

**Government of Guam
Salary Increments**

Analysis

October 1, 2004 through September 30, 2005

**OPA Report No. 05-07
December 2005**



OFFICE OF THE PUBLIC AUDITOR

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OFFICE OF THE PUBLIC AUDITOR

EXECUTIVE SUMMARY

Analysis of Salary Increments of the Government of Guam
Report No. 05-07, December 2005

In September 2004, the 27th Guam Legislature passed P.L. 27-106, the Appropriation Act of the Government of Guam for FY 2005. Unlike the Budget Acts of previous years, this law contained specific provisions for the reinstatement of salary increments thereby lifting the three-year moratorium. In accordance with the law, eligible employees of the government were entitled to a single salary increment on October 2004 and multiple salary increments on May 2005.

Our analysis disclosed the Government of Guam paid approximately \$12.3 million to restore salary increments to eligible employees in fiscal year 2005. Specifically:

- \$4.7 million was paid to eligible employees of Executive Branch line agencies funded from the General Fund. Of the \$4.7 million, approximately \$3.7 million was paid to reinstate the one-step salary increment to 2,479 employees from 33 line entities. It cost an additional \$1 million to reinstate multiple salary increments to 1,642 employees for the nine-pay periods remaining in FY 2005.
- \$4.3 million was paid to restore salary increments to 2,122 eligible employees of autonomous agencies. Except Guam Memorial Hospital (GMH). GMH indicated that they did not have the available cash.
- \$2.5 million was spent to reinstate salary increments to eligible employees of the Guam Public School System.
- \$761,000 was spent to restore salary increments to eligible employees of the Judicial Branch. Of the \$761,000, approximately \$509,000 was paid to reinstate the one-step salary increment to 310 employees and \$252,000 was paid to reinstate multiple salary increments to 220 employees.
- Guam Housing and Urban Renewal Authority (GHURA) Board of Commissioners authorized the payment of salary increments throughout the moratorium on the basis that all of its funding is derived from federal grants.

In accordance with P.L. 27-106, the Executive Branch identified sufficient lapses from fiscal year 2004 to implement the restoration of salary increments to all eligible employees funded by the General Fund. However, the identification of lapsed appropriations does not translate into the Government of Guam having available cash.

The FY 2004 audited financial statements of the Government of Guam reported total liabilities of \$445 million, of which liabilities for tax refunds totaled \$226 million and other liabilities amounted to over \$219 million. As of September 30, 2004 the General Fund deficit was \$313.6 million.

The payment of salary increments in fiscal year 2005 and forward will increase the total amounts paid for salaries and benefits and may increase the General Fund deficit. The implication that the government has the available appropriated funds from prior years lapses provides a false sense of available cash resources. While most state and local governments may operate at a deficit, it is generally sound financial management for policymakers to secure necessary revenues and not erode the revenue base before incurring additional expenditures.

In May 2005, the Public Auditor wrote an article for the Pacific Daily News Sunday Forum, which stated, "It is doubtful that actual cash is readily available for salary increments. GovGuam can't have it both ways if it wants to increase spending it can't continue to reduce taxes". See appendix 1 for the full article.

Our analysis indicates that compliance with P.L. 27-106 was generally achieved throughout the Government of Guam. The Executive Branch line agencies, autonomous agencies, the Guam Public School System and the Judicial Branch had fully restored salary increments for eligible employees. GMH was the only exception; the agency did not restore salary increments to eligible employees in FY 2005 because of the lack of available cash.

Further, we found that beginning in FY 2002, GHURA did not adhere to the legislation placing a freeze on salary increments and continued to award salary increments to eligible employees. GHURA's Board of Commissioners authorized the payment of salary increments on the basis that all of its funding is derived from federal grants. However, GHURA's legal counsel cautioned the Board that this may be a violation of local law.

A draft report was provided to the Director of the Bureau of Budget and Management Research (BBMR), and the Director of the Department of Administration (DOA) for review and comment.

BBMR and DOA generally concurred with the results of the report, and noted in their response that General Fund Expenditures, to include the implementation of increments, did not exceed the FY 2005 \$447 million authorized budget level, that payroll costs have dropped significantly over the past three years, and there are approximately seven hundred fewer employees funded by General fund today.



Doris Flores Brooks, CPA, CGFM
Public Auditor



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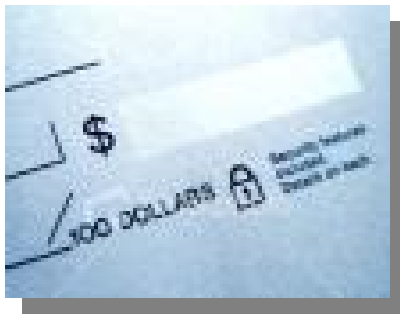


Introduction

This report represents the results of our analysis of the reinstatement of salary increments throughout the Government of Guam. The analysis was conducted in response to a request by the Attorney General of Guam detailed in Appendix 2. The objectives of our analysis were to determine (1) whether lapsed appropriations¹ identified in the fiscal year 2005 Budget Act were sufficient to fund the restoration of salary increments; (2) whether salary increments to classified employees were implemented in accordance with the law; and (3) to estimate the cost to fully restore salary increments to classified employees. Our analysis focused on the Executive Branch line entities, although we did report information provided to us by the autonomous agencies, Guam Public School System and the Judicial Branch. The scope and methodology are detailed in Appendix 3.

Background

In the Government of Guam, every classified employee is entitled to a one-step salary increment periodically for satisfactory performance as codified in GCA Title 4 §6202. The increment is awarded according to the employee's waiting period² and is based on performance and completion of the appropriate performance reviews.



In September 2001, the 26th Guam Legislature passed Public Law (P.L.) 26-35 the Fiscal Year (FY) 2002 Appropriation Act of the Government of Guam (Budget Act). Chapter IV, §4(a) of the public law placed a moratorium³ on salary increments applicable to all positions within all branches of the government, to include all autonomous agencies, departments, bureaus, agencies, instrumentalities, entities or sub-entities, the Mayor's Council, and Mayoral Offices. Similar measures were passed in the FY 2003 and FY 2004 Budget Acts.

In September 2004, the Guam Legislature passed P.L. 27-106, the FY 2005 Budget Act. The law contained specific provisions for the reinstatement of salary increments thereby lifting the three-year moratorium, as illustrated in Table 1.

¹ Lapsed appropriations are unused appropriations available for re-appropriation.

² Department of Administration schedule for step increases: (a) Employees at steps 1-6 shall be entitled to a one step adjustment after 12 months of satisfactory performance. (b) Employees at step 7-9 are entitled to a one-step adjustment after 18 months of satisfactory performance. (c) Employees at step 10-19 are entitled to a one step adjustment after 24 months of satisfactory performance.

³ The moratorium placed a freeze on salary increments, the freeze is applicable only to that current fiscal year or until it is amended or repealed.

Table 1: Timeline of Relevant Public Laws

Legislation	Effective Date	Description	Salary Increment Freeze
P.L. 26-35	10-1- 2001	FY 2002 Budget Act	Chapter IV, § 4(a)
P.L. 26-152	10-1- 2002	FY 2003 Budget Act	Chapter IV, § 4(a)
P.L. 27-29	10-1-2003	FY 2004 Budget Act	Chapter V, § 1(a)
P.L. 27-106	10-1-2004	FY 2005 Budget Act	Freeze Lifted

Under Chapter IV, §28 of the FY 2005 Budget Act, the Legislature appropriated \$1.5 million from the General Fund for one-step salary increments. The appropriation was earmarked only for eligible line agency employees who were due increments in FY 2005. In accordance with this section of the law, the Bureau of Budget and Management Research (BBMR) was the agency designated to determine the amount required by each Executive Branch line agency to implement the one-step salary increment for FY 2005.

In addition, Chapter VI, §1(a) of the FY 2005 Budget Act provided that the one-step salary increment be uniformly restored to eligible employees of all branches and entities of the Government of Guam, autonomous agencies and public corporations, and the Mayors Council and Mayoral Offices. The one-step salary increment was a government-wide mandate that became effective on October 1, 2004.

Further Chapter VI, §1(c) authorized multiple salary increments utilizing FY 2004 General Fund lapses for the payment of the uniform restoration of salary increments to eligible Executive line agency employees funded by the General Fund.

Results of Analysis

The Executive Branch line agencies, autonomous agencies, the Guam Public School System and the Judicial Branch restored salary increments to eligible employees, with the exception of the Guam Memorial Hospital Authority (GMH).

In FY 2005, the Government of Guam paid approximately \$12.3 million to reinstate salary increments to eligible employees. Specifically:

- \$4.7 million was paid to eligible Executive Branch line agency employees funded from the General Fund.
- \$4.3 million was paid to reinstate the single and multiple salary increments to eligible employees of autonomous agencies.
- \$2.5 million was paid for the reinstatement of salary increments to eligible employees of the Guam Public School System (GPSS).
- \$761,000 was paid to reinstate salary increments to eligible employees of the Judicial Branch.

Although the Executive Branch identified sufficient lapsed appropriations to restore salary increments to eligible employees funded by the General Fund, the identification of lapsed appropriations does not translate into the Government of Guam having available cash. As of fiscal year 2004, the Government of Guam had a General Fund deficit of \$313.6 million, with \$226 million in liabilities for tax refunds and \$219 million for other liabilities.

We determined that GMH was the only agency that did not restore employees' salary increments. GMH did not reinstate salary increments to eligible employees in FY 2005 because the cost of salary increments was not included in their FY 2005 budget and GMH did not have the available cash.

The Guam Housing and Urban Renewal Authority (GHURA) on the other hand, continued to pay employee salary increments despite the moratorium on salary increments from FY 2002 through FY 2004. GHURA's Board of Commissioners authorized the payment of increments on the basis that GHURA does not receive local appropriations and is funded through federal grants. However, GHURA's legal counsel cautioned the Board of Commissioners that the payment of increments may be an unauthorized expenditure of funds.

Identification of Lapsed Appropriation

Chapter VI, §1(c), of P.L. 27-106 authorized the use of FY 2004 General Fund lapsed appropriations for the uniform restoration of salary increments to eligible Executive Branch employees. The Governor identified FY 2004 lapsed appropriations of \$6.3 million.

In the government's budgeting process, an appropriated budget is authorization for an entity to incur expenditures for specific purposes over a specified time period. Thus a lapsed appropriation denotes an unexpended and unencumbered balance from an appropriation that has been authorized by a legislative body and does not necessarily equate to cash.

Implementation of Salary Increments

The restoration of salary increments provided by P.L. 27-106, were to be awarded in accordance to the procedures set forth by the Civil Service Commission (CSC) and the policies and procedures for step increases by the Department of Administration (DOA). The moratorium on salary increments during FY 2002 to FY 2004 did not preclude Government of Guam entities from continuing to conduct employee performance reviews.

The effective date for the one-step salary increment pursuant to Section 1(a), Chapter VI of P.L. 27-106 was the beginning of Fiscal Year 2005 which commenced October 1, 2004. In October 2004, the Department of Administration issued Circular No. 05-001 advising employees that a one-step increment will be awarded to those who had no change in their pay grade during the period of the moratorium and for which performance evaluations were conducted.

In February 2005, the Governor stated his intention to fully restore salary increments; the effective date for the reinstatement of multiple salary increments was May 29, 2005.

In order to achieve full compliance with the law, reinstatement of salary increments were to be uniformly restored to eligible employees throughout the entire government. The DOA Director issued another Circular, Circular No. 05-016, informing all agency heads that employees who have not been evaluated will not receive increments until their performance evaluations were completed.

DOA awarded both the one-step increment and the multiple salary increments to eligible Executive Branch employees of line agencies who had performance evaluations on file. A total of 2,479 employees from 33 Executive Branch line agencies were deemed eligible for the single step salary increment and 1,642 employees from 32 agencies were eligible for the multiple salary increment.

We randomly sampled 90 Executive Branch employees who received salary increments from six Executive line agencies to determine whether: (1) they received satisfactory performance evaluations, (2) evaluations were appropriately reviewed, and (3) they were paid their respective step increases.

Of the 90 employees, we identified two employees who were not paid their appropriate step increase. DOA took immediate action to correct these deficiencies by requesting the appropriate pay adjustments.

We found that all agencies within the government had restored salary increments to eligible employees with the exception of GMH. The GMH Chief Financial Officer (CFO) stated that GMH was not in the financial cash position to restore salary increments in FY 2005.

Estimated Costs Of Salary Increments

In order to determine the cost of the salary increments awarded to eligible employees, we requested and obtained information from DOA's Human Resource Division for the Executive Branch line agencies, all autonomous agencies, GPSS, and the Judicial Branch. Although we reported information provided by the autonomous agencies, GPSS and the Judicial Branch, we did not verify the validity of the information provided. In addition, because employees of the Guam Legislature are not classified employees, they were not part of this analysis.

Executive Branch Line Agencies

An estimated 2,479 employees from 33 Executive Branch line agencies had been paid \$118,342 a pay period for the single salary increment. See Appendix 6. When extrapolated over 26 pay-periods, we estimated the Government paid approximately \$3.7 million for the single salary increment including retirement benefits in FY 2005. See Table 2.

Additionally, DOA reported that an estimated 1,642 eligible employees from 32 Executive Branch line agencies had been paid \$93,241 for the reinstatement of multiple salary increments. See Appendix 7. When extrapolated over the remaining nine pay-periods, we estimated the Government paid approximately \$1 million for multiple salary increments for Executive Branch line agencies in fiscal year 2005, as illustrated in Table 2.

Table 2: Estimated Cost for the Executive Branch Line Agencies⁴

Single Salary Increments		Multiple Salary Increments	
Effective Date	October 1, 2005	Effective Date	May 29, 2005
Eligible Employees	2479	Eligible Employees	1642
Cost Per Pay Period	\$ 118,342	Cost Per Pay Period	\$ 93,241
Retirement (20.81%)	\$ 24,627	Retirement (20.81%)	\$ 19,403
Annual Cost	\$ 3,717,189 ⁵	Nine Pay periods	\$ 1,013,804 ⁶
Total Estimated Cost for Fiscal Year 2005			\$ 4,730,993

⁴ Dollar amounts presented in table are rounded to the nearest dollar.

⁵ Calculated by cost per pay period plus retirement multiplied by 26 pay periods.

⁶ Calculated by cost per pay period plus retirement multiplied by the remaining 9 pay periods in FY 05.

We determined that the Government paid \$4.7 million⁷ in fiscal year 2005 for the restoration of increments for the Executive branch line agencies. Of the \$1.5 million appropriated from the General Fund for the one-step salary increment, BBMR transferred \$907,651 to 27 line agencies (See Appendix 5) to pay for the salary increments. Therefore, the \$6.3 million identified in lapse appropriations and the additional \$1.5 million appears to be sufficient appropriations to cover the restoration of salary increments for Executive line agencies for FY 2005. We caution again that the lapse appropriation does not translate to available cash resources.

Autonomous Agencies

We determined that all autonomous agencies, with the exception of GMH, had awarded both the one-step increment and the multiple step increment pursuant to P.L. 27-106. Of the 13 autonomous agencies surveyed, a total of 2,122 employees received the one-step increment and/or the multiple step increment totaling \$4.3 million as illustrated in Table 3.

Table 3: Estimated Cost for the Executive Branch Autonomous Agencies⁸

<u>Agency</u>	<u>One Step</u>	<u>Costs</u>	<u>Multiple Increments</u>	<u>Costs</u>	<u>Total Reinstated⁹</u>	<u>Total Costs</u>
1. Guam International Airport Authority	-	-	-	-	203	\$ 635,163
2. Guam Power Authority	172	\$ 222,438	301	\$ 789,076	473	\$ 1,011,514
3. Guam Memorial Hospital	Did not reinstate salary increments in FY 2005					
4. Guam Waterworks Authority	110	\$ 145,397	74	\$ 232,290	184	\$ 377,687
5. University of Guam	-	-	-	-	356	\$ 1,112,410
6. Guam Housing and Urban Renewal ¹⁰	Did not adhere to the Public Law freezing salary increments from 2002-2004					
7. Guam Housing Corporation	1	\$ 1,541	20	\$ 64,695	21	\$ 66,236
8. Port Authority of Guam	314	\$ 327,000	209	\$ 120,000	523	\$ 447,000
9. Guam Economic Development & Commerce	-	-	-	-	20	\$ 70,430
10. Guam Educational Telecommunication Corporation	7	\$ 5,576	7	\$ 3,370	14	\$ 8,946
11. Guam Visitor's Bureau	-	-	-	-	19	\$ 65,978
12. Guam Community College	155	\$ 185,450	84	\$ 139,147	239	\$ 324,597
13. Guam Retirement Fund	37	\$ 56,120	33	\$ 123,498	70	\$ 179,618
Totals 13 Agencies	796	\$ 943,522	728	\$ 1,472,076	2122	\$ 4,299,579

⁷ The \$4.7 million for FY 2005 includes benefits. Benefits were calculated using 20.81%.

⁸ OPA reported the data as provided and did not verify figures.

⁹ Employees eligible for the one-step salary increment and multiple salary increments may be double counted in the total reinstatement.

¹⁰ GHURA is 100% funded by federal grants; therefore, the agency did not freeze salary increments for classified employees during FY 2002-2005.

According to the GMH Chief Financial Officer, GMH has been unable to fulfill its obligation to reinstate salary increments to eligible employees because of their financial situation. However, the Chief Financial Officer stated that the cost for increments were included in their FY 2006 budget and GMH is moving towards restoration.

Based on review of board minutes relative to salary increments, we determined that GHURA's Board of Commissioners authorized the payment of increments to employees for fiscal years 2002 through 2004. In the board minutes of August 28, 2002 the Chairman of the Board recommended the processing of increments. The board minutes of September 11, 2003 disclosed that the GHURA Chairman had inquired whether salary increments would be a violation of law. The legal Counsel replied that it potentially may be an unauthorized expenditure of funds. Subsequently, four of the five Board of Commissioners voted in favor of salary increments. Likewise, the Board of Commissioners approved the payment of increments for FY 2004.

Guam Public School System

The GPSS paid \$2.5 million (\$951,263 for the one-step increment and \$1,575,000 for the multiple step increment) to fully restore salary increments in FY 2005. However, GPSS was unable to provide the specific number of eligible employees who received these increments.

Judicial Branch

The Judicial Branch reported \$761,118 was paid to restore salary increments in FY 2005. Approximately \$508,762 was paid to 310 eligible employees for the one-step increment and \$252,356 was paid to 220 eligible employees for the reinstatement of multiple salary increments.

Conclusion

Compliance with P.L. 27-106 was generally achieved throughout the Government of Guam. With the exception of Guam Memorial Hospital, the Executive Branch line agencies, autonomous agencies, Guam Public School System and the Judicial Branch had reinstated salary increments for eligible employees. We estimated the Government paid approximately \$12.3 million to restore increments to eligible employees in FY 2005.

Sufficient lapsed appropriations from the FY 2004 Budget were identified by the Executive Branch to fund the restoration of salary increments to eligible employees funded by the General Fund in FY 2005.

The identification of lapsed appropriations does not translate into the government having the available cash. The implication that the government has the available funds in prior year lapses provides a false sense of available resources.

The payment of salary increments in FY 2005 will increase the total amounts paid for salaries and benefits and may further increase the government's General Fund deficit. The Government of Guam continues to have cash flow problems because of the significant deficit of the General Fund, which was \$313.6 million as of September 30, 2004. The area most affected by these cash flow problems is in tax refunds; taxpayers were owed over \$226 million at the close of FY 2004.

The FY 2006 Budget Act has neither amended nor repealed the sections of P.L. 27-106 pertaining to salary increments. Therefore, the payment of salary increments for eligible employees will continue throughout the government. While most state and local governments may operate at a deficit, it is generally sound financial management for policymakers to secure necessary revenues and not erode the revenue base before incurring additional expenditures.

A draft report was provided to the Director of the Bureau of Budget and Management Research (BBMR), and the Director of the Department of Administration (DOA) for review and comment.

BBMR and DOA generally concurred with the results of the report, and noted in their response that General Fund Expenditures, to include the implementation of increments, did not exceed the FY 2005 \$447 million authorized budget level, that payroll costs have dropped significantly over the past three years, and there are approximately seven hundred fewer employees funded by General fund today. See Appendix 8 for management's response.

We appreciate the cooperation shown by the Bureau of Budget and Management Research, the Department of Administration and the Office of the Attorney General during our review.

OFFICE OF THE PUBLIC AUDITOR



Doris Flores Brooks, CPA, CGFM
Public Auditor

Appendix 1:
Public Auditor's Opinion¹¹

Cash identified for increments not likely to be readily available

By Doris Flores Brooks

Like the struggling parent with too many mouths to feed, Gov. Felix Camacho is caught in the dilemma of how to provide fairly for his family of government workers. I don't envy his task.



Brooks

The governor's decision to reinstate salary increments for executive-branch employees is a heart-felt effort to enable government employees to keep pace with Guam's high cost of living. Look at how the prices of gasoline, health care and groceries have escalated in the last 18 months.

For approximately five years, the Legislature prohibited the governor from

granting salary increments. The fiscal 2005 budget act allowed the increments if the governor could identify available funds. Supposedly the money will come from so-called lapsed appropriations, sums the Legislature authorized to be spent but which weren't actually expended.

But that begs the question: Is there really a reserve of \$8 million, the approximate amount of the promised increments?

It's doubtful the actual cash is readily available. So if the increments are paid, it means budget cuts elsewhere. But GovGuam, despite the best efforts of Revenue and Tax Director Art Ilagan, owes \$15 million in tax refunds for 2003. There is a contingent liability of \$5 million for disputed claims for tax years 2002 and before. At this moment, no one accurately knows how much is owed in tax refunds for 2004.

In addition, the government may have to expend, at a minimum, \$60 million for the long-denied Earned Income Tax Cred-

it. And what about vendors who have not been paid for goods or services?

Those owed tax refunds are a particularly aggrieved class; they have been put in the position of making compulsory loans to the government. And what about the money owed to the Retirement Fund for DOE and GMHA employees? Deductions were taken from the salaries of those people, never paid to the Retirement Fund, and now eligible employees can't retire until the requisite contributions are made!

I can't say that I oppose reinstating salary increments, but increments are not entitlements. Pursuant to 4 GCA Section 6202, the increments are earned by those who have performed "satisfactorily" for a given period — 12 months for those in steps 1-6, 18 months for those in steps 7-9 and 24 months for those in higher steps. Supervisors must fairly and uniformly

▲ See **Taxes**. Page 13

Taxes: GovGuam can't have it both ways

▲ Continued from Page 12

evaluate the performance of employees and award increments on the basis of meritorious performance.

It's also time to re-think our tax structure. The Legislature should stop granting exemptions from the Gross Receipts Tax and giving other special tax breaks. Even "winnings, payouts or malfunction refunds" on poker machines found in many bars are GRT exempt!

In March, Public Law 28-20 established a tax rebate of up to \$500 each for teachers in grades K-12 in Guam's public and private schools. Other bills are pending to exempt from the GRT the sale of medicine, pharma-

ceuticals, medical equipment and medical supplies, wholesale of telecommunication services and off-island sales of such services, and to grant a living-wage tax credit of up to half of an employer's GRT for new hires who are paid at least \$10.50 an hour and participate in a company-sponsored health plan.

All of these proposals have their merits, but each time a tax exemption, credit or rebate is granted, revenues decline. The exemption of wholesale sales, GEDCA tax rebates for insurance companies, and many more too numerous to mention, dramatically prove the cause and effect of declining government revenues.

I urge our policy makers to re-evaluate our

entire tax structure so that all businesses are taxed equally. So many GRT exemptions have been granted; the law is a sieve of loopholes and not a constant source of income. Even government fees need to be adjusted upward. It's more expensive to get a meal at a McDonald's or Burger King or go to a movie than it is to pay \$5 for a driver's license that's valid for three years. The price is nowhere equal to the cost of producing the license!

GovGuam can't have it both ways: if it wants to increase spending, it can't continue to reduce taxes.

Doris Flores Brooks, CPA, CGFM, is the public auditor of Guam.

¹¹ The Public Auditor's Opinion was published in the Pacific Daily News Sunday Forum on May 29, 2005.



CONFIRMATION

Office of the Attorney General

Douglas B. Moylan

Attorney General of Guam

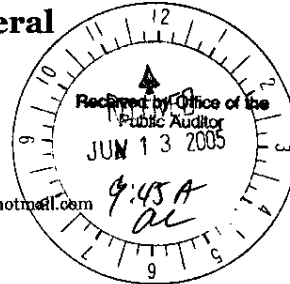
The Justice Building

287 West O'Brien Drive

Hagåtña, Guam 96910 • USA

(671) 475-3324 • (671) 477-3390 (Fax)

www.guamattorneygeneral.com • guamattorneygeneral@hotmail.com



June 13, 2005

VIA FACSIMILE

671-472-7951

Honorable Doris F. Brooks

Public Auditor

Office of the Public Auditor

PDN Building

Hagåtña, Guam 96910

SUBJECT: SALARY INCREMENTS; ONGOING AG INVESTIGATION

Dear Doris:

Recently this Office received a complaint regarding the discriminatory implementation of the budget law's requirement that government salary increments be uniformly restored if certain conditions precedent occurred.

The two (2) questions currently under investigation are (1) whether sufficient lapses have been identified, and (2) whether the lapses have been actually transferred to the departments and agencies in order to "uniformly" implement a full salary increment restoration.

As you are aware the last legislature authorized two (2) sets of increment restoration. The first was actually appropriated for (\$1.5M) for a 1 step across the board line agency increment, and the second was a full restoration of all government employees' increments.

The two (2) laws provide, (1) Public Law Number 27-106:IV:§ 28 stated,

Section 28. Appropriation for Salary Increments. The sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) is hereby appropriated from the General Fund to fund a one-step salary increment for all eligible line agency Executive Branch employees funded by the General Fund for Fiscal Year 2005.

Page 2
Honorable Doris F. Brooks
June 13, 2005

BBMR shall determine the amount required for each agency to implement this Section, and shall allocate the funds accordingly. Increments for the Department of Education are appropriated separately in this Act. (Emphasis added).

(2) a second legislative statement provided under Public Law Number 27-106:VI:§ 1:

Section 1. Reinstatement of Salary Increments and Merit Bonuses.

(a) Notwithstanding any other provision of law, not less than a one-step salary increment shall be uniformly restored to all eligible employees of all branches and entities of the government of Guam; autonomous agencies and public corporations; and the Mayors Council and Mayoral Offices.

(b) The information provided by the Administration conflicts regarding the amount necessary to fully restore salary increments to all employees, and I Liheslatura is therefore unable to determine an exact amount required. However, I Liheslatura finds that Fiscal Year 2003 lapses totaling over Fourteen Million Dollars (\$14,000,000.00) have been identified and used as recently as June 2004 by I Maga'lahi to fund various agencies, including I Maga'lahi's Office, and were not directed to pay for tax refunds or to lift the freeze on salary increments.

(c) Notwithstanding any other provision of law or this Act, lapses in Fiscal Year 2004 and all other prior years appropriations to the Executive Branch from the General Fund shall not revert to the General Fund, but shall be identified by I Maga'lahen Guåhan and reported to the Speaker of I Liheslaturan Guåhan within forty-five (45) days of the close of Fiscal Year 2004, identifying the source and amount of the lapse; provided that these unexpended lapses shall be expended as necessary for the payment of the uniform restoration of all salary increments due to all Executive Branch government of Guam employees funded by the General Fund pursuant to Subsection (a). Unless otherwise provided in this Act, lapses shall not be used for any other purpose. A report detailing the amount and source of all lapses to be used for restoration of salary increments shall be transmitted by I Maga'lahi to I Liheslaturan Guåhan at least fourteen (14) days prior to the proposed expenditure. Failure to provide notice as provided in this Section shall render the expenditure null and void.

The important question for the full and "uniform" increment restoration is whether sufficient lapses exist to pay the restoration of increments.

The fact that the \$1.5M has not been ^{actually transferred} appropriated ^{at} to the undersigned's knowledge for the \$1.5M single step increment casts a serious question of whether a full restoration of increments is possible. Moreover, the tax refunds, EIC and retirement fund debts (base salaries) continue to remain unpaid. The impact of an unfunded, partial restoration of salary increments is not only a violation of the above cited law, but a mismanagement of government funds which will not only increase the budgetary requirement for salaries in FY2006, but potentially cause payless paydays and failure to pay full employee salaries (i.e. failing to pay Retirement Fund & other deductions).

Page 3

Honorable Doris F. Brooks

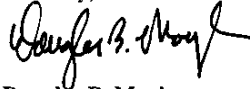
June 13, 2005

As the public auditor your post is responsible for identifying and ensuring the fiscal integrity of the Government. The undersigned Attorney General asks for your assistance in this Office's investigation of the proper implementation of the salary increment laws.

Consequently, please advise whether sufficient lapses exist and have been properly identified by the Administration to fund a "uniform" increment restoration. Please be advised that we have information that funds have not been transferred to certain departments which did not have a useable lapse to fund the "uniform" increment restoration, yet some of its employees are receiving multi-step increments. These documents will be forwarded to you under separate cover.

Please feel free to contact the undersigned Attorney General if you have any questions. Thank you.

Sincerely,



Douglas B. Moylan

Appendix 3:**Scope, Methodology, and Limitation of Analysis**

The scope included a review of the applicable laws and regulations, financial records, and other relevant documents pertaining to the implementation of salary increments. Our analysis of salary increments was limited to increments awarded to eligible employees during FY 2005.

To accomplish our objectives, we obtained and reviewed records related to the implementation of the one-step and multiple step increments and performed such tests we considered necessary under the circumstances. Specifically, we:

- Obtained and reviewed financial records from BBMR and DOA's Human Resources and Payroll divisions. These records included but were not limited to allotment schedules, employee eligibility listings, and labor cost distributions for employees funded from the General Fund to determine the identification of lapsed appropriations, the implementation of salary increments, and the estimated cost to fully restore salary increments awarded to the Executive line agencies.
- Obtained and reviewed financial information provided by the Executive Branch. However, we did not verify the validity of information provided by the autonomous agencies, GPSS, and the Judicial Branch because of time constraints.
- Interviewed officials from BBMR, DOA, CSC, autonomous agencies, GPSS, and the Judicial and Legislative Branches.
- Randomly sampled and verified a population of eligible Executive Branch line agency employees to determine whether (1) they received satisfactory performance evaluations, (2) they were appropriately reviewed, and (3) they were paid their respective step increases.
- Extrapolated costs paid by the Executive Branch line agencies for salary increments to determine full restoration of salary increments for FY 2005.

Our review did not constitute an audit conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS). Had we conducted an audit in accordance with GAGAS, other matters may have been reviewed.

Appendix 4:
General Fund Lapses¹²

AVAILABLE AS OF SEPTEMBER 30, 2004

DEPARTMENT/AGENCY	AMOUNT
Bureau of Budget Management & Research	\$ 453.81
Civil Service Commission	\$ 24,014.21
Department of Administration	\$ 985,712.82
Guam Election Commission	\$ 109,631.49
Department of Revenue & Taxation	\$ 704,823.80
Bureau of Statistics & Plans	\$ 105,310.09
Department of Public Works	\$ 529,066.62
Guam Police Department	\$ 21,955.65
Department of Corrections	\$ 236,139.15
Department of Agriculture	\$ 95,267.62
Department of Public Health & Social Services	\$ 1,785,156.13
Guam Public Library System	\$ 23,233.31
Department of Youth Affairs	\$ 136,707.63
Department of Mental Health & Substance Abuse	\$ 494,363.37
Department of Labor	\$ 63,307.19
Department of Parks & Recreation	\$ 19,384.13
Department of Integrated Services	\$ 326,182.51
Department of Land Management	\$ 60,886.66
Office of the Medical Examiner	\$ 7,395.60
Department of Chamorro Affairs	\$ 24,247.14
Office of Civil Defense	\$ 210,837.44
Guam Fire Department	\$ 6,378.82
Guam Educational Telecommunication Corporation	\$ 67.29
Transfers to other Funds	\$ 225.00
Guam Public School System	\$ 350,000.00
Office of the Public Auditor	\$ (14,526.12) ¹³
Guam Legislature	\$ 0.01
Guam Economic Development & Commerce Authority	\$ 36.81
Total Fiscal Year 2004 Lapses	\$ 6,306,258.18

¹² BBMR Schedule of FY 2004 Lapses – February 16, 2005, letter from the Governor of Guam.

¹³ The Office of the Public Auditor received a lump sum appropriation of \$886,132 for FY 2004; the shortfall of funds was offset by a transfer from operations.

Appendix 5:**Executive Line Agencies Receiving \$1.5 Million**

	DEPARTMENT NAME	SALARY	BENEFITS¹⁴	TOTAL
1	ANCESTRAL LANDS COMMISSION	\$1,740.00	\$383.00	\$2,123.00
2	BUREAU OF BUDGET MANAGEMENT & RESEARCH	\$1,428.00	\$314.00	\$1,742.00
3	BUREAU OF STATISTICS & PLANS	\$15,700.00	\$3,454.00	\$19,154.00
4	DEPARTMENT OF CHAMORRO AFFAIRS	\$1,689.00	\$372.00	\$2,061.00
5	OFFICE OF THE MEDICAL EXAMINER	\$598.00	\$131.00	\$729.00
6	CIVIL SERVICE COMMISSION	\$3,408.00	\$750.00	\$4,158.00
7	GUAM COUNCIL ARTS & HUMANITY	\$1,291.00	\$285.00	\$1,576.00
8	DEPARTMENT OF ADMINISTRATION	\$70,598.00	\$15,532.00	\$86,130.00
9	DEPARTMENT OF AGRICULTURE	\$764.00	\$169.00	\$933.00
10	DEPARTMENT OF COMMERCE	\$18,173.00	\$3,998.00	\$22,171.00
11	DEPARTMENT OF CORRECTIONS	\$65,480.00	\$14,405.00	\$79,885.00
12	DEPARTMENT OF LABOR	\$15,488.00	\$3,408.00	\$18,896.00
13	DEPARTMENT OF LAND MANAGEMENT	\$13,143.00	\$2,892.00	\$16,035.00
14	DEPARTMENT OF LAW	\$12,950.00	\$2,849.00	\$15,799.00
15	DEPARTMENT OF PUBLIC WORKS	\$90,667.00	\$19,946.00	\$110,613.00
16	DEPARTMENT OF YOUTH AFFAIRS	\$23,751.00	\$5,225.00	\$28,976.00
17	DEPARTMENT OF INTERGRATED SERVICES	\$3,011.00	\$662.00	\$3,673.00
18	GUAM FIRE DEPARTMENT	\$64,129.00	\$14,108.00	\$78,237.00
19	GUAM MUSEUM & ARCHIVES	\$151.00	\$33.00	\$184.00
20	GUAM POLICE DEPARTMENT	\$89,141.00	\$19,611.00	\$108,752.00
21	GUAM PUBLIC LIBRARY SYSTEM	\$2,908.00	\$640.00	\$3,548.00
22	GUAM EDUCATIONAL TELECOMMUNICATION CORPORATION	\$2,641.00	\$581.00	\$3,222.00
23	DEPARTMENT OF MENTAL HEALTH & SUBSTANCE ABUSE	\$40,591.00	\$8,930.00	\$49,521.00
24	DEPARTMENT OF MILITARY AFFAIRS	\$3,998.00	\$880.00	\$4,878.00
25	DEPARTMENT OF PARKS & RECREATION	\$15,714.00	\$3,457.00	\$19,171.00
26	DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES	\$124,663.00	\$27,426.00	\$152,089.00
27	DEPARTMENT OF REVENUE & TAXATION	\$60,160.00	\$13,235.00	\$73,395.00
Total Number of Agencies = 27		\$743,975.00	\$163,676.00	\$907,651.00

¹⁴ To calculate benefits BBMR used 22% for their modification allotment. These amounts are rounded to the nearest dollar.

Appendix 6:

Single Step Increment for Executive Line Agencies¹⁵

	DEPARTMENT NAME	Eligible Staff for Increment	Cost to Government per Hour ¹⁶	Cost to Government per Pay Period ¹⁷	Cost to Government per Year ¹⁸
1	AGENCY FOR HUMAN RESOURCES DEVELOPMENT	18	\$ 9.94	\$ 795.23	\$ 20,676.03
2	ANCESTRAL LANDS COMMISSION	2	\$ 1.07	\$ 85.30	\$ 2,217.90
3	BUREAU OF BUDGET MANAGEMENT & RESEARCH	17	\$ 13.51	\$ 1,080.55	\$ 28,094.35
4	BUREAU OF STATISTICS & PLANS	34	\$ 21.30	\$ 1,704.07	\$ 44,305.87
5	DEPARTMENT OF CHAMORRO AFFAIRS	7	\$ 3.80	\$ 303.65	\$ 7,894.85
6	CHAMORRO LAND TRUST COMMISSION	10	\$ 6.30	\$ 503.81	\$ 13,099.01
7	OFFICE OF THE MEDICAL EXAMINER	1	\$ 0.42	\$ 33.92	\$ 881.92
8	CIVIL SERVICE COMMISSION	8	\$ 7.52	\$ 601.86	\$ 15,648.46
9	GUAM CONTRACTOR'S LICENSE BOARD	0	\$ -	\$ -	\$ -
10	GUAM COUNCIL ARTS & HUMANITY	4	\$ 2.50	\$ 200.34	\$ 5,208.94
11	DEPARTMENT OF CUSTOMS & QUARRANTINE	119	\$ 65.89	\$ 5,271.30	\$ 137,053.70
12	DEPARTMENT OF ADMINISTRATION	130	\$ 80.72	\$ 6,457.62	\$ 167,898.22
13	DEPARTMENT OF AGRICULTURE	69	\$ 40.11	\$ 3,208.54	\$ 83,422.14
14	DEPARTMENT OF CORRECTIONS	189	\$ 105.42	\$ 8,433.33	\$ 219,266.53
15	DEPARTMENT OF LABOR	37	\$ 22.94	\$ 1,835.29	\$ 47,717.49
16	DEPARTMENT OF LAND MANAGEMENT	45	\$ 26.89	\$ 2,151.08	\$ 55,928.08
17	DEPARTMENT OF LAW	62	\$ 37.63	\$ 3,010.70	\$ 78,278.10
18	DEPARTMENT OF PUBLIC WORKS	375	\$ 196.29	\$ 15,702.89	\$ 408,275.09
19	DEPARTMENT OF YOUTH AFFAIRS	54	\$ 29.17	\$ 2,333.47	\$ 60,670.27
20	DEPARTMENT OF INTERGRATED SERVICES	17	\$ 11.36	\$ 908.75	\$ 23,627.55
21	OFFICE OF THE GOVERNOR	1	\$ 0.48	\$ 38.08	\$ 990.08
22	GUAM ENERGY OFFICE	6	\$ 4.32	\$ 345.46	\$ 8,981.86
23	GUAM ENVIRONMENTAL PROTECTION AGENCY	41	\$ 31.28	\$ 2,502.17	\$ 65,056.37
24	GUAM FIRE DEPARTMENT	290	\$ 172.71	\$ 13,817.10	\$ 359,244.50
25	GUAM MUSEUM & ARCHIVES	3	\$ 1.24	\$ 98.89	\$ 2,571.09
26	GUAM POLICE DEPARTMENT	293	\$ 180.25	\$ 14,419.65	\$ 374,910.85
27	GUAM PUBLIC LIBRARY SYSTEM	11	\$ 4.85	\$ 388.29	\$ 10,095.49
28	GUAM EDUCATIONAL TELECOMMUNICATION CORPORATION	7	\$ 3.91	\$ 312.96	\$ 8,136.96
29	MAYORS COUNCIL OF GUAM	4	\$ 2.09	\$ 167.57	\$ 4,356.77
30	DEPARTMENT OF MENTAL HEALTH & SUBSTANCE ABUSE	93	\$ 61.72	\$ 4,937.22	\$ 128,367.82
31	DEPARTMENT OF MILITARY AFFAIRS	29	\$ 17.72	\$ 1,417.32	\$ 36,850.32
32	DEPARTMENT OF PARKS AND RECREATION	71	\$ 37.17	\$ 2,973.78	\$ 77,318.38
33	DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES	310	\$ 204.71	\$ 16,376.99	\$ 425,801.79
34	DEPARTMENT OF REVENUE & TAXATION	122	\$ 74.06	\$ 5,924.67	\$ 154,041.47
Total Number of Compensated Agencies = 33		2479	\$ 1,479.27	\$118,341.86	\$3,076,888.26

¹⁵ Total Dollar amounts may not add up due to rounding.

¹⁶ Amounts rounded to two decimal places.

¹⁷ Calculated by cost to government per hour multiplied by 80 hours per pay period.

¹⁸ Calculated by cost to government per pay period multiplied by 26 pay periods.

Appendix 7:

Multiple Step Increment for Executive Line Agencies¹⁹

	DEPARTMENT NAME	Eligible Staff for Increment	Cost to Government per Hour ²⁰	Cost to Government per Pay Period ²¹	Cost to Government per Year ²²
1	AGENCY FOR HUMAN RESOURCES DEVELOPMENT	9	\$ 5.10	\$ 407.96	\$ 10,607.00
2	ANCESTRAL LANDS COMMISSION	0	\$ -	\$ -	\$ -
3	BUREAU OF BUDGET MANAGEMENT & RESEARCH	8	\$ 6.71	\$ 536.50	\$ 13,949.00
4	BUREAU OF STATISTICS & PLANS	18	\$ 11.69	\$ 935.08	\$ 24,312.00
5	DEPARTMENT OF CHAMORRO AFFAIRS	4	\$ 1.86	\$ 149.15	\$ 3,878.00
6	CHAMORRO LAND TRUST COMMISSION	10	\$ 6.62	\$ 529.27	\$ 13,761.00
7	OFFICE OF THE MEDICAL EXAMINER	1	\$ 0.42	\$ 33.92	\$ 882.00
8	CIVIL SERVICE COMMISSION	9	\$ 8.85	\$ 708.04	\$ 18,409.00
9	GUAM CONTRACTOR'S LICENSE BOARD	1	\$ 0.48	\$ 38.15	\$ 992.00
10	GUAM COUNCIL OF ARTS & HUMANITIES	3	\$ 2.24	\$ 179.38	\$ 4,664.00
11	DEPARTMENT OF CUSTOMS & QUARRANTINE	103	\$ 66.52	\$ 5,321.85	\$ 138,368.00
12	DEPARTMENT OF ADMINISTRATION	72	\$ 54.70	\$ 4,376.19	\$ 113,781.00
13	DEPARTMENT OF AGRICULTURE	42	\$ 29.33	\$ 2,346.15	\$ 61,000.00
14	DEPARTMENT OF CORRECTIONS	108	\$ 64.56	\$ 5,164.77	\$ 134,284.00
15	DEPARTMENT OF LABOR	28	\$ 17.99	\$ 1,439.04	\$ 37,415.00
16	DEPARTMENT OF LAND MANAGEMENT	31	\$ 21.43	\$ 1,714.35	\$ 44,573.00
17	DEPARTMENT OF LAW	37	\$ 26.53	\$ 2,122.23	\$ 55,178.00
18	DEPARTMENT OF PUBLIC WORKS	255	\$ 156.18	\$ 12,494.54	\$ 324,858.00
19	DEPARTMENT OF YOUTH AFFAIRS	35	\$ 27.06	\$ 2,165.08	\$ 56,292.00
20	DEPARTMENT OF INTERGRATED SERVICES	5	\$ 3.86	\$ 308.65	\$ 8,025.00
21	OFFICE OF THE GOVERNOR	0	\$ -	\$ -	\$ -
22	GUAM ENERGY OFFICE	4	\$ 2.51	\$ 201.00	\$ 5,226.00
23	GUAM ENVIRONMENTAL PROTECTION AGENCY	25	\$ 20.29	\$ 1,623.08	\$ 42,200.00
24	GUAM FIRE DEPARTMENT	198	\$ 142.94	\$ 11,434.85	\$ 297,306.00
25	GUAM MUSEUM & ARCHIVES	1	\$ 0.44	\$ 34.81	\$ 905.00
26	GUAM POLICE DEPARTMENT	206	\$ 150.11	\$ 12,008.88	\$ 312,231.00
27	GUAM PUBLIC LIBRARY SYSTEM	9	\$ 5.37	\$ 429.69	\$ 11,172.00
28	GUAM EDUCATIONAL TELECOMMUNICATION CORPORATION	4	\$ 3.02	\$ 241.65	\$ 6,283.00
29	MAYORS COUNCIL OF GUAM	3	\$ 2.17	\$ 173.73	\$ 4,517.00
30	DEPARTMENT OF MENTAL HEALTH & SUBSTANCE ABUSE	62	\$ 56.01	\$ 4,480.85	\$ 116,502.00
31	DEPARTMENT OF MILITARY AFFAIRS	19	\$ 14.32	\$ 1,145.42	\$ 29,781.00
32	DEPARTMENT OF PARKS & RECREATION	44	\$ 25.57	\$ 2,045.42	\$ 53,181.00
33	DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES	212	\$ 174.41	\$ 13,953.13	\$ 362,781.50
34	DEPARTMENT OF REVENUE & TAXATION	76	\$ 56.23	\$ 4,498.54	\$ 116,962.00
Total Number of Compensated Agencies = 32		1642	\$ 1,165.52	\$ 93,241.37	\$ 2,424,275.50

¹⁹ Total Dollar amounts may not add up due to rounding.

²⁰ Amounts rounded to two decimal places.

²¹ Calculated by cost to government per hour multiplied by 80 hours per pay period.

²² Calculated by cost to government per pay period multiplied by 26 pay periods. (Note: the multiple step increments were effective May 29, 2005, which left nine compensable pay periods in FY 2005.)

Appendix 8: Management Response



FELIX P. CAMACHO
GOVERNOR

KALEO S. MOYLAN
LIEUTENANT GOVERNOR

BUREAU OF BUDGET & MANAGEMENT RESEARCH

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

CARLOS P. BORDALLO
DIRECTOR

JOSE S. CALVO
DEPUTY DIRECTOR

DEC 14 2005

Doris Flores Brooks CPA, CGFM
Public Auditor
Office of the Public Auditor
Suite 104, Pacific News Building
238 Archbishop Flores Street
Hagatna, Guam 96910

Dear Public Auditor Brooks:

First, I would like to thank you and your staff for their professionalism in working with our offices.

The objectives of your analysis were to determine (1) whether lapsed appropriations identified in the fiscal year 2005 Budget Act were sufficient to fund the restoration of salary increments; (2) whether salary increments to classified employees were implemented in accordance with the law; and (3) to estimate the cost to fully restore salary increments to classified employees.

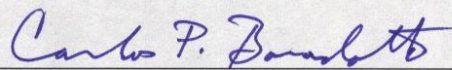
Based on statements presented in your Results Analysis section of your report, it appears OPA was able to accomplish all three of the above stated objectives and validate the restoration of increments in accordance to the law.

We feel it is noteworthy to recognize the following with regard to the restoration of increments in pursuant to P.L. 27-106

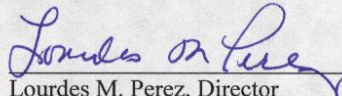
- General Fund expenditures, to include the implementation of the increments, did not exceed the \$447 million General Fund authorized budget level.
- General Fund payroll costs have dropped significantly over the past three fiscal years.
- There are approximately seven hundred fewer employees funded by the General Fund today than when increments were initially frozen.
- The General Fund deficit, with the exception of the addition of the Earned Income Tax credit obligation, has not increased significantly and increases in the deficit are more attributable to revenues realized below authorized expenditure levels.

- Allotment control, or the ability to manage the release of allotments based on cash, was removed from 60% of the General Fund operational budget.

Again, we appreciate the professionalism of you and your staff in conducting the research and analysis for this report.



Carlos P. Bordallo, Director
Bureau of Budget and Management Research



Lourdes M. Perez, Director
Department of Administration

Do you suspect fraud, waste, or abuse in a government agency or department? Contact the Office of the Public Auditor:



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- Visit our website at www.guamopa.org;
- Call our office at 475-0390;
- Fax our office at 472-7951;
- Or visit us at the PNB Building, Suite 401
In Hagåtña

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