

**Government of Guam Retirement Fund
Cost of Living Allowance (COLA)**

Comparative Analysis

July 1990 through July 1994

**OPA Report No. 07-05
May 2007**



OFFICE OF THE PUBLIC AUDITOR

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EXECUTIVE SUMMARY

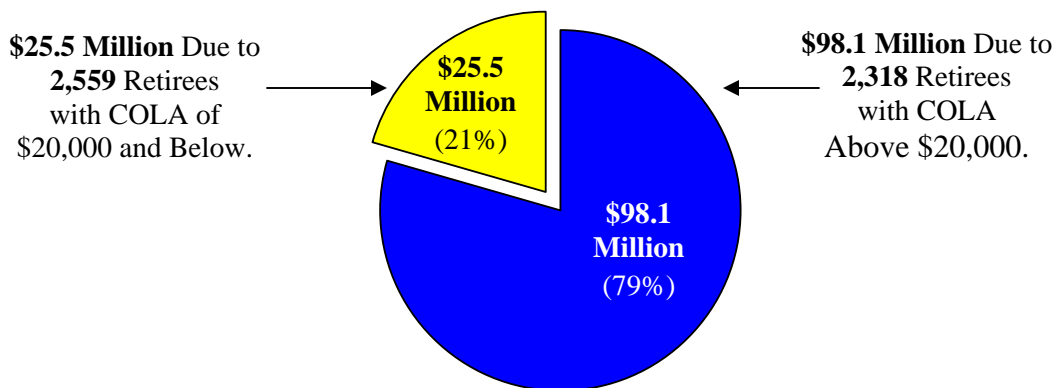
Government of Guam Retirement Fund Cost of Living Allowance Comparative Analysis
Report No. 07-05, May 2007

At the request of the Director of Administration, we performed a comparative analysis of the cost of living allowance (COLA) calculations submitted to the Superior Court of Guam for Special Proceedings Case No. SP0206-93. We compared the calculations of the Government of Guam Retirement Fund (Retirement Fund), the Governor’s Office, and the Superior Court.¹ We also reviewed the methodologies of these three calculations to compute the COLA amounts due to the retirees. There were some limitations on our scope of work as discussed in Appendix 2.

In August 1988, Public Law (P.L.) 19-19, codified in 4 G.C.A. § 8137.1, required the General Fund to pay an annual lump sum COLA to retirees and survivors on the first retirement payday after July 1 of each year. The amount was to be calculated by multiplying the entitled benefit by the rate of inflation using 1988 as the base year. The inflation rate was to be determined by the Department of Commerce through its annual cost of living index. In October 1995, P.L. 23-45 repealed the “prospective application of Department of Commerce cost of living index to Government of Guam Retirement Fund benefits.”

Pursuant to 4 G.C.A. § 8137.1, the Superior Court, in October 2006, ordered the Retirement Fund to revise its initial August 2006 COLA calculation of \$96 million² (M) using the 1988 inflation rates regardless of the annuitant’s retirement dates. This revision resulted in the award of \$123.6M to the COLA class. We stratified the Superior Court ordered COLA of \$123.6M due to retirees in increments of \$10,000. Of the 4,877 retirees in the COLA class, we found that 52% or 2,559 retirees who are entitled to COLA of \$20,000 and below expect to receive \$25.5M, or 21% of the \$123.6M COLA award. In contrast, a larger percentage, 79% or \$98.1M, in COLA will go to a smaller number of retirees (2,318 or 48%) who are entitled to COLA in excess of \$20,000. Refer to Chart 1.

Chart 1: Breakdown of COLA Due Based on Superior Court Ordered Calculation



¹ Pursuant to an October 2006 Decision and Order, the Retirement Fund prepared the calculation on behalf of the Superior Court of Guam.

² The Retirement Fund calculation multiplied the annuity amount received per year by the inflation rate that was dependent on the individual’s retirement date.

We also found 61 retirees with COLA amounts in excess of \$100,000. These 61 retirees expect to receive a total of \$7.3M under the Superior Court ordered calculation, compared to \$3.4M under the Retirement Fund calculation; a difference of \$3.9M.³

From fiscal year (FY) 1991 through FY 1995, the Guam Legislature appropriated a total of \$108M: \$32M in COLA and \$76M in supplemental annuities. Entitled retirees and survivors each received \$1,800 annually for COLA and \$4,238 annually for supplemental annuities for the five years. In addition, all retirees and survivors received annual automatic increases in their annuities during the five years ranging from \$200 to \$600 according to the sliding scale prescribed in 4 G.C.A. § 8122(b).

Table 1 summarizes the respective COLA calculations of the Retirement Fund, Governor’s Office, and the Superior Court.

Table 1: Summary of COLA Calculations

Payout Month / Year	Retirement Fund Calculation	Governor’s Office Calculation	Superior Court Ordered Calculation
July 1991	\$ 7,427,381	\$ 4,200,993	\$ 9,281,908
July 1992	13,023,396	7,238,218	17,946,826
July 1993	16,933,437	9,586,139	26,043,141
July 1994	23,883,812	11,289,157	40,174,856
July 1995	34,936,063	12,979,834	61,898,157
Gross COLA Amount	\$ 96,204,089	\$ 45,294,341	\$ 155,344,887
- Less COLA Paid	-	(32,484,450)	(32,187,900)
- Less Supplemental Annuity Paid	-	-	-
- Less Net Increases in Annuities	-	(6,189,659) ⁴	-
+ Plus COLA Overpaid	-	-	423,243
Total COLA Due⁵	\$ 96,204,089	\$ 6,620,232	\$ 123,580,231

None of these calculations deducted the \$76M in supplemental annuities paid to retirees from 1991 to 1995, although the Retirement Fund’s 1987 annual report stated supplemental annuities are “Ad-Hoc Cost of Living Adjustments.” Supplemental annuities are not an integral part of an annuitant’s pension benefits. The Superior Court of Guam, as adjudicated by Judge Arthur Barcinas, issued an October 2006 Decision and Order, which ruled that COLA class members who retired before July 1995 are entitled to the COLA using the multiplication factor prescribed by 4 G.C.A. § 8137.1.

The COLA amount of \$123.6M was \$27M more than the Retirement Fund calculation of \$96M and \$117M more than the Governor’s Office calculation of \$6.6M. If the Retirement Fund deducted the \$32M COLA already paid from its calculation, the difference between its calculation and the Superior Court ordered calculation would have been \$59M.

³ We did not perform similar comparisons between the Retirement Fund calculation and the Superior Court ordered calculation for the other COLA ranges.

⁴ This is the estimated amount of the net increases as described in the declaration of the Governor’s consultant. However, the calculations in Schedule 4 of the Governor’s consultant’s declaration indicate \$5.7M and did not list the details of how the remaining \$500,000 was applied to derive the final COLA amount of \$6.6M.

⁵ Column totals may not add up due to rounding.

The major differences among the three calculations are due to the inflation rates applied, deductions to the COLA due, and the cut-off retirement dates used. Again, none of the three calculations subtracted the \$76M in supplemental annuities already paid to the COLA class from July 1991 through July 1995. Table 2 illustrates the major differences among the three calculations.

Table 2: Calculation Comparison

Aspects of Comparison	Retirement Fund Calculation	Governor's Office Calculation	Superior Court Ordered Calculation
Inflation Rates Applied	Guam Department of Commerce's floating base year inflation rates depending on the individual's retirement year.	Hawaii's floating base year inflation rates depending on the individual's retirement year.	Guam Department of Commerce's 1988 base year inflation rates regardless of the individual's retirement year.
\$32M COLA Already Paid	Not Deducted	Deducted	Deducted
\$423,243 in Overpaid COLA	Not Added Back	Not Added Back	Added Back
\$6.2M Net Increases in Annuities	Not Deducted	Deducted	Not Deducted
Cut-off Retirement Dates	Includes retirees who retired prior to December 1993.	Includes retirees who retired prior to December 1993.	Includes retirees who retired prior to July 1995.
\$76M Supplemental Annuities Already Paid	Not Deducted	Not Deducted	Not Deducted

Table 3 illustrates how the different calculations can yield varying COLA amounts.

Table 3: COLA Calculations for Retiree D (Retired on 2/1/91)

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 8,697	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 2,089
July 1992	20,956	0.00%	-	0.00%	-	39.59%	8,296
July 1993	21,156	7.07%	1,496	4.70%	985	49.46%	10,464
July 1994	21,356	18.56%	3,964	7.93%	1,678	65.49%	13,986
July 1995	21,547	34.42%	7,416	10.61%	2,266	87.63%	18,882
Subtotal	\$ 93,712		\$ 12,876		\$ 4,928		\$ 53,717
- Less COLA Paid			-		(7,200)		(7,200)
- Less Net Annuity Increases			-		(591)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 12,876		\$ (2,863)		\$ 46,517

Since Retiree D was not retired a full year in 1991, this retiree's July 1991 annuity was prorated for five months or \$8,697. Under the Retirement Fund calculation, Retiree D is entitled to three payments totaling \$12,876. Under the Governor's Office calculation, Retiree D would not be entitled to any COLA. Under the Superior Court ordered calculation, Retiree D is entitled to five COLA payments totaling \$46,517. The difference in COLA amounts was due primarily to the inflation rates used.

Our analysis was based on data provided by the Retirement Fund from which the \$123.6M COLA payout was derived. The COLA listing included annuitants who retired after the July 1995 COLA payout date. We noted 755 unusual COLA calculations, including 63 retirees that

may still be employed in the government of Guam and 83 survivors of retirees with no retirement dates. These anomalies have been referred to the Retirement Fund for review as to eligibility.

Refer to the full report for further discussion.

Subsequent Events

In February 2007, a group of taxpayers launched an effort to block the \$123.6M COLA. The taxpayers alleged that the Superior Court Judge had a conflict of interest as both this Judge's parents stand to benefit from the COLA decision. In April 2007, two Supreme Court Justices recused themselves from the case because their family members are COLA recipients.



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Contents

	Page
Introduction.....	1
Comparative Analysis.....	3
Retirement Fund Calculation -- \$96 Million	6
Governor’s Office Calculation -- \$6.6 Million	7
Superior Court Ordered Calculation -- \$123.6 Million	9
Retiree COLA Calculation Comparisons.....	10
Other Observations	14
Conclusion	16
Appendices.....	18
1: Department of Administration’s Audit Request	18
2: Scope and Methodology	19
3: Prior Audit Coverage	21
4: Special Proceedings Case No. SP0206-93 -- History	22
5: COLA Calculation Comparison.....	25
6: Additional 1988 & Prior Retiree COLA Calculations.....	31
7: Additional 1989 Retiree COLA Calculations.....	32
8: Additional 1990 Retiree COLA Calculations.....	33
9: Additional 1991 Retiree COLA Calculations.....	34
10: Additional 1992 Retiree COLA Calculations.....	35
11: Additional 1993 Retiree COLA Calculations.....	36
12: Additional 1994 Retiree COLA Calculations.....	37
13: Survivor COLA Calculations.....	38
14: Other COLA Calculations	39



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Introduction

This report presents the results of our review of the cost of living allowance (COLA) calculations of the Government of Guam Retirement Fund (Retirement Fund), the Office of the Governor (Governor’s Office), and the Superior Court ordered calculation¹ for Special Proceedings Case No. SP0206-93. Our engagement was initiated at the request of the Director of Administration. See Appendix 1 for the audit request.

The objectives were to: (1) perform a comparative analysis of the three COLA calculations (Retirement Fund calculation, Governor’s Office calculation, and Superior Court ordered calculation) submitted to the Superior Court of Guam; and (2) review the methodologies that the three calculations utilized to compute the COLA amounts due to retirees.

Refer to Appendices 2 and 3 for the scope, methodology, and prior audit coverage.

Retirement Fund’s Purpose

The purpose of the Retirement Fund is to provide retirement annuities and other benefits to the employees of the government of Guam. The Retirement Fund administers two plans: the Defined Benefit and the Defined Contribution.

Public Law 19-19

In August 1988, Public Law (P.L.) 19-19, codified in 4 G.C.A. § 8137.1, required the General Fund to pay an annual lump sum COLA to retirees and survivors on the first retirement payday after July 1 of each year. The amount was to be calculated by multiplying the entitled benefit by the rate of inflation using 1988 as the base year. The inflation rate was to be determined by the Department of Commerce through its annual cost of living index. In October 1995, P.L. 23-45 repealed the “prospective application of Department of Commerce cost of living index to Government of Guam Retirement Fund benefits.”

In addition, annuitants are entitled to supplemental annuities per annual legislative appropriations and automatic sliding annual annuity increases of \$200 to \$600 per 4 G.C.A. § 8122(b).

October 1993 Lawsuit Filed - Special Proceedings Case No. SP0206-93

In October 1993, government of Guam retiree and former Deputy Director of the Retirement Fund Candelaria T. Rios filed a class action suit on behalf of 4,877 retirees and survivors, alleging that they were being denied the COLA benefits prescribed by 4 G.C.A. § 8137.1 and § 47060(f) of the Government Code. The “COLA class” consists of all government of Guam retirees and survivors that were entitled to retirement benefits during COLA years 1990 through

¹ The Retirement Fund prepared the calculation on behalf of the Superior Court of Guam and pursuant to an October 2006 Decision and Order.

1994 (payout years July 1991 through July 1995). The Petitioner alleged that the Respondents² - Governor of Guam, Director of Administration, Assistant Treasurer of Guam, Acting Director of the Retirement Fund, members of the Board of Trustees of the Retirement Fund, and other unnamed respondents – did not implement 4 G.C.A. § 8137.1 and § 47060(f) of the Government Code.

In August 2006, the Governor and the Retirement Fund submitted to the Court their respective calculations of the COLA owed under seal. The Superior Court ordered the Retirement Fund to revise and submit to the Court its August 2006 COLA calculation of \$96 million³, and instead use the 1988 inflation rates regardless of the COLA class's retirement dates, pursuant to 4 G.C.A. § 8137.1. The order included the deduction of the \$32 million in COLA already paid to the retirees and survivors. However, the Superior Court ordered calculation did not deduct \$76 million in supplemental annuities already paid to the COLA class. This 13-year lawsuit resulted in awarding the COLA class a total of \$123.6 million. Refer to Appendix 4 for a summary of the case history.

² The COLA case spanned 13 years from 1993 to 2006. As such, the “Respondents” changed as the Administration changed to reflect the individuals who held the said capacities.

³ Retirement Fund calculation multiplied the annuity amount received per year by the inflation rate that was dependent on the individual's retirement date.

Comparative Analysis

We stratified the Superior Court ordered COLA of \$123.6 million due to retirees in increments of \$10,000. Of the 4,877 retirees in the COLA class, we found that 52% or 2,559 retirees who are entitled to COLA of \$20,000 and below expect to receive \$25.5 million (or 21% of the \$123.6 million COLA award). In contrast, a larger percentage, 79% or \$98.1 million, in COLA will go to a smaller number of retirees (2,318 or 48%) who are entitled to COLA in excess of \$20,000. Refer to Chart 1 and Table 1.

We also found 61 retirees with COLA amounts in excess of \$100,000. These 61 retirees expect to receive a total of \$7.3 million under the Superior Court ordered calculation, compared to \$3.4 million under the Retirement Fund calculation; a difference of \$3.9 million.⁴

Chart 1: Breakdown of COLA Due Based on Superior Court Ordered Calculation

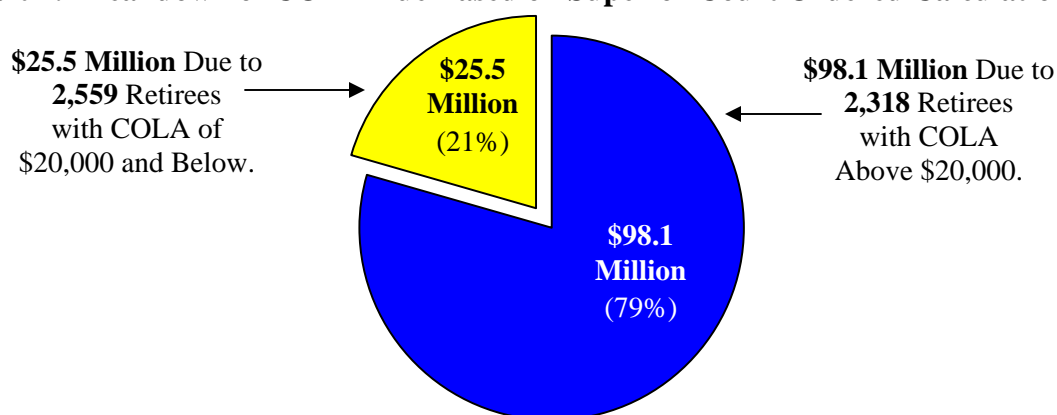


Table 1: Retirees' COLA Amounts Based on Superior Court Ordered Calculation

COLA Expected per Person	# of Retirees & Survivors	% of Total Retirees	Total COLA Due	% of Total COLA Due
Over \$100,000	61	1.25%	\$ 7,320,056	5.92%
\$90,001 to \$100,000	38	0.78%	3,584,580	2.90%
\$80,001 to \$90,000	61	1.25%	5,162,215	4.18%
\$70,001 to \$80,000	93	1.91%	6,900,496	5.58%
\$60,001 to \$70,000	159	3.26%	10,320,415	8.35%
\$50,001 to \$60,000	212	4.35%	11,693,611	9.46%
\$40,001 to \$50,000	352	7.22%	15,663,974	12.68%
\$30,001 to \$40,000	475	9.74%	16,427,983	13.29%
\$20,001 to \$30,000	867	17.78%	21,001,709	16.99%
\$10,001 to \$20,000	1,377	28.23%	20,266,965	16.40%
Less than \$10,000	1,182	24.24%	5,238,225	4.24%
TOTAL⁵	4,877	100.00%	\$ 123,580,231	100.00%

⁴ We did not perform similar comparisons between the Retirement Fund calculation and the Superior Court ordered calculation for the other COLA ranges.

⁵ Column totals may not add up due to rounding.

Calculation Comparison

The following table summarizes the calculations submitted to the Superior Court of Guam: Retirement Fund calculation, the Governor’s Office calculation, and the Superior Court ordered calculation. The Superior Court, as adjudicated by Judge Arthur Barcinas, issued an October 2006 Decision and Order, which ruled that COLA class members who retired before July 1995 are entitled to the COLA using the multiplication factor prescribed by 4 G.C.A. § 8137.1.

Table 2: Summary of COLA Calculations

Payout Month / Year	Retirement Fund Calculation	Governor’s Office Calculation	Superior Court Ordered Calculation
July 1991	\$ 7,427,381	\$ 4,200,993	\$ 9,281,908
July 1992	13,023,396	7,238,218	17,946,826
July 1993	16,933,437	9,586,139	26,043,141
July 1994	23,883,812	11,289,157	40,174,856
July 1995	34,936,063	12,979,834	61,898,157
Gross COLA Amount	\$ 96,204,089	\$ 45,294,341	\$ 155,344,887
- Less COLA Paid	-	(32,484,450)	(32,187,900)
- Less Supplemental Annuity Paid	-	-	-
- Less Net Annuity Increases	-	(6,189,659) ⁶	-
+ Plus COLA Overpaid	-	-	423,243
Total COLA Due	\$ 96,204,089	\$ 6,620,232	\$ 123,580,231

\$76 Million in Supplemental Annuities Not Deducted from Calculations

From fiscal year (FY) 1991 through FY 1995, the Guam Legislature appropriated a total of \$108 million: \$32 million in COLA and \$76 million in supplemental annuities. Entitled retirees and survivors each received \$1,800 annually for COLA and \$4,238 annually for supplemental annuities for the five years. In addition, all retirees and survivors received annual automatic increases in their annuities during the five years ranging from \$200 to \$600 according to the sliding scale prescribed in 4 G.C.A. § 8122(b).

Although the Retirement Fund’s 1987 annual report stated that supplemental annuities were “Ad-Hoc Cost of Living Adjustments,” none of the calculations included the deduction of the \$76 million in supplemental annuities paid to retirees from 1991 to 1995. Supplemental annuities are not an earned and integral part of an annuitant’s pension benefits. The Superior Court’s October 2006 Decision and Order noted that:

- There is “no language specifically addressing annuities”;
- 4 G.C.A. § 8137.1 indicates that COLA is “[i]n addition to any other adjustment to which such person may be entitled”; and
- “Respondents must calculate the award due COLA class members without subtracting annuities.”

In our review of the various Decisions and Orders for Special Proceedings Case No. SP0206-93, we could not find specific language that states supplemental annuities should be excluded in the calculation to determine COLA due.

⁶ This is the estimated amount of the net increases as described in the declaration of the Governor’s consultant. However, the calculations in Schedule 4 of the Governor’s consultant’s declaration indicate \$5.7 million. The consultant did not list the details of how the remaining \$500,000 was applied to derive the final COLA amount of \$6.6 million.

The major differences among the three calculations are:

- Inflation rates applied to retirees’ and survivors’ annuities to determine COLA due.
 - The Retirement Fund calculation of \$96 million used the Guam Department of Commerce’s floating base year inflation rates depending on the individual’s retirement year.
 - The Governor’s Office calculation of \$6.6 million used Hawaii’s floating base year inflation rates depending on the individual’s retirement year.
 - The Superior Court ordered calculation of \$123.6 million used the Guam Department of Commerce’s 1988 base year inflation rates, regardless of the individual’s retirement year.
- \$32 million in COLA was deducted from the Governor’s Office calculation and the Superior Court ordered calculation. The Retirement Fund calculation did not subtract the \$32 million in COLA already paid.
- The Superior Court ordered calculation added back the \$423,243 of COLA overpaid to retirees and survivors. The Retirement Fund calculation and the Governor’s Office calculation did not add back overpaid COLA.
- The Governor’s Office calculation subtracted the net increases in annuities of \$200 to \$600 pursuant to 4 G.C.A. § 8122(b). The Retirement Fund and the Superior Court ordered calculations did not subtract the net increase in annuities.
- Cut-off retirement dates used for inclusion of retirees in the COLA class.
 - The Retirement Fund calculation and the Governor’s Office calculation included retirees who retired prior to December 1993.
 - The Superior Court ordered calculation included retirees who retired prior to July 1995.

In the October 2006 Decision and Order, Respondents “suggested there can be an interpretation preventing COLA class members who retire before the July cut-off date in § 8137.1 from receiving the mandated payment in July of the same year they retire.” However, the Superior Court noted “the statute is void of any such distinction. A review of other cost of living allowances is void of any indication the Legislature intended to restrict payments for Retirees to only those retiring the year before the designated payment date.”

Table 3 summarizes the major differences in the three calculations.

Table 3: Calculation Comparison

Aspects of Comparison	Retirement Fund Calculation	Governor’s Office Calculation	Superior Court Ordered Calculation
Inflation Rates Applied	Guam Department of Commerce’s floating base year inflation rates depending on the individual’s retirement year.	Hawaii’s floating base year inflation rates depending on the individual’s retirement year.	Guam Department of Commerce’s 1988 base year inflation rates regardless of the individual’s retirement year.
\$32 Million COLA Already Paid	Not Deducted	Deducted	Deducted
\$423,243 in Overpaid COLA	Not Added Back	Not Added Back	Added Back
\$6.2 Million Net Increases in Annuities	Not Deducted	Deducted	Not Deducted
Cut-off Retirement Dates	Includes retirees who retired prior to December 1993.	Includes retirees who retired prior to December 1993.	Includes retirees who retired prior to July 1995.
\$76 Million Supplemental Annuities Already Paid	Not Deducted	Not Deducted	Not Deducted

A discussion of each methodology follows. Refer to Appendix 5 for a detailed comparison of the three COLA calculation methodologies.

Retirement Fund Calculation -- \$96 Million

The Retirement Fund hired a local economist to determine the inflation rates to be used in the COLA calculation. The inflation rates utilized by this economist were computed from the Department of Commerce-issued quarterly consumer price index for the COLA periods ending December 1990, December 1991, December 1992, December 1993, and December 1994. As a result, the payout dates were in July 1991, July 1992, July 1993, July 1994, and July 1995, since COLA was paid out the year following the COLA period in order to account for inflation in the previous year. However, the October 2006 Decision and Order ruled that anyone who retired prior to the July 1995 payment date was a member of the COLA class and was entitled to the COLA.

The economist’s report stated:

Those who retire after 1989 would still be eligible for the COLAs, but it must be assumed that they were appropriately compensated for their jobs at the price level that was current at the time of their retirement. Thus, adjusting their retirement pay, which is already based upon wages and salaries that reflected the inflated prices of intervening years, would provide them with double compensation in relation to price inflation. Because of this, they should only be granted their COLAs based upon price increases since the time of their retirement, not the increases since the base period in 1988.

In the Retirement Fund calculation, COLA was due to a retiree, also referred to as annuitant, the year following his retirement. This calculation multiplied each retiree or survivor’s annuity by the inflation rate based on the retirement year. The Retirement Fund referred to this methodology as “floating base” calculation.

Table 4: Guam 1988 Floating Base Year Inflation Rates

Payout Month / Year	Retirement Year							# of Retirees & Survivors	COLA Due
	1988 & Prior	1989	1990	1991	1992	1993	1994		
July 1991	24.02%	9.46%	0.00%					3,154	\$ 7,427,381
July 1992	39.59%	23.20%	12.55%	0.00%				3,471	13,023,396
July 1993	49.46%	31.91%	20.51%	7.07%	0.00%			3,716	16,933,437
July 1994	65.49%	46.06%	33.44%	18.56%	10.72%	0.00%		4,058	23,883,812
July 1995	87.63%	65.60%	51.29%	34.42%	25.54%	13.38%	0.00%	4,379	34,936,063
								TOTAL	\$96,204,089

The following summarizes Table 4.

- Annuitants who retired in 1988 and prior were expected to receive five checks using the 24.02%, 39.59%, 49.46%, 65.49%, and 87.63% inflation rates for the July 1991 through July 1995 payouts, respectively.
- Annuitants who retired in 1989 were expected to receive five checks using the 9.46%, 23.20%, 31.91%, 46.06%, and 65.60% inflation rates for the July 1991 through July 1995 payouts, respectively.

- Annuitants who retired in 1990 were expected to receive four checks using the 12.55%, 20.51%, 33.44%, and 51.29% inflation rates for the July 1992 through July 1995 payouts, respectively. These retirees are not expected to receive a COLA check for the July 1991 payout.
- Annuitants who retired in 1991 were expected to receive three checks using the 7.07%, 18.56% and 34.42% inflation rates for the July 1993 through July 1995 payouts, respectively. These retirees are not expected to receive COLA checks for the July 1991 and July 1992 payouts.
- Annuitants who retired in 1992 were expected to receive two checks using the 10.72% and 25.54% inflation rates for the July 1994 and July 1995 payouts, respectively. These retirees are not expected to receive COLA checks for the July 1991 through July 1993 payouts.
- Annuitants who retired in 1993 were expected to receive one check using the 13.38% inflation rate for the July 1995 payout. These retirees are not expected to receive COLA checks for the July 1991 through July 1994 payouts.
- Annuitants who retired in 1994 were not expected to receive any payments.

This calculation did not subtract COLA of \$32 million and supplemental annuities of \$76 million already paid to retirees and survivors from 1991 to 1995.

The Superior Court's October 2006 Decision and Order rejected the floating base year calculations and stated that 4 G.C.A. § 8137.1 required the inflation adjustments be measured from base year 1988, not a base year corresponding with the retiree's retirement date.

Governor's Office Calculation -- \$6.6 Million

In order to determine the inflation rates to be used in calculating COLA due to retirees and survivors, the Governor's Office hired a consultant from California. The consultant cited a 1997 economic report issued by a local bank, which stated "Guam Department of Commerce discontinued its own pricing inflation gauge in 1995 on the grounds that its methodology was obsolete and exaggerated inflation." Therefore, the consultant used Hawaii's consumer price index to calculate inflation rates since Hawaii's consumer price index provided the most reliable inflationary metric and Guam's rates were "inaccurate."

Similar to the Retirement Fund calculation, this calculation held that COLA was due to a retiree the year following his/her retirement. Thus, a person who retired in 1994 would not be entitled to a COLA payment under this calculation.

This calculation also utilized a floating base year and multiplied each retiree's annuity by Hawaii's rate of inflation based on the individual's year of retirement. Unlike the Retirement Fund calculation in which the floating base year inflation rates were used for both retirees and survivors, this calculation multiplied each survivor's annuity by Hawaii's rate of inflation for base year 1988.⁷

⁷ The Governor's Office consultant noted that "COLA base years are re-indexed to the actual retirement years only for retirees, not survivors, as it does not appear that a survivor's retirement date in the data provided by the Retirement Board is instructive as to when the underlying individual retired."

Table 5: Hawaii 1988 Floating Base Year Inflation Rates

Payout Month / Year	Retirement Year							# Of Retirees & Survivors	COLA Due
	1988 & Prior	1989	1990	1991	1992	1993	1994		
July 1991	13.11%	7.09%	0.00%					3,154	\$ (1,247,607)
July 1992	21.25%	14.80%	7.20%	0.00%				3,471	912,229
July 1993	26.95%	20.20%	12.24%	4.70%	0.00%			3,716	1,676,555
July 1994	30.86%	23.90%	15.69%	7.93%	3.08%	0.00%		4,058	2,471,264
July 1995	34.12%	26.98%	18.57%	10.61%	5.65%	2.49%	0.00%	4,379	2,807,791
								TOTAL	\$ 6,620,232

The following summarizes Table 5.

- Annuitants who retired prior to 1988 are expected to receive five checks using the 13.11%, 21.25%, 26.95%, 30.86%, and 34.12% inflation rates for the July 1991 through July 1995 payouts, respectively.
- Annuitants who retired in 1989 are expected to receive five checks using the 7.09%, 14.80%, 20.20%, 23.90%, and 26.98% inflation rates for the July 1991 through July 1995 payouts, respectively.
- Annuitants who retired in 1990 are expected to receive four checks using the 7.20%, 12.24%, 15.69%, and 18.57% inflation rates for the July 1992 through July 1995 payouts, respectively. These retirees are not expected to receive a COLA check for the July 1991 payout.
- Annuitants who retired in 1991 are expected to receive three checks using the 4.70%, 7.93%, and 10.61% inflation rates for the July 1993 through July 1995 payouts, respectively. These retirees are not expected to receive COLA checks for the July 1991 and July 1992 payouts.
- Annuitants who retired in 1992 are expected to receive two checks using the 3.08% and 5.65% inflation rates for the July 1994 and July 1995 payouts, respectively. These retirees are not expected to receive COLA checks for the July 1991 through July 1993 payouts.
- Annuitants who retired in 1993 are expected to receive one check using the 2.49% inflation rate for the July 1995 payout. These retirees are not expected to receive COLA checks for the July 1991 through July 1994 payouts.
- Annuitants who retired in 1994 are not expected to receive any payments.
- The survivors' COLA were calculated differently, using the 13.11%, 21.25%, 26.95%, 30.86%, and 34.12% inflation rates for the July 1991 through July 1995 payouts, respectively.

The Governor's Office subtracted the \$32 million in COLA already paid to retirees and survivors, as well as the \$6.2 million in annual annuity increases, i.e., the \$200 to \$600 automatic annuity increases per 4 G.C.A. § 8122(b). However, it did not subtract the \$76 million in supplemental annuities already paid.

The Superior Court rejected the use of Hawaii's consumer price index, saying that the Department of Commerce complied with its mandate to calculate inflation. The Superior Court also rejected the deduction of the annual increases saying there is no language specifically addressing annuities.⁸

⁸ October 2006 Decision and Order, pages 13 and 25.

Superior Court Ordered Calculation -- \$123.6 Million

Based on the Superior Court’s October 2006 Decision and Order, the award due to the COLA class members must be calculated “without subtracting annuities, and without using either a ‘floating base’ or requiring a retirement date any earlier than that provided by the Guam Legislature.”

The Retirement Fund was ordered to submit a revised COLA calculation using the Department of Commerce-issued quarterly consumer price index to calculate the inflation rates. This calculation multiplied each retiree and survivor’s annuity by the base year 1988 rates of inflation. As a result, inflation rates as high as 87.63% were awarded to retiree and survivor, regardless of when a government employee retired.

Table 6: Guam 1988 Base Year Inflation Rates

Payout Month/Year	Inflation Rate	# Of Retirees & Survivors	COLA Due
July 1991	24.02%	3,235	\$ 4,204,701
July 1992	39.59%	3,526	12,150,021
July 1993	49.46%	3,776	19,861,595
July 1994	65.49%	4,100	33,045,543
July 1995	87.63%	4,338 ⁹	54,318,371
TOTAL			\$ 123,580,231

The following summarizes Table 6.

- Annuitants who retired prior to July 1991 are expected to receive five checks using the 24.02%, 39.59%, 49.46%, 65.49%, and 87.63% inflation rates for the July 1991 through July 1995 payouts, respectively.
- Annuitants who retired prior to July 1992 are expected to receive four checks using the 39.59%, 49.46%, 65.49%, and 87.63% inflation rates for the July 1992 through July 1995 payouts, respectively. These retirees are not expected to receive a COLA check for the July 1991 payout.
- Annuitants who retired prior to July 1993 are expected to receive three checks using the 49.46%, 65.49%, and 87.63% inflation rates for the July 1993 through July 1995 payouts, respectively. These retirees are not expected to receive COLA checks for the July 1991 and July 1992 payouts.
- Annuitants who retired prior to July 1994 are expected to receive two checks using the 65.49% and 87.63% inflation rates for the July 1994 and July 1995 payouts, respectively. These retirees are not expected to receive COLA checks for the July 1991 through July 1993 payouts.
- Annuitants who retired prior to July 1995 are expected to receive one check using the 87.63% inflation rate for the July 1995 payout. These retirees are not expected to receive COLA checks for the July 1991 through July 1994 payouts.
- Annuitants who retired in July 1995 or after are not expected to receive any payments.

⁹ While the general trend indicates an increase in the number of retirees and survivors each payout year from the Retirement Fund and Governor’s Office calculations in Tables 4 and 5, the decrease in the number of retirees and survivors for the July 1995 payout may be because Tables 4 and 5 utilize the calendar year as the cut-off for the payouts, while the Superior Court ordered calculation utilizes a fiscal year (July to June) as the cut-off for the payouts.

The Superior Court noted that the Legislature did not intend to restrict payments only to those retiring the year before the designated payment date. Thus, if an employee retired any time before the July payment date, and regardless of whether he/she had a full retirement year, the retiree is still entitled to a full payment per 4 G.C.A. § 8137.1.

In this calculation, a retiree who retired in May 1995 received an 87.63% adjustment, compared to 0.00% under both the Governor's Office calculation and the Retirement Fund calculation. The Superior Court ordered the revised calculation to subtract the \$32 million COLA previously paid, but not the \$76 million in supplemental annuities already paid to retirees and survivors. Further, overpaid COLA of \$423,243 was not subtracted from amounts owed.¹⁰

The Superior Court ordered COLA due of \$123.6 million was \$27 million more than the Retirement Fund calculation of \$96 million and \$117 million more than the Governor's Office calculation of \$6.6 million. If the Retirement Fund deducted the \$32 million in COLA already paid from its calculation, the difference would have been \$59 million.

Retiree COLA Calculation Comparisons

The following examples, derived from the data provided by the Retirement Fund, illustrate the variances in the amounts of COLA payments that retirees could expect under the three calculations¹¹ based on the year of retirement.

The Retirement Fund calculation multiplied the retiree's annuity by the floating base year inflation rate, depending upon the individual's retirement date. The Retirement Fund calculation did not subtract the \$32 million in COLA already paid to retirees and survivors.

The Governor's Office multiplied the retiree's initial year annuity by the current year's inflation rate for all applicable years. This calculation did not include the annual annuity increases of \$200 to \$600 per 4 G.C.A. § 8122(b).

The Superior Court ordered calculation utilized the 1988 base-year inflation rates, regardless of the year of retirement. Additional retiree COLA calculations can be found in Appendices 6 through 12. Survivor COLA calculations can be found in Appendix 13.

Example: Retiree A (Retired on 8/17/1988)

Retiree A retired in August 1988, and is entitled to five COLA payments totaling \$57,323 under the Retirement Fund calculation, \$17,139 under the Governor's Office calculation, and \$48,323 under the Superior Court ordered calculation. Based on Retiree A's retirement year, the same inflation rates were used in the Retirement Fund calculation and the Superior Court ordered calculation. See Table 7.

¹⁰ If the calculated COLA was less than the \$1,800 already paid annually, this overpayment was not deducted from the COLA owed to the retiree or survivor.

¹¹ The inflation rates used in the Governor's Office calculation applied Hawaii's 1988 base-year inflation rates, whereas the Retirement Fund and the Superior Court ordered calculations used Guam Department of Commerce inflation rates.

Table 7: COLA Calculations for Retiree A

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	21,022	24.02%	5,050	13.11%	\$ 2,756	24.02%	5,050
July 1992	21,222	39.59%	8,402	21.25%	4,467	39.59%	8,402
July 1993	21,422	49.46%	10,595	26.95%	5,719	49.46%	10,595
July 1994	21,622	65.49%	14,160	30.86%	6,611	65.49%	14,160
July 1995	21,814	87.63%	19,116	34.12%	7,378	87.63%	19,116
Subtotal	\$ 107,104		\$ 57,323		\$ 26,931		\$ 57,323
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(792)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 57,323		\$ 17,139		\$ 48,323

Example: Retiree B (Retired on 3/26/1989)

Retiree B retired in March 1989, and is entitled to five COLA payments totaling \$27,760 under the Retirement Fund calculation, \$4,632 under the Governor's Office calculation, and \$32,829 under the Superior Court ordered calculation. Based on Retiree B's retirement year, all three calculations used different inflation rates. See Table 8.

Table 8: COLA Calculations for Retiree B

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 15,200	9.46%	\$ 1,438	7.09%	\$ 1,078	24.02%	\$ 3,651
July 1992	15,400	23.20%	3,573	14.80%	2,250	39.59%	6,097
July 1993	15,600	31.91%	4,978	20.20%	3,111	49.46%	7,716
July 1994	15,800	46.06%	7,277	23.90%	3,728	65.49%	10,347
July 1995	15,997	65.60%	10,494	26.98%	4,263	87.63%	14,018
Subtotal	\$ 77,997		\$ 27,760		\$ 14,429		\$ 41,829
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(797)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 27,760		\$ 4,632		\$ 32,829

Example: Retiree C (Retired on 1/1/1990)

Retiree C retired in January 1990, and is entitled to four COLA payments totaling \$30,569 under the Retirement Fund calculation and \$4,018 under the Governor's Office calculation. Under the Superior Court ordered calculation, Retiree C is entitled to five COLA payments totaling \$59,832. See Table 9.

Table 9: COLA Calculations for Retiree C

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 25,346	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 6,088
July 1992	25,546	12.55%	3,206	7.20%	1,825	39.59%	10,114
July 1993	25,746	20.51%	5,281	12.24%	3,127	49.46%	12,734
July 1994	25,946	33.44%	8,676	15.69%	4,040	65.49%	16,992
July 1995	26,137	51.29%	13,406	18.57%	4,818	87.63%	22,904
Subtotal	\$ 128,721		\$ 30,569		\$ 13,809		\$ 68,832
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(791)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 30,569		\$ 4,018		\$ 59,832

Example: Retiree D (Retired on 2/1/1991)

Retiree D retired in February 1991, and the annuity for the first year is prorated for the five months before the July 1991 payout. Under the Retirement Fund calculations, Retiree D is entitled to three payments totaling \$12,876 and no payment under the Governor's Office calculation. Under the Superior Court ordered calculation, Retiree D is entitled to five COLA payments totaling \$46,517. The difference in COLA amounts is based on the varying inflation rates used in the three calculations. See Table 10.

Table 10: COLA Calculations for Retiree D

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 8,697	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 2,089
July 1992	20,956	0.00%	-	0.00%	-	39.59%	8,296
July 1993	21,156	7.07%	1,496	4.70%	985	49.46%	10,464
July 1994	21,356	18.56%	3,964	7.93%	1,678	65.49%	13,986
July 1995	21,547	34.42%	7,416	10.61%	2,266	87.63%	18,882
Subtotal	\$ 93,712		\$ 12,876		\$ 4,928		\$ 53,717
- Less COLA Paid			-		(7,200)		(7,200)
- Less Net Annuity Increases			-		(591)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 12,876		\$ (2,863)		\$ 46,517

Example: Retiree E (Retired on 10/1/1992)

Retiree E retired in October 1992, and the annuity for the first retirement year was prorated for the nine months prior to the July 1993 payout. Retiree E is entitled to two COLA payments totaling \$42,707 under the Retirement Fund calculation and \$6,700 under the Governor's Office calculation. Under the Superior Court ordered calculation, Retiree E is entitled to three COLA payments totaling \$218,787. Based on data provided by the Retirement Fund, Retiree E is entitled to receive the highest COLA amount under the Superior Court ordered calculation. We noted that annuity payments to Retiree E in payout year 1995 decreased. The Governor's Office consultant noted similar decreases in annuity, which suggests that the individual may have

passed away and the annuity stopped, or the individual may have returned to the work force and the annuity suspended.¹² See Table 11.

Table 11: COLA Calculations for Retiree E

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	83,553	0.00%	-	0.00%	-	49.46%	41,325
July 1994	120,279	10.72%	12,894	3.08%	3,705	65.49%	78,771
July 1995	116,731	25.54%	29,813	5.65%	6,595	87.63%	102,291
Subtotal	\$ 320,563		\$ 42,707		\$ 10,300		\$222,387
- Less COLA Paid			-		(3,600)		(3,600)
- Less Net Annuity Increases			-		-		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 42,707		\$ 6,700		\$218,787

Example: Retiree F (Retired on 1/27/1993)

Retiree F retired in January 1993, and the annuity for the first retirement year was prorated for the five months prior to the July 1993 payout. Retiree F is entitled to one COLA payment of \$3,331 under the Retirement Fund calculation and no payment under the Governor's Office calculation. Under the Superior Court ordered calculation, Retiree F is entitled to three COLA payments totaling \$39,664. See Table 12.

Table 12: COLA Calculations for Retiree F

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	10,594	0.00%	-	0.00%	-	49.46%	5,240
July 1994	24,747	0.00%	-	0.00%	-	65.49%	16,207
July 1995	24,897	13.38%	3,331	2.49%	616	87.63%	21,817
Subtotal	\$ 60,238		\$ 3,331		\$ 616		\$ 43,264
- Less COLA Paid			-		(3,600)		(3,600)
- Less Net Annuity Increases			-		(150)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 3,331		\$ (3,134)		\$ 39,664

¹² Declaration of Governor's Office consultant per Special Proceedings Case No. SP0206-93, page 14.

Example: Retiree G (Retired on 10/1/1994)

Retiree G retired on October 1994. Because of the retirement year, Retiree G is not entitled to any COLA payments under the Retirement Fund calculation or the Governor’s Office calculation. Under the Superior Court ordered calculation, Retiree G is entitled to one COLA payment amounting to \$20,127 for the July 1995 payout. See Table 13.

Table 13: COLA Calculations for Retiree G

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	-	0.00%	-	0.00%	-	49.46%	-
July 1994	-	0.00%	-	0.00%	-	65.49%	-
July 1995	25,022	0.00%	-	0.00%	-	87.63%	21,927
Subtotal	\$ 25,022		\$ -		\$ -		\$ 21,927
- Less COLA Paid			-		(1,800)		(1,800)
- Less Net Annuity Increases			-		-		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ -		\$ (1,800)		\$ 20,127

Other Observations

Based on data provided by the Retirement Fund, the COLA listing included annuitants who retired after July 1995. According to Retirement Fund personnel, there is no language in 4 G.C.A. § 8137.1 prohibiting retirees entitled to COLA from being rehired in the government of Guam and retiring at a later date. The practice of retiring, returning to government work, and then retiring again at a later date usually results in a higher annuity, because it increases the years of service and/or individual’s base pay. We also noted that the COLA listing provided by the Retirement Fund includes annuitants who are currently employed with the government of Guam.

According to the Superior Court’s order, the cut-off date for inclusion in the COLA class was July 1995. There were 42 annuitants with retirements after July 1995. We have referred this matter to the Retirement Fund for review as to eligibility. See Retirees H and I below for examples.

Example: Retiree H (Retired on 3/19/2005)

According to the data provided by the Retirement Fund, Retiree H retired in March 2005, but received annuities in 1993, 1994, and 1995. Retiree H is entitled to one payment of \$7,466 under the Retirement Fund calculation, but not entitled to a payment under the Governor’s Office calculation. However, under the Superior Court ordered calculation, Retiree H is entitled to three COLA payments totaling \$100,342 because the initial retirement was prior to the last COLA payout in July 1995. See Table 14.

Table 14: COLA Calculations for Retiree H

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	37,670	0.00%	-	0.00%	-	49.46%	18,632
July 1994	55,605	0.00%	-	0.00%	-	65.49%	36,416
July 1995	55,797	13.38%	7,466	2.49%	1,385	87.63%	48,895
Subtotal	\$ 149,072		\$ 7,466		\$ 1,385		\$103,942
- Less COLA Paid			-		(3,600)		(3,600)
- Less Net Annuity Increases			-		(192)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 7,466		\$ (2,407)		\$100,342

Example: Retiree I (Retired on 1/1/1999)

According to the data provided by the Retirement Fund, Retiree I retired in January 1999, but received annuities in 1991 through 1995. Retiree I is entitled to three payments totaling \$20,850 under the Retirement Fund calculation and \$223 under the Governor's Office calculation. However, under the Superior Court ordered calculation, Retiree I is entitled to five COLA payments totaling \$81,118 because the initial retirement was prior to the COLA payout in July 1991. See Table 15.

Table 15: COLA Calculations for Retiree I

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 18,868	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 4,532
July 1992	34,235	0.00%	-	0.00%	-	39.59%	13,554
July 1993	34,435	7.07%	2,435	4.70%	1,609	49.46%	17,032
July 1994	34,635	18.56%	6,428	7.93%	2,731	65.49%	22,682
July 1995	34,827	34.42%	11,987	10.61%	3,675	87.63%	30,519
Subtotal	\$ 156,999		\$ 20,850		\$ 8,015		\$ 88,318
- Less COLA Paid			-		(7,200)		(7,200)
- Less Net Annuity Increases			-		(591)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 20,850		\$ 223		\$ 81,118

Conclusion

Based on our analysis, the Retirement Fund calculation and the Superior Court ordered calculation did not differ for annuitants who retired in 1988 or prior because the same inflation rates were used. However, the Retirement Fund calculation did not deduct the \$32 million COLA already paid, whereas the Superior Court calculation deducted the COLA.

The major differences were applied to post-1988 retirees and survivors who will benefit the most from the Superior Court ordered COLA due of \$123.6 million. This amount is \$27 million more than the Retirement Fund calculation of \$96 million and \$117 million more than the Governor's Office calculation of \$6.6 million. The Superior Court ordered calculation applied inflation rates of 24.02% in 1991, 39.59% in 1992, 49.46% in 1993, 65.49% in 1994, and 87.63% in 1995 regardless of the COLA class' retirement dates. The Retirement Fund utilized the floating base year calculation.

Of the 4,877 retirees in the COLA class, we found that 52% or 2,559 retirees who are entitled to COLA of \$20,000 and below expect to receive \$25.5 million, or 21% of the \$123.6 million COLA award. In contrast, a larger percentage, 79% or \$98.1 million, in COLA will go to a smaller number of retirees (2,318 or 48%) who are entitled to COLA in excess of \$20,000.

We also found 61 retirees and survivors entitled to COLA in excess of \$100,000 each. These 61 retirees and survivors with COLA in excess of \$100,000 expect to receive \$7.3 million under the Superior Court ordered calculation. Under the Retirement Fund calculation, payments would have been \$3.4 million, a difference of \$3.9 million.

We noted annuitants who may have retired prior to the July 1995 COLA payout date, but were rehired, and either retired again or remained government employees. Additionally, we noted 63 retirees who may still be employed in the government of Guam and 83 survivors of retirees with no retirement dates. These anomalies have been referred to the Retirement Fund for their review.

The Superior Court's January 1994 Decision and Order stated:

A court's opinion as to the wisdom or lack thereof in a particular course consciously selected by the Legislature must not be a factor in the interpretation of a statute. ... This court holds that, "in our constitutional system the commitment to the separation of powers is too fundamental for us to pre-empt congressional action by judicially decreeing what accords with [']common sense and the public weal[']."

Our Constitution vests such responsibility in the political branches.

The Superior Court's October 2006 Decision and Order further stated:

While the Governor may determine where and how best to utilize funds in carrying out the Legislature's policy, he may not decide whether the Government should pay the COLA Class as directed by the Legislature and the Laws of Guam. While the

Court sympathizes with the financial challenge presented by the Legislature, the Court cannot pick and choose which laws to follow. Nor will the Court set policy for this government over what is “too much” and what is financially feasible, as this determination is left exclusively to the Legislature. The Court is required under the Organic Act to compel Respondents to follow the letter of the law. The magnitude of existing debt may not create an otherwise non-existent Organic Act function for the Governor of Guam. Unless the Court determines a statute to be in violation of the Organic Act, the Court must uphold the statute and ensure its proper enforcement. It is not for this Court to re-write the Organic Act or interpret it in a manner inconsistent with its plain language or interpretation by the Supreme Court of Guam...The Legislature has, and remains free to amend the current remedies available to the COLA Class, and the Court respects the Legislature’s decision not to amend such remedies in this case.

Subsequent Events

In February 2007, a group of taxpayers launched an effort to block the \$123.6 million COLA. The taxpayer lawsuit alleged that the Superior Court Judge had a conflict of interest as both this Judge’s parents stand to benefit from the COLA decision. In April 2007, two Supreme Court Justices recused themselves from the case because their family members are COLA recipients.

OFFICE OF THE PUBLIC AUDITOR



Doris Flores Brooks, CPA, CGFM
Public Auditor

Appendix 1:

Department of Administration's Audit Request



Felix P. Camacho
Governor
Kaleo S. Moylan
Lieutenant Governor

Department of Administration
(DIPATTAMENTON ATEMENSTRASION)
DIRECTOR'S OFFICE
(UFISINAN DIREKTOT)

Post Office Box 884 Hagatña, Guam 96932
Tel: (671) 475-1101/1250 Fax: (671) 477-6788



Lourdes M. Perez
Director
Joseph C. Manibusan
Deputy Director

December 12, 2006

Ms. Doris Flores Brooks
Public Auditor
Office of the Public Auditor
238 Archbishop Flores Street
Suite 401 Pacific News Building
Hagatña, Guam 96910

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Public Auditor
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DATE: 12/12/06 RAM
9:35 AM

RE: Assistance in Audit Procedures for COLA Calculations/Eligibility

Dear Ms. Brooks:

Hafa Adai! The Department of Administration is in receipt of a court order (re: Superior Court Case No. SP0206-93) directing the Department of Administration to pay cost of living allowances to certain retirees amounting to about \$123 million to be funded by the General Fund. While the Governor's Office is attempting to identify the source of payment, it is incumbent upon this department to perform due diligence in the administration and disbursement of these awards.

Due to the extremely large settlement we have been ordered to pay and that due to the fact that the Department of Administration has to rely on information being provided by another agency not within its power or control, we are requesting your office to do an independent review to determine the accuracy of not only the calculations being utilized to determine the amounts due, but also as to the eligibility of certain retirees due these amounts.

As of this date, the Department of Administration has not yet received the listing of eligible retirees and/or beneficiaries who are covered by this court order, nor has it received certifications as their eligibility and the correctness of the amounts determined to be due to them.

Your independent review of the processes being developed and implemented at the Retirement Fund will be greatly appreciated and will ensure that these funds are disbursed pursuant to the court order and in accordance with P.L. 28-151.

We await your review prior to any disbursements.

Si Yu'os Ma'ase!

Sincerely,

LOURDES M. PEREZ
Director of Administration

c.c Paula Blas, GGRF
Carlos Bordallo, BBMR
George Bamba, COS - Office of the Governor

Enclosures

Scope and Methodology

Our audit scope included a review of the three calculations submitted to the Superior Court for the five COLA payouts in July 1991, July 1992, July 1993, July 1994, and July 1995 for Special Proceedings Case No. SP0206-93. Court pleadings, correspondences, and other relevant documents pertaining to Special Proceedings Case No. SP0206-93 were reviewed at the Retirement Fund office in Maite, Guam. Electronic data of the COLA calculations and supplemental annuities provided by the Retirement Fund were also reviewed.

Our methodology included gaining an understanding of laws and regulations applicable to the Retirement Fund and COLA, as well as interviewing the Retirement Fund Director, Controller, and General Accounting Supervisor involved in calculating the COLA due. We performed a comparative analysis of the three COLA calculations submitted to the Superior Court of Guam.

A draft copy of the report was provided to the Retirement Fund, who noted that the report “seems to have appropriately discussed the main points of the [COLA] Case including Retirement Fund calculations, the Governor’s Office calculations and Final calculations based on the [Superior Court’s] order.”

Scope Limitations

The Retirement Fund provided us with an electronic copy of a detailed listing, by retiree and COLA payout year, of the final \$123.6 million COLA award. The listing contained the retiree name, retirement date, annuity, COLA already paid, applicable inflation rate, and COLA due. The Retirement Fund was not able to provide us with similar data for the Retirement Fund calculation of \$96 million or the Governor’s Office \$6.6 million calculation. We were provided with raw data that only indicated pensioner and survivor numbers, amount of annuities per year, and COLA already paid. As a result, our comparisons of the three calculations as applied to the examples of unnamed retirees in the report required us to apply the inflation rates as directed in the Retirement Fund’s economist’s report and the Governor’s consultant’s report.

The calculations of the Governor’s Office included schedules of the deductions of the net increases in annuity payments. Although the calculations included the net increases for a group of retirees by year, we were neither provided with the net increases for a group of survivors by year nor a detailed listing of the increases in annuities for each retiree or survivor. Therefore, we calculated these increases for the examples of unnamed retirees in the report by subtracting the base (first) annuity from the latest annuity. In the instances where a retiree’s annuity was prorated for the first year, we used the following year’s annuity as the base annuity.

The Retirement Fund provided us with the retirees’ latest retirement dates. However, we were not provided with information when a retiree had a prior retirement, resumed government service, and retired again.

Due to a potential conflict, OPA Legal Counsel requested recusal from any matters pertaining to the COLA lawsuit, and was thus screened from any involvement in this engagement.

We conducted this analysis in accordance with generally accepted government auditing standards. The standards require that we plan and perform the engagement to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. Our objectives did not require that we obtain an understanding and perform an evaluation of the internal controls of the Retirement Fund. Our analysis did not result in findings or recommendations.

Appendix 3:

Prior Audit Coverage

In September 1992, the U.S. Department of the Interior, Office of Inspector General, issued an audit of the Retirement Fund. The audit found that the cost of living allowances paid to retirees from the government of Guam General Fund (1) duplicated the regular retirement benefits, (2) were not equitably distributed among all retirees, and (3) were not guaranteed to continue in the future.¹³

In this report, Retirement Fund’s Board of Trustees stated it will study various options of percentage type cost-of-living adjustments and propose to the Legislature a “unified plan of postretirement adjustments”¹⁴ that will attempt to repeal all existing “superfluous provisions” and provide an equitable postretirement adjustment provision. The Board of Trustees also stated it will “attempt to curb the negative impact of the inflation on retirees” and “not create windfalls for early retirement.” Moreover, as stated in the report, the Board of Trustees “favors development” of a new unified postretirement adjustment plan because implementation of the current uncapped percentage-based cost-of-living-allowance provision would produce “excessive benefits” and would “overlap the automatic increase in annuities.”

¹³ Government of Guam retirees received postretirement benefit increases (paid in addition to the basic retirement annuity) through three separate, uncoordinated mechanisms, all of which were apparently predicated on providing protection against inflation. The practice of providing supplemental benefits and lump-sum COLA payments were contrary to common practices among public employee retirement systems, which dictate that retiring employees not receive the postretirement benefit increases granted prior to the date of their retirement, because the basic annuity already reflects cost-of-living adjustments for past employment periods.

¹⁴ A unified plan of post-retirement adjustments has yet to be established by the Legislature.

On October 27, 1993, Candelaria T. Rios, a former Deputy Director of the Retirement Fund, individually, and on behalf of all those similarly situated, petitioned the Superior Court of Guam for alternative and peremptory writs of mandate directed to the government of Guam¹⁵, alleging: (1) 4 G.C.A. § 8137.1 and § 47060(f) of the Government Code impose upon the named Respondents the clear, present, mandatory and ministerial duty and responsibility to immediately implement the cost of living allowance for government of Guam Retirees; (2) the class members' claims against Respondents involve questions of common and general interest, in that the statutory formula used to determine retirement benefits has never been applied, and that the questions are such that proof of a state of facts common to the members of the class will entitle each member of the class to the relief requested in this Petition; (3) the COLA has not been implemented, and the Petitioner and members of the class are denied the full benefits intended for them by 4 G.C.A. § 8137.1 and § 47060(f) of the Government Code; and (4) the Respondents have not implemented 4 G.C.A. § 8137.1 and § 47060(f) of the Government Code, and in the future will not comply with the COLA for the reason that they believe they are currently in compliance with said law.

On December 6, 1993, the Governor and other government of Guam respondents filed an "Opposition to Writ/ Motion to Dismiss or for Summary Judgment." The Retirement Fund also filed a motion for summary judgment on whether 4 G.C.A. § 8137.1 was a lawful appropriation. All respondents joined in each other's motions.

In a Decision and Order issued on January 19, 1994, Judge Janet Healy Weeks ruled that 4 G.C.A. § 8137.1 was a valid appropriation, citing that: (1) the restrictions of the Illegal Expenditures Act, 5 G.C.A. § 22401, do "not apply to actions of the Legislature"; (2) that 4 G.C.A. § 8137.1 was a valid appropriation because there were no restrictions on the form of appropriation and it was in any case calculable; (3) that the existence of other cost of living allowance authorized by the Legislature was not an implied repeal of 4 G.C.A. § 8137.1; and (4) that 4 G.C.A. § 8137.1 was not a mere "promise" to pay.

On August 8, 1994, Judge Weeks granted class certification. On January 26, 1995, the government of Guam respondents filed a second summary judgment motion.

On December 9, 1997, Judge *Pro Tem* David K. Link was appointed to hear the case, but was disqualified in February 2001 after closing his office and moving off-island. On April 13, 1998, the Governor and other government of Guam respondents again filed a motion for summary judgment. While Judge Link heard arguments on the case, no decision was issued.

¹⁵ Governor of Guam, Director of Administration, Assistant Treasurer of Guam, Acting Director of the Government of Guam Retirement Fund, members of the Board of Trustees of the Government of Guam Retirement Fund, and DOEs (unnamed respondents) 1 through 50.

After further procedural issues regarding the appointment of a judge, Judge Arthur Barcinas was assigned to hear the case in late 2005. On April 5, 2006, the Superior Court issued an order granting the Petitioner's motion for a peremptory writ and denying the Respondents' motion for summary judgment.

On May 31, 2006, the Governor filed a motion for reconsideration, sought to submit to the Court the Governor's calculation of the amount to the COLA class, and recognized the government's obligation to pay the cost of living allowances to the retirees and survivors.

On August 9, 2006, the Superior Court ordered the Governor and the Retirement Fund to submit under seal their calculations of the COLA owed. The calculations were submitted on August 23, 2006.

On October 5, 2006, the Superior Court issued a Decision and Order, which denied and granted in parts, the Governor's motion to reconsider. The judgment was issued simultaneous with the Decision and Order in favor of the COLA class. The Superior Court ruled that the specific amount due the COLA class shall be the amount calculated by the Retirement Fund, offset by the \$32.5 million already paid in COLA for 1990 through 1994 (payouts were July 1991, July 1992, July 1993, July 1994, and July 1995). The Court also denied all attempts made by the Respondents to dismiss the case.

The Superior Court noted that:

The Legislature included "Cost of Living Index" in its assignment to [Department of] Commerce because, as stated in the statute, the Legislature intended the use of this information to adjust employee benefits in accordance with economic changes. The Department of Commerce did not calculate a "Cost of Living Index", but rather a "Consumer Price Index". The entirety of the surrounding language implies adjusting the payment amounts based on inflation. The Department of Commerce's only measurement submitted to the Retirement Fund regarding inflation was the Consumer Price Index. The Court is aware of the shortcomings of using the Consumer Price Index to measure inflation...But those calculations, as well as the decision to use them as the basis for payment to the COLA class, are not within the scope of the judiciary to change...Respondents have argued Commerce failed to calculate inflation using base year 1988. The Legislature did not assign such duties to Commerce but instead directed the Retirement Fund to perform the base year calculations. This is not difficult, especially in light of the fact Commerce provides clear direction in each of their quarterly publications on how to adjust the base year. The Retirement Fund concedes Class Counsel's computation of inflation is virtually identical to that of the Fund's expert....The Department of Commerce was responsible for calculating the cost of living and inflation, and Commerce complied with its mandate to calculate inflation.

The Superior Court further found that the COLA class already received \$1,800 cost of living allowances each year between 1990 and 1994, totaling \$32.5 million, which should be offset from the amount owed to the COLA class. In addition, he ordered that:

Respondents must calculate the award due COLA class members without subtracting annuities, and without using either a 'floating base' or requiring a retirement date any earlier than that provided by the Guam Legislature. Respondents must use the formula provided by the Legislature in 4 G.C.A. § 8137.1. If a COLA class member retired any time before the July payment date, the Retiree is entitled to the § 8137.1 payment.

This 13-year lawsuit resulted in a \$123.6 million award to the COLA class.

COLA Calculation Comparison

		Retirement Fund calculation				Governor's Office calculation				Superior Court Ordered Calculation			
Calculation Used		= (Annuity Paid x Inflation Rate Based on Year of Retirement)				= (Annuity Paid x Hawaii's Inflation Rate Based on Year of Retirement) - COLA Already Paid - Net Increases in Annuities				= (Annuity Paid x Inflation Rate for 1988 Base Year) - COLA Already Paid + Overpaid COLA			
Payout Month/Year	Retirement Year	# of Retirees / Survivors	Annuities Paid	Rate	COLA	# of Retirees / Survivors	Annuities Paid	Rate	COLA	# of Retirees / Survivors ¹⁶	Annuities Paid	Rate	COLA
		July 1991	Retirees										
	1988 & Prior	1,871	\$ 23,820,168	24.02%	\$ 5,721,604	1,871	23,820,168	13.11%	3,122,824				
	1989	249	5,042,363	9.46%	477,008	249	5,042,363	7.09%	357,504				
	1990	246	2,141,747	0.00%	-	246	2,141,747	0.00%	-				
	Subtotal, 1990 Retirees	2,366	31,004,278		6,198,612	2,366	31,004,278		3,480,328	2,417	32,900,529	24.02%	7,902,707
	Survivors												
	1988 & Prior	677	4,962,277	24.02%	1,191,939	677	4,962,277	13.11%	650,555				
	1989	62	389,325	9.46%	36,830	62	389,325	13.11%	51,041				
	1990	49	145,465	0.00%	-	49	145,465	13.11%	19,070				
	Subtotal, 1990 Survivors	788	5,497,067		1,228,769	788	5,497,067		720,665	818	5,741,884	24.02%	1,379,201
	Total, 1990 Retirees & Survivors	3,154	36,501,345		7,427,381	3,154	36,501,345		4,200,993	3,235	38,642,413	24.02%	9,281,908
July 1992	Retirees												
	1988 & Prior	1,810	23,158,721	39.59%	9,168,538	1,810	23,011,310	21.25%	4,889,903				
	1989	241	4,899,232	23.20%	1,136,622	241	4,891,426	14.80%	723,931				
	1990	261	4,894,984	12.55%	614,320	261	4,805,359	7.20%	345,986				
	1991	325	3,035,406	0.00%	-	325	3,035,406	0.00%	-				
	Subtotal, 1991 Retirees	2,637	35,988,343		10,919,480	2,637	35,743,501		5,959,820	2,664	39,076,355	39.59%	15,470,329
	Survivors												
	1988 & Prior	649	4,956,968	39.59%	1,962,464	649	4,956,968	21.25%	1,053,356				
	1989	61	398,190	23.20%	92,380	61	398,190	21.25%	84,615				
	1990	57	391,014	12.55%	49,072	57	391,014	21.25%	83,090				
	1991	67	269,818	0.00%	-	67	269,818	21.25%	57,336				

¹⁶ The Superior Court ordered calculation included retirees and survivors with retirement dates prior to July 1995, while the Retirement Fund calculation and the Governor's Office calculation included retirees and survivors with retirement dates up to December 31, 1993.

COLA Calculation Comparison

		Retirement Fund calculation				Governor's Office calculation				Superior Court Ordered Calculation				
Calculation Used		= (Annuity Paid x Inflation Rate Based on Year of Retirement)				= (Annuity Paid x Hawaii's Inflation Rate Based on Year of Retirement) - COLA Already Paid - Net Increases in Annuities				= (Annuity Paid x Inflation Rate for 1988 Base Year) - COLA Already Paid + Overpaid COLA				
Payout Month/Year	Retirement Year	# of Retirees / Survivors	Annuitants Paid	Rate	COLA	# of Retirees / Survivors	Annuitants Paid	Rate	COLA	# of Retirees / Survivors	Annuitants Paid	Rate	COLA	
		Subtotal, 1991 Survivors		834	6,015,990		2,103,916	834	6,015,990		1,278,398	862	6,255,360	39.59%
Total, 1991 Retirees & Survivors		3,471	42,004,333		13,023,396	3,471	41,759,491		7,238,218	3,526	45,331,715	39.59%	17,946,826	
July 1993	Retirees													
	1988 & Prior	1,723	22,581,399	49.46%	11,168,760	1,723	22,064,635	26.95%	5,946,419					
	1989	233	4,808,089	31.91%	1,534,261	233	4,800,863	20.20%	969,774					
	1990	257	4,911,373	20.51%	1,007,323	257	4,820,924	12.24%	590,081					
	1991	337	7,526,349	7.07%	532,113	337	6,889,815	4.70%	323,821					
	1992	280	3,329,729	0.00%	-	280	3,329,729	0.00%	-					
	Subtotal, 1992 Retirees		2,830	43,156,939		14,242,457	2,830	41,905,966		7,830,096	2,871	45,927,278	49.46%	22,715,632
	Survivors													
	1988 & Prior	630	4,933,666	49.46%	2,440,191	630	4,933,666	26.95%	1,329,623					
	1989	60	414,725	31.91%	132,339	60	414,725	26.95%	111,768					
	1990	56	392,004	20.51%	80,400	56	392,004	26.95%	105,645					
	1991	76	538,194	7.07%	38,050	76	538,194	26.95%	145,043					
	1992	64	237,340	0.00%	-	64	237,340	26.95%	63,963					
	Subtotal, 1992 Survivors		886	6,515,929		2,690,980	886	6,515,929		1,756,043	905	6,727,678	49.46%	3,327,510
Total, 1992 Retirees & Survivors		3,716	49,672,868		16,933,437	3,716	48,421,895		9,586,139	3,776	52,654,956	49.46%	26,043,141	
July 1994	Retirees													
	1988 & Prior	1,653	21,922,984	65.49%	14,357,362	1,653	21,113,616	30.86%	6,515,662					
	1989	229	4,768,635	46.06%	2,196,433	229	4,702,376	23.90%	1,123,868					
	1990	252	4,782,564	33.44%	1,599,289	252	4,687,102	15.69%	735,406					
	1991	334	7,228,032	18.56%	1,341,523	334	6,748,413	7.93%	535,149					
	1992	287	6,974,540	10.72%	747,671	287	7,347,993	3.08%	226,318					
	1993	371	4,140,511	0.00%	-	371	4,140,511	0.00%	-					
	Subtotal, 1993 Retirees		3,126	49,817,266		20,242,278	3,126	48,740,011		9,136,403	3,142	54,108,822	65.49%	35,435,868

COLA Calculation Comparison

		Retirement Fund calculation				Governor's Office calculation				Superior Court Ordered Calculation			
Calculation Used		= (Annuity Paid x Inflation Rate Based on Year of Retirement)				= (Annuity Paid x Hawaii's Inflation Rate Based on Year of Retirement) - COLA Already Paid - Net Increases in Annuities				= (Annuity Paid x Inflation Rate for 1988 Base Year) - COLA Already Paid + Overpaid COLA			
Payout Month/Year	Retirement Year	# of Retirees / Survivors	Annuitants Paid	Rate	COLA	# of Retirees / Survivors	Annuitants Paid	Rate	COLA	# of Retirees / Survivors	Annuitants Paid	Rate	COLA
			Survivors										
	1988 & Prior	598	4,830,107	65.49%	3,163,237	598	4,830,107	30.86%	1,490,571				
	1989	59	427,246	46.06%	196,790	59	427,246	30.86%	131,848				
	1990	53	389,849	33.44%	130,366	53	389,849	30.86%	120,307				
	1991	77	547,818	18.56%	101,675	77	547,818	30.86%	169,057				
	1992	70	461,446	10.72%	49,467	70	461,446	30.86%	142,402				
	1993	75	319,405	0.00%	-	75	319,405	30.86%	98,568				
	Subtotal, 1993 Survivors	932	6,975,871		3,641,534	932	6,975,871		2,152,754	958	7,236,201	65.49%	4,738,988
	Total, 1993 Retirees & Survivors	4,058	56,793,137		23,883,812	4,058	55,715,882		11,289,157				
July 1995	Retirees												
	1988 & Prior	1,562	21,470,658	87.63%	18,814,738	1,562	20,350,656	34.12%	6,943,644				
	1989	222	4,737,817	65.60%	3,108,008	222	4,632,081	26.98%	1,249,735				
	1990	247	4,691,360	51.29%	2,406,199	247	4,558,043	18.57%	846,429				
	1991	324	7,071,597	34.42%	2,434,044	324	6,585,329	10.61%	698,703				
	1992	284	6,932,335	25.54%	1,770,518	284	7,271,540	5.65%	410,842				
	1993	379	10,117,300	13.38%	1,353,695	379	10,007,988	2.49%	249,199				
	1994	379	4,246,852	0.00%	-	379	4,246,852	0.00%	-				
	Subtotal, 1994 Retirees	3,397	59,267,919		29,887,201	3,397	57,652,489		10,398,552	3,335	62,843,394	87.63%	55,069,667
	Survivors												
	1988 & Prior	567	4,729,264	87.63%	4,144,254	567	4,729,264	34.12%	1,613,625				
	1989	59	442,676	65.60%	290,395	59	442,676	34.12%	151,041				
	1990	53	396,511	51.29%	203,370	53	396,511	34.12%	135,290				
	1991	75	562,037	34.42%	193,453	75	562,037	34.12%	191,767				
	1992	70	474,979	25.54%	121,310	70	474,979	34.12%	162,063				
	1993	91	718,083	13.38%	96,080	91	718,083	34.12%	245,010				
	1994	67	241,754	0.00%	-	67	241,754	34.12%	82,486				
	Subtotal, 1994 Survivors	982	7,565,304		5,048,862	982	7,565,304		2,581,282	1,003	7,792,412	87.63%	6,828,490

COLA Calculation Comparison

		Retirement Fund calculation				Governor's Office calculation				Superior Court Ordered Calculation			
Calculation Used		= (Annuity Paid x Inflation Rate Based on Year of Retirement)				= (Annuity Paid x Hawaii's Inflation Rate Based on Year of Retirement) - COLA Already Paid - Net Increases in Annuities				= (Annuity Paid x Inflation Rate for 1988 Base Year) - COLA Already Paid + Overpaid COLA			
Payout Month/Year	Retirement Year	# of Retirees / Survivors	Annuities Paid	Rate	COLA	# of Retirees / Survivors	Annuities Paid	Rate	COLA	# of Retirees / Survivors	Annuities Paid	Rate	COLA
		Total, 1994 Retirees & Survivors		4,379	66,833,223		34,936,063	4,379	65,217,793		12,979,834	4,338	70,635,806
	Subtotals, Retirees & Survivors	18,778	251,804,906		96,204,089	18,778	247,616,406		45,294,341	18,975	268,609,914		155,344,887
	<i>Less COLA Already Paid to Retirees & Survivors</i>												
July 1991	Retirees, 1990 Survivors, 1990					(4,104,000) (1,344,600)				(4,037,850) (1,339,200)			
	Total Retirees & Survivors, 1990								(5,448,600)				(5,377,050)
July 1992	Retirees, 1991 Survivors, 1991					(4,481,550) (1,429,050)				(4,428,000) (1,427,25)			
	Total Retirees & Survivors, 1991								(5,910,600)				(5,855,250)
July 1993	Retirees, 1992 Survivors, 1992					(4,757,400) (1,515,600)				(4,703,400) (1,513,800)			
	Total Retirees & Survivors, 1992								(6,273,000)				(6,217,200)
July 1994	Retirees, 1993 Survivors, 1993					(5,631,750) (1,580,850)				(5,572,800) (1,579,05)			
	Total Retirees & Survivors, 1993								(7,212,600)				(7,151,850)
July 1995	Retirees, 1994 Survivors, 1994					(5,958,900) (1,680,750)				(5,905,800) (1,680,750)			
	Total Retirees & Survivors, 1994								(7,639,650)				(7,586,550)
	Total COLA Already Paid to Retirees & Survivors								(32,484,450)				(32,187,900)

COLA Calculation Comparison

		Retirement Fund calculation				Governor's Office calculation				Superior Court Ordered Calculation			
Calculation Used		= (Annuity Paid x Inflation Rate Based on Year of Retirement)				= (Annuity Paid x Hawaii's Inflation Rate Based on Year of Retirement) - COLA Already Paid - Net Increases in Annuities				= (Annuity Paid x Inflation Rate for 1988 Base Year) - COLA Already Paid + Overpaid COLA			
Payout Month/Year	Retirement Year	# of Retirees / Survivors	Annuities Paid	Rate	COLA	# of Retirees / Survivors	Annuities Paid	Rate	COLA	# of Retirees / Survivors	Annuities Paid	Rate	COLA
<i>Less Net Increases in Annuities</i>													
July 1991	Retirees, 1990 Survivors, 1990						-						
	Total Retirees & Survivors, 1990						-						
July 1992	Retirees, 1991 Survivors, 1991						(244,841) (140,657)						
	Total Retirees & Survivors, 1991												(385,498)
July 1993	Retirees, 1992 Survivors, 1992						(1,250,971) (303,751)						
	Total Retirees & Survivors, 1992												(1,554,722)
July 1994	Retirees, 1993 Survivors, 1993						(1,077,253) (403,514)						
	Total Retirees & Survivors, 1993												(1,480,767)
July 1995	Retirees, 1994 Survivors, 1994						(1,615,427) (683,689)						
	Total Retirees & Survivors, 1994												(2,299,116)
	Total Net Increases in Annuities												(6,189,659) ¹⁷

¹⁷ This is the estimated amount of the net increases as described in the declaration of the Governor's consultant. However, the calculations in Schedule 4 of the declaration indicate \$5.7 million and did not list the details of how the remaining \$500,000 was applied to derive the final COLA amount of \$6.6 million.

COLA Calculation Comparison

		Retirement Fund calculation				Governor's Office calculation				Superior Court Ordered Calculation			
Calculation Used		= (Annuity Paid x Inflation Rate Based on Year of Retirement)				= (Annuity Paid x Hawaii's Inflation Rate Based on Year of Retirement) - COLA Already Paid - Net Increases in Annuities				= (Annuity Paid x Inflation Rate for 1988 Base Year) - COLA Already Paid + Overpaid COLA			
Payout Month/Year	Retirement Year	# of Retirees / Survivors	Annuities Paid	Rate	COLA	# of Retirees / Survivors	Annuities Paid	Rate	COLA	# of Retirees / Survivors	Annuities Paid	Rate	COLA
	<i>Plus COLA Amounts Overpaid¹⁸</i>												
July 1991	Retirees, 1990 Survivors, 1990										116,790 183,053		
	Total Retirees & Survivors, 1990												299,843
July 1992	Retirees, 1991 Survivors, 1991										17,957 40,488		
	Total Retirees & Survivors, 1991												58,445
July 1993	Retirees, 1992 Survivors, 1992										6,374 29,280		
	Total Retirees & Survivors, 1992												35,654
July 1994	Retirees, 1993 Survivors, 1993										6,804 15,733		
	Total Retirees & Survivors, 1993												22,537
July 1995	Retirees, 1994 Survivors, 1994										2,689 4,074		
	Total Retirees & Survivors, 1994												6,764
	<i>Total COLA Amounts Overpaid</i>												<i>423,243</i>
	Net COLA Due				\$ 96,204,089				\$ 6,620,232				\$ 123,580,231

¹⁸ Certain retirees and survivors incurred a liability to the government of Guam for the overpayment of \$1,800 in COLA. Adding back this benefit resulted in an offset of this liability, giving the effect of forgiveness.

Appendix 6:

Additional 1988 & Prior Retiree COLA Calculations

Example: Retiree J (Retired on 6/1/1972)

Retiree J retired in June 1972, and is entitled to five checks totaling \$34,465 under the Retirement Fund calculation, \$6,295 under the Governor’s Office calculation, and \$25,465 under the Superior Court ordered calculation. Based on Retiree J’s retirement year, the same inflation rates were used in the Retirement Fund calculation and the Superior Court ordered calculation. See Table 16.

Table 16: COLA Calculations for Retiree J

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 12,435	24.02%	\$ 2,987	13.11%	\$ 1,630	24.02%	\$ 2,987
July 1992	12,635	39.59%	5,002	21.25%	2,643	39.59%	5,002
July 1993	12,835	49.46%	6,348	26.95%	3,405	49.46%	6,348
July 1994	13,035	65.49%	8,537	30.86%	3,961	65.49%	8,537
July 1995	13,227	87.63%	11,591	34.12%	4,448	87.63%	11,591
Subtotal	\$ 64,168		\$ 34,465		\$ 16,087		\$ 34,465
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(791)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 34,465		\$ 6,295		\$ 25,465

Example: Retiree K (Retired on 6/13/1982)

Retiree K retired in June 1982, and is entitled to five checks totaling \$59,765 under the Retirement Fund calculation, \$18,288 under the Governor’s Office calculation, and \$50,765 under the Superior Court ordered calculation. Based on Retiree K’s retirement year, the same inflation rates were used in the Retirement Fund calculation and the Superior Court ordered calculation. See Table 17.

Table 17: COLA Calculations for Retiree K

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 21,938	24.02%	\$ 5,269	13.11%	\$ 2,876	24.02%	\$ 5,269
July 1992	22,138	39.59%	8,764	21.25%	4,662	39.59%	8,764
July 1993	22,337	49.46%	11,048	26.95%	5,966	49.46%	11,048
July 1994	22,537	65.49%	14,759	30.86%	6,893	65.49%	14,759
July 1995	22,737	87.63%	19,924	34.12%	7,690	87.63%	19,924
Subtotal	\$ 111,686		\$ 59,765		\$ 28,087		\$ 59,765
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(799)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 59,765		\$ 18,288		\$ 50,765

Appendix 7:

Additional 1989 Retiree COLA Calculations

Example: Retiree L (Retired on 4/15/1989)

Retiree L retired in April 1989 and is entitled to five checks totaling \$33,668 under the Retirement Fund calculation, \$8,255 under the Governor’s Office calculation, and \$41,803 under the Superior Court ordered calculation. Based on Retiree L’s retirement year, differing inflation rates were used for the three calculations. See Table 18.

Table 18: COLA Calculations for Retiree L

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 18,828	9.46%	\$ 1,781	7.09%	\$ 1,335	24.02%	\$ 4,522
July 1992	18,929	23.20%	4,391	14.80%	2,786	39.59%	7,494
July 1993	19,029	31.91%	6,072	20.20%	3,824	49.46%	9,412
July 1994	19,129	46.06%	8,811	23.90%	4,548	65.49%	12,527
July 1995	19,226	65.60%	12,612	26.98%	5,161	87.63%	16,848
Subtotal	\$ 95,140		\$ 33,668		\$ 17,654		\$ 50,803
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(398)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 33,668		\$ 8,255		\$ 41,803

Example: Retiree M (Retired on 7/2/1989)

Retiree M retired in July 1989, and is entitled to five checks totaling \$60,841 under the Retirement Fund calculation, \$22,839 under the Governor’s Office calculation, and \$82,877 under the Superior Court ordered calculation. Based on Retiree M’s retirement year, differing inflation rates were used for the three calculations. See Table 19.

Table 19: COLA Calculations for Retiree M

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 34,452	9.46%	\$ 3,259	7.09%	\$ 2,443	24.02%	\$ 8,275
July 1992	34,452	23.20%	7,993	14.80%	5,099	39.59%	13,640
July 1993	34,452	31.91%	10,994	20.20%	6,959	49.46%	17,040
July 1994	34,452	46.06%	15,869	23.90%	8,234	65.49%	22,563
July 1995	34,644	65.60%	22,727	26.98%	9,295	87.63%	30,359
Subtotal	\$ 172,454		\$ 60,841		\$ 32,030		\$ 91,877
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(192)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 60,841		\$ 22,839		\$ 82,877

Appendix 8:

Additional 1990 Retiree COLA Calculations

Example: Retiree N (Retired on 3/22/1990)

Retiree N retired in March 1990, and is entitled to four checks totaling \$29,912 under the Retirement Fund calculation and \$4,174 under the Governor’s Office calculation. Retiree N is not entitled to a COLA payment for the July 1991 payout under the Retirement Fund calculation and the Governor’s Office calculation. Under the Superior Court ordered calculation, Retiree N is entitled to five checks totaling \$58,471 or almost twice as much as the Retirement Fund calculation. See Table 20.

Table 20: COLA Calculations for Retiree N

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 25,089	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 6,026
July 1992	25,190	12.55%	3,161	7.20%	1,806	39.59%	9,973
July 1993	25,290	20.51%	5,187	12.24%	3,083	49.46%	12,509
July 1994	25,390	33.44%	8,491	15.69%	3,968	65.49%	16,628
July 1995	25,488	51.29%	13,073	18.57%	4,715	87.63%	22,335
Subtotal	\$ 126,449		\$ 29,912		\$ 13,573		\$ 67,471
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(399)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 29,912		\$ 4,174		\$ 58,471

Example: Retiree O (Retired on 8/1/1990)

Retiree O retired in August 1990 and is entitled to four COLA checks totaling \$40,834 under the Retirement Fund calculation and \$5,674 under the Governor’s Office calculation. Retiree O is not entitled to a COLA payment for the July 1991 payout under the Retirement Fund calculation and the Governor’s Office calculation. Under the Superior Court ordered calculation, Retiree O is entitled to five checks totaling \$82,352 or twice as much as the Retirement Fund calculation. See Table 21.

Table 21: COLA Calculations for Retiree O

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 31,240	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 7,504
July 1992	34,261	12.55%	4,300	7.20%	2,249	39.59%	13,564
July 1993	34,461	20.51%	7,068	12.24%	4,194	49.46%	17,044
July 1994	34,660	33.44%	11,590	15.69%	5,407	65.49%	22,699
July 1995	34,852	51.29%	17,876	18.57%	6,436	87.63%	30,541
Subtotal	\$ 169,474		\$ 40,834		\$ 18,286		\$ 91,352
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(3,612)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 40,834		\$ 5,674		\$ 82,352

Appendix 9:

Additional 1991 Retiree COLA Calculations

Example: Retiree P (Retired on 2/1/1991)

Retiree P retired in February 1991, prior to the July 1991 payout, and is entitled to three checks totaling \$19,906 under the Retirement Fund calculation. Under the Governor’s Office calculation, Retiree P is not entitled to any payments. Under the Superior Court ordered calculation, Retiree P is entitled to five checks totaling \$76,038 or almost four times more than the Retirement Fund calculation. Also note that the July 1991 annuity has been prorated for five months. See Table 22.

Table 22: COLA Calculations for Retiree P

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 13,572	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 3,260
July 1992	32,657	0.00%	-	0.00%	-	39.59%	12,929
July 1993	32,867	7.07%	2,324	4.70%	1,535	49.46%	16,256
July 1994	33,071	18.56%	6,138	7.93%	2,606	65.49%	21,658
July 1995	33,248	34.42%	11,444	10.61%	3,509	87.63%	29,135
Subtotal	\$ 145,415		\$ 19,906		\$ 7,650		\$ 83,238
- Less COLA Paid			-		(7,200)		(7,200)
- Less Net Annuity Increases			-		(591)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 19,906		\$ (141)		\$ 76,038

Example: Retiree Q (Retired on 8/10/1991)

Retiree Q retired in August 1991, after the July 1991 payout, and is entitled to three checks totaling \$10,933 under the Retirement Fund calculation. Under the Governor’s Office calculation, Retiree Q is not entitled to any COLA payments. Retiree Q is entitled to four checks totaling \$35,891 under the Superior Court ordered calculation. See Table 23.

Table 23: COLA Calculations for Retiree Q

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	15,919	0.00%	-	0.00%	-	39.59%	6,302
July 1993	17,961	7.07%	1,270	4.70%	748	49.46%	8,884
July 1994	18,113	18.56%	3,362	7.93%	1,424	65.49%	11,862
July 1995	18,308	34.42%	6,302	10.61%	1,922	87.63%	16,043
Subtotal	\$ 70,301		\$ 10,933		\$ 4,094		\$ 43,091
- Less COLA Paid			-		7,200		(7,200)
- Less Net Annuity Increases			-		347		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 10,933		\$ (3,453)		\$ 35,891

Appendix 10:

Additional 1992 Retiree COLA Calculations

Example: Retiree R (Retired on 5/16/1992)

Retiree R retired in May 1992, before the July 1992 payout, and is entitled to two checks totaling \$12,591 under the Retirement Fund calculation. Under the Governor’s Office calculation, Retiree R is not entitled to any COLA payments. Under the Superior Court ordered calculation, Retiree R is entitled to four checks totaling \$66,442 or five times more than the Retirement Fund calculation. Also note that the July 1992 annuity was prorated for one month. See Table 24.

Table 24: COLA Calculations for Retiree R

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	4,296	0.00%	-	0.00%	-	39.59%	1,701
July 1993	34,393	0.00%	-	0.00%	-	49.46%	17,011
July 1994	34,584	10.72%	3,707	3.08%	1,059	65.49%	22,649
July 1995	34,784	25.54%	8,884	5.65%	1,954	87.63%	30,481
Subtotal	\$ 108,058		\$ 12,591		\$ 3,013		\$ 71,842
- Less COLA Paid			-		(5,400)		(5,400)
- Less Net Annuity Increases			-		(391)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 12,591		\$ (2,778)		\$ 66,442

Example: Retiree S (Retired on 9/26/1992)

Retiree S retired in September 1992, after the July 1992 payout, and is entitled to two checks totaling \$10,597 under the Retirement Fund calculation. Under the Governor’s Office calculation, Retiree S is not entitled to any COLA payments. Under the Superior Court ordered calculation, Retiree S is entitled to three checks totaling \$50,860 or four times more than the Retirement Fund calculation. Also note that the July 1992 annuity was prorated for nine months. See Table 25.

Table 25: COLA Calculations for Retiree S

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	23,580	0.00%	-	0.00%	-	49.46%	11,662
July 1994	28,700	10.72%	3,077	3.08%	884	65.49%	18,796
July 1995	29,444	25.54%	7,520	5.65%	1,622	87.63%	25,802
Subtotal	\$ 81,724		\$ 10,597		\$ 2,506		\$ 56,260
- Less COLA Paid			-		(5,400)		(5,400)
- Less Net Annuity Increases			-		(744)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 10,597		\$ (3,638)		\$ 50,860

Appendix 11:

Additional 1993 Retiree COLA Calculations

Example: Retiree T (Retired on 1/30/1993)

Retiree T retired in January 1993 and is entitled to one check for \$8,337 under the Retirement Fund calculation. Under the Governor’s Office calculation, Retiree T is not entitled to any COLA payments. Under the Superior Court ordered calculation, Retiree T is entitled to three checks totaling \$104,621. Also note that the July 1993 annuity was prorated for five months. See Table 26.

Table 26: COLA Calculations for Retiree T

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	26,168	0.00%	-	0.00%	-	49.46%	12,943
July 1994	62,111	0.00%	-	0.00%	-	65.49%	40,676
July 1995	62,310	13.38%	8,337	2.49%	1,547	87.63%	54,602
Subtotal	\$ 150,589		\$ 8,337		\$ 1,547		\$108,221
- Less COLA Paid			-		(3,600)		(3,600)
- Less Net Annuity Increases			-		(199)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 8,337		\$ (2,252)		\$104,621

Example: Retiree U (Retired on 8/11/1993)

Retiree U retired in August 1993 and is entitled to one check for \$2,987 under the Retirement Fund calculation. Under the Governor’s Office calculation, Retiree U is not entitled to any COLA payments. Under the Superior Court ordered calculation, Retiree U is entitled to two checks totaling \$28,949. Also note that the July 1994 annuity was prorated for 11 months. See Table 27.

Table 27: COLA Calculations for Retiree U

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	-	0.00%	-	0.00%	-	49.46%	-
July 1994	19,828	0.00%	-	0.00%	-	65.49%	12,985
July 1995	22,325	13.38%	2,987	2.49%	494	87.63%	19,563
Subtotal	\$ 42,153		\$ 2,987		\$ 494		\$ 32,549
- Less COLA Paid			-		(3,600)		(3,600)
- Less Net Annuity Increases			-		-		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 2,987		\$ (3,106)		\$ 28,949

Appendix 12:

Additional 1994 Retiree COLA Calculations

Example: Retiree V (Retired on 5/28/1994)

Retiree V retired in May 1994, prior to the July 1994 payout, and is entitled to two checks for \$33,191 under the Superior Court ordered calculation. Retiree V is not entitled to any COLA payments under the Retirement Fund calculation and the Governor’s Office calculation. Also note that the July 1994 annuity was prorated for one month. See Table 28.

Table 28: COLA Calculations for Retiree V

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	-	0.00%	-	0.00%	-	49.46%	-
July 1994	3,497	0.00%	-	0.00%	-	65.49%	2,290
July 1995	37,317	0.00%	-	0.00%	-	87.63%	32,700
Subtotal	\$ 40,813		\$ -		\$ -		\$ 34,991
- Less COLA Paid			-		(1,800)		(1,800)
- Less Net Annuity Increases			-		-		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ -		\$ (1,800)		\$ 33,191

Example: Retiree W (Retired on 10/12/1994)

Retiree W retired in October 1994, after the July 1994 payout, and is entitled to one check for \$14,810 under the Superior Court ordered calculation. This Retiree is not entitled to any COLA payments under the Retirement Fund calculation and the Governor’s Office calculation. See Table 29.

Table 29: COLA Calculations for Retiree W

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	-	0.00%	-	0.00%	-	49.46%	-
July 1994	-	0.00%	-	0.00%	-	65.49%	-
July 1995	18,955	0.00%	-	0.00%	-	87.63%	16,610
Subtotal	\$ 18,955		\$ -		\$ -		\$ 16,610
- Less COLA Paid			-		(1,800)		(1,800)
- Less Net Annuity Increases			-		-		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ -		\$ (1,800)		\$ 14,810

Appendix 13:

Survivor COLA Calculations

Example: Survivor A (Retiree Retired on 8/24/1953)

Survivor A’s retiree retired in August 1953, which entitled Survivor A to five COLA payments for the three calculations: \$22,823 under the Retirement Fund calculation, \$296 under the Governor’s Office calculation, and \$13,823 under the Superior Court ordered calculation. See Table 30.

Table 30: COLA Calculations for Survivor A

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates ¹⁹		Superior Court Ordered Calculation & Rates	
July 1991	\$ 7,818	24.02%	\$ 1,878	13.11%	\$ 1,025	24.02%	\$ 1,878
July 1992	8,118	39.59%	3,214	21.25%	1,661	39.59%	3,214
July 1993	8,418	49.46%	4,164	26.95%	2,188	49.46%	4,164
July 1994	8,718	65.49%	5,709	30.86%	2,598	65.49%	5,709
July 1995	8,968	87.63%	7,859	34.12%	2,975	87.63%	7,859
Subtotal	\$ 42,040		\$ 22,823		\$ 10,446		\$ 22,823
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(1,150)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 22,823		\$ 296		\$ 13,823

Example: Survivor B (Retiree Retired on 8/23/1990)

Survivor B’s retiree retired in August 1990, which entitled Survivor B to four COLA payments totaling \$21,726 under the Retirement Fund calculation and \$13,025 under the Governor’s Office calculation. Under the Superior Court ordered calculation, Survivor B is entitled to five COLA payments totaling \$39,240. The date of death was not provided; therefore, we were unable to verify the accuracy of the calculations. See Table 31.

Table 31: COLA Calculations for Survivor B

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 15,307	0.00%	\$ -	13.11%	\$ 2,007	24.02%	\$ 3,677
July 1992	18,037	12.55%	2,264	21.25%	3,833	39.59%	7,141
July 1993	18,237	20.51%	3,740	26.95%	4,861	49.46%	9,020
July 1994	18,437	33.44%	6,165	30.86%	5,628	65.49%	12,075
July 1995	18,632	51.29%	9,557	34.12%	6,291	87.63%	16,328
Subtotal	\$ 88,651		\$ 21,726		\$ 22,620		\$ 48,240
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(595)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 21,726		\$ 13,025		\$ 39,240

¹⁹ Unlike the Governor’s Office calculation of retirees’ COLA in which the inflation rate differed based on the retiree’s retirement year, the survivor’s COLA calculation used the 1988 base-year inflation rates of 13.11% in 1991, 21.25% in 1992, 26.95% in 1993, 30.86% in 1994, and 34.12% in 1995. These inflation rates were used in determining all survivors’ COLA.

Appendix 14:
Other COLA Calculations

Example: Retiree X (Retired on 7/10/1991)

Retiree X retired in July 1991, and is entitled to three payments totaling \$41,706 under the Retirement Fund calculation and \$8,413 under the Governor’s Office calculation. Retiree X is entitled to five checks totaling \$160,010 under the Superior Court ordered calculation. Retiree X’s July 1992 annuity of \$67,243 was prorated for 11 months. See Table 32.

Table 32: COLA Calculations for Retiree X

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	67,243	0.00%	-	0.00%	-	39.59%	26,621
July 1993	69,167	7.07%	4,890	4.70%	3,160	49.46%	34,210
July 1994	69,362	18.56%	12,874	7.93%	5,485	65.49%	45,425
July 1995	69,558	34.42%	23,942	10.61%	7,359	87.63%	60,954
Subtotal	\$ 275,330		\$ 41,706		\$ 16,005		\$ 167,210
- Less COLA Paid			-		(7,200)		(7,200)
- Less Net Annuity Increases			-		(392)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 41,706		\$ 8,413		\$ 160,010

Example: Retiree Y (Retired on 10/1/1992)

Retiree Y retired in October 1992 and is entitled to two checks totaling \$26,588 under the Retirement Fund calculation and \$2,031 under the Governor’s Office calculation. Under the Superior Court ordered calculation, Retiree Y is entitled to three checks totaling \$135,733. Based on Retiree Y’s retirement year, differing inflation rates were used for the three calculations. Also note Retiree Y’s annuity in July 1993 of \$54,781 was prorated for nine months. See Table 33.

Table 33: COLA Calculations for Retiree Y

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992		0.00%	-	0.00%	-	39.59%	-
July 1993	54,781	0.00%	-	0.00%	-	49.46%	27,095
July 1994	73,192	10.72%	7,846	3.08%	1,687	65.49%	47,933
July 1995	73,383	25.54%	18,742	5.65%	4,135	87.63%	64,306
Subtotal	\$ 201,355		\$ 26,588		\$ 5,823		\$ 139,333
- Less COLA Paid			-		(3,600)		(3,600)
- Less Net Annuity Increases			-		(192)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 26,588		\$ 2,031		\$ 135,733

Appendix 14:
Other COLA Calculations

Example: Retiree Z (Retired on 5/22/1992)

Retiree Z retired in May 1992 and is entitled to two COLA payments totaling \$33,210 under the Retirement Fund calculation and \$2,494 under the Governor’s Office calculation. Under the Superior Court ordered calculation, Retiree Z is entitled to three COLA payments totaling \$187,905. We noted a decrease in Retiree Z’s July 1994 annuity from the July 1993 annuity. See Table 34.

Table 34: COLA Calculations for Retiree Z

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	107,331	0.00%	-	0.00%	-	49.46%	53,086
July 1994	91,520	10.72%	9,811	3.08%	2,819	65.49%	59,936
July 1995	91,616	25.54%	23,399	5.65%	5,171	87.63%	80,283
Subtotal	\$ 290,467		\$ 33,210		\$ 7,990		\$193,305
- Less COLA Paid			-		(5,400)		(5,400)
- Less Net Annuity Increases			-		(96)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 33,210		\$ 2,494		\$187,905

Example: Retiree AA (Retired on 9/16/1993)

Retiree AA retired in September 1993, and is entitled to one COLA payment of \$8,447. Retiree AA is not entitled to any COLA payments under the Governor’s Office calculation. Under the Superior Court ordered calculation, this Retiree is entitled to five COLA payments totaling \$118,595. Based on data provided by the Retirement Fund, Retiree AA received annuity in 1991 and 1992, despite retiring in September 1993. See Table 35.

Table 35: COLA Calculations for Retiree AA

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor’s Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 32,412	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 7,785
July 1992	32,612	0.00%	-	0.00%	-	39.59%	12,911
July 1993	32,812	0.00%	-	0.00%	-	49.46%	16,229
July 1994	53,974	0.00%	-	0.00%	-	65.49%	35,348
July 1995	63,131	13.38%	8,447	2.49%	1,344	87.63%	55,322
Subtotal	\$ 214,941		\$ 8,447		\$ 1,344		\$ 127,595
- Less COLA Paid			-		(9,000)		(9,000)
- Less Net Annuity Increases			-		(400)		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 8,447		\$ (8,056)		\$ 118,595

Example: Retiree AB (Retired on 9/30/1993)

Retiree AB retired in September 1993 and is entitled to one payment of \$9,647 under the Retirement Fund calculation. Retiree AB is not entitled to any COLA payments under the Governor's Office calculation. Retiree AB is entitled to four payments totaling \$99,860 under the Superior Court ordered calculation. Based on data provided by the Retirement Fund, Retiree AB received annuities in 1991 and 1992, despite retiring in September 1993. See Table 36.

Table 36: COLA Calculations for Retiree AB

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ 30,762	0.00%	\$ -	0.00%	\$ -	24.02%	\$ 7,389
July 1992	2,572	0.00%	-	0.00%	-	39.59%	1,018
July 1993	0	0.00%	-	0.00%	-	49.46%	-
July 1994	54,163	0.00%	-	0.00%	-	65.49%	35,471
July 1995	72,100	13.38%	9,647	2.49%	1,349	87.63%	63,181
Subtotal	\$ 159,596		\$ 9,647		\$ 1,349		\$ 107,060
- Less COLA Paid			-		(7,200)		7,200
- Less Net Annuity Increases			-		-		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ 9,647		\$ (5,851)		\$ 99,860

Example: Retiree AC (Retired on 1/1/1994)

Retiree AC retired in January 1994, and is not entitled to any COLA payments under the Retirement Fund calculation and the Governor's Office calculation. However, Retiree AC is entitled to two COLA payments totaling \$129,610 under the Superior Court ordered calculation. We noted that the July 1994 annuity payment was prorated for six months or \$54,550. Refer to Table 37.

Table 37: COLA Calculations for Retiree AC

Payout Month / Year	Annual Annuity Paid	Retirement Fund Calculation & Rates		Governor's Office Calculation & Rates		Superior Court Ordered Calculation & Rates	
July 1991	\$ -	0.00%	\$ -	0.00%	\$ -	24.02%	\$ -
July 1992	-	0.00%	-	0.00%	-	39.59%	-
July 1993	-	0.00%	-	0.00%	-	49.46%	-
July 1994	54,550	0.00%	-	0.00%	-	65.49%	35,725
July 1995	109,192	0.00%	-	0.00%	-	87.63%	95,685
Subtotal	\$ 163,743		\$ -		\$ -		\$ 131,410
- Less COLA Paid			-		(1,800)		(1,800)
- Less Net Annuity Increases			-		-		-
+ Plus COLA Overpaid			-		-		-
Total COLA Due			\$ -		\$ (1,800)		\$ 129,610

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