



OFFICE OF PUBLIC ACCOUNTABILITY

Doris Flores Brooks, CPA, CGFM

Public Auditor

July 11, 2016

Honorable Benjamin J.F. Cruz
Vice Speaker and Chairman, Committee on Appropriations and Adjudication
33rd Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

Re: 2017 Budget Request

Dear Vice Speaker Cruz and Committee Members:

OPA is requesting a budget appropriation of \$1,459,230 for FY 2017. This represents a 5% or \$69,487 increase from our FY 2016 appropriation of \$1,389,743. In addition we request that any personnel lapses be allowed to be carried forward to the next fiscal year.

For nearly a decade the one common area that continues to plague OPA is the recruitment and retention of qualified staff. We again ended CY 2015 with a staff of 12, one more than the previous year. Our management team is in place with an average of over 12 years' experience each. The senior staff of three is starting to stabilize with an average of nearly 6 years each. However the number of senior auditors is woefully inadequate and should be double that number. Junior staff is where we experience the most turnover. We have just 5 staff auditors whose average tenure with OPA is barely one year.

The experience gap between management and senior auditors is 6 years with another 5 year experience gap from senior auditors to staff auditors. These experience gaps represent the struggle we have experienced this past decade due to the Department of Administration's (DOA) protracted recruitment process and the woefully low salary scale.

Through P.L. 33-18, we were able to compensate the unclassified management team with certification incentive pay ranging from 10% to 15%. Similarly pay adjustments will be given to other staff upon obtaining their certifications. I want to again thank Senator Dennis Rodriguez and the 33rd Guam Legislature for its passage.

Even I received a certification pay adjustment. The last time the Public Auditor's salary was adjusted was in 2006 when the responsibility of Procurement Appeals was given to this Office. P.L. 32-208, which provided salary increases to all elected officials and department heads retroactive to January 2014, excluded the Public Auditor.

DOA is still reviewing the OPA Compensation Study. DOA HR has indicated that they should complete their review by the end of the fiscal year. Accordingly we urge the Legislature to provide language in the Budget Act to make the effective date October 1, 2016 for OPA staff and the Public Auditor.

Let me reiterate that implementation of the new Competitive Wage Act while welcomed, did little to make OPA competitive with autonomous agencies, the federal government or the private sector. The average salary increase our auditors received was just \$1.05 an hour or \$2,172 per annum.

Passage and implementation of the OPA Compensation Study is crucial to bringing stability in retention and recruitment of staff. With the certification pay adjustment already in place, the estimated cost for implementation of the study is significantly less and can be absorbed through the carryover of 2016 personnel lapses.

Hiring Autonomy

To address the protracted recruitment of DOA, we request for staffing hiring autonomy similar to the staffing autonomy granted to the elected Attorney General in P.L. 31-153. The amendments made to OPA's enabling legislation in the FY 2015 Budget Act apparently were insufficient when OPA attempted to hire an Auditor I in April this year, without going through DOA. DOA challenged that authority by requesting an Attorney General opinion. The AG orally provided guidance on the appropriate section. Accordingly, we have prepared a bill for your consideration that would give OPA hiring authority from DOA.

Electronic Software Implementation

Since last September we have been transitioning all new audits including the annual report to TeamMate, our new electronic software program. While we have experienced some problems, it has been a relatively smooth transition. TeamMate is also used by the Department of Interior Office of Inspector General and the Pacific Association of Supreme Audit Institutions (PASAI) members of New Zealand, Cook Islands, Fiji, Solomon Islands, Tonga and Vanuatu. Two OPA staff attended a TeamMate workshop sponsored and paid for by PASAI to collaborate with other PASAI TeamMate users. While Guam OPA is the newest member to embrace TeamMate, we are the first to utilize the software program for performance audits.

SAI PMF LITE

The Supreme Audit Institution Performance Measurement Framework (SAI PMF) is being revised to tailor to the size of the PASAI members, the majority of whom are small island governments. The SAI PMF Lite version is expected to be finalized the end of 2016. Accordingly Guam OPA will participate in the assessment in 2017. PASAI would also like to conduct the review of the SAI PMF Lite during the next peer review. Guam is scheduled to have its quality control review sometime in 2017.

Financial Management System (FMS)

For the past several years, we have been advocating legislation to require agencies to issue their financial audits no later than six months after the fiscal year. Nearly half of the autonomous agencies presently do so and others are making progress toward that end. The government wide audit of the Government of Guam however, continues to be issued on the last day of the ninth month, which is the last day of the federal government's submission deadline. We again advocate this earlier release as GovGuam is a billion dollar entity. To wait nine months after the fiscal year to find out how a government fared is no way to run a billion dollar organization. An earlier release will help policy makers make critical decisions more timely.

Among the factors delaying an earlier release is DOA's antiquated financial management system, dating back to the 1980s. Any change in DOA's financial system must go hand in hand with the Department of Revenue and Taxation, a mostly manual driven operation. These two agencies must build up their accounting infrastructure with additional staff and new financial systems.

Low Risk Auditee

We saw progress in FY 2015 when two additional agencies became low risk auditees. The Port Authority of Guam and the Guam International Airport Authority joined the Guam Community College as low risk auditees. It is our goal to have all government agencies that are subject to the Single Audit Act become low risk auditees.

Legislative Mandates

Due to staffing shortages and other pressing audits, OPA did not complete its review of laws affecting OPA. There are 123 laws that have expanded OPA's duties and responsibilities. We have addressed 57 of these laws while 66 are recurring. We are currently re-evaluating the priorities of these recurring mandates.

Recommendations Follow Up

Likewise our triennial recommendation follow up report will now become a quadrennial report. This periodic report helps us to determine the effectiveness and implementation of our audit recommendations. Through our audits we have attempted to be proactive and suggest best practices. A good example was our audit of FestPac that identified funding and procurement shortfalls before the start of FestPac. While all of us can be proud of Guam's hosting of Fest Pac, accountability of government funds must always be paramount. The audit of Fest Pac expenditures will commence shortly.

Annual Report

Our recently released 2015 annual report outlines other activities and accomplishments. You can download the full report at our website www.opaguam.org. Printed copies will be forthcoming.

To recap our 2017 budget request:

- Approve OPA's Compensation Study effective October 1, 2016;
- Approve lump sum budget request of \$1,459,230;
- Approve the carry-over of personnel lapses from FY 2016 to FY 2017;
- Exempt OPA from BBMR allotment control similar to other elected offices and the Judiciary;
- Other

Thank you for giving us the opportunity to present our budget request.

Si' Yu'us Ma'ase

A handwritten signature in black ink, appearing to read 'Doris Flores Brooks', written in a cursive style.

Doris Flores Brooks, CPA, CGFM
Public Auditor

Attachment: Draft OPA Staffing Autonomy Bill

MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
THIRTY-THIRD GUAM LEGISLATURE
2016 (SECOND) REGULAR SESSION

Bill No. _____

Introduced by:

AN ACT TO AMEND §1907(c), OF CHAPTER 19, OF TITLE 1, GUAM
CODE ANNOTATED, RELATIVE TO GRANTING INCREASED
AUTONOMY TO THE OFFICE OF PUBLIC ACCOUNTABILITY ON
PERSONNEL MATTERS

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **SECTION 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the
2 People of Guam first elected a Public Auditor for the Government of Guam in 2000. The
3 election of the position of the Public Auditor provides for more independence of that office
4 from *I Maga'lahi* and *I Liheslaturan Guåhan*, which is appropriate for the wide-ranging
5 duties of the Public Auditor and as the main, independent auditor of the Government of
6 Guam.

7 *I Liheslaturan Guåhan* further finds that the Office of Public Accountability
8 experiences difficulties with government bureaucracy, specifically concerning personnel
9 recruitment. These problems have diminished the ability of the Office of Public
10 Accountability to effectively and efficiently execute its duties and responsibilities.

11 *I Liheslaturan Guåhan* finds that the Attorney General of Guam, as provided for in
12 Chapter 30, Division 3, Title 5, Guam Code Annotated, is authorized to administer matters
13 pertaining to the personnel of the Office of the Attorney General of Guam. This level of
14 autonomy allow the Attorney General of Guam to efficiently recruit in a timely manner and
15 retain personnel critical to supporting the mandates of the Office of the Attorney General of
16 Guam.

17 *I Liheslaturan Guåhan* further finds that it is manifestly in the interests of the people
18 of Guam that the Public Auditor shall have more autonomy over the Office of Public

1 Accountability. It is only appropriate that the Public Auditor have more control over the
2 administration of the management of the Office of Public Accountability's personnel,
3 including the recruitment, hiring, and retention process. This will only enhance the
4 independence of the Office of Accountability.

5 Therefore, it is the intent of *I Liheslaturan Guåhan* to amend and add provisions in
6 Title 1, Guam Code Annotated, which will grant the Office of Public Accountability a level of
7 autonomy similar to the Office of the Attorney General of Guam relative to the recruitment,
8 hiring, and retention of agency personnel.

9
10 **SECTION 2. Duties of the Public Auditor.** §1909(k), of Chapter 19, Title 1, Guam
11 Code Annotated is hereby *amended* to read:

12
13 **§1909. Duties of Public Auditor.**

14 The Public Auditor, by herself or himself, or through a deputy or assistant, shall
15 have the following powers and duties:

16 (k) Subject to the availability of funds provided by annual appropriation by the
17 Legislature, to employ such necessary staff to carry out the functions and responsibilities of
18 the office. and for such employment:

19
20 (i) The Public Auditor shall serve as the Office of Public Accountability's
21 appointing authority for all personnel employed at the Office of Public Accountability, hiring
22 employees from an established list of qualified applicants in accordance with established
23 criteria and assigning, detailing, and transferring employees as the Public Auditor deems
24 necessary for the effective operation of the Office of Public Accountability.

25
26 **SECTION 3. Subsection (c) of Section 1907 of Title 1, Guam Code Annotated,**
27 **is hereby amended to read:**

28 (c) ~~Subject to the availability of funds and notwithstanding any other law to~~
29 ~~the contrary, and consistent with Subsection (b) of this Section and as required by Title 1~~
30 ~~G.C.A., Chapter 19, §1909(i), the Public Auditor may appoint such full-time or part-time~~

1 employees in the Office of Public Accountability as are necessary to carry out the duties
2 and responsibilities of the Public Auditor and the Office of Public Accountability. Upon
3 appointment by the Public Auditor, such persons shall be probationary employees in the
4 classified service until their qualifications have been verified and confirmed in writing by the
5 Civil Service Commission in accordance with Title 4 GCA, Chapter 4, Article 4, §4403(e), or
6 up to one hundred eighty (180) days upon employment, whichever comes first.
7 Subsequent to the action of the Commission, the public Auditor may continue a person's
8 probation as provided by Title 4 GCA, Chapter 4, Article 1, §4106. **Administration of**
9 **General Personnel Matters.** The Office of Public Accountability shall be responsible for
10 the conduct of operational matters addressing its personnel activities, in accordance with
11 and consistent with the provisions contained herein.

12
13 **SECTION 4. Subsections (e), (f), (g), and (h) are hereby enacted and added to**
14 **Section 1907 of Title 1, Guam Code Annotated to read:**

15
16 **(e) Administration of Personnel.** The Public Auditor is authorized to hire and
17 appoint such personnel, and to fix their duties and responsibilities under and in accordance
18 with Title 4, Guam Code Annotated, as may be necessary for the purposes of this Chapter.
19 The Public Auditor is also authorized to procure, in accordance with Guam's Procurement
20 Laws and Regulations, a private contractor to perform the Human Resource operations for
21 the Office of Public Accountability or enter into a Memorandum of Understanding or
22 Memorandum of Agreement with another agency, public corporation, or instrumentality of
23 the Government of Guam to perform such operations for the Office of Public Accountability

24
25 **(f) Regulations.** Pursuant to the provisions of §4105 of Title 4, Guam Code
26 Annotated, the Public Auditor may establish rules and regulations governing selection,
27 promotion, performance evaluation, demotion, suspension, and other disciplinary action for
28 the employees of the Office of Public Accountability. Until such time as the Office of Public
29 Accountability adopts its own rules and regulations as provided herein, the rules and
30 regulations adopted by the Department of Administration shall continue to apply to the

1 Office of Public Accountability except those regulations which conflict any of the statutory
2 provisions herein.

3
4 **(g) Contributions to the Government of Guam Retirement Fund and Workers**

5 **Compensation Fund.** Employees of the Office of Public Accountability shall continue to
6 be members of the Government of Guam Retirement Fund, subject to the provisions of
7 §8105 of Title 4. The Office of Public Accountability shall contribute to the Government of
8 Guam Retirement Fund on the basis of annual billings as determined by *I Liheslaturan*
9 *Guahan* or the Government of Guam Retirement Fund, for the government share of the
10 cost of the retirement benefits applicable to the Office of Public Accountability employees
11 and their beneficiaries. The Office of Public Accountability shall also contribute to the
12 Workmen's Compensation Fund, on the basis of annual billings as determined by the
13 Workmen's Compensation Commissioner, for the benefit payments made from the
14 Workmen's Compensation Fund on account of the Office of Public Accountability
15 employees.

16 **(h) Post Audit.** Persons appointed and employed by the Office of Public
17 Accountability in the classified service shall be subject to Post-Audit Review by the Civil
18 Service Commission and such review shall be discretionary.

19
20 **SECTION 5. Effective Date.**

21 The provisions contained herein shall be effective on October 1, 2016.

22
23 **SECTION 6. Severability.** If any provisions of this Act or its application to any
24 person or circumstance is found to be invalid or contrary to law, such invalidity shall *not*

- 1 affect other provisions or applications of this Act which can be given effect without the
- 2 invalid provisions or applications, and to this end the provisions of this Act are severable.