



U.S. Department of the Interior
Office of Inspector General

AUDIT REPORT

**GUAM MASS TRANSIT AUTHORITY,
GOVERNMENT OF GUAM**

**REPORT NO. 97-I-241
MARCH 1997**



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

MEMORANDUM

MAR 31 1997

TO: The Secretary

FROM: Wilma A. Lewis
Inspector General

SUBJECT SUMMARY: Final Audit Report for Your Information - "Guam Mass Transit Authority, Government of Guam" (No. 97-I-241)

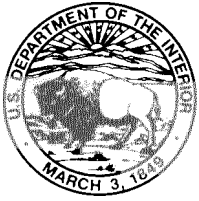
Attached for your information is a copy of the subject final audit report. The objective of the audit was to determine whether the Guam Mass Transit Authority acquired, protected, and used resources economically and efficiently and conducted its operations in accordance with applicable laws and regulations.

We found that the Authority had taken action to improve financial controls, reduce operating costs, and increase revenues. However, we also found that the Authority: (1) issued contracts in which contractors were compensated on a cost plus a percentage of cost basis; (2) incurred and paid costs before contracts were approved; (3) issued purchase orders on a noncompetitive basis; (4) issued contracts to companies that employed immediate family members of Authority procurement officials; and (5) did not comply with the staffing level authorized by the Legislature. In addition, the Authority had not ensured that: (1) contractors' invoices included only supported costs that were in compliance with contract terms; (2) contractors' costs were within their approved budgets; and (3) the maintenance and repair contractor maintained an adequate number of buses to meet the Authority's service needs. These conditions occurred because the Authority had not developed and implemented procurement and contract oversight procedures. In addition, the former Board of Directors had not provided adequate oversight and control over Authority management. As a result, during fiscal years 1993, 1994, and 1995, the Authority incurred questioned costs of about \$5 million.

Based on the Authority's response and documents subsequently provided, we considered all of the report's recommendations resolved and implemented.

If you have any questions concerning this matter, please contact Mr. Robert J. Williams, Assistant Inspector General for Audits, at (202) 208-5745.

Attachment



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

MAR 31

Mr. Gerald Taitano
President, Board of Directors
Guam Mass Transit Authority
236 East O'Brien Drive
Agana, Guam 96910

Subject: Audit Report on the Guam Mass Transit Authority, Government of Guam
(No. 97-I-241)

Dear Mr. Taitano:

This report presents the results of our review of the Guam Mass Transit Authority. The objective of the review was to determine whether the Authority: (1) acquired, protected, and used resources economically and efficiently and (2) conducted its operations in accordance with applicable laws and regulations. Our review covered the activities of the Authority that occurred during fiscal years 1993, 1994, and 1995.

We found that, during fiscal year 1995, the Authority had taken action to improve financial controls, reduce operating costs, and increase revenues. As a result of these actions, the Authority: (1) reduced its annual operating losses by \$0.4 million from fiscal years 1994 to 1995, primarily by reducing expenditures; (2) issued a contract to generate revenue by selling advertising space on Authority property; and (3) improved transit services by improving vehicle maintenance. These actions are detailed in the Background section of this report.

However, we also found that the Authority: (1) issued contracts in which contractors were compensated on a cost plus a percentage of cost basis; (2) incurred and paid costs before contracts were approved; (3) issued purchase orders on a noncompetitive basis; (4) issued contracts to companies that employed immediate family members of Authority procurement officials; and (5) did not comply with the staffing level authorized by the Legislature. In addition, the Authority had not ensured that: (1) contractors' invoices included only supported costs that were in compliance with contract terms; (2) contractors' costs were within their approved budgets; and (3) the maintenance and repair contractor maintained an adequate number of buses to meet the Authority's service needs.

These conditions occurred because the Authority had not developed and implemented procedures to ensure: (1) its compliance with Federal and Guam procurement laws and regulations and (2) contractor compliance with contract terms. In addition, the former Board of Directors had not provided adequate oversight and control over Authority management. As a result, during fiscal years 1993, 1994, and 1995, the Authority did not obtain surcharge revenues of about \$6.8 million; lost advertising revenues estimated at \$73 5,000; and incurred questioned costs of about \$5 million.

To correct the conditions noted, we recommended that the Authority's Board of Directors instruct the General Manager to: (1) inform Federal grantor agencies of the questioned costs; (2) develop and implement procedures to ensure that procurement actions are conducted in accordance with Federal and Guam procurement laws and regulations; (3) request the Guam Attorney General to determine whether former members of the Authority's management violated Guam's conflict-of-interest statutes and whether the Authority has a legal basis to recover funds paid to relatives of Authority management officials; (4) provide Board of Directors members with a handbook outlining members' duties and responsibilities; and (5) develop and implement procedures for monitoring contractors to ensure that the contractors comply with contract terms and that the results of such monitoring are reported to Authority management and the Board.

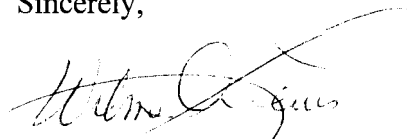
In the September 25, 1996, response (Appendix 4) from the General Manager, Guam Mass Transit Authority, which included a copy of Resolution 96-01, adopted on September 10, 1996, by the Authority's Board of Directors, the Authority concurred with all five recommendations (see Appendix 4). Based on the response and documents subsequently provided, we consider all of the recommendations resolved and implemented (see Appendix 5).

Since all of the recommendations are resolved and implemented, no further response to this report is required (see Appendix 5).

The Inspector General Act, Public Law 95-452, Section 5(a)(3), as amended, requires semiannual reporting to the U.S. Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the cooperation of Authority personnel in the conduct of our audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Wilma A. Lewis", with a long, sweeping flourish extending to the right.

Wilma A. Lewis
Inspector General

cc: General Manager, Guam Mass Transit Authority

INTRODUCTION

BACKGROUND

The Guam Mass Transit Authority was established on July 1, 1977, by Title 12, Chapter 6, of the Guam Code Annotated and was granted the exclusive franchise to establish, develop, promote, and/or operate public transportation systems in order to provide adequate public transportation for persons residing or working on Guam. The Authority is governed by a five-member Board of Directors appointed by the Governor and confirmed by the Legislature. The Authority issues and monitors contracts for operations of the Guam Public Transit system, which provides both regularly scheduled and on-request transit services to the public, and the Guam Para-Transit system, which provides transit services to individuals with disabilities.

The Authority's activities are accounted for as an enterprise fund, and it has maintained its own accounting functions since August 3, 1990. The Authority's financial statements reported that, despite subsidies from the Government of Guam's General Fund totaling \$6 million and Federal grant contributions totaling \$1.1 million for fiscal years 1993 through 1995, the Authority had a cumulative net loss of \$1.5 million as follows:

Fiscal <u>Year</u>	Fare <u>Revenues</u>	Federal* <u>Contributions</u>	Other <u>Revenues</u>	Total** <u>Revenues</u>
1993	\$86,023	\$397,595	\$493	\$484,111
1994	130,424	358,984	34,336	523,744
1995	<u>112,121</u>	<u>336,720</u>	<u>365,125</u>	<u>813,966</u>
Total	<u>\$328,568</u>	<u>\$1,093,299</u>	<u>\$399,954</u>	<u>\$1,821,821</u>

Fiscal <u>Year</u>	Total <u>Revenues</u>	Operating <u>Expenditures</u>	Govt. of Guam <u>Contributions</u>	Net Gain <u>(Loss)</u>
1993	\$484,111	(\$3,286,902)	\$2,002,740	(\$800,051)
1994	523,744	(3,277,554)	2,191,823	(561,987)
1995	<u>813,966</u>	<u>(2,807,453)</u>	<u>1,809,550</u>	<u>(183,937)</u>
Total	<u>\$1,821,821</u>	<u>(\$9,371,909)</u>	<u>\$6,004,113</u>	<u>(\$1,545,975)</u>

*U. S. Department of Transportation and U.S. Department of Energy grants.

**Total revenues do not agree with those shown in the single audit reports for fiscal years 1993 and 1994 because we had access to and included information in the Guam Energy Office's records that was unavailable to the independent public accountant.

The single audit report for fiscal year 1994 stated that the Authority's assets included cash and accounts receivable of \$92,232 and property, plant, and equipment (primarily vehicles) of \$1,996,370. At September 30, 1995, the Authority had 9 employees, and Authority contractors had 58 employees.

Title 49, Part 18, of the Code of Federal Regulations (known as the “Common Rule”) contains the requirements for administering the Federal grants. In addition, other requirements applicable to the Authority’s operations are contained in Federal grant agreements; Title 5, Chapter 5, of the Guam Code Annotated; procurement regulations issued by Guam’s General Services Administration; and the terms and conditions of the Authority’s various service contracts.

Beginning in January 1995, when a new Board of Directors was appointed, the Guam Mass Transit Authority began improving its financial management and the economy and efficiency of its operations. As a result, the Authority: (1) reduced its annual net loss by 67 percent (from \$561,987 to \$183,937) from fiscal years 1994 to 1995; (2) reduced its fiscal year 1995 operating expenditures (as compared to those of fiscal year 1994) by \$470, 101; (3) improved transit operations by increasing the number of available operating buses; and (4) should begin receiving thousands of dollars of advertising revenues and millions of dollars of Mass Transit Automotive Surcharge revenues. The new Board has taken the following actions:

- Although the Authority’s prior Board of Directors had not adopted complete budgets for fiscal years 1993, 1994, and 1995, the new Board adopted, in July 1995, a fiscal year 1995 budget and then, before the start of fiscal year 1996, adopted the Authority’s fiscal year 1996 budget. In addition, the Authority: (1) developed and began to implement controls over the Authority’s personal property; (2) enforced contract provisions requiring support for all contractor invoices submitted for payment; and (3) contracted with an independent public accounting firm to analyze a contractor’s invoices, including outstanding billings of \$71,684, before authorizing payment.

- The Authority terminated an expensive and ineffective maintenance and repair contract, obtained a Mechanic Supervisor from the Department of Public Works and several mechanics in training from the Guam Community College to provide vehicle repair and maintenance services, and renegotiated an expensive transit service contract. Although we did not determine all of the reasons for the \$470,101 reduction in operating expenditures from fiscal years 1994 to 1995, we did estimate that the Authority saved \$142,566 with more efficient and effective vehicle maintenance and repair and \$88,200 by renegotiating the transit service contract. Also, between January and December 1995, the Authority increased the average number of transit vehicles available for operations by over 100 percent, from 10 vehicles to 23 vehicles, which resulted in improved public transit services.

- On December 27, 1995, the Governor signed a contract, negotiated by the Authority, to sell advertising space on Authority property. However, the Authority had delayed issuing a contract for more than 2 years since the September 29, 1993, effective date of the authorizing law. This delay cost the Authority an estimated \$745,935, the total of the estimated advertising revenues included in the proposed budgets for fiscal years 1994 and 1995. As a result of the new contract, the Authority anticipates collecting additional revenues of \$75,000 in fiscal year 1996.

- Based on a March 26, 1996, memorandum from Guam's Attorney General responding to the Authority's questions on legal issues relating to the Mass Transit Automotive Surcharge, the Authority may gain access to \$6,766,860. The funds are Mass Transit Automotive Surcharge revenues collected by the Department of Administration during fiscal years 1993, 1994, and 1995 but not released to the Authority. The primary issue under dispute was whether Title 5, Section 1504(d), of the Guam Code Annotated pledged the transit surcharge revenues for the repayment of any Guam bond. The Authority and the Department of Administration disagreed on this issue; however, based on the memorandum, Authority officials said that they hope to gain access to the funds for use in transit operations.

OBJECTIVE AND SCOPE

The objective of our review was to determine whether the Authority: (1) acquired, protected, and used its resources economically and efficiently and (2) conducted its operations in accordance with applicable laws and regulations. The scope of the audit initially included fiscal years 1994 through 1995; however, we expanded the scope to include fiscal year 1993 in order to evaluate management actions taken during that fiscal year which significantly affected Authority operations that occurred during fiscal years 1994 and 1995.

Our audit was conducted at the Authority's offices from June 1995 to February 1996. To conduct our audit, we obtained information from Government of Guam officials of the Departments of Administration, Revenue and Taxation, and Law; the Bureau of Budget and Management Research; the Guam Energy Office; the Guam Public Auditor; and the Guam Legislature. We also contacted officials of the U.S. Department of Transportation and the Authority's independent public accountants. To accomplish our objective, we reviewed, for the period of October 1, 1992, to September 30, 1995, the following items maintained by the Authority and its contractors: personnel, procurement, and contract records; Board minutes; correspondence; and accounting records. We also reviewed applicable laws, regulations, and operating procedures related to contracting for and administering public transit services. However, our audit scope was limited because the Authority's and the contractor's accounting records were incomplete.

The audit was conducted, as applicable, in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances.

As part of the audit, we evaluated the system of internal controls in the areas of revenue collection, procurement, contract monitoring, and property management to the extent that we considered necessary to accomplish the audit objective. Significant internal control weaknesses were identified in all areas except revenue collection (excluding bus fare collections discussed in the Prior Audit Coverage section of this report) and property management, for which the Authority had taken effective remedial action. 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

During the past 5 years, neither the U.S. General Accounting Office nor the Office of Inspector General has issued any audit reports concerning the Authority. However, an independent public accounting firm issued single audit reports on the Authority's operations for fiscal years 1990 through 1994. The audits stated the following: (1) bus fare collection controls were inadequate; (2) the fixed asset register had not been updated since September 30, 1991; (3) a physical inventory of fixed assets (except for vehicles) had not been taken for fiscal years 1993 and 1994; (4) insurance services were procured improperly; (5) contractor invoices did not have adequate supporting documentation; (6) annual leave taken was inappropriately included as a contract expense; and (7) financial status reports were not prepared and submitted in a timely manner. In addition, the fiscal year 1990 single audit report noted that the Authority had not implemented a general ledger accounting system and did not have an accounting system capable of producing an annual financial statement.

Based on our review, we determined that, as of January 31, 1996, satisfactory corrective action was taken on or was in progress on the reported findings except for the areas of fare collections and the accounting system. Specifically, the Authority did not have: (1) an effective method to ensure that the public transit contractor collected and transferred all fares to the Authority and (2) a budgetary and accrual accounting system capable of generating timely and accurate financial statements. Regarding the accounting system deficiencies, the Authority, during fiscal years 1993 and 1994, acquired and initiated the installation of an automated accounting system software package. However, in fiscal year 1995, the Authority's General Manager determined that the accounting software package was inadequate and stopped the installation effort pending selection of another accounting software package.

FINDINGS AND RECOMMENDATIONS

A. PROCUREMENT

The Guam Mass Transit Authority did not conduct its procurements effectively and in accordance with Guam law and Federal regulations. Specifically, the Authority: (1) issued contracts in which contractors were compensated on a cost plus a percentage of cost basis; (2) incurred and paid costs before contracts were approved; (3) issued purchase orders on a noncompetitive basis; (4) issued contracts to companies that employed immediate family members of Authority procurement officials; and (5) did not comply with the staffing level authorized by the Legislature. The Guam Code Annotated and Federal regulations specify procedures to be followed when issuing procurement contracts. However, the Authority had not ensured compliance with these procedures, and the Authority's Board of Directors had not provided adequate oversight and control over management. As a result, we questioned costs of approximately \$5 million that the Authority incurred for contracts issued during fiscal years 1993, 1994, and 1995.

Contracts

During fiscal years 1993, 1994, and 1995, the Authority issued and/or amended eight service contracts, totaling \$7,605,794. We reviewed the procurement actions for four of these contracts, totaling \$7,441,659, and found that the Authority had not issued and/or administered three of the four contracts in accordance with applicable laws and regulations. Specifically, the Authority issued three contracts that: (1) stated that the three contractors would be paid on a cost plus basis¹ and (2) authorized the contractors to begin work about 5 months before either the contract was signed or contract amendments that established payment terms were approved. In addition, during calendar year 1995, one of the three contracts was amended three times, but the cost plus provisions were not revised. The Code of Federal Regulations (49 CFR 18.36(f)(4)) and Title 5, Section 5235, of the Guam Code Annotated prohibit the use of cost plus a percentage of cost contracts. In addition, Title 5, Section 22601, of the Guam Code Annotated prohibits contract costs from being incurred before a contract is approved. According to Authority officials and Board minutes, the cost plus contracts were issued in an attempt to reduce operating costs. Authority officials also stated that management was not aware that cost plus contracts were prohibited and that they relied on the Bureau of Budget and Management Research and the Attorney General's Office to review the contracts for improprieties.

On June 22, 1994, the General Manager notified the Board that the cost plus contracts were improper and stated that this issue would be addressed when new contracts or amendments were negotiated. During January 1993 through October 1995, the Authority

¹The contracts provided that each contractor would be reimbursed for actual salaries and wages of personnel listed in an approved staffing pattern plus 10 percent of such salaries and wages.

incurred questioned costs of \$4,908,164 with the cost plus contracts, including \$722,899 that was paid to the contractors before the three contracts were approved by the Governor. For example, on February 22, 1993, at the General Manager's direction, a contractor began to perform maintenance and repair on Authority vehicles. However, the contractor and the Authority's General Manager did not sign the contract until April 20, 1993, and the Governor did not sign the contract until July 13, 1993. In addition, the maintenance and repair contract provided not only for reimbursement of salaries and wages plus 10 percent but also for reimbursement to the contractor for all expenditures necessary to service the Authority's vehicles. Between March 5, 1993, and January 27, 1995, the Authority paid the contractor \$1,330,143.

The Authority terminated the cost plus contract for vehicle maintenance and repair on February 28, 1995, and then entered into a memorandum of understanding with Guam's Department of Public Works to maintain the Authority's vehicles. Regarding the other two cost plus contracts, the Authority issued new (non-cost plus) contracts: the first on December 30, 1994, and the second on December 19, 1995.

Purchase Orders

During fiscal years 1993, 1994, and 1995, the Authority issued 363 purchase orders, totaling \$643,002. We reviewed the procurements for 37 of the purchase orders, totaling \$172,133, and found that the Authority had not issued 12 of the purchase orders, totaling \$54,724, in accordance with applicable laws and regulations. Specifically, the Authority did not comply with the competitive bidding requirements of Guam law, in that it issued multiple purchase orders for \$5,000 and below that amount to the same vendor. Title 5, Section 5213, of the Guam Code Annotated states that "procurement requirements shall not be artificially divided so as to constitute a small purchase," which, according to Guam's General Service Administration Procurement Regulations 3-204.01, are "established for procurements of less than \$5,000 for supplies and services." As a result, the Authority could not ensure that full value was received for \$54,724 expended for services during fiscal years 1993, 1994, and 1995.

For example, during fiscal years 1993, 1994, and 1995, the Authority issued, without competition, 12 purchase orders for amounts of \$5,000 or less to one nonprofit organization for bus washing and cleaning services. The Authority's Administrative Officer said that competition was not required because the purchase orders were issued to a nonprofit organization. Title 5, Chapter 5, Section 5001(d), of the Guam Code Annotated states, "If any entity of the government of Guam . . . intends to procure any supply or service which is offered by a nonprofit corporation . . . or a government of Guam entity employing sheltered or handicapped workers then that entity shall procure such supply or service from that nonprofit corporation or government entity." However, Section 5001(d) does not waive the requirements for competitive procurement among qualifying nonprofit corporations and governmental entities, and we found no indication that the Authority had sought bids from other Guam nonprofit organizations. Based on the Guam Code Annotated, we believe that the Authority should have used competitive

procurements for the following 12 purchase orders: 3 purchase orders, totaling \$12,624, issued in fiscal year 1993; 5 purchase orders, totaling \$22,500, issued in fiscal year 1994; and 4 purchase orders, totaling \$19,600, issued in fiscal year 1995.

Possible Conflicts of Interest

During fiscal years 1993 and 1994, Authority contractors employed immediate relatives of two Authority employees who had procurement responsibilities. Title 5, Section 5628(a), of the Guam Code Annotated states, “It shall be a breach of ethical standards for any employee to participate directly or indirectly in a procurement when the employee knows that: (1) the employee or any member of the employee’s immediate family has a financial interest pertaining to the procurement; . . . or (3) any other person, business or organization with whom the employee or any member of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.” In addition, Part II, Sections 103a(l)(b) and (d), of the U.S. Department of Transportation’s Federal Transit Administration Agreement with the Authority requires the Authority to prohibit any “employee, officer, board member, or agent of the [grant] Recipient [to] . . . participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm selected for award: . . . [the “parties” include] . . . (b) Any member of his or her immediate family; . . . or (d) An organization that employs, or is about to employ, any of the above,” Further, Title 5, Section 5650(c), of the Guam Code Annotated states, “The value of anything received by an employee in breach of the ethical standards of this Chapter or regulations promulgated hereunder shall be recoverable by the Territory as provided in 5652 of this Chapter.” Title 5, Section 5652(a), states, “The value of anything transferred or received in breach of the ethical standards of this Chapter or regulations promulgated hereunder by an employee or non-employee may be recovered from both the employee and non-employee.” Based on these guidelines, we questioned \$98,117 (consisting of \$14,599 for fiscal year 1992 and \$83,518² for fiscal years 1993 and 1994) that the Authority paid the contractor for the relatives of the Authority employees.

Between October 1, 1991, and May 14, 1994, the public transit contractor and then the maintenance and repair contractor employed an immediate family member of a member of the Authority’s staff. In addition, between April 4, 1993, and May 28, 1994, the maintenance and repair contractor employed an immediate family member of another member of the Authority’s staff. Although we were unable to talk to one of the two Authority employees because the individual was no longer employed by the government, we were able to talk with the other employee, who stated that she did not believe there was a conflict because the immediate family members were not directly supervised by Authority personnel. The former Board President stated that the Board was not aware of this conflict until May 1994 and that both contractor employees were subsequently

²This amount is included in the total questioned costs of the cost plus contracts.

terminated. The President of the public transit contractor said that an Authority employee, in 1991, requested that the President hire an individual whom he subsequently found to be the employee's immediate relative and that he could not fire the relative because he "feared retribution." From October 1991 to May 1994, the Authority indirectly (through the contractors) paid the two immediate family members a total of \$90,847 and paid the maintenance and repair contractor an additional \$7,270 in accordance with the 10 percent cost plus provision of the contract.

Staffing

During fiscal years 1993 and 1994, the Authority directed one of its contractors to hire three persons to perform services for the Authority, not for the contractor. Title 5, Sections 22401(a)(1) and (4), of the Guam Code Annotated prohibits governmental officials from authorizing expenditures and employing personnel except as authorized by law. The minutes of the April 20, 1994, Board of Director's meeting state, "[The Authority's General Manager] stated that this [compensating the three individuals] is because he needs them internally because BBMR [the Bureau of Budget and Management Research] will not give him the positions that he needs." The Bureau of Budget and Management Research would not authorize the Authority to hire additional staff, apparently because the positions were not in the staffing pattern approved by the Legislature. As a result, we questioned costs of \$89,127³ that the Authority incurred for the three employees.

Conclusion

In our opinion, the Board could have corrected the procurement deficiencies pertaining to the cost plus contracts at least 6 months earlier than they were corrected. The former President of the Board of Directors stated that he agreed, in retrospect, that the Board should have acted to correct the serious procurement problems when it became aware of them in 1994 (see Appendix 2). However, he said that the Board, at the time, was not clear as to its authority and ability to correct the problems when the General Manager did not act to correct them. In addition, both the former and the current Board Presidents stated that the Boards had not obtained or developed meaningful guidance for Board members on the Boards' responsibilities and authority.

Recommendations

We recommend that the Guam Mass Transit Authority Board of Directors instruct the General Manager to:

³This amount is included within the total questioned costs of the cost plus contracts.

1. Advise the U.S. Department of Transportation, Region IX, and the U.S. Department of Energy, Region IX, of the questioned costs charged to the Federal grants and either resolve the questioned costs or arrange for repayment.

2. Ensure that procurement actions are conducted in accordance with Title 49, Part 18, of the Code of Federal Regulations; the Federal Transit Administration Agreement; and Title 5 of the Guam Code Annotated.

3. Request the Attorney General of Guam to determine whether members of the Authority's former management violated the conflict-of-interest provisions of Title 5, Section 5628(a), of the Guam Code Annotated. If the law was violated, a determination should be made as to whether the Authority has a legal basis to seek the recovery of the funds paid to relatives of Authority management officials in accordance with Title 5, Sections 5650(c) and 5652(a), of the Guam Code Annotated.

We recommend that the Guam Mass Transit Authority Board of Directors:

4. Obtain or have developed a handbook with guidelines on the duties and responsibilities of members of the Board of Directors and provide a copy to each Board member.

Guam Mass Transit Authority Response and Office of Inspector General Reply

The September 25, 1996, response (Appendix 4) from the General Manager, Guam Mass Transit Authority, concurred with all of the recommendations and included a copy of Resolution 96-01, approved on September 10, 1996, which stated that all of the recommendations had been adopted by the Authority's Board of Directors. Based on the response, we consider all of the recommendations resolved and implemented (see Appendix 5).

B. CONTRACT ADMINISTRATION

The Guam Mass Transit Authority did not administer its transit service contracts effectively. Specifically, the Authority did not ensure that: (1) contractors' invoices included only supported costs that were in compliance with contract terms; (2) contractors stayed within their approved budgets; and (3) the maintenance and repair contractor maintained an adequate number of buses to meet the Authority's service needs. The Guam Code Annotated and a Federal Agreement establish the general need for, and the contracts provide for, administrative oversight and monitoring of contractor performance. However, the Authority had not established specific internal procedures to ensure that the contractors complied with contract terms. In addition, from May through December 1994, despite documented instances of excess contractor costs, overbilling, and inadequate contractor performance, the Authority's Board of Directors did not require Authority management to correct the problems (Appendix 2). As a result, from April 1993 through February 1995, the Authority incurred questioned costs totaling \$604,853, consisting of unsupported and unallowable costs of \$267,300 and contract expenditures in excess of approved budgets of \$337,553. Also, during the same period, the Authority did not ensure that its contractor provided the minimum number of operating buses required for the publicly announced level of transit service.

Title 5, Section 7101, of the Guam Code Annotated states, "It is the intent of the Legislature that the government of Guam practice fiscal responsibility, and that the persons who spend the taxpayer's money follow the mandates of law in expending government funds." In addition, Title 12, Section 6301, of the Guam Code Annotated states, "The government of the Authority shall be vested in a Board of Directors." Further, the U.S. Department of Transportation's Federal Transit Administration Agreement, Part II, Section 105 .c., states, "All costs charged to the Project . . . shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges." Finally, each of the Authority's three transit service contracts included provisions that the Authority would be responsible for monitoring contractors' compliance and that the contractors would provide the Authority with operating reports and documents to justify amounts billed.

Between February 1993 and February 1995, the maintenance and repair contractor billed for reimbursement of overtime, materials, and subcontracted repairs in excess of costs incurred and for subcontracted work that, according to the contract, should have been performed by the contractor. Further, contrary to contract terms, the Authority did not require the contractor to provide supporting documentation for amounts billed or to maintain a record of vehicle maintenance and repairs. On April 1, 1995, the Authority contracted with an independent public accounting firm for an analysis of the contractor's billings for the period of February 1993 through January 1995. In its September 19, 1995,

report,⁴ the independent accounting firm identified more than 200 instances of incorrect billings. For example:

- The contractor added excess charges of up to 1,130 percent to the contractor's costs on the amounts billed to the Authority for parts purchased to repair Authority vehicles. The identified overcharges totaled \$68,896 and included items such as vehicle batteries purchased by the contractor at an average cost of \$68.45 each and billed to the Authority at an average cost of \$139.51 each.

- The contractor billed the Authority \$154,554 for vehicle parts but had no documents to show that the parts were actually purchased. In addition, the contractor's records included receipts for parts costing \$10,798 that seemingly were not billed to the Authority. Therefore, we reduced the amount of unsupported costs by the amount of costs apparently not billed and questioned the net amount of \$143,756 as unsupported.

Finally, of the three transit service contracts, the maintenance and repair contract had the greatest impact on transit operations. Since the Authority's contract with the maintenance and repair contractor did not set specific performance standards but rather general goals and objectives, the Authority should have closely monitored the contractor's performance to ensure that the Authority's needs were met. The goals and objectives listed in the contract were to: "(1) Ensure uninterrupted, safe, reliable, and consistent public transit services; (2) Reduce vehicle maintenance and repair costs; (3) Reduce vehicle downtime; [and] (4) Ensure all vehicles meet minimum safety standards for public transportation."

The contractor did not meet these goals and objectives. According to the Authority's Assistant General Manager and the public transit operations manager, the public transit contractor, in order for the Authority to meet its published schedule, needed at least 15 operative buses daily. Despite a public transit fleet that averaged 27 vehicles during April 1993 through February 1995,⁵ the maintenance and repair contractor was unable to meet the 15 vehicle minimum. The average number of operative vehicles available daily to the public transit contractor was 13.2 during April through September 1993; 11.2 during fiscal year 1994; and 10 during October 1994 through February 1995.

Recommendation

We recommend that the Guam Mass Transit Authority Board of Directors instruct the General Manager to develop and implement written procedures for monitoring contractors to ensure that contractors comply with contract terms and conditions and that the results of such monitoring are reported to management and the Board of Directors.

⁴Based on our review of both the methodology used by the accounting firm and selected working papers supporting its analysis, we believe the report's results to be reasonable and adequately supported.

⁵Records were not available for February and March 1993.

Guam Mass Transit Authority Response and Office of Inspector General Reply

The September 25, 1996, response (Appendix 4) from the General Manager, Guam Mass Transit Authority, concurred with the recommendation and included a copy of Resolution 96-01, approved on September 10, 1996, which stated that the recommendation had been adopted by the Authority's Board of Directors. Based on the response, we consider the recommendation resolved and implemented (see Appendix 5).

CLASSIFICATION OF MONETARY AMOUNTS

<u>Finding Areas</u>	<u>Questioned Costs</u>
Procurement	
Contracts	\$4,908,164
Purchase Orders	54,724
Conflicts of Interest	14,599*
Contract Administration	_____**
Total	<u>\$4,977,487***</u>

*Fiscal year 1992 amount not included in Appendix 3.

**Monetary amount included in Procurement - Contracts.

***Amount consists of \$4,290,472 of local funds and \$687,015 of Federal funds.

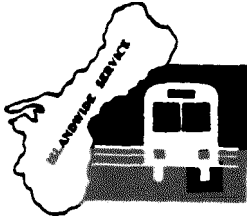
**CHRONOLOGY OF SELECTED TRANSIT AUTHORITY ACTIONS
RELATING TO THE 1993 REPAIR AND MAINTENANCE CONTRACT**

<u>DATE</u>	<u>ACTION</u>
02/24/93	Board approved the “cost plus” contract (immediate family members of two Authority managers were listed as employees of the contractor).
10/27/93	General Manager reported that contract costs exceeded the approved budget of \$137,800 by \$40,433 (29 percent) and requested the Board’s approval of a retroactive increase of the contractor’s budget, which the Board granted.
04/20/94	Board discussed excess costs of parts and the fact that the contractor improperly adding cost plus percentage to parts. Contractor requested budget increase, in part, to pay for three employees working for the Authority.
05/04/94	Board questioned General Manager regarding payments to contractor for apparently excess overtime and unauthorized subcontracted work when only 32 percent of Authority buses were operative.
05/25/94	Board heard report by contractor’s system manager that maintenance records and contract monitoring were inadequate. General Manager provided Board with a May 17, 1994, staff memorandum that discussed inappropriate actions, including: (1) using a “cost plus” contract; (2) overbilling the Authority by the contractor (adding a profit) to parts and subcontract costs; and (3) hiring personnel by contractor for use by the Authority. One Board member recommended that the contract be canceled.
06/22/94	Assistant General Manager (the contract administrator) recommended that the Board terminate the contract because it was “too costly” and the contractor “failed” to comply with contract terms and conditions.
07/13/94	Board approved continuation of the contract through September 30, 1994.
09/28/94	General Manager reported to the Board that contract costs totaled \$733,000 in fiscal year 1994 and recommended a \$700,000 budget for fiscal year 1995. One Board member resigned in protest over the General Manager’s efforts to force the Board’s approval of his fiscal year 1995 budget.
01/26/95	New Authority Board (replaced after election of a new Governor) authorized a 30-day notice to terminate contract.

**SUMMARY SCHEDULE OF EXPENDITURES AND QUESTIONED COSTS
FOR FISCAL YEARS 1993, 1994, AND 1995**

<u>Funding Source</u>	<u>Total Funding</u>	<u>Total Expenditures</u>	<u>Total Audited</u>	<u>Questioned Costs (Unallowable)</u>
<u>Fiscal Year 1993</u>				
Federal Funding:				
Dept. of Transportation	\$317,958	\$317,958	\$245,399	\$184,481
Dept. of Energy*	<u>79,637</u>	<u>79,637</u>	<u>61,496</u>	<u>46,230</u>
Subtotal Federal Funding	\$397,595	\$397,595	\$306,895	\$230,711
Local Funding:	<u>2,089,256</u>	<u>2,889,307</u>	<u>1,645,361</u>	<u>1,236,916</u>
Subtotal-Fiscal Year 1993	<u>\$2,486,851</u>	<u>\$3,286,902</u>	<u>\$1,952,256</u>	<u>\$1,467,627</u>
<u>Fiscal Year 1994</u>				
Federal Funding:				
Dept. of Transportation	\$332,127	\$332,127	\$252,779	\$246,550
Dept. of Energy*	<u>26,857</u>	<u>26,857</u>	<u>20,462</u>	<u>19,958</u>
Subtotal Federal Funding	\$358,984	\$358,984	\$273,241	\$266,508
Local Funding:	<u>2,356,583</u>	<u>2,918,570</u>	<u>1,793,637</u>	<u>1,749,438</u>
Subtotal-Fiscal Year 1994	<u>\$2,715,567</u>	<u>\$3,277,554</u>	<u>\$2,066,878</u>	<u>\$2,015,946</u>
<u>Fiscal Year 1995</u>				
Federal Funding:				
Dept. of Transportation	\$336,720	\$336,720	\$197,940	\$189,796
Local Funding:	<u>2,286,796</u>	<u>2,470,733</u>	<u>1,344,847</u>	<u>1,289,519</u>
Subtotal-Fiscal Year 1995	<u>\$2,623,516</u>	<u>\$2,807,453</u>	<u>\$1,542,787</u>	<u>\$1,479,315</u>
Grand Totals	<u>\$7,825,934</u>	<u>\$9,371,909</u>	<u>\$5,561,921</u>	<u>\$4,962,888</u>

*Department of Energy grants received through the Guam Energy Office (no funds were received in fiscal year 1995).



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Telephone : **475-GMTA (4682)**
Facsimile : **475-4600**

John M. Palomo
General Manager

Dominic G. Muna
Assistant General Manager

September 25, 1996

Ms. Wilma A. Lewis
Inspector General
United States Department of Interior
OFFICE OF INSPECTOR GENERAL
1849 C St., NW
Mail Stop 5341
Washington, D.C. 20240

Dear Ms. Lewis:

SUBJECT : Draft Audit Report on the Guam Mass Authority,
Government of Guam (Assignment No. N-IN-GUA-005-95)

Hafa Adai and greetings from the beautiful island of Guam. As a result of Resolution No. 96-01 which was adopted by the Guam Mass Transit Board of Directors on September 10, 1996, directing the General Manager to implement the findings and recommendations of the aforementioned subject matter, the management staff of GMTA have initiated and completed the findings and recommendations of the aforementioned subject matter. Listed below are the results of Resolution No. 96-01:

1. That the General Manager advise the Board of Directors, the U.S. Department of Transportation, Region IX, and the U.S. Department of Energy, Region IX, of the questioned costs charged to the Federal Grants and either resolve the questioned costs or arrange for repayment. **(COMPLETED)**. Letters dated September 26, 1996, were transmitted to the aforementioned agencies.

2. That the General Manager ensure that procurement actions are conducted in accordance with Title 49, Part 18, of the Code of Federal Regulations; the Federal Transit Administration Agreement; and Title 5 of the Guam Code Annotated. **(COMPLETED)**. Procurement Procedures and Guidelines have been developed and will be implemented. Procurement Officer will be in compliance in monitoring all procurement actions.

3. That the General Manager request the Attorney General of Guam to determine whether members of the Authority's former management violated the conflict-of-interest provisions of Title 5, Section 5628(a), of the Guam Code Annotated. If the law was violated, a determination should be made as to whether the Authority has a legal basis to seek the recovery of the funds

paid to relatives of Authority management officials in accordance with Title 5, Section 5650(c) and 5652(a), of the Guam Code Annotated. (COMPLETED). Letter was transmitted to the Attorney General dated September 26, 1996.

4. That the General Manager obtain or have developed a handbook with guidelines on the duties and responsibilities of members of the Board of Directors and provide a copy to each Board Member. (COMPLETED). Handbooks have been developed on the duties and responsibilities of GMTA's Board Members.

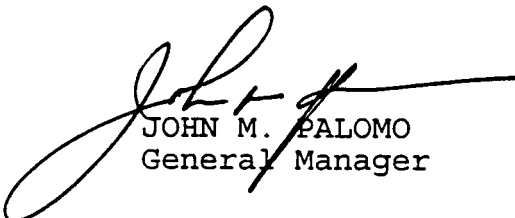
5. That the General Manager develop and implement written procedures for monitoring contractors to ensure that contract terms and conditions and the results of such monitoring are reported to the Board of Directors. (COMPLETED). Standard Operating Procedures (SOPs) have been developed and will be implemented. The Planner III will be in compliance in monitoring all contracts.

The new management team of GMTA are fully aware of the Inspector General's Audit Findings and strict control measures have been developed and will be enforced to the fullest extent. The findings indicated in the Draft Audit Report will not occur during this administration.

The philosophy and leadership of the new management team are committed to excellence and strict compliance of all Federal and local laws.

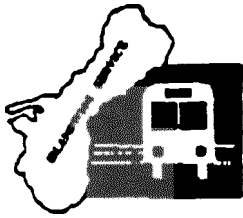
Thank you for allowing GMTA to respond to the Draft Audit Report and look forward to the Final Audit Report.

Sincerely,



JOHN M. PALOMO
General Manager

cc: Inspector General, North Pacific Region, Guam
Mr. Gerald Taitano, Board Chairman



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(Aturidat Transportasion Guahan)
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John M. Palomo
General Manager
Dominic G. Muna
Assistant General Manager

Guam Mass Transit Authority

Resolution No. 96-01

WHEREAS, the Office of Inspector General, U.S. Department of the Interior, in 1996, conducted a comprehensive audit of GMTA for the periods fiscal year 1993 through fiscal year 1995; and

WHEREAS, the Inspector General summarized its findings and recommendations in its report no. N-IN-GUA-005-95, dated August 1996,

THEREFORE, BE IT RESOLVED, that the Board of Directors herein adopts the recommendations of the Office of Inspector General, U.S. Department of the Interior, and hereby directs as follows:

1. That the General Manager advise the Board of Directors, the U.S. Department of Transportation, Region IX, and the U.S. Department of Energy, Region IX, of the questioned costs charged to the Federal grants and either resolve the questioned costs or arrange for repayment
2. That the General Manager ensure that procurement actions are conducted in accordance with Title 49, Part 18, of the Code of Federal Regulations: the Federal Transit Administration Agreement; and Title 5 of the Guam Code Annotated;
3. That the General Manager request the Attorney General of Guam to determine whether members of the Authority's former management violated the conflict-of-interest provisions of Title 5, Section 5628(a), of the Guam Code Annotated. If the law was violated, a determination should be made as to whether the Authority has a legal basis to seek the recovery of the funds paid to relatives of Authority management officials in accordance with Title 5, Sections 5650(c) and 5652(a), of the Guam Code Annotated;
4. That the General Manager obtain or have developed a handbook with guidelines on the duties and responsibilities of members of the Board of Directors and provide a copy to each Board Member and
5. That that General Manager develop and implement written procedures for monitoring contractors to ensure that contractors comply with contract terms and conditions and the results of such monitoring are reported to the Board of Directors.

The above action items shall be completed and submitted to the Board of Directors no later than September 25, 1996, and that those items due to the Inspector General shall be forwarded for his receipt no later than September 27, 1996.

DATE APPROVED: 9/10/96

Gerald A. Taltano
Board President

Corinna Gutierrez
Board Member

Napoleon Carino
Board Member

Board Member
Ofelia Pareja

SUBMITTED:

Emeline A. Pereira
Board Secretary

STATUS OF AUDIT REPORT RECOMMENDATIONS

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
A.1-A.4 and B.1	Implemented.	No further action is required.

**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO
THE OFFICE OF INSPECTOR GENERAL BY:**

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U.S. Department of the Interior
Office of Inspector General
1849 C Street, N.W.
Mail Stop 5341
Washington, D.C. 20240

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