nd day of April 2019.

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Attested by:

TINA ROSE MUÑA BARNES
Åkto Sigundo Maga'hågan Guåhan
Acting Lieutenant Governor of Guam

2

Doc. No. 35GL-19-0311.

Appendix 6:
Status of Audit Recommendations

No.	Addressee	Audit Recommendation	Status	Action Required
1.	Directors and Administrators of Line and Autonomous Agencies, Mayors, Executive and Legislative Officials	Obtain the required procurement training and certification.	OPEN	Please provide the target date and title of official(s) responsible for implementing the recommendation.
2	Directors and Administrators of Line and Autonomous Agencies, Mayors, Executive and Legislative Officials	Review their procurement teams and ensure that each employee has the required training and certifications according to their procurement capacity.	OPEN	Please provide the target date and title of official(s) responsible for implementing the recommendation.
3.	Guam Legislature – Procurement Oversight Chair	Work with the Administration to revive the Guam Procurement Advisory Council.	OPEN	Please provide the target date and title of official(s) responsible for implementing the recommendation.
4.	GCC President	Implement the procurement continuing education program.	OPEN	Please provide the target date and title of official(s) responsible for implementing the recommendation.

Government of Guam
Procurement Training and Certification
Report No. 19-04, April 2019

ACKNOWLEDGEMENTS

Key contributions to this report were made by:
Amacris Legaspi, CGFM, Auditor-in-Charge
Jerrick J.J.G. Hernandez, CGAP, CICA, Audit Supervisor
Benjamin J.F. Cruz, Public Auditor

MISSION STATEMENT

To ensure public trust and assure good governance in the Government of Guam, we conduct audits and administer procurement appeals, with objectivity, professionalism, and accountability.

VISION

The Government of Guam is the model for good governance with OPA leading by example as a model robust audit office.

CORE VALUES

Objectivity: To have an independent and impartial mind.
Professionalism: To adhere to ethical and professional standards.
Accountability: To be responsible and transparent in our actions.

REPORTING FRAUD, WASTE, AND ABUSE

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

All information will be held in strict confidence.