

**Submission of FY 2007 1st Quarter Financial Reports
Subject to Deappropriation of Funds
As Mandated by Public Laws 28-149 and 28-150**

**Legislative Mandate
October 1, 2006 through December 31, 2006**

**OPA Report No. 07-04
April 2007**

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OFFICE OF THE PUBLIC AUDITOR

EXECUTIVE SUMMARY

Submission of FY 2007 1st Quarter Financial Reports
Report No. 07-04, April 2007

This report represents our review on the submission of fiscal year (FY) 2007 quarterly financial, staffing pattern, and other special reports covering the period of October 1, 2006 through December 31, 2006. The majority of these reports were due by a specific date or period, to avoid a 5% deappropriation penalty from entities funded by the General Fund or a payment penalty from autonomous entities.

Pursuant to P.L. 28-149 and P.L. 28-150, also known as the FY 2007 budget act, fifty six ¹ entities are required to submit at least two types of general reports: the quarterly financial report and monthly staffing pattern reports. These two general reports are to be submitted (1) manually, (2) electronically, and (3) be posted on the entity's website.

Of the 56 entities, 15 were also required to submit other special reports for specific funds or programs. Of the special reports, several had no due date, but the majority were due either monthly, quarterly, or on a specific date. These special reports are also required to be submitted (1) manually, (2) electronically, and (3) posted on the entities website.

Based on our review, agencies were inconsistent with the submittal of their general and special reports and more often than not failed to meet all three reporting conditions. The most common non-compliance requirement was the non-submission of an electronic version of the report to the Legislature and OPA.

For the quarterly financial reports, only ten entities had complied with all three reporting conditions by the January 31 report due date or by the February 15, grace period. The ten entities in full compliance include:

- Bureau of Statistics and Plans
- Council on the Arts & Humanities
- Department of Land Management
- Department of Parks and Recreation
- Guam Election Commission
- Guam Memorial Hospital Authority
- Guam Waterworks Authority
- Judiciary of Guam
- Mayors Council of Guam
- Public Defender Service Corporation

However, there are 46 entities that may be subject to deappropriation for non-compliance with the submission of the quarterly financial report requirement. Of these, seven entities met all three reporting conditions but after the grace period; thirty four entities met only two of the three

¹ 52 entities were required to submit quarterly financial reports in FY 2006. The four entities not included in the FY 2006 reviews were (1) the Guam Energy Office (2) the Guam Medical Referral Office (3) the Office of the Governor and the (4) Public Utilities Commission.

reporting conditions; four entities met only one condition; and the Guam Housing and Urban Renewal Authority did not submit any report.

OPA submitted its quarterly financial report manually and posted it on its website, before the due date, but the electronic report was not submitted until February 28, 2007.

As part of the quarterly financial reports, entities were also to report on their non-appropriated fund² (NAF) accounts. The total number of entities who have NAF accounts is not known since no system exists to track or monitor these funds. Not even the Department of Administration has a complete listing of non-appropriated funds administered by the various government entities. Through its audits OPA identified 13 entities required to submit NAF reports. Of these 13 entities, only two entities met all three reporting conditions; the Council on the Arts & Humanities and the Judiciary of Guam. Nine entities submitted only manual reports and two entities did not submit any NAF report.

All 19 Mayors were also required to submit a report on their NAF accounts. Only 7 Mayors submitted manual reports. OPA is aware that 17³ Mayors each received a \$10,000 donation from the Guam Greyhound Park in October 2006. This donation should be reported in a non-appropriated fund report.

All non-profit organizations (NPO), receiving appropriations from the government of Guam, were required to submit a quarterly report. As of the date of this report, we have not received any quarterly reports from any NPO or from the overseeing departments or agencies.

P.L. 28-150 also requires all entities⁴ submit monthly staffing pattern reports. No entity was in full compliance as they did not submit all three staffing pattern reports for each month and meet all three reporting conditions. Tracking was limited to only reports in which OPA was transmitted a copy. Therefore, we were unable to verify whether entities that had not submitted a staffing pattern report to OPA were in compliance. Of the 21 staffing pattern reports (8 monthly and 13 quarterly) we received, none of the 21 entities had met all three reporting conditions before the monthly due date and may be subject to deappropriation.

There has been confusion on the submission of the staffing patterns as the majority of entities submitted only one staffing pattern together with their quarterly financial reports. Two entities, the University of Guam and Guam Economic and Development Authority did not submit any staffing pattern or post it on the entity website. A legal counsel opinion from GEDCA stated that they were exempt from the staffing pattern requirements and UOG's Comptroller stated that their legal counsel shared the same opinion.

² Non-appropriated funds are separate accounts, which have access to receipts and disbursements, to include any funds derived from but not limited to private contributions, donations, agency fees, and fund-raising events. These funds are controlled and managed exclusively by the entity to supplement projects or programs without legislative oversight.

³ The villages of Talofofo and Sinajana did not accept the \$10,000 donation.

⁴ These specific entities include "each agency or department head in the Executive Branch of the government of Guam, the Chairperson of the Judicial Council and the Chairperson of the Board of Trustees of the Public Defender Service Corporation."

OPA by its enabling legislation⁵ is not a part of the Executive Branch; however, in the interest of transparency and accountability we did submit monthly staffing pattern reports to the Legislature with all the relevant information. OPA's staffing pattern reports, posted on our website, did not contain the name, title, and position of the staff, as they were excluded for privacy purposes. OPA is not aware of any federal or state requirements that require such detailed information, relative to employee compensation, be posted on the world wide web.

Of the 15 agencies required to submit special reports, no entity submitted all of their special reports and met all three reporting conditions for each report. Under P.L. 28-150 and 28-149, the FY 2007 budget act expanded the reporting penalties to include all required reports, whether general or special. Because of the multitude of reporting requirements and the three conditions mandated, manual submission, electronic submission, and posting on the web, we were unable to determine the amount of deappropriation penalties to be applied to each agency for each requirement not met.

OPA made several suggestions to the Legislature to improve the quarterly reporting by entities. One suggestion in particular is to submit only quarterly staffing pattern reports rather than monthly and to submit actual labor costs, as of the last pay period of the quarter, with the submission of quarterly staffing pattern reports.

As this is the second year that a provision to require regular financial reporting is in the budget act, we commend the Legislature for continuing to require these reports, assuring public accountability and transparency in the use of public funds.



Doris Flores Brooks, CPA, CGFM
Public Auditor

⁵ In OPA's enabling legislation - Title 1, Chapter 19, §1900 – it states: There is an instrumentality of the government of Guam, independent of the executive, legislative and judicial branches, known as the *Office of the Public Auditor*.



OFFICE OF THE PUBLIC AUDITOR

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OFFICE OF THE PUBLIC AUDITOR

Introduction

This report represents our compliance review of the submission of quarterly financial reports, staffing pattern reports, and all other special reports covering the period of October 1, 2006 through December 31, 2006. This is the first of four reports the Office of the Public Auditor (OPA) will issue on the reporting requirements mandated by the FY 2007 Budget Act.

Our objective was to determine whether each government entity¹ complied with each of the reporting requirements mandated by Public Laws (P.L.) 28-149 and 28-150, commonly referred to as the FY 2007 Budget Act.

Background

In September 2005, the Guam Legislature passed the FY 2006 Budget Act (P.L. 28-68), the first legislation requiring a quarterly report on the “full disclosure of ALL funds”² administered by government entities. The act required each government entity to submit quarterly financial reports on the status of “each of the funds he or she administers.” The Legislature imposed a five percent penalty for non-compliance.

The act also required OPA to certify and report any deappropriation(s) to the Governor and Speaker of the Legislature. OPA issued four reports³ related to compliance with the quarterly reporting requirements of the FY 2006 Budget Act. OPA reported that 8, 45, 28, and 43 entities in the first, second, third, and fourth quarters of FY 2006, respectively, may have been subject to deappropriation due to non-compliance.

The Legislature, in September 2006, included a provision⁴ in the FY 2007 Budget Act, waiving deappropriation penalties for non-compliant entities in the first three quarters of FY 2006. The waiver did not appear to apply to the fourth quarter of FY 2006; however, no penalties were imposed for the 43 non-compliant entities identified.

Because of the growing concern over public accountability, the Legislature, in the FY 2007 Budget Act, expanded the deappropriation penalty to all required reports to include quarterly financial, monthly staffing pattern, special reporting,⁵ non-appropriated fund, and non-profit organization reports.

¹ To include line agencies, autonomous and semi-autonomous agencies, boards, commissions, councils, public corporations, the President of the Mayors’ Council of Guam, and the Judiciary of Guam.

² To include appropriated, non-appropriated, and any other funds received from other sources.

³ To download these reports (OPA Report Nos. 06-02, 06-09, 06-10 and 06-15), visit www.guamopa.org.

⁴ P.L. 28-150, Chapter V, Section 27.

⁵ Special reports are required for certain programs and funds to be submitted by specific entities. The majority of these reports are to be submitted quarterly and monthly, although some have fixed annual dates and others have no due dates.

Approximately 56 entities are now required to report for FY 2007. OPA identified an additional 4 from the 52 entities required to report in FY 2006. These include the Guam Energy Office, the Guam Medical Referral Office, the Office of the Governor and the Public Utilities Commission. Most of the 56 entities must comply with a minimum of two general reporting requirements: a quarterly financial report and monthly staffing pattern report. In addition, 15⁶ entities must also fulfill other special reporting requirements for specific funds and selected programs.

To be in compliance, each reporting requirement must meet all three reporting conditions by the specified due date (either monthly or no later than 30 days after the close of every quarter): (1) submittal of a manual report, (2) submittal of an electronic format of the report, and (3) posting of the required report on the entity's website.

The most significant difference between the FY 2006 and 2007 Budget Acts is the imposed penalty. Failure to comply by the due date with each reporting requirement and all reporting conditions shall subject the entity to (1) an automatic five percent deappropriation of their total appropriations, or (2) a payment penalty of a sum equal to five percent of their current fiscal year revenues if no appropriations are received.⁷ Hence, a penalty imposed upon an agency may range from as low as 5 percent to 20 percent or higher, depending on the number of reports required.

The FY 2007 Budget Act required the Public Auditor to “examine the appropriate records, certify any deappropriation [or] remittance of funds and report thereon to *I Maga’lahi* [the Governor] and the Speaker of *I Liheslaturan Guahan* [the Legislature].” The mandate to certify the deappropriation of funds was also present in FY 2006 Budget Act; however, in order to maintain independence as prescribed in *Government Auditing Standards*,⁸ OPA cannot certify any deappropriation.

The results herein are based on reports submitted to our office. During this process, several attempts were made by our staff to contact entities that had not submitted a report to our office and the Office of the Speaker to ensure we had accounted for all the required reports. Not all offices were responsive to our inquiries.

⁶ See Special Reports section of this report and Appendix 3 for details.

⁷ This requirement is directed towards component units who do not receive general fund appropriations.

⁸ OPA is precluded by Section 3.03 of the *Government Auditing Standards* issued by the Comptroller General of the United States from performing management functions or making management decisions, such as approving or authorizing an entity's transactions.

Compliance With Reporting Requirements

Quarterly Financial Reports

Chapter II, Part VI, Section 2, of P.L. 28-149 and Chapter VI, Section 2, of P.L. 28-150 requires all 56 governmental entities submit a quarterly financial report of all funds under their purview, regardless of whether the fund is appropriated, non-appropriated, local or federal. To be compliant, each entity must submit a report (1) manually, (2) electronically, and (3) post it on the entity's website, by the January 31 due date or before the February 15 grace period. See Appendix 1 for details of quarterly financial reports.

Of the 56 entities that were required to submit quarterly financial reports, only 10 met all three reporting conditions, 7 met all three reporting conditions after the grace period, 34 entities met two of three reporting conditions, 4 entities met only one of three conditions, and 1 entity did not meet any of the three reporting conditions. See Appendix 1 for details of entities.

The seven that met all three reporting conditions after the grace period may be subject to deappropriation. These entities were:

- Department of Public Works
- Guam Board of Accountancy
- Guam Energy Office
- Guam International Airport
- Guam Visitors Bureau
- Office of the Public Auditor
- Port Authority of Guam

Of the seven, OPA had submitted their quarterly financial report manually to the Speaker and posted the report on the OPA website by the January 31 due date; however, OPA did not transmit the report electronically to the Speaker until February 28, 2007.

Only one entity, the Guam Housing and Urban Renewal Authority (GHURA) did not submit any of the reports required by law. GHURA submitted a request for a waiver from the deappropriation provisions to the Speaker, but no response from the Speaker had been received as of the date of this report. It is suggested that GHURA comply with the reporting requirements until this issue is resolved. See Appendix 4 for GHURA's waiver request.

We also noted inconsistencies in how financial information was presented in the quarterly reports by the entities to the Legislature. A majority of the entities only reported lump sum totals of their appropriations, expenditures, and encumbrances. While other entities reported the information using the budget digest format that provides more detailed information. Financial reports are tools used by our elected officials to help them assess the financial condition and status of an entity. Lump-sum revenue and expenditure reports do not provide sufficient information to make such an assessment. Therefore, we suggest that the Legislature standardize the quarterly financial reports using the budget digest format. A standard format will ensure that the financial information being reported is consistent and useful. In addition, the budget digest format is already in use by the entities on an annual basis; therefore, the use of this format on a quarterly basis should not be onerous.

We had difficulty locating agency websites and determining compliance with the web requirement, as reports not posted on the agency website were either posted on the Office of the Governor or Bureau of Budget and Management Research websites. Of the 52⁹ entities who posted their financial reports on the web, 18 did not post the reports “on the entity’s website” as required by law.¹⁰ In our review, we recognized that the reports were posted on the worldwide web (i.e. BBMR or the Governor’s Office); however, each of these entities may still be subject to deappropriation by the Legislature for not fulfilling the entity website requirement.

Of the website we located, only 4 of the 52 entities did not posted their quarterly reports. These entities include the Commission on Decolonization, the Guam Housing and Urban Renewal Authority, the Guam Power Authority, and the Public Utilities Commission. To ensure compliance with the website requirement we suggest the Legislature require the entity include its website address along with report submittals.

Non-appropriated Funds

Entities must also report on quarterly non-appropriated funds¹¹ (NAF). Unless an entity is willing to provide such information, the total number of entities who have NAF accounts is not known since no system exists to track or monitor these funds. Further, the Department of Administration is unable to track all NAF accounts that are administered by the various government entities. Therefore, determining whether entities had complied with this requirement was limited to only 13 entities OPA had identified as having NAF accounts. Of the 13 entities with non-appropriated funds; two were compliant, either submitting by the report due date or by the grace period and 11 were non-compliant either submitting only a manual report or none at all. The 11 entities may be subject to deappropriation.

- Two entities met all three reporting conditions:
 - Council on the Arts & Humanities
 - Judiciary of Guam.

- Nine entities submitted only manual reports:
 - Chamorro Land Trust Commission
 - Chamorro Village
 - Department of Chamorro Affairs
 - Guam Community College
 - Guam Education and Telecommunication Corporation (KGTF)
 - Guam Police Department
 - Guam Public Library System
 - Guam Public School System
 - University of Guam

- Two entities did not submit any NAF report:
 - Ancestral Lands Commission
 - Guam Preservation Trust.

⁹ Includes 17 entities that met all three reporting conditions; 34 who met two conditions; and one entity that met only one condition by posting on the web.

¹⁰ P.L. 28-150, Chapter VI, Section 2.

¹¹ Non-appropriated funds are separate accounts, which have access to receipts and disbursements, to include any funds derived from but not limited to private contributions, donations, agency fees, and fund-raising events. These funds are controlled and managed exclusively by the entity to supplement projects or programs without legislative oversight.

There are 19 village Mayors, all of which were also required to submit a report on their NAF accounts. Compliance of these reports is discussed in the special reports section of this report.

Non-Profit Organizations

Chapter VI, Section 7 of P.L. 28-150 requires all non-profit organizations (NPOs), receiving appropriations from the government of Guam, to submit a quarterly report on the activities undertaken, no later than 20 days after the end of each quarter to their overseeing department or agency. The NPOs are also required to report all procurement of equipment and services of \$5,000 or more, prior to awarding the contract, to the overseeing department or agency and to submit a certified inventory listing of purchases. A final report is also due from the NPO to the overseeing department or agency for submission to the Legislature, no later than 45 days after the close of the last quarter of the fiscal year.

We were unable to determine the number of NPOs that would be required to submit this report. As of the date of this report, we have not received any NPO quarterly reports from overseeing departments or agencies. We suggest that the Legislature require the Bureau of Budget and Management Research to provide a listing of NPOs and the overseeing government entity.

Monthly Staffing Pattern Reports

P.L. 28-150 also requires that specific governmental entities¹² submit monthly staffing pattern reports, to include at a minimum--employee, position, salary and benefit costs, and funding source. Although there was no specific mention of autonomous and semi-autonomous agencies, public corporations, and the Mayors' Council of Guam, we considered these agencies as part of the Executive Branch of the government of Guam and subject to the monthly staffing pattern report requirement.

The law was silent on when these reports were due other than that "Beginning October 1, 2006, and continuing for each month thereafter . . . shall submit [monthly staffing pattern reports] as of the previous month's ending." Based on this language, OPA used the following criteria in determining whether entities had complied with this requirement for the first quarter of FY 2007:

<u>Period Covered</u>	<u>Monthly Report Due</u>
Agency Staffing Pattern "as of 09/30/06"	October 2006
Agency Staffing Pattern "as of 10/30/06"	November 2006
Agency Staffing Pattern "as of 11/30/06"	December 2006

Again, to be compliant, each entity must have submitted the required staffing pattern (1) manually, (2) electronically, and (3) posted it on the entity's website, or be subject to de-appropriation.

The law required these reports to be submitted to the Speaker's Office; however, tracking was limited to only reports in which OPA was transmitted a copy. We were unable to confirm the number of staffing pattern reports submitted for each month, as representatives from the

¹² These specific entities include "each agency or department head in the Executive Branch of the government of Guam, the Chairperson of the Judicial Council and the Chairperson of the Board of Trustees of the Public Defender Service Corporation."

Speaker's Office stated that these reports were not being tracked. Therefore, we were unable to verify whether entities that had not submitted a staffing pattern report to OPA were in compliance. See Appendix 2 for a list of entities marked for the receipt of their staffing pattern reports.

Of the 21 staffing pattern reports (8 monthly and 13 quarterly) we received, none of the 21 entities had met all three reporting conditions before the monthly due date and may be subject to deappropriation. Despite the monthly report requirement, 13 entities submitted only a quarterly staffing pattern report for the first quarter of FY 2007.

The Guam Economic Development and Commerce Authority (GEDCA) and the University of Guam, stated that they were exempt from the staffing pattern requirements. In follow-up discussions with these entities, both stated they were exempted, as they are not considered a part of the Executive Branch. GEDCA submitted an opinion from their legal counsel on the matter, and the University of Guam had expressed a similar opinion; however, as of the date of this report we had not received a copy of the University's attorney letter. See Appendix 5 for GEDCA's legal opinion.

By its enabling legislation¹³ OPA is not a part of the Executive Branch; however, the Public Auditor, in the interest of transparency and accountability, submitted monthly staffing pattern reports to the Legislature with all the relevant information. It is the position of the Public Auditor that the name, title, position, pay grade, step, and salary increment of OPA staff be excluded for privacy purposes; therefore, the OPA staffing pattern reports, posted on our website, does not contain the name, title, and position of the staff. OPA is not aware of any federal or state requirements that require such detailed information, relative to employee compensation, be posted on the worldwide web.

The process of tracking monthly staffing patterns was overwhelming and laborious. OPA not only had to verify whether quarterly financial reports were submitted by all 56 entities, but was also tasked to track the submittal of 168 staffing pattern reports (56 x 3 = 168 monthly staffing patterns from October 2006 to December 2006) and verify whether the monthly reports were submitted manually, electronically, and posted on the agency websites. As a result, 504 (168 x 3 reporting conditions¹⁴) staffing pattern reports needed to be tracked and verified.

In addition, there appears to be a lack of understanding among the entities as well as with OPA as to when the monthly staffing pattern reports are due. Some entities submitted monthly reports either at the 1st of each month, in the middle of the month, or at the end of the month; while others submitted quarterly reports. Therefore, we suggest that the Legislature consider the submission of a quarterly staffing pattern report instead of monthly reports to be submitted in conjunction with the submission of quarterly financial reports.

¹³ In OPA's enabling legislation - Title 1, Chapter 19, §1900 – it states: There is an instrumentality of the government of Guam, independent of the executive, legislative and judicial branches, known as the *Office of the Public Auditor*.

¹⁴ manual, electronic, and web posting

Because payroll and its associated costs comprise the majority of an entity's total expenditures, it is imperative that the information submitted to the Legislature is consistent and accurate. However, we noted that the information submitted by the entities varied from actual labor costs to budget staffing amounts. We suggest the Legislature also require that actual labor costs, as of the last pay period of the quarter, be included with the submission quarterly staffing pattern reports.

Special Reports

Both P.L. 28-149 and P.L. 28-150 required 15 governmental entities to submit special reports for specific funds or programs to either the Speaker of the Legislature, the Governor of Guam and/or the OPA. To be compliant with the law, each entity must meet all three reporting conditions of submitting the required reports: (1) manually, (2) electronically, and (3) posting it on the entity's website, by the specified due date. A majority of the special reports were either due monthly, quarterly, or on a specific date, while due dates were not specified for others. Again, fulfillment of this requirement was limited to special reports provide by the entity to OPA. In our attempt to follow-up with entities that had not submitted a copy, we were told by some of these entities that they were not required to submit reports to OPA. As such, we were not able to verify whether these entities were in compliance. The status of each reporting requirement by entity follows. See Appendix 4 for the 48 special reporting requirements to be submitted.

Guam Public School System (GPSS). P.L. 28-149 requires GPSS to submit eight special reports for FY 2007. Three reports are due either monthly, quarterly, or on fixed dates between October 1 through December 31, 2006; one report is due no later than 30 days after the close of summer school; one report is due no later than 30 days after the OPA issued its report on cash disbursement; one report was given no due date; and two audit reports, which have yet to be contracted, were given no fixed dates.

Chapter II, Part I, Section 1(c) requires GPSS to submit a revised cash disbursement schedule to the Speaker, 30 days after OPA completes an initial review of GPSS cash disbursement schedule. The revised schedule is to be posted in its entirety on the GPSS website and shall be updated each quarter. OPA issued the FY 2007 cash disbursement schedule of GPSS (OPA Report No. 07-01) in February 20 2007; therefore, a revised report was due from GPSS on March 20, 2007 and will be reported in the second quarter.

Section 2(f) requires GPSS to submit a detailed report of receipts and expenditures of funds appropriated from the Summer School Fund for the 2007 Summer School Program, due no later than 30 days after the close of summer school. As such, this report is not yet due.

Section 2(g)(3) requires GPSS to submit quarterly reports on all expenditures made against appropriations for textbooks, e-book readers and collateral classroom instruction materials to include software, sheet music and music books. The report is to provide purchase and inventory information, to include a certified list of textbooks approved by the Guam Education Policy Board and all purchase orders issued, due on the first day of each fiscal quarter. On January 9, 2007 GPSS submitted a manual report for the first quarter of FY 2007 and had posted it on their website; however, no electronic copy was submitted. Therefore, GPSS may be subject to deappropriation for this requirement.

Section 3 requires GPSS to post the following on its website; (1) all payments for prior year obligations by month, (2) cash disbursement schedules by quarter, and (3) the number of filled and vacant FTEs by school and division by month. As of the date of this report, GPSS had only posted the number of filled and vacant FTE's on their website. Therefore, GPSS may be subject to deappropriation for this requirement.

Part VI, Section 8 requires GPSS to report on the \$16.1 million¹⁵ over-expenditure reflected in the FY 2005 audited financial statements of the government of Guam. This report was due 60 days after the enactment of P.L. 28-149, which was signed into law on September 30, 2006. As of the date of this report, GPSS did not submit the required report. Therefore, GPSS may be subject to deappropriation for this requirement.

Section 9 requires GPSS report on any local funds expended in FY 2005 and 2006, for federally funded program activities; however; no due date was set for GPSS to submit this report. As of the date of this report, GPSS had not submitted the required report. The GPSS Controller stated that local funds had not been expended for any federally funded-program activities in that period. However, at a minimum, GPSS should issue a statement in this regard to the Legislature, as they may be subject to deappropriation for this requirement.

Sections 11, 12, and 14 requires GPSS to submit and post on their website two audit reports which were to be contracted with an independent educational auditing organization. Each report was due 180 days after the contracts had been executed. GPSS did issue a Request for Proposal without consultation with the OPA; however, there were no responders. Because GPSS had not contracted with a firm to perform the required assessments, the \$275,000 appropriated for both audit reports was automatically deappropriated.

Part VII, Section 10 also mandates GPSS to submit a report within ten days of expending funds from the School Capital Facilities Reserve (SCFR) Fund. To date GPSS did not submit the required report and confirmed that no funds are available in the SCFR Fund. However, at a minimum, GPSS should have submitted a written report stating this condition to the Legislature as GPSS may be subject to deappropriation for this requirement.

Bureau of Budget and Management Research (BBMR). Chapter V, Section 5 of P.L. 28-150 requires BBMR to prepare a comparative statement of “actual” and “projected” revenues, due no later than 30 days after the close of each month within the fiscal year. BBMR submitted two of the three monthly reports on December 29, 2006 and January 25, 2007. However, BBMR did not submit electronic copies or post them on the web. Therefore, BBMR may be subject to deappropriation.

Department of Administration (DOA). Chapter IV, Part I, Section 2(c) of P.L. 28-150 requires DOA to report on the final close out and transfer of \$3.7 million¹⁶ into the General Fund; however, no date was given when this report was due to the Legislature. As of the date of

¹⁵ The FY 2005 audited financial statements of the Guam Public School System reflects a cumulative \$42 million deficit, of which the \$16.1 million occurred in FY 2005.

¹⁶ Amount identified in OPA Report No. 06-03, Performance Audit of the Department of Administration's Dormant and Inactive Funds as mandated by Public Law 28-68.

this report, DOA has not submitted this report. However, DOA should submit a process report on when this report will be completed. We suggest that the Legislature clarify when the report is due.

Part II, Section 8(b) and Section 9(b) requires DOA to submit a report of all expenditures for the Government Claims Fund and the Residential Treatment Fund, no later than 30 days after the close of each quarter. DOA submitted the first quarter reports of the Government Claims Fund and the Residential Treatment Fund on January 24, 2007 and posted the required reports on the agency website; however, no electronic copies were submitted. Therefore, DOA may be subject to deappropriation.

Department of Mental Health and Substance Abuse (DMHSA). Chapter II, Part III, Section 3 of P.L. 28-150 requires DMHSA submit monthly reports on all expenditures made against appropriations for the Youth Drug and Alcohol Program, due on the 15th of each month for FY 2007. As of the date of this report, DMHSA did not submit monthly reports for this program; therefore, DMHSA may be subject to deappropriation.

Department of Public Health and Social Services (DPHSS). Chapter II, Part I, Section 4 of P.L. 28-150 requires DPHSS submit quarterly reports on the allocation, demographics and expenditures associated with the FY 2006 carry over for MIP and Medicaid Programs, due no later than 30 days after the close of each quarter. DPHSS submitted a manual report of the program for the first quarter of FY 2007 on February 2, 2007; however, no electronic copy was submitted nor was the report posted on the web. Therefore, DPHSS may be subject to deappropriation.

Department of Public Works (DPW). Chapter IV, Part II, Section 6(b) of P.L. 28-150 requires DPW submit a quarterly report on the expenditures of the Street Light Fund. No date was given on when this report was due to the Legislature. On February 13, 2007 DPW submitted a manual report of the fund, covering the periods of October 2006 through December 2006 and posted the report on the agency website; however, an electronic copy was not submitted. Therefore, DPW may be subject to deappropriation.

Guam Medical Referral Office (GMRO). Chapter V, Section 10 of P.L. 28-150 requires GMRO submit monthly reports on its activities and expenditures, to include the number of referred patients served, the number of patient escorts or accompanying family members served and the average cost per patient referral, due within 30 days after the close of each month of the fiscal year. As of the date of this report, GMRO did not submit any monthly report on its activities; therefore, GMRO may be subject to deappropriation.

Mayors' Council of Guam (MCOG). Chapter IV, Part II, Section 19(d) of P.L. 28-150 requires MCOG, comprised of 19 village Mayors, to submit a report on the receipts, expenditures, and applications of their non-appropriated funds (NAFs), due by the fifth day of the first month of every fiscal quarter. NAF accounts of the village Mayors are often derived from private contributions, donations, and fundraising from private, local, and/or federal sources.

Only the Yona Mayor submitted a manual report of its NAF accounts by the January 5, 2007, due date and six mayors from Dededo, Inarajan, Mangilao, Piti, Yigo and Chalan Pago-Ordot,

submitted their manual reports after the due date between January 16, 2007 and February 2, 2007. The seven mayors did not submit their reports electronically or posted them on the website. The remaining 12 Mayors did not submit reports of their NAF accounts as of the date of this report.

OPA is aware that 17 village Mayors received a \$10,000 donation from the Guam Greyhound Park in October 2006. The Sinajana and Talofofu Mayors did not accept the donation. However, of the 17 that received the donation, only seven¹⁷ mayors had reported it in their NAF reports for the first quarter of FY 2007. The 10 mayors that did not report the donation should report it their non-appropriated fund report. As a result, all 19 village Mayors may be subject to deappropriation.

Office of the Governor (Governor's Office). Under P.L. 28-150 the Governor's Office is required to submit three special reports.

Chapter IV, Part I, Section 3 requires the Governor's Office to submit a report on all unexpended and unencumbered appropriations that can continue from FY 2006 into FY 2007; however, no due date was specified for this report. We suggest that the Legislature clarify when the report is due. No report had been submitted by the Governor's Office to date. Therefore, the Office of the Governor may be subject to deappropriation.

Section 5 requires the Governor's Office submit a monthly report on all special fund transfers, by the fifth day of every month. Special fund transfers are taken from special funds or revolving funds to cover authorized appropriations. As of the date of this report, no monthly report had been submitted by the Governor's Office for the first quarter of FY 2007. Therefore, the Office of the Governor may be subject to deappropriation.

Chapter V, Section 2 requires the Governor's Office to submit a monthly report on the number of retirements made for the prior month and the number of remittances made for outstanding individual retirement fund contributions, by the 15th of each month. As of the date of this report, the Governor's Office had not submitted any monthly report for the first quarter of FY 2007.

However, the Governor's Office may not be the appropriate entity to provide such information; a more likely entity to have such data would be the Retirement Fund. Therefore, we suggest that the Legislature require the Retirement Fund to submit this report rather than the Governor's Office.

Guam Community College (GCC). Chapter II, Part III, Section 2 of P.L. 28-149 requires GCC submit quarterly reports on its academic programs and expenditures, to include the number of participants in each applicable program, a description of the program, the academic courses offered, and the requirements for participation in any GCC program, due within 30 days after the close of each quarter. By January 31, 2007 GCC had posted its semester catalogue on their website to fulfill the academic reporting requirements and, subsequently, submitted a manual quarterly expenditure report on February 13, 2007; however an electronic copy was not submitted. Therefore, GCC may be subject to deappropriation.

¹⁷ The Mayors are Dededo, Chalan Pago-Ordot, Inarajan, Mangilao, Piti, Yigo and Yona.

University of Guam (UOG). Chapter II, Part II, Section 1(d)(2) and Section 4 of P.L. 28-149 requires UOG to report and post student scholarships, student financial assistance, other reports and all finances related to the Dr. Antonio C. Yamashita Educator Corps, due 60 days after the close of FY 2007. On January 31, 2007, UOG submitted a manual report and posted it on their website; however, no electronic copy was submitted. Therefore, UOG may be subject to deappropriation.

Section 1(i) requires UOG to post a financial report of KPRG public radio on its website. This report is due from the General Manager of KPRG to the President of UOG no later than 30 days after the close of each fiscal quarter. On January 25, 2007, UOG received KPRG's quarterly financial report and posted the report on its website for the first quarter of FY 2007; however, no electronic copy was submitted. Therefore, UOG may be subject to deappropriation.

Section 2 requires UOG to submit basic financial statement reports (revenues and expenditures) of the Aquaculture Development and Training Center, the WERI Guam Hydrologic Survey, the WERI Comprehensive Water Resource Monitoring Program, the Northern and Southern Soil and Water Conservation District Programs and KPRG, due no later than 30 days after the close of each fiscal quarter and post the report on their website. On January 31, 2007 UOG submitted a manual report for these programs and posted the report on their website for the first quarter of FY 2007; however they did not submit an electronic copy. Therefore, UOG may be subject to deappropriation.

Section 3 requires UOG to submit an annual report to include each program's mission, goals, accomplishments and finances for the aforementioned programs and to post the report on UOG's website; however, no due date was specified and UOG has not submitted a report. We suggest that the Legislature clarify when the annual report is due.

Chapter V, Section 49 of P.L. 28-150 requires UOG to report on the annual assessment and evaluation of the University, due no later than a month following the end of each academic year; however, the law did not clarify which academic year this report was to begin. UOG has not submitted an evaluation report. We suggest that the Legislature clarify which academic year the above information is requested and when the assessment and evaluation report is due.

Law Enforcement Agencies. Chapter V, Section 40, 41, and 42 of P.L. 28-150 requires the Guam Fire Department (GFD), Guam Police Department (GPD) and the Department of Corrections (DOC) to submit a special report disclosing the expenditures of all FY 2006 funds authorized to be carried-over into FY 2007, due by October 31, 2006. GFD and DOC officials cited that because no FY 2006 funds were available for carry over, no report was submitted. GPD was unavailable for comment. As of the date of this report, GFD, GPD and DOC did not submit the required report. These three entities may be subject to deappropriation.

Summary and Conclusions

Overall, compliance with the FY 2007 Budget Act varied considerably among the 56 government agencies. Submissions of general and special reporting requirements were inconsistent, stemming from the lack of understanding by the entities of what was required of

them or when the reports were due. More often than not, entities failed to meet all three reporting conditions: (1) manual submission, (2) electronic submission, and (3) posting on the web, by the due date, for each reporting requirement. The most common non-compliance requirement was the non-submission of an electronic version of the report to the Legislature and OPA. Based on the various reporting requirements, all 56 agencies may be subject to five percent deappropriation or more, or a penalty subject of a sum equal to five percent of an agency's current fiscal year revenues.

We had difficulty in determining the amounts to be deappropriated, locating agency websites, and determining full compliance because of the numerous reporting requirements and the three reporting conditions required. As a result, we make the following suggestions to the Legislature with respect to the reporting requirements.

1. Require the entity include its website address along with report submittals;
2. Standardize the quarterly financial reports using the budget digest format;
3. Require the Bureau of Budget and Management Research to provide a listing of NPOs and the overseeing government entity;
4. Consider the submission of a quarterly staffing pattern report instead of monthly reports;
5. Require that actual labor costs as of the last pay period of the quarter be included with the quarterly staffing pattern report;
6. Require the Retirement Fund to submit this report rather than the Governor's Office;
7. Clarify the due dates for certain special reports;
8. Clarify the minimum and maximum amounts to be deappropriated for non-compliance.

As the Legislature continues to require the Public Auditor to report on the results of these submittals, we encourage the entities to ensure that OPA receives a manual and electronic copy of the required reports, date stamped by the Speaker's Office. Otherwise, we will be unable to verify whether entities met all three reporting requirements. Unlike the FY06 reporting in which the Committee on Finance, Taxation and Commerce was tracking the reports, we were unable to verify the report submittals of reporting requirements for the first quarter of FY 07 with the Speaker's Office because the Speaker's Office does not track these reports. Therefore, the report herein is limited to information received from entities and reports gathered from the Legislature.

OFFICE OF THE PUBLIC AUDITOR



Doris Flores Brooks, CPA, CGFM
Public Auditor

**Appendix 1:
Quarterly Financial Reports**

M – Manual Report

E – Electronic Report

W – Website Report

		Submission(s) Before 1/31 Due Date			Submission(s) After 1/31 Due Date			Submission(s) After 2/15 Grace Period			Status
		M	E	W	M	E	W	M	E	W	
1	Board of Professional Engineer, Architects and Land Surveyors	✓		✓							✗
2	Bureau of Budget and Management Research	✓		✓							✗
3	Bureau of Statistics and Plans	✓	✓	✓							■
4	Chamorro Land Trust Commission **			✓	✓						✗
5	Civil Service Commission	✓		✓							✗
6	Commission on Decolonization	✓									✗
7	Customs and Quarantine Agency	✓		✓							✗
8	Department of Administration			✓							✗
9	Department of Agriculture	✓		✓							✗
10	Department of Chamorro Affairs			✓	✓						✗
11	Department of Corrections **	✓		✓							✗
12	Department of Integrated Services for Individuals with Disabilities **	✓		✓							✗
13	Department of Labor	✓		✓							✗
14	Department of Land Management **	✓	✓	✓							■
15	Department of Mental Health and Substance Abuse **	✓		✓							✗
16	Department of Military Affairs **	✓		✓							✗
17	Department of Parks and Recreation **	✓	✓	✓							■
18	Department of Public Health and Social Services	✓		✓							✗
19	Department of Public Works			✓	✓				✓		✗
20	Department of Revenue and Taxation	✓		✓							✗
21	Department of Youth Affairs	✓		✓							✗

* Marked as compliant meeting all three reporting conditions after the due date but before the grace period.

** Web reports not posted on the agency website but linked or posted with BBMR's web reports.

**Appendix 1:
Quarterly Financial Reports**

M – Manual Report

E – Electronic Report

W – Website Report

		Submission(s) Before 1/31 Due Date			Submission(s) After 1/31 Due Date			Submission(s) After 2/15 Grace Period			Status
		M	E	W	M	E	W	M	E	W	
22	Government of Guam Retirement Fund	✓		✓							×
23	Guam Ancestral Lands Commission **	✓		✓							×
24	Guam Board of Accountancy **			✓				✓	✓		×
25	Guam Community College			✓	✓						×
26	Guam Contractors License Board	✓		✓							×
27	Guam Council on the Arts and Humanities Agency **	✓	✓	✓							■
28	Guam Economic Development and Commerce Authority	✓		✓							×
29	Guam Educational Telecommunication Corporation (KGTF)	✓		✓							×
30	Guam Election Commission *			✓	✓	✓					■
31	Guam Energy Office			✓	✓				✓		×
32	Guam Environmental Protection Agency	✓		✓							×
33	Guam Fire Department	✓		✓							×
34	Guam Housing and Urban Renewal Authority										×
35	Guam Housing Corporation	✓					✓		✓		×
36	Guam International Airport Authority							✓	✓	✓	×
37	Guam Medical Referral Office **			✓	✓						×
38	Guam Memorial Hospital Authority	✓	✓	✓							■
39	Guam Police Department			✓				✓			×
40	Guam Power Authority				✓						×
41	Guam Public Library System	✓		✓							×
42	Guam Public School System	✓		✓							×

■ - Compliance
 X - Non-Compliance

* Marked as compliant meeting all three reporting conditions after the due date but before the grace period.

** Web reports not posted on the agency website but linked or posted on BBMR or the Governor's Office website.

**Appendix 1:
Quarterly Financial Reports**

M – Manual Report

E – Electronic Report

W – Website Report

		Submission(s) Before 1/31 Due Date			Submission(s) After 1/31 Due Date			Submission(s) After 2/15 Grace Period			Status
		M	E	W	M	E	W	M	E	W	
43	Guam State Clearinghouse**			✓	✓						✗
44	Guam Visitors Bureau		✓				✓	✓			✗
45	Guam Waterworks Authority *	✓		✓		✓					■
46	Judiciary of Guam	✓	✓	✓							■
47	Mayors Council of Guam * / **			✓	✓	✓					■
48	Office of the Attorney General	✓		✓							✗
49	Office of the Chief Medical Examiner	✓		✓							✗
50	Office of the Governor			✓	✓						✗
51	Office of the Public Auditor	✓		✓					✓		✗
52	Port Authority of Guam	✓		✓					✓		✗
53	Public Defender Service Corporation	✓	✓	✓							■
54	Public Utilities Commission	✓									✗
55	University of Guam	✓		✓							✗
56	Veterans Affairs Office **			✓	✓						✗

■ - Compliance
✗ - Non-Compliance

TOTAL - Entities Marked as Compliant ■ 10
TOTAL - Entities Marked as Non-Compliant ✗ 46

* Marked as compliant meeting all three reporting conditions after the due date but before the grace period.
 ** Web reports not posted on the agency website but linked or posted on BBMR or the Governor's Office website.

Appendix 2: Staffing Pattern Reports

M – Manual Report

E – Electronic Report

W – Website Report

		Oct-06					Nov-06					Dec-06					Status
		M		E		W	M		E		W	M		E		W	
		Before Due Date	After Due Date	Before Due Date	After Due Date		Before Due Date	After Due Date	Before Due Date	After Due Date		Before Due Date	After Due Date	Before Due Date	After Due Date		
1	Board of Professional Engineer, Architects and Land Surveyors *																X
2	Bureau of Budget and Management Research*																X
3	Bureau of Statistics and Plans *																X
4	Chamorro Land Trust Commission																X
5	Civil Service Commission											✓					X
6	Commission on Decolonization																X
7	Customs and Quarantine Agency		✓														X
8	Department of Administration																X
9	Department of Agriculture *																X
10	Department of Chamorro Affairs																X
11	Department of Corrections											✓					X
12	Department of Integrated Services for Individuals with Disabilities																X
13	Department of Labor																X
14	Department of Land Management *																X
15	Department of Mental Health and Substance Abuse *																X
16	Department of Military Affairs																X
17	Department of Parks and Recreation																X

* Entity submitted a **quarterly** staffing pattern report.

Appendix 2: Staffing Pattern Reports

M – Manual Report

E – Electronic Report

W – Website Report

		Oct-06					Nov-06					Dec-06					Status
		M		E		W	M		E		W	M		E		W	
		Before Due Date	After Due Date	Before Due Date	After Due Date		Before Due Date	After Due Date	Before Due Date	After Due Date		Before Due Date	After Due Date	Before Due Date	After Due Date		
18	Department of Public Health and Social Services																X
19	Department of Public Works																X
20	Department of Revenue and Taxation																X
21	Department of Youth Affairs *																X
22	Government of Guam Retirement Fund																X
23	Guam Ancestral Lands Commission																X
24	Guam Board of Accountancy																X
25	Guam Community College *																X
26	Guam Contractors License Board																X
27	Guam Council on the Arts and Humanities Agency																X
28	Guam Economic Development and Commerce Authority **																X
29	Guam Educational Telecommunication Corporation (KGTF) *																X
30	Guam Election Commission																X
31	Guam Energy Office																X
32	Guam Environmental Protection Agency																X
33	Guam Fire Department *																X

* Entity submitted a **quarterly** staffing pattern report.

** GEDCA’s legal counsel provided a legal opinion stating that GEDCA is exempt from this requirement as they are not part of the Executive Branch.

Appendix 2: Staffing Pattern Reports

M – Manual Report

E – Electronic Report

W – Website Report

		Oct-06					Nov-06					Dec-06					Status
		M		E		W	M		E		W	M		E		W	
		Before Due Date	After Due Date	Before Due Date	After Due Date		Before Due Date	After Due Date	Before Due Date	After Due Date		Before Due Date	After Due Date	Before Due Date	After Due Date		
34	Guam Housing and Urban Renewal Authority																X
35	Guam Housing Corporation				✓						✓					✓	X
36	Guam International Airport Authority																X
37	Guam Medical Referral Office																X
38	Guam Memorial Hospital Authority																X
39	Guam Police Department *																X
40	Guam Power Authority																X
41	Guam Public Library System *																X
42	Guam Public School System			✓	✓				✓	✓							X
43	Guam State Clearinghouse																X
44	Guam Visitors Bureau																X
45	Guam Waterworks Authority																X
46	Judiciary of Guam *				✓						✓					✓	X
47	Mayors Council of Guam																X
48	Office of the Attorney General																X
49	Office of the Chief Medical Examiner											✓					X
50	Office of the Governor																X
51	Office of the Public Auditor **	✓			✓	✓	✓			✓	✓	✓			✓	✓	X

* Entity submitted a **quarterly** staffing pattern report.

** OPA's is exempt from this requirement as its enabling legislation states that it is not part of the Executive Branch.

Appendix 2:
Staffing Pattern Reports

M – Manual Report

E – Electronic Report

W – Website Report

		Oct-06					Nov-06					Dec-06					Status
		M		E		W	M		E		W	M		E		W	
		Before Due Date	After Due Date	Before Due Date	After Due Date		Before Due Date	After Due Date	Before Due Date	After Due Date		Before Due Date	After Due Date	Before Due Date	After Due Date		
52	Port Authority of Guam																X
53	Public Defender Service Corporation	✓					✓					✓					X
54	Public Utilities Commission																X
55	University of Guam **																X
56	Veterans Affairs Office																X

■ - Compliance
 X - Non-Compliance

TOTAL Entities Marked as Compliant ■ 0

TOTAL Entities Marked as Non- Compliant X 56

* Entity submitted a **quarterly** staffing pattern report.

** UOG is exempt from this requirement as their legal counsel stated that they are not part of the Executive Branch.

**Appendix 3:
Special Reports**

M – Manual Report

E – Electronic Report

W – Website Report

			Before Due Date		After Due Date		W	Status
			M	E	M	E		
■ - Compliance X - Non Compliance								
Guam Community College	1	Academic program / courses					✓	X
Guam Public School System								
	1	Cash Disbursement *						
	2	Summer School Fund *						
	3	Textbook and Collateral Material			✓		✓	X
	4	Cash Disbursement (web report) *						
		Prior year obligations web report						X
		Full Time Employment (FTE) (web report)					✓	■
	5	Over Expenditure on \$16.1 M						X
	6	Local Funds Reimbursement						X
	7	Audit Report – Adequate Public Education Act *						
		Audit Report - Organizational structure *						
	8	School Capital Facilities Reserve Fund						X
Bureau of Budget and Management Research								
	1	Actual vs. Projected Revenues - Oct. '06						X
		Actual vs. Projected Revenues - Nov. '06	✓					X
		Actual vs. Projected Revenues - Dec. '06	✓					X
Department of Administration								
	1	Closure / Transfer Report- for \$3.7 M *						
	2	Government Claims Fund	✓				✓	X
	3	Residential Treatment Fund	✓				✓	X

* No due date specified OR report not due within 1st quarter

**Appendix 3:
Special Reports**

M – Manual Report

E – Electronic Report

W – Website Report

			Before Due Date		After Due Date		W	Status
			M	E	M	E		
■ - Compliance X - Non Compliance								
Department of Corrections	1	Lapsed Funds Carryover						X
Department of Mental Health	1	Youth Drug and Alcohol Program - Oct. '06						X
		Youth Drug and Alcohol Program - Nov. '06						X
		Youth Drug and Alcohol Program - Dec. '06						X
Department of Public Health	1	MIP and Medicaid Carryover			✓			X
Department of Public Works	1	Street Light Fund	✓				✓	X
Guam Fire Department	1	Lapsed Funds Carryover						X
Guam Medical Referral Office	1	Program Referrals / Fund - Oct. '06						X
		Program Referrals / Fund - Nov. '06						X
		Program Referrals / Fund - Dec. '06						X
Guam Memorial Hospital Authority	1	Alternative Management Reform *						
Guam Police Department	1	Lapsed Funds Carryover						X

* No due date specified OR report not due within 1st quarter

**Appendix 3:
Special Reports**

M – Manual Report

E – Electronic Report

W – Website Report

			Before Due Date		After Due Date		W	Status
			M	E	M	E		
■ - Compliance ✕ - Non Compliance								
Mayors Council of Guam		Non-Appropriated Funds						
	1	Agana Heights Mayor						✕
	2	Agat Mayor						✕
	3	Asan- Maina Mayor						✕
	4	Barrigada Mayor						✕
	5	Chalan Pago-Ordot Mayor			✓			✕
	6	Dededo Mayor			✓			✕
	7	Hagatna Mayor						✕
	8	Inarajan Mayor			✓			✕
	9	Mangilao Mayor			✓			✕
	10	Merizo Mayor						✕
	11	Mongmong-Toto-Maite Mayor						✕
	12	Piti Mayor			✓			✕
	13	Santa Rita Mayor						✕
	14	Sinajana Mayor						✕
	15	Talofofo Mayor						✕
	16	Tumon - Tamuning - Harmon Mayor						✕
	17	Umatac Mayor						✕
	18	Yigo Mayor			✓			✕
	19	Yona Mayor	✓					✕

**Appendix 3:
Special Reports**

M – Manual Report

E – Electronic Report

W – Website Report

			Before Due Date		After Due Date		W	Status
			M	E	M	E		
■ - Compliance ✕ - Non Compliance								
Office of the Governor	1	Continuing Appropriations						✕
		Special Funds Transfer Report - Oct. '06						✕
	2	Special Funds Transfer Report - Nov. '06						✕
		Special Funds Transfer Report - Dec. '06						✕
	3	Retirement - Oct. '06						✕
		Retirement - Nov. '06						✕
		Retirement - Dec. '06						✕
University of Guam	1	Scholarship Info. - Dr. Yamashita Edu. Corps	✓				✓	✕
	2	KPRG (Public Radio)	✓				✓	✕
	3	Scholarships/ Training Programs (i.e. WERI)	✓				✓	✕
	4	UOG Annual Report *						
	5	Annual Program and Assessment Evaluation *						

TOTAL Special Report Requirements Marked as Compliant ■

1

TOTAL Special Report Requirements Marked as Non- Compliant ✕

47

* No due date specified OR report not due within 1st quarter



GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rimueban Suidat Guahan
117 Bien Venida Avenue, Sinajana, Guam 96910
Phones: (671) 477-9851 to 4 · Fax: (671) 472-7565 · TTY: (671) 472-3701



RECEIVED
OFFICE OF THE PUBLIC AUDITOR

DATE: 1/24/07 Office of the Speaker
TIME: 8:00 PM MARK FORBES
BY: JF/AC Date: 1/16/07
Time: 8:00 AM
Rec'd by: [Signature]
Print Name: [Signature]
29-07-0044

January 11, 2007

FELIX P. CAMACHO
Governor of Guam

MICHAEL W. CRUZ
Lt. Governor of Guam

RONALD S. De GUZMAN
Executive Director

BENNY A. PINAULA
Deputy Director

BOARD OF COMMISSIONERS

RICARDO A. CALVO
Acting Chairman

ANNIE L. PAULINO
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RENEE A. LUJAN
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Member

ALFREDO P. CARMONA
Member

LOLITA C. MENO
Resident Member

The Honorable Mark Forbes
Speaker
29th Guam Legislature
155 Hesler Place
Hagatna, Guam 96910

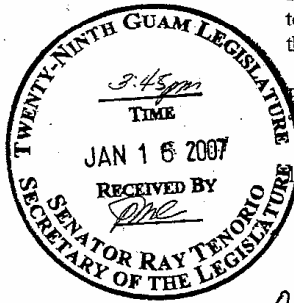
Dear Mr. Speaker:

We are writing in reference to the quarterly reporting requirements and the De-appropriation of funds, contained in Section 2 and Section 3, respectively, of Public Law 28-150. We apologize for not responding sooner, but we have been diligently trying to resolve problems that have been preventing us from complying with the aforementioned Public Law.

Due to problems experienced with a major software conversion and a series of related upgrades, our agency has not been able to generate the financial report information or reports required by Section 2 of Public Law 28-150. As a Public Housing Authority (PHA), we administer various housing and development programs of the U. S. Department of Housing and Urban Development (HUD), and 100% of our funding is from the federal government. Due to our uniqueness as a PHA, and HUD's own program reporting requirements, our software integrates our programs with our general ledger, which includes our financial reporting. We are actively seeking resolution of our general ledger software reporting capability issues with our vendor. A final resolution of the financial reporting issues should be forthcoming this fiscal year. It is our intention and goal to comply with the reporting requirements of Public Law 28-150. We anticipate being in compliance with the reporting requirements for the quarter ending March 2007.

Attached are copies of our Agency's Statement of Net Assets and Statement of Revenues, Expenditures and Changes in Net Assets for the fiscal year ended September 30, 2006. These financial statements will be posted on our web site (www.ghura.org) later today.

We are requesting a waiver from the de-appropriation provisions of Public Law 28-150, Section 3. As our Agency's is 100% federal funded, the 5% de-appropriation to be remitted to the General Fund would represent an unallowable cost, as the expenditure does not benefit the federal programs funded.



Per OMB A-87, Attachment B, Selected Items of Cost, item 20, fines and penalties, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with

043

GHURA does not discriminate against persons with disabilities.
The Chief Planner has been designated as Section 504 Coordinator.
The Coordinator can be contacted at the about address and telephone numbers.

4:48 PM.
1-16-07



Senator Edward B. Calvo
Vice-Speaker
29th Guam Legislature
Page 2 of 2

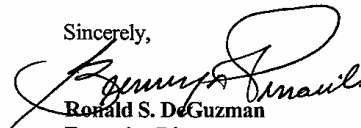
JAN 11 2007

specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.”

Should you have any questions, regarding this request, please contact me at 475-1378.

Thank you for time and consideration of our waiver request.

Sincerely,


Ronald S. DeGuzman
Executive Director

cc: Senator Edward B. Calvo, Vice-Speaker, 29th Guam Legislature
Doris Flores Brooks, Public Auditor, Office of the Public Auditor



Governor
Felix P. Camacho

Guam Economic Development and Commerce Authority
Aturidãd Inadilãnton Ikunumihan yan Kumetsion Guahan



Lt. Governor
Michael W. Cruz M.D.

January 16, 2007

Doris Flores-Brooks
Public Auditor
PDN Building Suite 401
238 Archbishop Flores Street
Hagatna, Guam 96910

RECEIVED
OFFICE OF THE PUBLIC AUDITOR
DATE: 1/16/07
TIME: 4:10 PM
BY: ae

Re: Public Law 28-150 Legal Opinion

Dear Doris,

As per our communication via email in regards to the opinion of GEDCA's legal counsel on Public Law 28-150 please find enclosed a copy of the memorandum of the legal opinion. If you should have any further questions do not hesitate to call.

Regards,


Andreas (Andy) Jordanou
Acting Administrator

enclosure

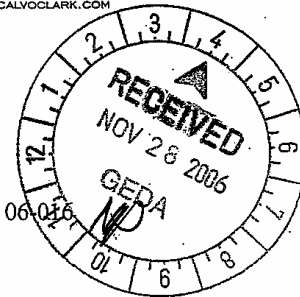
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MEMORANDUM



TO: Lori Villaverde
Andreas Jordanou
**Guam Economic Development and
Commerce Authority**

C&C: 06-016

FROM: Calvo & Clark, LLP
Arthur B. Clark
Sophia T. Santos

FILE: GEDCA – General
(Applicability of P.L.
28-150)

DATE: November 28, 2006

RE: **APPLICABILITY OF PUBLIC LAW 28-150**

Question Presented: Whether Chapter IV, §4(a) of Public Law 28-150 is applicable to GEDCA?

Answer: No. Because it is not properly considered an instrumentality of the government of Guam, the staffing pattern reporting requirement of P.L. 28-150 is not applicable to GEDCA.

Analysis: The pertinent section of P.L. 28-150 is found at Chapter IV, §4(a) and reads as follows:

Staffing Pattern. Beginning October 1, 2006, and continuing for each month thereafter, each agency or department head in the Executive Branch of the government of Guam, the Chairperson of the Judicial Council and the Chairperson of the Board of Trustees of the Public Defender Service Corporation shall submit to the Speaker of *I Liheslaturan Guåhan* a current staffing pattern, in the format of the Executive Branch FY 2007 Budget Call, as of the previous month's ending, of employees funded by that instrumentality. Such staffing pattern shall include, *at a minimum*, the name of the employee, position title, salary, increment costs and benefit costs for each employee, as well as the funding source for the salary and benefits of each employee, and shall be posted on the agency website.

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CALVO & CLARK LLP

RE: APPLICABILITY OF PUBLIC LAW 28-150
DATE: NOVEMBER 28, 2006
PAGE: 2 OF 2

GEDCA is neither an agency or department within the Executive Branch of the government of Guam, nor is it an instrumentality of the government. GEDCA was created by the Legislature as a public corporation. See 12 G.C.A. § 50101 (“There is hereby created a public corporation to be known as the Guam Economic Development and Commerce Authority with functions, powers and responsibilities as hereinafter provided.”) A line of cases from the Ninth Circuit and the Guam Supreme Court have set forth that entities, such as GEDCA, created by the Legislature only as public corporations are *not* considered instrumentalities of the government of Guam. See *Bordallo v. Reyes*, 763 F.2d 1098, 1103 (9th Cir. 1985); *Laguana v. Bordallo*, 725 F.2d 519, 521 (9th Cir. 1984); *Guam Economic Dev. Auth. v. Island Equipment Co., Inc.*, 1998 Guam 7. Moreover, GEDCA is considered an instrumentality of the government in the very limited circumstance provided for in 12 G.C.A. § 50103(k), which is for the sole purpose of bond issuances.

Thus, GEDCA is considered a part of the government of Guam only when specifically mandated by statute (see e.g. 12 G.C.A. § 50103(k)). Otherwise, in order for a law to be applicable to GEDCA it must provide that it is applicable to public corporations generally (see e.g. 5 G.C.A. § 6102). Since §4(a) of Chapter IV of P.L. 28-150 does not specifically apply to all public corporations, that provision does not apply to GEDCA.

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