



EXECUTIVE SUMMARY

Guam's Readiness for the 12th Festival of Pacific Arts (FESTPAC) OPA Report No. 16-02, April 2016

With one month away from the commencement of the 12th Festival of Pacific Arts (FESTPAC) this coming May 22 to June 4, 2016, the Coordinating Committee (Committee) faces several challenges as it prepares for the festival, including:

- The Committee is estimating a shortfall of up to \$1.1 million (M) if it does not obtain additional funding to cover all of its projected expenses.
- The procurement of the design-build construction of 34 Pacific festival huts amounting to \$2.2M violated Guam procurement law because it did not undergo the Attorney General's (AG) review. It is in the best interest of the government to continue the completion of the construction project; however, review by the AG after the fact is warranted.
- While we found the FESTPAC event management services contract valid and the contractor is allowed to procure necessary goods and services on behalf of FESTPAC without undergoing government procurement processes, the contract amount is capped at \$800,000. As a result, the Committee plans to obtain the goods and services (i.e., meals, stage lighting and sound, generators, etc.) that it intended to obtain through the event management services contract by working with the Guam Visitors Bureau (GVB) and its event management contractor.
- The Committee's internal controls can be improved.

Our audit identified a questioned cost of \$2.2M due to the lack of AG's review for the procurement of the Pacific festival huts.

FESTPAC Funding Shortfall

In 2013, the Committee approved a budget of \$13M, of which \$7M was supposed to be in cash and \$6M was to be from in-kind contributions. Of the estimated \$7M in cash, \$5M was to come from the Government of Guam (GovGuam) via legislative appropriations and \$2M was to come from fundraising efforts.

During the March 9 and 14, 2016 Committee meetings, it was reported that the Committee does not have a \$13M budget, and is instead working with a significantly smaller budget of approximately \$6M in revenues and \$7M in estimated expenses. If additional revenues are not secured, the Committee is projecting a shortfall of approximately \$1.1M.

As of March 14, 2016, \$5.6M of the estimated \$6M in revenues has been recognized and was primarily from government appropriations of \$4.5M. The remaining \$1.1M is derived from sponsorships, donations, and fundraisers. Even if all \$6M in revenues were realized, it would still fall short of the \$7M in estimated expenses, consisting of \$4M for logistics, \$2.2M for the Pacific Festival huts, \$624,000 for programming, and \$18,000 for marketing and other expenses.

Per Public Law 31-77, Chapter X, Sections 10(a) and 10(c), monies deposited into the GVB-administered FESTPAC & Folklife Trust Account and any interest earned shall not be subject to any transfer authority of the Governor or any representative of GVB. GVB transferred a total of \$4.3M between October 2015 and February 2016 to the Guam Council on the Arts and Humanities Agency-administered FESTPAC checking account. This transfer may not be in compliance with the law. However, \$1.7M was transferred back in April 2016.

FESTPAC Procurement Activities Help Explain the Funding Shortfall Situation

As of March 2016, there were two major procurements funded by FESTPAC, the 34 Pacific festival huts with a cost of \$2.2M and the event management services contract for a cost of \$800,000.

34 Pacific Festival Huts

The Department of Chamorro Affairs (DCA) issued a Request for Proposal (RFP) in September 2015, which resulted in one proposal and a negotiated contract of \$1,995,000. Our findings included:

- There was no review by the AG, despite the procurement exceeding \$500,000, which is in violation of Title 5 of the Guam Code Annotated (GCA) § 5150.
- One change order totaling \$199,995 was approved, despite exceeding the 10% threshold allowed and without seeking the AG's review for the change order, as required by Title 29 of the Guam Administrative Rules (GAR) Article 1 § 1141.
- While the required affidavits were submitted along with brochures of past work done by the offeror, there was no evidence that a complete proposal was submitted to meet the minimum specifications required in the RFP, including no business license.

As of March 2016, four payments amounting to \$1.6M has already been paid to the contractor.

Event Management Services

In November 2015, DCA issued an RFP for Event Management Services, which resulted in two submitted proposals and an \$800,000 contract to the winning offeror. Unlike the huts procurement, this underwent the AG's review. However, our findings included:

- The contract did not specify how much the contractor would be compensated for its services.
- The contract amount is limited to \$800,000 per the AG's oral opinion. As a result, all the logistical items that the Committee had initially intended would have been covered by this contract needs to be procured through other means.
- The contract is a multi-year contract consisting of an initial one year period, and two one-year options to renew, which extends beyond the 12th FESTPAC.
- No rationale provided for low evaluation scores for one of the offerors.

As of March 23, 2016, three payments totaling \$578,000 has already been paid, of which \$119,000 was for event management services.

Stronger Internal Controls Are Needed

We assessed the internal control of the Committee and noted several areas needing improvement, such as the lack of assignment of authority and responsibility, lack of segregation of duties and formal delegation of approval authority, lack of monthly Committee meetings, and no formal monitoring and evaluation process to ensure internal controls are in place.

Conclusion and Recommendations

With less than 30 days, the Committee is challenged to deliver a successful FESTPAC that Guam and her people can be proud of, but the Committee must also ensure that it achieves this goal in conformity with Guam laws and regulations. OPA plans to conduct a post review of FESTPAC after the conclusion of the festival, which will also include a review of FESTPAC fundraising activities. We made three recommendations to the Committee pertaining to revisiting its finances, having the AG review the Pacific festival huts procurement, and ensuring adequate controls are in place.

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