



EXECUTIVE SUMMARY
Autonomous Agency Collections Fund
OPA Report No. 22-01, March 2022

Our audit of the Autonomous Agency Collections Fund (AACF) found that the special revenue fund was not being utilized in accordance with its originally intended purpose. The AACF was created in 1985 as a transfer policy, or payment-in-lieu-of-taxes, for the Guam Power Authority (GPA), Port Authority of Guam (PAG), and Guam International Airport Authority (GIAA) for their benefit of services¹ provided by the General Fund. The three agencies were required to transfer a proportioned contribution of the aggregate sum of \$3.5 million² (M) annually to the General Fund. Our audit revealed little to no activity since the fund's inception.

Department of Administration Invoices and Fund Activity

On March 31, 2011, the Department of Administration (DOA) invoiced GPA, PAG, and GIAA \$12.3M each, representing an annual assessment of \$875 thousand (K) for each of the fiscal years 1998 to 2011.

In response to this invoice, GPA obtained approval from the Consolidated Commission on Utilities (CCU) to offer a settlement amount of \$2.6M; however, such settlement offer was conditional on the approval by the Public Utilities Commission (PUC) of a surcharge to recover the assessment from ratepayers. The PUC has yet to approve the surcharge and no liability or other impact was recognized. GPA has made no payments to the AACF since the fund's inception. Subsequently, in October 2011, the U.S. Federal Emergency Management Agency (FEMA) reimbursed GPA for approximately \$1.8M for certain typhoon-related costs incurred in 2002. DOA planned to offset the amount of the reimbursement against billings to GPA related to the AACF. Due to the uncertainty of receipt, GPA has not recorded the reimbursement in the accompanying financial statements.

Federal regulations and law, and bond covenants prohibit GIAA from transferring any funds from its operating surplus to the General Fund. Any diversion of their revenues under any formula will place them in breach of the Bond Indentures and will jeopardize ongoing and future federal funding, possibly even subjecting GIAA to millions of dollars in federal civil penalties. Accordingly, GIAA has transferred none of its revenues to the General Fund for the AACF.

In May 2011, PAG requested DOA further review their \$12.3M assessment, as they believed they did not owe the entire amount based on previous transfers in 1994 and 1997 of \$500K and \$3.5M, respectively, related to relief efforts for Typhoon Paka and the Base Realignment Closure. PAG also asserts that it funds certain government services provided by the Guam Customs and

¹ Such services include police and fire protection, road systems and other governmental facilities through which, in many cases, require additional General Fund expenditures.

² A formula determined by the Governor of Guam, in consultation with the Board of Directors for the three agencies, was to establish the amounts owed. The formula could not violate the terms and conditions of any bond covenant in effect for the three agencies.

Quarantine Agency, the Guam Environmental Protection Agency, the Guam Police Department, and the Guam Fire Department through ongoing operations at PAG. PAG was the only agency to have made a transfer to the AACF.

After the issuance of the invoices in March 2011, we noted the AACF has not been presented as a special revenue fund in the Government of Guam's (GovGuam) Basic Financial Statements from fiscal year 2012 through 2020. The three agencies are required to present this information in the footnotes of their financial statements since it remains a liability and an active Guam public law. In addition, we noted similarities in the footnotes in the financial audits of the three agencies and that there was no substantive progress on discussions with the Executive and Legislative branches to repeal 5 GCA §22421 or on the issue of the GovGuam assessment, which prompted this performance audit.

Prior Audit Coverage & Legislative/Executive Action

The Office of Public Accountability issued three prior performance audits that recommended the repeal of the Autonomous Agency Collections Fund due to inactivity. The audits included:

- OPA Report 04-04, *Department of Administration Special Revenue Funds Part I*;
- OPA Report No. 06-03, *Department of Administration Review of Dormant and Inactive Funds As Mandated by Public Law 28-68*; and
- OPA Report No. 19-02, *Department of Administration Special Revenue Funds*.

Conclusion and Recommendation

Since the funds' inception in 1985, the intended purpose of the AACF has not been met and there has been little to no activity due to various barriers in transferring surplus revenues from GPA, GIAA, and PAG. The barriers include a raise in power rates to offset the surcharge, a prohibition from bond covenants, and certain government services already provided by the agencies. Public Law (P.L.) 27-110 amended the language by instructing the funds to be transferred from GPA, PAG, and GIAA directly to the General Fund. Because of the concerns cited by GPA, GIAA, and PAG; the fund's inactivity; the Office of Public Accountability's (OPA) prior audit coverage on the AACF; and the amended language pursuant to P.L. 27-110, we recommend the Guam Legislature repeal 5 GCA §22421.



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