



EXECUTIVE SUMMARY
Government of Guam Leave Sharing Program
Report No. 10-05, September 2010

The government of Guam's Leave Sharing Program is a benefit program available to classified government employees who have exhausted their leave, but need more time to care for a sick family member, attend to their own medical or personal needs, or who are called to military duty. The Program allows an employee to transfer earned sick or annual leave to another employee (the recipient) within any department or agency. Before the donated leave can be transferred and used, the recipient must first exhaust all sick and annual leave or any compensatory time they may have earned.

Our audit revealed that between fiscal years 2007 and 2009, 806 employees were paid for 252,263 hours of donated leave at a cost of \$4.5 million (M). Our audit did not include autonomous agencies, the Legislature, or the Judiciary. Employees from the Department of Education (DOE), our largest government entity, were paid the most leave sharing hours at 99,224 (39%). Guam Fire Department (GFD) ranked second with 24,359 hours (10%), of which, 7,594 were drawn for military deployment.

With the exception of firefighters, government employees generally work 80 hours per two-week pay period and when donated leave hours are used, such leave hours are compensated and reduced from the employee's leave bank on an hour-for-hour basis. In other words, the leave is deducted based on the same number of leave hours that were donated to them.

In contrast, during a normal two-week pay period, firefighters work five 24-hour shifts and are compensated for 120 hours. By law, for the normal two-week pay period, firefighters receive 106 hours of compensation at their regular hourly rate of pay and are compensated at 1½ times their regular hourly rate for hours in *excess* of 106. When on leave for five days, GFD uniformed personnel are compensated 106 hours, but are only assessed 45 hours of leave (9 hours of leave per day). The 61-hour difference between the 106 hours of compensation and the 45 hours of leave is categorized by Department of Administration (DOA) as "non-productive" time. We estimate that as much as \$558,742 was paid to GFD uniformed personnel for such "non-productive" time over the last three years.

The legislation that provides firefighters on leave with 61 hours of additional compensation per pay period is a benefit no other government employee enjoys. GFD management recognizes the inequity, as well as the negative effect it has on the department's budget, operations, and the morale of other non-uniformed personnel, but has been stymied by various law interpretations. The leave compensation for firefighters surpasses that of all other government employees and is inherently inequitable.

Additionally, although retirement contributions are not supposed to be drawn from shared leave as specified in 4 GCA § 4109.2(b), we found that GFD receives retirement contributions for all "non-productive" hours while participating in the leave sharing program. This is because DOA does not consider "non-productive" hours as transferred leave. However, we note that had it not

been for the transferred leave, the compensation of “non-productive” hours would not have occurred.

We questioned the interpretation of DOA and the Civil Service Commission (CSC) that the government intended to pay the additional 61 hours of compensation to GFD. It does not seem reasonable that the legislative intent was to give GFD the additional compensation as it is not fair, equitable, or prudent when compared to all other government of Guam employees. We did not calculate the cost of other forms of leave, although the same 61 hours of “non-productive” time is paid whether sick, annual, or other leave is taken.

We also found the following problematic conditions in the leave sharing program:

- Seven employees exceeded the 1,680-hour shared leave threshold for medical reasons, resulting in \$90,436 in questioned costs.
 - The Attorney General has opined that the legislative threshold is to be applied “per occasion”, even if it extends into the next fiscal or calendar year. DOA interprets “per occasion” to mean that the submission and approval of a new leave request (even for the same condition or situation) restarts the clock. This interpretation allowed five executive branch employees to exceed the threshold.
 - Additionally, although DOE interprets “per occasion” to mean separate and distinct reasons, DOE’s lack of oversight and system controls allowed two employees to exceed the threshold.
- There were 18,697 leave sharing hours used by 83 employees for military activation that cost the government of Guam approximately \$435,009 over the last three years. Although P.L. 26-134 intended for employees in the National Guard and Reserves to use the leave sharing program to avoid taking leave without pay when on deployment, it does not take into account that if activated more than 30 days, these employees receive their military pay as well as the leave compensation. Thus, the financial incentive for employees to volunteer for deployment is very appealing, and as a result, a number of employees appear to continuously volunteer for military duty rather than wait for their call to duty. In comparison, the U.S. federal government prohibits the receipt of both military and civilian pay during periods of military activation. In September 2009, the CSC Executive Director, recommended that the law be amended to terminate the ability of government employees to simultaneously draw government and military pay.
 - With 7,594 hours, GFD has the highest utilization of leave sharing hours for 28 employees on military deployment at a cost of \$118,285. However, we estimate that military activation for GFD firefighters cost the government an additional \$160,382 for approximately 10,294 hours of “non-productive” time.
- We found deficiencies in the design and operation of internal controls to ensure that leave sharing is administered properly, which resulted in additional questioned costs of \$511,202. Specifically, we found:
 - Lack of documentation of supervisory approval;
 - No justification for the use of donated leave;
 - Leave balances not exhausted;
 - Incorrect application of pay rates;
 - Retirement contributions did not cease;
 - Lack of reconciliation of leave sharing balances; and

- Lack of monitoring and reporting of leave sharing statistics.

Conclusions and Recommendations

Over the last three fiscal years, the Leave Sharing Program cost the government of Guam \$4.5M to administer. We believe the Leave Sharing Program is beneficial; however, the application and the interpretation of leave sharing benefits are not consistent and equitable for all government of Guam employees. In addition, proper management and better oversight are needed to ensure limitations on its usage to prevent excessive use or misuse and to enhance -- not impede -- the effectiveness and efficiency of government operations. As such, we recommend the following:

Guam Legislature:

- Amend the legislation regarding GFD compensation for all leave (leave sharing, sick, annual, etc.) to an hour-for-hour basis to ensure equality among all government employees;
- Take action to eliminate the potential for double compensation for military deployment; and
- Amend the leave sharing legislation to clarify the legislative intent on the application of established thresholds.

Attorney General:

- Review and clarify the meaning of “per occasion” with regard to the use of shared leave and the maximum limits set by law.

Department of Administration:

- Update leave sharing procedures to include administrative review and certification that recipients have fully depleted both annual and sick leave; and
- Amend the leave sharing affidavit to include a statement that no compensation, favors, or items of value were given in exchange for the use of donated leave.

Department of Administration and the Department of Education:

- Establish a communication and reconciliation protocol to ensure accurate leave balances are maintained for all employees; and
- Establish and implement controls to mitigate the risk of: (1) inaccurate adjustments and unreturned leave balances; (2) mandated leave caps being exceeded; (3) improper approval of leave sharing requests; and (4) incorrect application of pay rates.



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