



**EXECUTIVE SUMMARY**  
**Guam Power Authority and Guam Waterworks Authority**  
**Unclassified Employees' Pay Raises and Bonuses**  
**Report No. 19-09, December 2019**

Our audit of the Guam Power Authority (GPA) and Guam Waterworks Authority (GWA) unclassified employees' pay raises and bonuses found that the Consolidated Commission on Utilities (CCU) did not comply with the Open Government Law when it discussed and decided during their executive meetings the employees' salaries and bonuses. Additionally:

- CCU violated Public Law (P.L.) 33-123 when it gave bonuses to certain unclassified employees after February 2016;
- After the Attorney General (AG)'s April 23, 2019 opinion, most unclassified employees returned the voided salaries and bonuses provided by the CCU at its November 27, 2018 executive meeting, at the net amounts instead of the gross amounts; and
- CCU did not conduct performance evaluations for the GPA and GWA General Managers.

**Salaries and Bonuses Discussed and Decided During CCU Executive Meetings**

Title 5 of the Guam Code Annotated Chapter 8 § 8111 (a) states, "... *Under no circumstances shall a public agency hold an executive or closed meeting to discuss salaries, salary levels, or salary adjustments of any employee or officer. All such discussions or decisions must be held in public meeting and minutes shall be kept and open to the public.*"

The CCU violated this law when it discussed the following during their executive sessions:

Meeting Date	Agency	Position	Description	Annual Amount
02/11/2014	GPA	General Manager (GM)	Salary Adjustment	\$ 15,000
12/11/2014	GPA	GM	Bonus (one-time)	\$ 4,000
12/11/2014	CCU	Board Secretary	Bonus (one-time)	\$ 1,000
02/24/2015	GWA	Assistant GM – Collection & Distribution	Salary Adjustment	\$ 28,000
07/23/2015	GPA	GM	Salary Adjustment	\$ 50,000
09/22/2015	GWA	Controller	Salary Adjustment	\$ 15,000
09/22/2015	GPA	Chief Financial Officer (CFO)	Initial Salary	\$ 135,000
09/22/2015	GPA	CFO	Bonus (one-time)	\$ 15,000
12/10/2015	GWA	CFO	Salary Adjustment	\$ 11,000
12/10/2015	GWA	Assistant CFO	Salary Adjustment	\$ 5,000
04/26/2016	GPA	CFO	Bonus (one-time)	\$ 5,000
04/26/2016	GPA	Assistant GM – Operations	Salary Adjustment	\$ 21,000
04/26/2016	GPA	Staff Attorney	Salary Adjustment	\$ 22,000
04/26/2016	GWA	Staff Attorney	Severance Pay (one-time)	\$ 10,000
05/24/2016	GWA	CFO	Salary Adjustment	\$ 5,000
05/24/2016	CCU	Board Secretary	Salary Adjustment	\$ 2,000
02/21/2017	GPA	Assistant GM – Administration	Initial Salary	\$ 128,000

Meeting Date	Agency	Position	Description	Annual Amount
02/21/2017	GPA	Assistant GM – Engineering and Technical Services	Salary Adjustment	\$ 7,000
02/21/2017	GPA	Assistant GM – Operations	Salary Adjustment	\$ 6,000
04/20/2018	GWA	CFO	Status Change	\$ 148,000
08/28/2018	GWA	Assistant GM – Compliance and Safety	Salary Adjustment	\$ 434
08/28/2018	GWA	Assistant CFO	Salary Adjustment	\$ 203
08/28/2018	GWA	Controller	Salary Adjustment	\$ 11,000
11/27/2018	GPA	GM	Bonus (one-time)	\$ 25,000
11/27/2018	GWA	GM	Bonus (one-time)	\$ 10,000
11/27/2018	GWA	GM	Salary Adjustment	\$ 15,000
11/27/2018	GPA	Assistant GM – Engineering	Salary Adjustment	\$ 10,000
11/27/2018	GPA	Assistant GM – Operations	Salary Adjustment	\$ 10,000
11/27/2018	GPA	Assistant GM – Administration	Salary Adjustment	\$ 17,000
11/27/2018	GPA	CFO	Salary Adjustment	\$ 17,000
11/27/2018	GPA	Staff Attorney	Salary Adjustment	\$ 10,000
11/27/2018	GWA	Staff Attorney	Salary Adjustment	\$ 25,000

After discussing the salaries and bonuses during executive sessions, the CCU would pronounce their decision when they go back in the regular sessions. However, the CCU did not do this for all salary adjustments and bonuses.

Additionally, the CCU gave bonuses to certain unclassified employees despite being prohibited by P.L. 33-123. Therefore, we questioned the validity of \$1.3 million (M) in salaries and benefits expenses of GPA and GWA.

### **Cancellation and Return of Salary Increments and Bonuses**

The AG required GPA and GWA to pay back the increments and bonuses received by its unclassified employees arising from the November 27, 2018 CCU executive meeting. We noted inconsistencies in the manner the monies were returned. Most employees returned the net amounts (net of payroll deductions), while the Board Secretary returned the gross amount. We also noted various installment payment periods, the longest of which would take eight years to repay.

### **CCU Did Not Conduct Performance Evaluation for the General Managers**

Both GPA and GWA GMs received pay increases and bonuses from fiscal year 2015 to 2019; however, the CCU did not conduct formal performance evaluations for these officials. Therefore, we question the CCU’s basis of pay adjustments given to the GMs.

### **Former GWA CFO Hired as a Contractor**

The CCU hired the former GWA CFO under a contract arrangement for 11 years, however without a contract. The Legal Counsel opined that the relationship between the former CFO and GWA was that of employee and employer. Misclassifying an employee as a contractor may be suggestive of issues with retirement benefits and withholding taxes, among others. Because of OPA’s limited access to employee personal information, we referred this matter to AG for further investigation.

**Salaries of Certain Unclassified Employees Inconsistent with Authorized Pay Range**

We observed that the salaries of certain GWA and GPA unclassified employees were inconsistent with the CCU’s authorized pay range.

**GWA Pay Range vs. Unclassified Employees Salary Level**

Unclassified Employees	Salary as of 12/31/2017	Authorized Pay Range (at 10 <sup>th</sup> Market Percentile)	Higher than Maximum/ (Lower than Minimum) By
<b>Above Pay Range:</b>			
1. GM	\$ 175,000	\$148,098 ~ \$154,111	\$ 20,889
2. Asst. GM - Compliance & Safety	\$ 123,679	\$96,779 ~ \$100,709	\$ 22,970
3. Asst. GM - Collection & Distribution	\$ 112,152	\$102,647 ~ \$106,815	\$ 5,337
4. Staff Attorney	\$ 115,000	\$108,962 ~ \$113,387	\$ 1,613
5. CFO	\$ 147,954	\$129,762 ~ \$135,031	\$ 12,923
6. Assistant CFO	\$ 111,042	\$99,712 ~ \$103,760	\$ 7,282
<b>Within and Below Pay Range:</b>			
7. Assistant GM - Administration & Support	\$ 131,060	\$131,060 ~ \$136,382	Within range
8. Controller	\$ 81,432	\$89,374 ~ \$93,003	(\$ 7,942)

**GPA Pay Range vs. Unclassified Employees Salary Level**

Unclassified Employees	Salary as of 12/31/2017	Authorized Pay Range (at 15 <sup>th</sup> Market Percentile)	Higher than Maximum/ (Lower than Minimum) By
<b>Above Pay Range:</b>			
1. GM	\$ 224,993	\$168,549 ~ \$175,393	\$ 49,600
2. Board Secretary	\$ 72,009	\$43,606 ~ \$45,377	\$ 26,632
3. Staff Attorney	\$ 134,992	\$112,264 ~ \$116,822	\$ 18,170
<b>Within and Below Range:</b>			
4. Asst. GM - Administration	\$ 128,282	\$133,694 ~ \$139,123	Within range
5. Asst. GM - Engineering & Technical Services	\$ 145,000	\$141,919 ~ \$147,682	Within range
6. Asst. GM - Operations	\$ 145,000	\$141,919 ~ \$147,682	Within range
7. Chief Information Technology Officer	\$ 110,000	\$105,758 ~ \$110,052	Within range
8. Controller	\$ 88,180	\$92,082 ~ \$95,821	(\$ 3,902)
9. CFO	\$ 135,000	\$137,745 ~ \$143,339	(\$ 2,745)

The CCU sets the salaries of the unclassified employees who work at their pleasure. These tables show that the CCU provides salaries to certain unclassified employees higher than the other personnel.

The Open Government Law states that the people of Guam do not yield their individual rights to the public agencies which serve them. The people insist on remaining informed. Discussions by the public agencies about the salary level of employees should not be conducted in private and should not be tolerated. In this audit, we made four recommendations.

Benjamin J.F. Cruz  
Public Auditor