

Letter Audit Report

Department of Public Health Services Audit and Investigation - Falsification of Price Quotations for Printing Services

July 17, 1996

(Letter Report No. LT-96-04)



Office of the Public Auditor
Commonwealth of the Northern Mariana Islands



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Commonwealth of the Northern Mariana Islands

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July 17, 1996

Dr. Isamu J. Abraham
Secretary of Public Health
Department of Public Health Services
P.O. Box 409 CK
Saipan, MP 96950

Dear Dr. Abraham:

Subject: Final Letter Audit Report - Falsification of Price Quotations For Printing Services (Report No. LT-96-04)

This final letter audit report presents the results of our audit and investigation of the falsification of vendors' price quotes for printing services by the Commonwealth Health Center's (CHC) Supply Technician assigned at the Materiel Management Section. The objectives of our work were to determine whether (1) the Supply Technician had been falsifying price quotes to favor a particular vendor, and (2) fraudulent transactions were committed against the CNMI Government.

Our investigation showed that the Supply Technician falsified the price quotes of several vendors for printing CHC forms. We also found that the Technician received gifts from the vendor who was selected as the lowest source. As a result, CHC paid \$1,700 for a purchase which should have cost \$560 and, therefore, overpaid the vendor by \$1,140. We recommended that the Secretary of Health (1) formally initiate adverse actions against the Supply Technician in accordance with the guidelines provided by the Office of Personnel Management and in compliance with the Government Ethics Code Act. We also recommended that the Secretary inform the Medical Supply Officer (MSO) (2) about his duty to provide OPA with all official documents requested, and (3) that overpayments should be returned to the CNMI General Fund instead of being left with the vendor as a credit for future purchases.

In his memorandum response dated June 26, 1996 (**Appendix A**), the Secretary of Public Health concurred with our findings. Based on his response, one of the three recommendations was considered open, one resolved, and one closed. For Recommendation 1, the Secretary submitted a copy of an "Employee Counseling Document" as evidence of a reprimand against

the Supply Technician. However, the contents of the document shows that it was not a reprimand because it downplayed the seriousness of the violations, did not state the violations of procurement regulations and the Ethics Act or cite the potential penalties such as imprisonment and fines, and did not say it was a reprimand letter that will become a permanent part of the Technician's personnel file. We consider Recommendation 1 as open pending the MSO's appropriate administrative sanctions which could include issuance of an official reprimand letter against the Technician. Recommendation 2 is considered resolved pending receipt of a copy of the Secretary's memorandum or directive instructing the MSO to provide OPA with all official documents requested. For Recommendation 3, the Secretary enclosed a copy of the reimbursement check for \$1,140 from the vendor. He also stated that their original intention was to apply the overpayment against outstanding claims by the vendor and not as credit for future purchases. We consider Recommendation 3 as closed and implemented.

Background

On or about July 20, 1995, the Speaker of the House of Representatives, by telephone, requested the Office of the Public Auditor to audit an allegation that CHC has not been following established procedures for the procurement of printing services. OPA was also informed by a confidential informant that the Supply Technician responsible for obtaining printing services of the various forms used by CHC had been falsifying price quotes so that a particular vendor would be selected as the low source and receive the work. This information prompted OPA to conduct an audit and investigation.

Objectives, Scope, and Methodology

The objectives of our audit and investigation were to determine whether (1) the Supply Technician had been falsifying price quotes to favor a particular vendor, and (2) fraudulent transactions were committed against the CNMI Government. The scope of our work covered selected transactions for printing services from fiscal years 1994 to 1995. As part of our audit, we reviewed payment documents and supporting price quotation forms. We also independently obtained price quotes for printing services from selected vendors and interviewed officials and employees of the Commonwealth Health Center.

Findings and Recommendations

Under the guidelines provided by the Office of Personnel Management and the provisions of the Government Ethics Code, falsification of price quotations to favor a particular vendor may warrant the dismissal of an employee from government service. Our investigation disclosed

that the Supply Technician falsified the price quotes of several vendors for printing CHC forms. Consequently, higher than regular prices were paid to the vendor who was selected as the lowest source. We also found that the Technician received gifts (i.e., betel nuts) from the vendor. The Technician was subsequently re-assigned to another position within the same department. According to the Technician, the false price quotes occurred because she wanted to facilitate delivery of the forms. As a result, (1) CHC paid \$1,700 for a purchase which should have cost \$560 and, therefore, overpaid the vendor by \$1,140, and (2) the Technician was not penalized for her misconduct.

Discussion

The May 30, 1995 memorandum from the Director of Personnel provided guidelines in initiating adverse actions against employees, and suggested appropriate penalties for those found guilty of willful misconduct, negligence, and dishonesty. Among others, the guidelines provided that for offenses resulting in false claims against the government, misappropriation of government property, embezzlement, theft, or other material acts of willful dishonesty, the appropriate penalty is dismissal from government service.

1 CMC §8551 (d)(1) of the Commonwealth Code (Government Ethics Code Act of 1992) also provides that a public official or public employee shall not solicit or accept anything of value, or the promise or the offer of anything of value, from a person regulated by or providing services to the government entity that the public official or employee serves... In addition, 1 CMC §8571(a) provides that any employee found to have violated the provisions of the Government Ethics Code shall be subject to employment sanctions, including discharge, in accordance with procedures under which the employee may otherwise be disciplined.

Section 6-202 of the CNMI Procurement Regulations further provides that any attempt by an employee to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of public trust. Section 6-205 also states that it shall be a breach of ethical standards for any employee to solicit, demand, accept or agree to accept from another person, a gratuity in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request... As provided under Section 6-211, an employee who violates the provisions of the regulations shall be subject to adverse action. This includes but is not limited to reprimand, suspension without pay, termination of employment, civil injunction, civil suit for damages or return of government money, or criminal prosecution.

Falsification of Vendors' Price Quotes

Acting on information provided by a confidential informant, OPA conducted an investigation of alleged price quotation-rigging by the Supply Technician. OPA was informed that the

Technician had been falsifying price quotes so that a particular vendor would be selected as the lowest source and receive the work.

Our investigation initially showed that price quotes for printing several CHC forms valued at more than \$3,000 were supposedly solicited by the Technician from three different vendors. The price quotes were listed in a price quotation form signed by the Technician. The difference in prices were minimal and the work was awarded to a particular vendor who was supposedly the lowest source. However, we learned from a competing vendor that the amounts listed in the price quotations were different from the vendor's actual submission. Specifically, the amount the competing vendor quoted for 20,000 copies of "Medical Record Request" forms were inflated 240% from \$125 to \$425 per 5,000 copies. We also received unsubstantiated allegations that the Technician was receiving gifts (i.e., betel nuts) from the vendor.

We discussed the matter with the CHC Medical Supply Officer (MSO) who is the head of the Materiel Management Section. The MSO explained that he was already aware of the situation. According to him, upon hearing of the allegations, he instructed the Purchasing Manager to separately obtain price quotes from the winning vendor to verify the amounts listed in the price quotation form prepared by the Technician. The vendor submitted a much lower price for the "Materials Record Request" forms of \$140 per 5,000 copies instead of the original price quotes supposedly obtained by the Technician of \$1,700 per 20,000 copies which works out to \$425 per 5,000 copies. As a result, CHC paid \$1,700 for a purchase which should have cost only \$560 (for 20,000 copies = \$140 x 4) and, therefore, overpaid the vendor by \$1,140. According to the MSO, the vendor agreed to offset the overpayment against subsequent orders. The MSO, however, should have required the vendor to repay the amount since there was no assurance that the vendor would receive future orders.

Supply Technician's Explanations

In a conference with the Technician, the MSO stated that the Technician admitted that she had not actually received bids from the vendors listed in the price quotation form and that what had occurred was as follows: CHC called and advised her that the forms were needed right away and that in order to insure the immediate delivery of the forms, she had then filled out the price quotation form and filled in arbitrary amounts as price quotes which she thought would be about the right price for the forms. She then prepared a purchase request so that the forms would be delivered quickly.

Regarding the allegations on gifts received from the vendor, the MSO explained that the Technician stated that on several occasions she received betel nuts from the vendor but this had nothing to do with the vendor being selected as the lowest bidder. According to her, the vendor has a betel nut tree and the vendor had no use for the nuts which just fall to the ground. The Technician said that she saw no reason why she should not be accepting the betel nuts.

Supply Technician Not Adequately Penalized For Offense

The MSO stated that he had relieved the Technician from her duty of obtaining price quotations and re-assigned her to duties that do not involve purchasing. He said that because the Technician admitted to him that she was not doing her job properly and this resulted in the Government being overcharged, he disciplined the Technician through what he called "written counseling." The MSO, however, declined to show us or discuss the nature of the counseling because he considers it confidential in nature. CNMI Personnel Regulations provide that the penalty for an employee who willfully makes false claims against the Government is dismissal from work. The Government Ethics Code also prohibits a government employee from accepting gifts from vendors and any violation is subject to employment sanctions, including discharge from work. We cannot ascertain if the MSO had discussed this penalty option with the Technician to make her realize the gravity of her offense because the MSO declined to show us written documentation. It should be noted that the CNMI Auditing Act grants OPA access to all official documents which cannot be denied on the basis of being personal or confidential.

Review of Other Procurement of Printing Services

To ascertain that the falsification of price quotations by the Technician was not widespread, we reviewed other procurement of printing services from the winning vendor and compared them with procurement from competing vendors. We also solicited independent price quotes from vendors to verify prices. Our review, however, did not show significant differences in prices with respect to these other procurements. Thus, no further investigation was pursued.

Conclusion and Recommendation

Falsification of price quotations is a serious offense that may warrant dismissal from government service. Accordingly, we recommend that the Secretary of Health (1) formally initiate adverse actions against the Supply Technician in accordance with the guidelines provided by the Office of Personnel Management and in compliance with the Government Ethics Code Act. We also recommend that the Secretary inform the MSO (2) about his duty to provide OPA with all official documents requested, and (3) that overpayments should be returned to the CNMI General Fund instead of being left with the vendor as a credit for future purchases.

Department of Public Health Response

In his memorandum dated June 26, 1996, the Secretary of Public Health responded to our recommendations as follows:

Recommendation 1

The Secretary stated that he does not support termination/dismissal of the Supply Technician from government services and that the punishment should fit the "crime." However, alternative administrative measures were taken as follows; (a) the employee has been officially reprimanded by the Medical Supply Officer (MSO), and (b) the employee was relieved of her procurement duties and transferred to another section.

OPA Comments

We consider Recommendation 1 as open because the Secretary's response downplayed the seriousness of the violations. We agree with the Secretary that the punishment should fit the "crime:"; however, violations of CNMI Procurement Regulations and the Government Ethics Code Act need to be taken seriously. In this instance, the quotation documents resulted in an inflation of the quotes by three times actual when mere phone calls could have resulted in accurate statements of quotation. This appears to be gross negligence or an intentional violation of procurement regulations. The message given to the employee about the gravity of the violations should be clear and not downplayed. Instead, the Secretary's response makes excuses such as saying that the value of the betel nuts is minimal whereas the Ethics Act states that acceptance by an employee of anything of value from vendors is prohibited. The Secretary's classification of free betel nuts as not being a violation of the Ethics Act since they are not resalable for monetary value is irrelevant because he has no authority to revise the Ethics Act. Regarding the Secretary's comment on the employee not having the opportunity to be oriented in provisions of Personnel regulations, the Ethics Act, and procurement regulations, the Secretary should make all employees aware of the existence of these documents and make them readily available to all employees.

We reviewed the "Employee Counseling Document" submitted by the Secretary as evidence of the official reprimand made by the MSO. However, the document does not contain the wording of a reprimand. For instance, it does not emphasize the gravity of the offenses committed by the Supply Technician, including the fact that it was a violation of the Ethics Act subject to imprisonment and fines. Also, there is no indication that the Supply Technician was informed that the penalty for such offenses could have been dismissal from work. In addition, the document does not state that it will become a permanent part of her personnel file. This document minimizes the seriousness of the violations.

Additional action required:

The regulations provide for dismissal and, in our opinion, the violations justify dismissal. If the Secretary believes the violations justify no more than a letter of reprimand, then the letter should be a true letter of reprimand and not merely a counseling letter. The Secretary should instruct the MSO to issue an official reprimand letter emphasizing the gravity of the offenses, the penalties that could have been taken against the Supply Technician, and that the letter will become part of her personnel files. The letter should state that falsification of procurement documents is an offense punishable under the guidelines issued by the Office of Personnel Management, and that solicitation and acceptance of gifts or anything of value from vendors is in violation of the Government Ethics Code. A copy of the reprimand letter should also be submitted to the Office of Personnel Management.

Recommendation 2

The Secretary responded that the MSO has been advised that all documents related to any inquiry by OPA shall be provided upon request.

Additional action required:

We consider Recommendation 2 as resolved pending receipt of a copy of the Secretary's memorandum or directive instructing the MSO to provide OPA with all official documents requested.

Recommendation 3

The Secretary enclosed a copy of the reimbursement check for \$1,140 from the vendor. He also mentioned that their original intention was to apply the overpayment against outstanding claims by the vendor and not as credit for future purchases.

OPA Comments

The Secretary's response is sufficient for us to consider Recommendation 3 as closed and implemented.


* * *

Our office has implemented an audit recommendation tracking system. All audit recommendations will be included in the tracking system as open or resolved until we have received sufficient evidence to consider the recommendation as closed. An open recommendation is one where no action or plan of action has been made by the auditee. A

resolved recommendation is one in which the auditors are satisfied that the auditee cannot take immediate action, but has established a reasonable plan and time frame for action. A closed recommendation is one in which the auditee has taken sufficient action to meet the intent of the recommendation or we have withdrawn it.

Please provide us the status of recommendation implementation within 30 days along with documentation showing the specific actions that were taken. If corrective actions will take longer than 30 days, please provide us additional information every 60 days until we notify you that the recommendation has been closed.

Sincerely,



Leo L. LaMotte
Public Auditor, CNMI

cc: Governor
Lt. Governor
Tenth CNMI Legislature (27 copies)
Secretary of Finance
Attorney General
Special Assistant for Management and Budget
Public Information Officer
Press

**MEMORANDUM**

To: Leo L. LaMotte
Location: Public Auditor
Date: June 26, 1996

From: Secretary of Health
Location: Secretary of Health

Subject: Department of Public Health Services Audit and Investigation
Falsification of Price Quotations for Printing Services

The following actions were taken in response to the findings and recommendations on the above referenced subject matter:

OPA recommendation #1: "Formally initiate adverse actions against the Supply Technician in accordance with the guidelines provided by the Office of Personnel Management and in compliance with the Government Ethics Code Act."

DPH Response: We concur with the findings; however, we do not support the adverse actions for termination/dismissal from government services. The 'punishment' should fit the 'crime'. Dismissal, while it would send a strong message to the employee, would not give any leeway for the employee to be given the opportunity to learn from his/her mistake and give productive future years to the government. Given the level of the 'crime' and the employee's willingness to cooperate, we have taken alternative administrative measures. These measures include the following actions on our part:

- a. The employee has been officially reprimanded by the Medical Supply Officer. Documentation of that reprimand is attached.
- b. The employee was relieved of duty and transferred to another section not affiliated with duties related to procurement or acquisition of supplies, particularly in the area of obtaining price quotation from vendors.

The employee stated that the actions were not intentional or for monetary gain. Providing prompt services was the primary objective of the employee in order to prevent impairment of our patient care program. This is an oversight error and a lesson learn. This incident was also due to inadequacy of orientation of the

employee in the areas of work ethics and the legal imposition program. We follow the Personnel Rules and Regulations; the employee, however, was apparently not afforded the opportunity to have go over the Personnel Rules and Regulations that apply to the job in question.

As far as the Ethics Code in terms of the employee allegedly taking betel-nut as a bribe, I would classify it as having value if the amount of betel nut received was enough to be resold for monetary gains, which it apparently was not. Betel nut is fairly cheap in the stores on Saipan. The employee in question could have easily purchased a bag. We do not believe the employee would have knowingly jeopardized her job for a few betel nuts. But again, this is a question of whether or not the employee was adequately orientated to the CNMI Government's Ethics Code.

In the meantime and since the employee was transferred to another work area, the employee in question has been receiving orientation on Personnel Rules and Regulations and the Ethics Code.

Recommendation # 2: "Inform the MSO about his duty to provide OPA with all official documents requested."

Response: We concur with the recommendation. The MSO has been advised to ensure that all documents related to any inquiry by OPA shall be provided upon request. The "Employee Counseling Statement" is attached.

Recommendation # 3: "Overpayments should be returned to the CNMI General Fund instead of being left with the vendor as a credit for future purchases."

Response: We concur with the findings. A copy of the reimbursement check is attached. The intention of the credit memo was that it would be applied for any outstanding payment on PO57394 by the Accounts Payable Section and not just for future purchases.



Dr. Isamu J. Abraham

Attachments:

