clerks@guamlegislature.org

From: Speaker's Office <speaker@guamlegislature.org>
Sent: Thursday, September 24, 2020 7:39 PM
To: Clerks Office
Cc: Rennae Meno
Subject: M&C Fwd: OPA Report No. 20-05, Guam Housing and Urban Renewal Authority Unclassified Employees' Pay Raises and Bonuses
Attachments: Transmittal Letter - OPA Report No. 20-05.pdf; Executive Summary.pdf; OPA Report No. 20-05.pdf

09/24/20	5:04 PM	09/24/20	OPA Report No. 20-05, Guam Housing and Urban Renewal Authority Unclassified Employees' Pay Raises and Bonuses.*	Office of Public Accountability	35GL-20-2230

Sinseru yan Minagåhet,

Office of the Speaker • Tina Rose Muña Barnes
Committee on Public Accountability, Human Resources & the Guam Buildup

35th Guam Legislature
I Mina'trentai Singko na Liheslaturan Guåhan

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---------- Forwarded message ---------
From: **Andriana Quitugua** <aquitugua@guamopa.com>
Date: Thu, Sep 24, 2020 at 5:04 PM
Subject: OPA Report No. 20-05, Guam Housing and Urban Renewal Authority Unclassified Employees' Pay Raises and Bonuses

To: Speaker Barnes <speaker@guamlegislature.org>
Cc: Clariza Roque <croque@guamopa.com>

Dear Speaker Barnes:

Pursuant to Title 1 of the Guam Code Annotated Chapter 19 §1909(j), transmitted herewith is OPA Report No. 20-05, Guam Housing and Urban Renewal Authority (GHURA) Unclassified Employees' Pay Raises and Bonuses.

Our audit found that the GHURA Board of Commissioners:

- Generally complied with the Open Government Law in granting pay raises and bonuses to unclassified employees;
- Did not retain the minutes of their February 2015 executive session;
- Voted on two matters in its September 2018 and January 2019 executive sessions;
- Were inconsistent in the ratification of the former Executive Director and former Deputy Director's pay adjustments;
- Ratified the current Executive Director and current Deputy Director's pay adjustments; and
- Conducted performance reviews for the former and current Executive Directors.

Further, GHURA's Work Planning and Performance Evaluation System policy does not cover the Executive Director and Deputy Director positions.

We recommended that the Board of Commissioners:

1) Consistently adhere to the requirement of the Open Government Law to ensure the minutes of every meeting are fairly recorded and open to public inspection;

2) Ensure that voting on matters takes place during general sessions;

3) Consistently ratify all pay adjustments for GHURA unclassified employees on a going-forward basis; and

4) Develop policies and procedures to ensure consistency in the evaluation process of GHURA's Executive Director and Deputy Director.

Please confirm receipt of the report. For your convenience, you may also view and download the report in its entirety at www.opaguam.org.

Should you have any questions or concerns, please contact Audit Supervisor Clariza Roque at croque@guamopa.com or Auditor-in-Charge Andriana Quitugua at aquitugua@guamopa.com.

Thank you,

Andriana U.C. Quitugua, **CFE**
Accountability Auditor
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September 24, 2020

Tina Muna Barnes
Speaker
35th Guam Legislature
163 Chalan Santo Papa
Hagatna, Guam 96910

Dear Speaker Barnes:

Pursuant to Title 1 of the Guam Code Annotated Chapter 19 §1909(j), transmitted herewith is OPA Report No. 20-05, Guam Housing and Urban Renewal Authority (GHURA) Unclassified Employees' Pay Raises and Bonuses.

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Further, GHURA's Work Planning and Performance Evaluation System policy does not cover the Executive Director and Deputy Director positions.

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For your convenience, you may also view and download the report in its entirety at www.opaguam.org. Should you have any questions or concerns, please contact Audit Supervisor Clariza Roque at croque@guamopa.com or Auditor-in-Charge Andriana Quitugua at aquitugua@guamopa.com.

Senseramente,

Benjamin J.F. Cruz
Public Auditor

EXECUTIVE SUMMARY
Guam Housing and Urban Renewal Authority
Unclassified Employees' Pay Raises and Bonuses
Report No. 20-05, September 2020

We initiated a three-part audit series of the autonomous agencies unclassified employees' pay raises and bonuses. This resulted from a request by the Attorney General's Office to review potential violations of the Open Government Law in relation to the employee's compensation within autonomous agencies. Part A reported on the Guam Power Authority and Guam Waterworks Authority and was issued in December 2019. Part B reported on the Port Authority of Guam and was issued in July 2020. This audit is Part C and will report on the Guam Housing and Urban Renewal Authority (GHURA).

Our audit of the GHURA unclassified employees' pay raises and bonuses found that the Board of Commissioners generally complied with the Open Government Law when they discussed and decided on unclassified employees' salaries and bonuses. In our review of the Board of Commissioners' executive and general session meetings as well as personnel action forms, we did not find any bonuses given to unclassified employees. In addition, we found the following:

GHURA Did Not Retain Minutes of February 2015 Executive Session
In our inspection of the executive session and special meeting minutes provided, we did not find any discussions or decisions relating to salaries, salary levels, or salary adjustments of any employee or officer within GHURA. However, we found that GHURA was not consistent in its compliance with the Open Government Law when the Board of Commissioners did not retain minutes of its February 2015 executive session. As a result, we were unable to verify GHURA's compliance with the Open Government Law in its February 2015 meeting.

Board of Commissioners Voted on Two Matters during Executive Sessions
In our inspection of GHURA's executive session minutes from October 1, 2014 through September 30, 2019, we found that the Board of Commissioners violated the Open Government Law when they voted on two matters related to ongoing litigation in its September 27, 2018 and January 11, 2019 executive sessions.

Ratification of Former and Current Executive Directors' Pay Adjustments
From the *former* Executive Director's hiring in January 2013 until his retirement in December 2018, the *former* Executive Director received six pay adjustments in total. Of the six pay adjustments provided to the *former* Executive Director, five were given due to formal performance evaluations, while one pay adjustment was provided as the result of the Board of Commissioners' preference to adjust his starting salary. While the Board of Commissioners ratified the March 2013 pay adjustment, the former Executive Director's pay adjustments due to annual performance evaluations from June 2014 through April 2018 were not formally ratified.

The *current* Executive Director was appointed in January 2019. In July 2019, the Board of Commissioners restored FY 2019 salary increments to eligible employees and implemented a one-step pay shift to all employees based on GHURA's new pay schedule. Therefore, the *current*

Doc. No. 35GL-20-2230.*

Executive Director's pay was adjusted to $144,792 in October 2019 and $153,479 in December 2019. Both pay adjustments were effective July 8, 2019. The Board of Commissioners ratified the *current* Executive Director's pay adjustments through Resolution FY2019-018.

Ratification of Former and Current Deputy Directors' Pay Adjustments

While the *former* Deputy Director served at the pleasure of the Board of Commissioners, the *former* Executive Director formally conducted and approved his performance evaluations for the periods covering May 2016 through May 2018. Like the *former* Executive Director's performance evaluations, none of the evaluations that were given as a result of the *former* Deputy Director's performance were discussed and approved by the Board of Commissioners.

The *current* Deputy Director was hired in January 2019. However, in February 2019, the *current* Deputy Director received a pay adjustment to correct her salary to $100,930. The Board of Commissioners ratified this pay adjustment through Resolution No. FY2019-008. In December 2019, the *current* Deputy Director's pay was adjusted to $106,985 due to GHURA's one-step pay shift for all employees. Like the *current* Executive Director, the *current* Deputy Director's pay adjustment was effective July 8, 2019 and ratified through Resolution No. FY2019-018.

GHURA Former and Current Executive Director Performance Reviews

GHURA conducted performance reviews for the *former* Executive Director and *current* Executive Director in compliance with Title 5 Guam Code Annotated § 43202. The Board of Commissioners conducted six formal evaluations of the *former* Executive Director's performance annually from November 2013 through April 2018. These six formal evaluations were for the periods covering January 2013 through January 2018. In July 2019, the Board of Commissioners conducted the *current* Executive Director's 6-month performance evaluation for the period covering January 2019 through July 2019.

GHURA Lacks Performance Evaluation Policy for Executive and Deputy Director

In June 2005, the Board of Commissioners approved and implemented the Work Planning and Performance Evaluation System policy. However, the Executive Director and Deputy Director positions are not covered by the policy. Without written policies and procedures, there is a risk of operational inefficiency, inconsistency, and accountability in retaining the Executive Director and Deputy Director.

The Open Government Law states that the people do not yield their individual rights to the public agencies, which serve them. As a result of this audit, we recommended the Board of Commissioners:

1. Consistently adhere to the requirement of the Open Government Law to ensure the minutes of every meeting are fairly recorded and open to public inspection;
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3. Consistently ratify all pay adjustments for GHURA unclassified employees on a going-forward basis; and
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Benjamin J.F. Cruz
Public Auditor

Guam Housing and Urban Renewal Authority Unclassified Employees' Pay Raises and Bonuses

Performance Audit

October 1, 2014 through September 30, 2019

OPA Report No. 20-05
September 2020

Guam Housing and Urban Renewal Authority
Unclassified Employees' Pay Raises and Bonuses

Performance Audit
October 1, 2014 through September 30, 2019

OPA Report No. 20-05
September 2020

Distribution via E-Mail:

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Lieutenant Governor of Guam
Speaker, 35th Guam Legislature
Senators, 35th Guam Legislature
Chairperson, Guam Housing and Urban Renewal Authority Board of Commissioners
Director, Department of Administration
Director, Bureau of Budget and Management Research
Controller, Superior Court of Guam
Guam Media

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The Open Government Law states that the people do not yield their individual rights to the public agencies, which serve them. As a result of this audit, we recommended the Board of Commissioners:

1. Consistently adhere to the requirement of the Open Government Law to ensure the minutes of every meeting are fairly recorded and open to public inspection;
2. Ensure that voting on matters takes place during general sessions;
3. Consistently ratify all pay adjustments for GHURA unclassified employees on a going-forward basis; and
4. Develop policies and procedures to ensure consistency in the evaluation process of GHURA's Executive Director and Deputy Director.

Benjamin J.F. Cruz
Public Auditor

Introduction

This report presents the results of our performance audit of the Guam Housing and Urban Renewal Authority (GHURA) unclassified employees' pay raises and bonuses. We initiated this audit after we received a request from the Attorney General's Office to review potential violations of the Open Government Law in relation to the employee's compensation within autonomous agencies.

This audit is Part C of a three-part audit series on autonomous agencies unclassified employees' pay raises and bonuses. Part A reported on the Guam Power Authority (GPA) and Guam Waterworks Authority (GWA) and was issued in December 2019. Part B reported on the Port Authority of Guam (PAG) and was issued in July 2020. Part C will report on GHURA. Our scope of review is from October 1, 2014 through September 30, 2019.

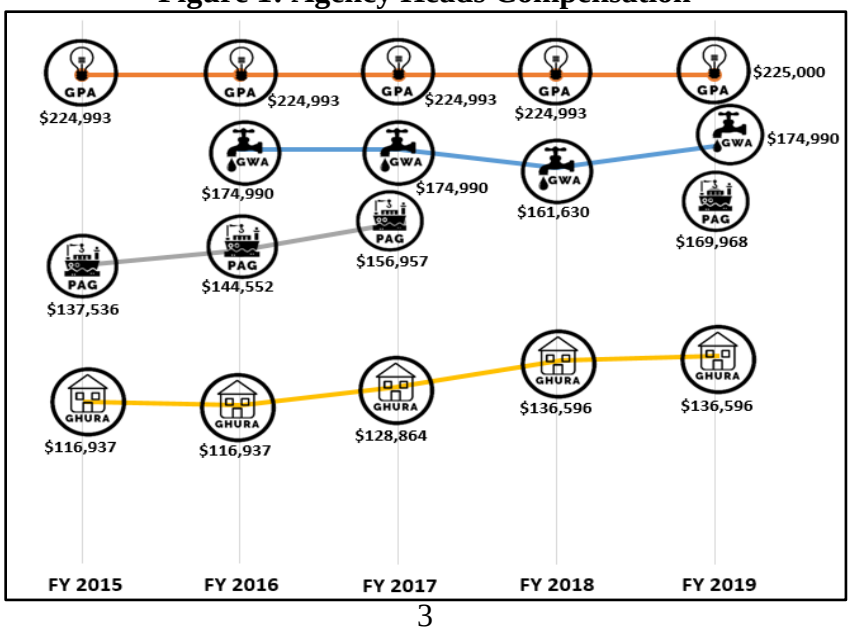
Our audit objectives were to determine whether:

1. Pay raises and bonuses granted to unclassified employees complied with applicable laws (Open Government Law and/or Prohibition on Bonus Pay for Unclassified Employees); and
2. Performance reviews were conducted for agency heads.

The objectives, scope, methodology, and prior audit coverage are detailed in Appendices 1 and 2.

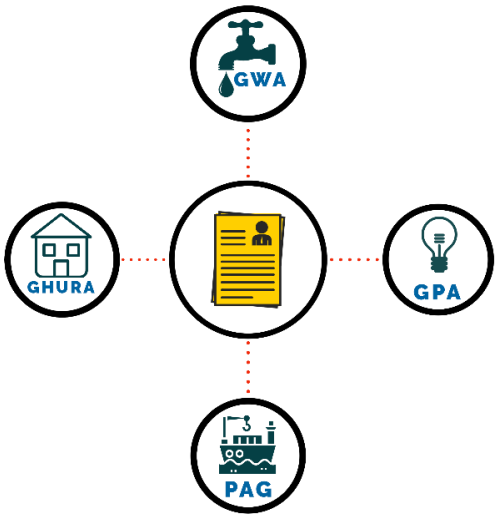
During Part A of this audit, we analyzed the staffing patterns of 16 autonomous agencies and focused on agencies that had significant or frequent increases in pay between October 1, 2014 and September 30, 2019. GPA, GWA, PAG, and GHURA showed both substantial and frequent pay increases for their respective agency heads since fiscal year (FY) 2015. Therefore, we focused our audit on these agencies. See Figure 1 for the compensation of the GPA, GWA, PAG, and GHURA's agency heads by year.

Figure 1: Agency Heads Compensation



Background

Each autonomous agency's organizational structure is comprised of both classified and unclassified employees. An unclassified employee is an officer or employee who serves at the pleasure of his or her appointing authority. The unclassified positions include heads of agencies and instrumentalities, first assistants to the heads of agencies and instrumentalities, and all offices and employment made by law to be at the pleasure of any board, commission, or officer.



Guam Housing and Urban Renewal Authority

In December 1962, Public Law (P.L.) 6-135 created GHURA as a component unit of the government of Guam with the goal to provide adequate housing and planning for those who live in our community and receive assistance through rental and home ownership programs. P.L. 6-135, later codified in Title 12 of the Guam Code Annotated (GCA) Chapter 5, deemed GHURA responsible for safe, decent, and sanitary low-income housing, public housing, and elderly housing. GHURA provides assistance to low-income families through various community development grants and community housing programs.

The members of GHURA's Board of Commissioners are appointed by the Governor with advice and consent of the Legislature, and provide overall policy direction for GHURA. From October 1, 2014 through September 30, 2019, there were at least six unclassified employees. These numbers included employees who separated from GHURA and were replaced by another unclassified employee. These executive positions include the Executive Director, Deputy Director, and Special Assistant, who serve at the pleasure of the Board of Commissioners.

Open Government Law

The Open Government Law was created through 5 GCA Chapter 8 to declare a policy that the formation of public policy and decisions is public and shall not be conducted in secret. The people of Guam do not yield their individual rights to the public agencies, which serve them. The people insist on remaining informed so that they may retain control over the instruments they have created. Provisions are contained under §§ 8111, 8113, and 8115.

- § 8111(a) – Under no circumstances shall a public agency[1] hold an executive or closed meeting[2] to discuss salaries, salary levels, or salary adjustments of any employee or officer. All such discussions or decisions must be held in a public meeting[3] and minutes shall be kept and open to the public.
- § 8111(d) – Under no circumstances shall a public agency vote on any matter before it during an executive or closed meeting. All voting must be held in a public meeting and minutes shall be kept and open to the public.

[1] Public agency includes any board, commission or comparable unit of government, any of whose members are elected, appointed by the Governor or the Legislature.
[2] Closed meeting sometimes referred to as executive session/meeting.
[3] Public meeting sometimes referred to as regular session/meeting.

- § 8113 – The minutes of every meeting of each public agency shall be promptly and fairly recorded, shall be open to public inspection, and shall include but not be limited to a record of all motions, proposals, and resolutions offered, the results of any votes taken, and a record of individual votes in event of roll call.
- § 8115(b) – Each member of a public agency who attends a meeting of a public agency where the action is taken in violation of the Open Government Law, with knowledge of the fact that the meeting is in violation thereof, is guilty of a *misdemeanor*.

Performance Reviews of Agency Heads

Title 5 GCA Chapter 43 Article 2 required Governing Boards to conduct and publish performance reviews of Agency Heads. Provisions are contained in §§ 43202 and 43203.

- § 43202 – The Governing Boards of all agencies, instrumentalities, or entities shall issue performance reviews of the Chief Executive selected for that agency six (6) months after the appointment of the said Chief Executive and every twelve (12) months thereafter that the Chief Executive is retained by the Governing Board. Each performance review shall document the Chief Executive's performance, accomplishments, and the respective Governing Board's reasons for retaining the said Chief Executive.
- § 43203 – The performance reviews required under this Act shall be made public and the availability of these reviews shall be published by the respective Governing Boards issuing the aforementioned reviews by a newspaper of general circulation or by radio or television which is reasonably calculated to provide notice of the facts it announces to the public at large and posted on the agency, instrumentality, or entity's website.

Results of Audit

Our audit of the GHURA unclassified employees' pay raises and bonuses found that the GHURA Board of Commissioners generally complied with the Open Government Law in granting pay raises and bonuses to unclassified employees. We did not find any bonuses given to unclassified employees in our review of executive and general session minutes as well as personnel action forms. In addition, we found that the Board of Commissioners:

- Did not retain the minutes of their February 2015 executive session;
- Voted on two matters in its September 2018 and January 2019 executive sessions;
- Were inconsistent in the ratification of the *former* Executive Director and *former* Deputy Director's pay adjustments;
- Ratified the *current* Executive Director and *current* Deputy Director's pay adjustments; and
- Conducted performance reviews for the *former* and *current* Executive Directors.

Further, GHURA's Work Planning and Performance Evaluation System policy does not cover the Executive Director and Deputy Director positions.

GHURA's Compliance with the Open Government Law

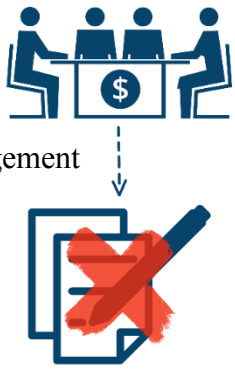
> Title 5 GCA § 8111(a) requires that *"under no circumstances shall a public agency hold an executive or closed meeting to discuss salaries, salary levels, or salary adjustments of any employee or officer.* ***All such discussions or decisions must be held in a public meeting and minutes shall be kept and open to the public****."*

From October 1, 2014 to September 30, 2019, the GHURA Board of Commissioners held four closed sessions – three executive sessions and one special meeting. GHURA provided three of the four closed session meeting minutes. In our inspection of the executive session and special meeting minutes provided, we did not find any discussions or decisions relating to salaries, salary levels, or salary adjustments of any employee or officer within GHURA.

GHURA Did Not Retain Minutes of February 2015 Executive Session

> Title 5 GCA § 8113 requires that *"****the minutes of every meeting of each public agency shall be promptly and fairly recorded, open to public inspection, and include but not limited to a record of all motions, proposals, and resolutions offered, the results of any votes taken, and a record of individual votes in the event of roll call.****"*

We found that GHURA did not retain minutes of its February 2015 executive session. As a result, we were unable to verify GHURA's compliance with the Open Government Law in its February 2015 meeting. According to GHURA, executive sessions were properly recorded and transcribed. However, GHURA was unable to locate the records as the prior administration's executive management failed to keep the records.



As such, we recommend that the Board of Commissioners consistently adhere to the requirement of the Open Government Law to ensure the minutes of every meeting are fairly recorded and open to public inspection.

Board of Commissioners Voted on Two Matters During Executive Sessions

> Title 5 GCA § 8111(d) states that *"under no circumstances shall a public agency vote on any matter before it during an executive or closed meeting.* ***All voting must be held in a public meeting and minutes shall be kept and opened to the public****"*

In our inspection of GHURA's executive session minutes from October 1, 2014 through September 30, 2019, we found that the Board of Commissioners violated the Open Government Law when they voted on two matters related to ongoing litigation in its September 27, 2018 and January 11, 2019 executive sessions.

The Board of Commissioners held an executive session on September 27, 2018 to discuss and decide on a Subpoena Duces Tecum on a GHURA employee and attorney as well as the decision to waive attorney-client privilege in an ongoing case. An excerpt of the Board of Commissioners decision went as follows:

> *"Vice Chairman made a motion to deny response to the Subpoena Duces Tecum and unwillingness to waive the attorney-client privilege. Commissioner seconded. There was no objection or discussion and the motion was carried. The general session reconvened."*

The Board of Commissioners held an executive session on January 11, 2019 to discuss GHURA's response to litigation activities regarding a pre-administration request for the ongoing court proceeding with prior members of GHURA's board. An excerpt of the Board of Commissioners decision went as follows:

> *"Commissioner moved that the Board of Commissioners ratify the submission of GHURA's motion for reconsideration regarding the Superior Court's December 14, 2018 decision and order. Resident Commissioner seconded. The motion was carried. The general session reconvened."*

While the Board of Commissioners did comply with 5 GCA § 8111(c)(3) in having an authorized court reporter transcribe minutes of all meetings that were closed to discuss litigation or possible litigation, they voted on two matters and made motions thereafter. The law is clear that no voting

on any matter should be held in an executive session. As such, we recommend that the Board of Commissioners ensure that voting on matters takes place during general sessions.

Ratification of Pay Adjustments for Unclassified Employees

During our review, we identified three circumstances when GHURA initiated a salary adjustment to an unclassified employee:

1. Based on the Board of Commissioners' preference, which may include appointment to an acting capacity;
2. After an annual performance evaluation; or
3. As a structural adjustment after a compensation study by an independent firm.

According to GHURA, the salary increments of employees are not individually ratified. GHURA's Fiscal Division submits the new fiscal year budget with a staffing pattern identifying all salary increments budgeted at the high end for the Board of Commissioners' review and approval. An official board resolution is then documented for each fiscal year budget. Refer to Appendix 3 for excerpts of the Board of Commissioners' discussions of each fiscal year budget.

Ratification of Former and Current Executive Directors' Pay Adjustments

From the *former* Executive Director's hiring in January 2013 until his retirement in December 2018, the *former* Executive Director received six pay adjustments in total. Of the six pay adjustments, five were given due to formal performance evaluations, while one pay adjustment was provided as the result of the Board of Commissioners' preference to adjust his starting salary.

When the *former* Executive Director was hired, his starting salary was $100,071. However, in March 2013, the *former* Executive Director received a pay adjustment to correct his starting salary to $106,075. The Board of Commissioners ratified the *former* Executive Director's pay adjustment through Resolution No. FY2013-014.



While the Board of Commissioners ratified the March 2013 pay adjustment, the *former* Executive Director's pay adjustments from June 2014 through April 2018 due to annual performance evaluations were not formally ratified by the Board of Commissioners. See Table 1 for details.

Table 1: Former Executive Director's Pay Adjustments

Date of Personnel Action Form	Period Covered	Reason for Adjustment
03/05/2013	Effective 02/21/2013	Board Resolution FY2013-014
06/24/2014	01/15/2013 to 01/14/2014	Performance Evaluation
07/20/2015	01/15/2014 to 01/14/2015	Performance Evaluation
12/16/2016	01/15/2015 to 01/14/2016	Performance Evaluation
02/06/2017	01/15/2016 to 01/14/2017	Performance Evaluation
04/12/2018	01/15/2017 to 01/14/2018	Performance Evaluation

The Chairman of the Board of Commissioners formally conducted and approved the evaluations of the *former* Executive Director's performance for the periods covering January 2013 through

January 2018. However, none of the *former* Executive Director's performance evaluations were discussed and approved by the Board of Commissioners in a meeting. While we believe that these pay adjustments were justified as supported by the evaluation forms, the Board of Commissioners did not ratify these pay adjustments during their general sessions.

The *current* Executive Director was appointed in January 2019. In July 2019, the Board of Commissioners restored FY 2019 salary increments to eligible employees and implemented a one-step pay shift to all employees based on GHURA's new pay schedule. Therefore, the *current* Executive Director's pay was adjusted twice to $144,792 in October 2019 and $153,479 in December 2019. Both pay adjustments were effective July 8, 2019. The Board of Commissioners ratified the *current* Executive Director's pay adjustments through Resolution No. FY2019-018. While the Board of Commissioners ratified Resolution FY2019-018, we observed that Resolution No. FY2019-018 was not linked to one specific employee. See Table 2 for details of the *current* Executive Director's ratified pay adjustments.

Table 2: Current Executive Director Ratified Pay Adjustments

Date of Personnel Action Form	Beginning Salary	Salary Increment	Reason for Adjustment
01/15/2019	N/A	$ 136,596	Appointment, BOC Resolution No. FY2019-007
10/21/2019	$ 136,596	$ 144,792	GHURA restored FY 2019 salary increments, BOC Resolution No. FY2019-018
12/23/2019	$ 144,792	$ 153,479	One-step pay shift to GHURA's new pay schedule, BOC Resolution No. FY2019-018

Ratification of Former and Current Deputy Directors' Pay Adjustments

In our inspection of the Personnel Action Forms, all of the pay adjustments provided to the *former* Deputy Director was given based on performance evaluations. See Table 3 for details.

Table 3: Former Deputy Director's Pay Adjustments

Date of Personnel Action Form	Period Covered	Reason for Adjustment
06/8/2016	Effective 05/30/2016	Board Resolution FY2016-026
08/20/2018	05/30/2016 to 05/29/2017	Performance Evaluation
08/20/2018	05/30/2017 to 05/30/2018	Performance Evaluation

While the *former* Deputy Director served at the pleasure of the Board of Commissioners, the *former* Executive Director formally conducted and approved his performance evaluations for the periods covering May 2016 through May 2018. Like the *former* Executive Director's performance evaluations, none of the *former* Deputy Director's performance evaluations were discussed and approved by the Board of Commissioners. While we believe that these pay adjustments were justified as supported by evaluation forms, the Board of Commissioners did not ratify these pay adjustments during their general sessions.

The *current* Deputy Director was hired in January 2019. However, in February 2019, the *current* Deputy Director received a pay adjustment to correct her salary to $100,930. The Board of Commissioners ratified this pay adjustment through Resolution No. FY2019-008.

In December 2019, the *current* Deputy Director's pay was adjusted to $106,985 due to GHURA's one-step pay shift for all employees. Like the current Executive Director, the current Deputy Director's pay adjustment was effective July 8, 2019 and ratified through Resolution No. FY2019-018. See Table 4 for details of the *current* Deputy Director's ratified pay adjustments.

Table 4: Current Deputy Director Ratified Pay Adjustments

Date of Personnel Action Form	Beginning Salary	Salary Increment	Reason for Adjustment
01/15/2019	N/A	$ 87,260	Appointment; BOC Resolution No. FY2019-008
02/13/2019	$ 87,260	$ 100,930	Adjusted to correct salary; BOC Resolution No. FY2019-010
12/23/2019	$ 100,930	$ 106,985	One-step pay shift to GHURA's new pay schedule; BOC Resolution No. FY2019-018

Refer to Appendix 4 for the Board of Commissioners' official board resolutions.

Title 12 GCA § 5103(g) states that the Board of Commissioners may employ an Executive Director and other officers as it may deem necessary, and shall determine their qualifications, duties, tenure, and compensation. Therefore, we recommend that the Board of Commissioners consistently ratify all pay adjustments for GHURA unclassified employees on a going-forward basis.

We did not perform any audit procedures to determine GHURA's compliance with provisions of law regarding retroactive pay raises. We requested for the Attorney General to review further the pay adjustments of GHURA's unclassified employees and determine compliance with applicable laws and regulations.

Subsequent Event Disclosure

In September 2020, the Board of Commissioners granted the *current* Executive Director and *current* Deputy Director a pay adjustment as a result of their annual performance evaluations for the period covering January 2019 through January 2020. As a result, the *current* Executive Director's pay moved from $153,479 to $159,498 while the *current* Deputy Director's pay moved from $106,985 to $111,244.

We did not perform any audit procedures to determine GHURA's compliance with applicable laws and internal policies in granting the *current* Executive Director and *current* Deputy Director with these pay adjustments.

Performance Reviews of Agency Heads

GHURA Former and Current Executive Directors Performance Reviews

> Title 5 GCA §43202 requires *"governing boards for all agencies, instrumentalities, or entities to issue performance reviews of the Chief Executive selected for that agency six months after appointment and every twelve months thereafter.* ***The performance review shall document the performance, accomplishments, and the board's reasons for retaining the Chief Executive."***

The Board of Commissioners conducted performance reviews for the former Executive Director and current Executive Director in compliance with 5 GCA §43202.

The Board of Commissioners conducted six formal evaluations of the *former* Executive Director's performance annually from November 2013 through April 2018. These six formal evaluations were for the periods covering January 2013 through January 2018.

The Chief Executive's performance evaluation is not necessary if the Governing Board does not retain the Chief Exective in the 12-month period unless the Governing Board wants to document why the Chief Executive will not be retained. The Board of Commissioners did not conduct a formal evaluation of the *former* Executive Director's performance for the period covering January 2018 through January 2019 as he retired in December 2018.

In their July 8, 2019 general session, the Board of Commissioners decided to individually rate the *current* Executive Director and the *current* Deputy Director and submit their ratings to the Human Resources Manager for compilation. In July 2019, the Board of Commissioners conducted the *current* Executive Director's 6-month performance evaluation for the period covering January 2019 through July 2019.

Other Matters

GHURA Lacks Performance Evaluation Policy for Executive and Deputy Director

The U.S. Government Accountability Office Standards for Internal Control in the Federal Government states that *"management is responsible for designing the policies and procedures to fit an entity's circumstances and building them in as an integral part of the entity's operations."* In June 2005, the Board of Commissioners approved and implemented the Work Planning and Performance Evaluation System policy. Refer to Appendix 5 for an illustration of GHURA's Work Planning and Performance Evaluation System.

The Work Planning and Performance Evaluation System is a task-based employee performance evaluation system that links individual performance to performance standards. See Figure 2 for the Work Planning and Performance Evaluation System process.

Figure 2: Work Planning and Performance Evaluation System Process



GHURA's Work Planning and Performance Evaluation System, which is an efficient tool for improving employee effectiveness and productivity, applies to all classified and unclassified employees. However, the Executive Director and Deputy Director positions were not covered under such system as they are exempt appointments.

Without written policies and procedures, there is a risk of operational inefficiency, inconsistency, and accountability in retaining the Executive Director and Deputy Director. The Standards for Internal Control in the Federal Government recommends a documented process as an internal control procedure. Further, it states that those in key roles for the unit may further define policies through day-to-day procedures.

Therefore, we recommend that the Board of Commissioners develop written policies and procedures to ensure consistency in the evaluation process of its Executive Director and Deputy Director.

Conclusion

Our audit of the GHURA unclassified employees' pay raises and bonuses found that the GHURA Board of Commissioners generally complied with the Open Government Law in granting pay raises and bonuses to unclassified employees. We did not find any bonuses given to unclassified employees in our review of executive and general session minutes as well as personnel action forms. In addition, we found that the Board of Commissioners:

- Did not retain the minutes of their February 2015 executive session;
- Voted on two matters in its September 2018 and January 2019 executive sessions;
- Were inconsistent in the ratification of the *former* Executive Director and *former* Deputy Director's pay adjustments;
- Ratified the *current* Executive Director and *current* Deputy Director's pay adjustments; and
- Conducted performance reviews for the *former* and *current* Executive Directors.

Further, GHURA's Work Planning and Performance Evaluation System policy does not cover the Executive Director and Deputy Director positions.

The Open Government Law states that the people do not yield their individual rights to the public agencies, which serve them. Therefore, we recommended that the Board of Commissioners:

1. Consistently adhere to the requirement of the Open Government Law to ensure the minutes of every meeting are fairly recorded and open to public inspection;
2. Ensure that voting on matters takes place during general sessions;
3. Consistently ratify all pay adjustments for GHURA unclassified employees on a going-forward basis; and
4. Develop policies and procedures to ensure consistency in the evaluation process of GHURA's Executive Director and Deputy Director.

Classification of Monetary Amounts

Finding Description	Questioned Costs	Potential Savings	Unrealized Revenues	Other Financial Impact
GHURA's Compliance with the Open Government Law				
GHURA Did Not Retain Minutes of February 2015 Executive Session	$ -	$ -	$ -	$ -
Board of Commissioners Voted on Two Matters During Executive Sessions	$ -	$ -	$ -	$ -
Ratification of Pay Adjustments for Unclassified Employees				
Ratification of Former and Current Executive Directors' Pay Adjustments	$ -	$ -	$ -	$ -
Ratification of Former and Current Deputy Directors' Pay Adjustments	$ -	$ -	$ -	$ -
Performance Reviews of Agency Heads				
GHURA Former and Current Executive Directors Performance Reviews	$ -	$ -	$ -	$ -
Other Matters				
GHURA Lacks Performance Evaluation Policy for Executive Director and Deputy Director	$ -	$ -	$ -	$ -
Totals	**$ -**	**$ -**	**$ -**	**$ -**

Management Response and OPA Reply

In September 2020, we provided draft reports to the GHURA Chairperson and Executive Director as well as the Attorney General and Oversight Chairperson on Housing of the 35th Guam Legislature. In the same month, we met with GHURA's Chairman and management to discuss the findings and recommendations.

In GHURA's management response, GHURA's Executive Director agreed with our recommendations and generally agreed with our findings. Refer to Appendix 6 for GHURA's official management response.

The legislation creating the Office of Public Accountability requires agencies to prepare a corrective action plan to implement audit recommendations, document the progress in implementing the recommendations, and to endeavor to have implementation completed no later than the beginning of the next fiscal year. Accordingly, we will be contacting GHURA to provide us with a target date and title of official(s) responsible for implemting the recommendations.

We appreciate the cooperation and assistance from the staff and management of GHURA.

OFFICE OF PUBLIC ACCOUNTABILITY



Benjamin J.F. Cruz
Public Auditor

Appendix 1:
Objective, Scope & Methodology

Our audit objectives were to determine whether:

1) Pay raises and bonuses granted to unclassified employees complied with the applicable laws (Open Government Law and/or Prohibition on Bonus Pay for the Unclassified Employees); and
2) Performance reviews were conducted for the agency heads.

This audit is Part C of a three-part audit series on autonomous agencies unclassified employees' pay raises and bonuses, which focused on GHURA. We analyzed 16 autonomous agencies' staffing patterns from October 1, 2014 to September 30, 2019 and focused on agencies that had significant or frequent increases in pay between October 1, 2015 and September 30, 2019. Part A reported on GPA and GWA and was issued in December 2019. Part B reported on PAG and was issued in July 2020.

We made our observations and inquiries between June 2019 and August 2020.

Methodology

To accomplish our objectives, we performed the following pertaining to GHURA's unclassified employees' pay raises and bonuses:

- Identified and reviewed applicable laws and rules and regulations, prior audits, and internal policies.
- Met with GHURA officials to gain an understanding of the pay raises and bonuses.
- Requested and reviewed the listing of unclassified employees at the executive level.
- Reviewed GHURA staffing patterns to check for an influx in the unclassified employees' salaries.
- Inspected unclassified employees' performance evaluations.
- Reviewed and verified unclassified employees' pay increases in their Personnel Action Forms, and the basis for the pay increases.
- Listened to audio recordings of the executive and general sessions.
- Inspected executive session, special meeting, and general session minutes.
- Reviewed GHURA's compensation plan.

We conducted our audit in accordance with the standards for performance audits contained in Government Auditing Standards issued by the Comptroller General of the United States of America. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix 2:
Prior Audit Coverage

OPA Report No. 20-04, PAG Unclassified Employees' Pay Raises and Bonuses
From FY 2012 through FY 2019, the PAG Board of Directors generally complied with the Open Government Law. We did not find any bonuses given to unclassified employees in our review of executive and general sessions as well as personnel action forms. However, we found that the Board of Directors:

- Discussed and decided on the hiring of the former General Manager in their December 2012 executive session;
- Were inconsistent in the ratification of the former General Manager's pay adjustments as well as the former Deputy General Managers' pay adjustments; and
- Did not conduct a formal performance evaluation for the former General Manager in 2018.

We also found that the discussion on the migration to the PAG compensation plan's 25th market percentile took place during working sessions that were not open to the public.

We recommended that the Board of Directors consistently ratify all pay adjustments for PAG unclassified employees on a going-forward basis.

OPA Report No. 19-09, GPA and GWA Unclassified Employees' Pay Raises and Bonuses
From FY 2015 through FY 2019, the Consolidated Commission on Utilities (CCU) did not comply with the Open Government Law when it discussed and decided on employees' salaries and bonuses during their executive meetings. Specifically, we found that the:

- CCU violated P.L. 33-123 when it gave bonuses to certain unclassified employees after February 2016;
- After the Attorney General's (AG) April 23, 2019 opinion, most unclassified employees returned the voided salaries and bonuses provided by the CCU at its November 27, 2018 executive meeting, at the net amounts instead of the gross amounts;
- CCU did not conduct performance evaluations for GPA and GWA General Managers;
- CCU hired the former GWA Chief Financial Officer under a contract, but CCU and GWA could not provide the contract or procurement documents related to the employment; and
- Salary levels of GPA and GWA unclassified employees were inconsistent with CCU authorized pay range.

We recommended: (1) AG to provide an opinion on each of the salary levels, adjustments, and bonuses made to unclassified employees that were effective between October 2013 and January 2019; (2) CCU to consult with GPA and GWA's Payroll Specialists as to how employees should return the salary increments and bonuses; (3) AG to provide an opinion on how the employees should return the void salary increments and bonuses; and (4) CCU to consistently apply the agency-wide adopted pay scale.

Prior Audit Coverage

OPA Report No. 14-05, Government of Guam Merit Bonus Program
From fiscal years 2009 to 2013, the Government of Guam spent $12.6 million in retroactive merit bonus payments for over 4,200 employees. Specifically, we found:

- Advice from agencies' respective legal counsels reflected differences of opinion relating to the statute of limitations for merit bonuses. As a result, periods of performance review entitled to retroactive merit bonuses amongst agencies ranged from 3 to 23 years.
- Some agencies calculated a merit bonus off of the employee's current salary, not the increment salary, while some agencies did vice versa.
- Overall rating terms used in agency performance evaluation forms varied and resulted in employees receiving merit bonuses if the given rating was interpreted to be equivalent to "superior". In instances where performance evaluations did not have a "superior" rating, the highest possible rating was considered equivalent to "superior" for merit bonus purposes.

We recommended that the Department of Administration (DOA) follow through and submit their assessment and policy no later than September 30, 2015, but not without first seeking clarification on the merit bonus law from the AG. In October 2017, the former Public Auditor decided that this recommendation be closed as it was not implemented and no follow-up will be done by DOA.

Excerpts of General Session Minutes

September 25, 2014 General Session

Resolution No. FY2014-025—Approving the Fiscal Year 2015 Operating and Administrative Budget not to exceed $54,322,225

[redacted] presented to the Board the Operating and Administrative budget for Fiscal Year 2015. Originally when presented to the Board, there was a $919,807 shortfall based on anticipated funding from HUD. Funding estimates were at 66% for Section 8, which was short $458,424. Funding from HUD has been confirmed at 79.512% of the previous funding level.

[redacted] also presented the staffing pattern to the Board. For RPE and all the AMPs – there is a special line item – classification reviews at $5,000 for each section. This is being budgeted to review positions for re-classification.

Commissioner [redacted] asked [redacted] if any of our staff requested to have their position audited. [redacted] replied we are still waiting for the incumbents who are asking for this audit of their positions to provide their position descriptions and from there internal personnel auditors will review all details of those positions for reclassification as needed.

After review and discussion by the Members of the Board, a Motion was made by Commissioner [redacted] and Seconded by Vice Chairman [redacted] to approve Resolution No. FY2014-025 approving the Fiscal Year 2015 Operating and Administrative Budget not to exceed $54,322,225. Without further discussion or objections, the Motion was unanimously approved.

September 18, 2015 General Session

Resolution No. FY2015-027
Approving the Fiscal Year 2016 Operating & Administrative Budget

[redacted] provided an overview of the authority's budget for fiscal year 2016. Total revenues and expenses of $54,456,036, which is a 24% increase from FY2015. A summary of the program budgets was provided for the Board's information and placed on file for the Authority's record.

Chairman [redacted] requested management provide the Board with a transition plan from retirement to social security by the 2nd meeting in October.

A Motion was made by Commissioner [redacted] and Seconded by Commissioner [redacted] to approve Resolution No. FY2015-027 approving the Fiscal Year 2016 Operating & Administrative Budget with a 10% transfer authority to the Executive Director and report quarterly on all budget transfers to the Chairman of the Board. Without any further discussion or objection the Motion was unanimously approved.

September 9, 2016 General Session

2017 BUDGET

resolution to approve the FY2017 Operating and Administrative Budget. The Controller presented final changes made as a result of the Board working session held to discuss the FY2017 Budget.

The Chairman called for a motion to approve Resolution FY2016-025 as presented to the Board.

A Motion was made by Vice Chairman [redacted] and Seconded by Commissioner [redacted] to approve Resolution FY2016-025, the Resolution to adopt the FY2017 Operating and Administrative Budgets for AMPs 1-4, as submitted and presented by management. With no further discussion or objection, the Motion was unanimously approved.

August 31, 2017 General Session

Resolution No. FY2017-015 approving the Fiscal Year 2018 Operating and Administrative Budget

The Staffing pattern for the CDBG Planner IV position is funded for a year but separated for 6 months each due to the current position being filled by a Limited Term Appointment. It is a separate position number because it can't be combined. There is an upgrade for succession planning purposes in the architectural engineering division. A vacant Engineer II is being upgraded to an Engineer III position.

GHURA 500 is now included. It wasn't included in the budget presented on August 4th. There is $13,200 expenses for the Board which is basically advertising and stipends. An additional $108,000 is earmarked to cover the Central Office Cost Center (COCC) shortfall. The original shortfall presented in the August 4, 2017 meeting was about $118,000.

The column labeled Low Rent Housing represents the AMPs or Public Housing. AMP1 & AMP4 was originally showing a net loss. They are now going to utilize their reserves to cover their losses. At the ending of Fiscal Year 2016, there is a total of $7.2 million in the reserves for all 4 AMPs. With AMP2 and AMP3, a net income was reflected so they will give back to the reserves, increasing it for future purposes.

Regarding the staffing pattern for AMP1, the maintenance worker position is now vacant and will be funded at Step 1. With AMP3, the Property Site Manager (PSM) was transferred in from Guma Trankilidat (GT) which decrease their budget a bit. With AMP4, the funded Laborer will be unfunded and the Data Control Clerk will be reverted back from the General Trades Helper.

Payments in Lieu of Taxes (PILOT), funding will be made available by the AMPs which generate revenues in excess of expenses. No expenditures are shown for PILOT funds at this time.

Within Resident Opportunity Self Sufficiency (ROSS), the Program Coordinator II was funded for nine months. Once the position is filled, Program Coordinator I will be unfunded because it is funded for a full year.

In regards to Section 8, they were at a $97,000 budget deficient. The 3 vacant positions (Administrative Aide, Building Inspector, Interviewer Clerk) will be unfunded creating a $11,596 income

In regards to Section 8, they were at a $97,000 budget deficient. The 3 vacant positions (Administrative Aide, Building Inspector, Interviewer Clerk) will be unfunded creating a $11,596 income back to the administrative reserves.

With GT, the PSM and Maintenance Worker were transferred in from AMP4. The requested budget was sent to USDA and approved by them.

With Yona Urban Renewal (YUR), $40,000 is funded. $30,000 will address the settlements of property markers and the remaining $10, 000 will go to funding COCC.

Ms. L. Leon Guerrero stated that as of August 4, 2017, it showed that the deficiency was with: COCC at $118,000, Section 8 at $97,000, AMP1 at $40,000, and AMP4 at $199,000. AMP1 is now down to $17,390 and AMP4 is now at $139,000 due to the adjustments of the unfunded positions. AMPs 1 & 4 utilizing their reserves. With S8, the vacant positions were not funded. With COCC shortfall, it is now funded by GHURA 500 and Yona Urban Renewal, now balancing us out. We are requesting a total of $65,804,205 for GHURA's FY2018 Budget.

A motion was made by Commissioner [redacted] and seconded by Vice Chairman [redacted] to approve Resolution No. FY2017-015 approving the Fiscal Year 2018 Operating and Administrative Budget. Without any further discussion and objection, the motion was approved.

Excerpts of General Session Minutes

August 24, 2018 General Session

Resolution No. FY2018-022, approving the Fiscal Year 2019 Operating and Administrative Budget for a total amount of $64,706,045.00

[redacted] provided a summary of the budget request for FY2019 Operating and Administrative Budget for a total amount of $64,706,045.00 and FY2019 Operating budgets for Public Housing AMPs 1,2,3, & 4 for a total amount of $5,326,666.00

(comparison from FY2018)

- Increase of 4.17% in operating fund subsidy proration rate of 93.27%
- Decrease of 1% in Section 8 Administrative Fees prorated rate of 76%
- Increase of 3.75% for GT program approved rent of $1250.

Budget updates:
CDBG includes:

- Section 108 funding of $12M
- Cost allocation for building cost $28,752
- 2 Planner IV positions – 1 funded
- Downgrade Engineer III to II
- 24% Wage Compliance Officer Salary & Benefits spent for the Quality Assurance for PH

COCC:

- 50% Deputy Director's salary & benefits spent to expand the role of the Resident Advisory Board, initiate resident service to improve the quality of life & increase collections, decrease crime, vandalism and turnovers.
- 5.4% HR Administrator salary & benefits as an informal hearing officer for housing programs
- 10.8% IT Administrator salary & benefits as an information hearing officer, data preparation and processing, hardware troubleshooting, rent collection processing and software troubleshooting

A motion was made by Commissioner [redacted] and seconded by Resident Commissioner [redacted] to approve Resolution No. FY2018-023, approving the Fiscal Year 2019 Operating Budgets for Public Housing Asset Management Projects (AMP) GQ001000001, GQ001000002, GQ001000003, and GQ001000004 for the total amount of $5,326,666. Without any further discussion and objection, the Motion was approved.

GUAM HOUSING AND URBAN RENEWAL AUTHORITY
ATURIDAT GINIMA YAN RINUEBAN SUIDAT GUAHAN

BOARD OF COMMISSIONERS
RESOLUTION NO. FY 2013-014

Moved By: ROLAND SELVIDGE **Seconded By: LUIS PAULINO**

RESOLUTION TO APPROVE THE 2013 STARTING PAY FOR THE EXECUTIVE DIRECTOR'S POSITION

WHEREAS, pursuant to Section 5104, Title 12 of the Guam Code Annotated, the Board of Commissioners of the Guam Housing and Urban Renewal Authority (**GHURA**) is given the right and responsibility to govern and control the operations of the Authority, and to establish polices for its day-to-day operations, and generally to undertake its responsibilities as supreme authority for the Agency; and

WHEREAS, the **GHURA** Board of Commissioners is empowered to employ an Executive Director who shall serve at the pleasure of the Board; and

WHEREAS, the Executive Director position in 2012 was compensated at E-TG2-09(A) $100,071 per annum; $48.11 per hour; and

WHEREAS, the Executive Director's position was slated to move to E-TG2-10(A), $106,075 per annum; $51.00 per hour in April 2013; and

WHEREAS, the Human Resources Division recommends that the initial slotting for the Executive Director's position for 2013 be adjusted prospectively, to start at $106,075 per annum, to allow the compensation to coincide with the performance evaluation methodology currently used for the position;

WHEREAS, funding for this position is available under COCC funds; and now therefore be it

RESOLVED, the Board of Commissioners hereby approves the 2013 starting pay for the Executive Director to E-TG2-10(A), $106,075 per annum to be effective Thursday, February 21, 2013.

IN REGULAR BOARD MEETING, SINAJANA, GUAM – FEBRUARY 21, 2013

PASSED BY THE FOLLOWING VOTES:
AYES: **David Sablan, Cecile Suda, Rosie Ann Blas, Luis Paulino, Roland Selvidge**
NAYS: **None.**
ABSENT: **Deanne Torre**
ABSTAINED: **None.**

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted by the Guam Housing and Urban Renewal Authority Board of Commissioners on **February 21, 2013.**

(SEAL)

DAVID J. SABLAN
Chairman, Board of Commissioners

GUAM HOUSING AND URBAN RENEWAL AUTHORITY
BOARD OF COMMISSIONERS
RESOLUTION NO. FY 2019-007

Moved By: [redacted] **Seconded By:** [redacted]

RESOLUTION TO APPROVE THE APPOINTMENT OF [redacted] **AS THE EXECUTIVE DIRECTOR**

WHEREAS, pursuant to Section 5104, Title 12 of the Guam Code annotated, the Board of Commissioners of the Guam Housing and Urban Renewal Authority (**GHURA**) is given the right and responsibility to govern and control the operations of the Authority, and to establish polices for its day-to-day operations, and generally to undertake its responsibilities as supreme authority for the Agency; and

WHEREAS, the **GHURA** Board of Commissioners is empowered to employ a Executive Director who shall serve at the pleasure of the Board; and

WHEREAS, the Executive Director will be compensated at E-TG2 14(C) $136,596 per annum; $65.67 per hour

WHEREAS, funding for this position is available under COCC funds; and now therefore be it

RESOLVED, the Board of Commissioners hereby appoints [redacted] to the position of Executive Director and to be effective immediately.

IN REGULAR BOARD MEETING, HAGATNA, GUAM - JANUARY 11, 2019
PASSED BY THE FOLLOWING VOTES:
AYES: [redacted]
NAYS: NONE
ABSENT: [redacted]
ABSTAINED: NONE

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted by the Guam Housing and Urban Renewal Authority Board of Commissioners on **January 11, 2019.**

[redacted]
Acting Chairman, Board of Commissioners

(SEAL)

GUAM HOUSING AND URBAN RENEWAL AUTHORITY
BOARD OF COMMISSIONERS
RESOLUTION NO. FY 2019-008

Moved By: [redacted] **Seconded By:** [redacted]

RESOLUTION TO APPROVE THE APPOINTMENT OF [redacted] **AS THE DEPUTY DIRECTOR**

WHEREAS, pursuant to Section 5104, Title 12 of the Guam Code annotated, the Board of Commissioners of the Guam Housing and Urban Renewal Authority (**GHURA**) is given the right and responsibility to govern and control the operations of the Authority, and to establish polices for its day-to-day operations, and generally to undertake its responsibilities as supreme authority for the Agency; and

WHEREAS, the **GHURA** Board of Commissioners is empowered to employ a Deputy Director who shall serve at the pleasure of the Board; and

WHEREAS, the Deputy Director will be compensated at E-SG2 8(C) $87,260 per annum; $41.95 per hour

WHEREAS, funding for this position is available under COCC funds; and now therefore be it

RESOLVED, the Board of Commissioners hereby appoints [redacted] to the position of Deputy Director and to be effective Monday, January 14, 2019.

IN REGULAR BOARD MEETING, HAGATNA, GUAM - JANUARY 11, 2019
PASSED BY THE FOLLOWING VOTES:
AYES: [redacted]
NAYS: NONE
ABSENT: [redacted]
ABSTAINED: NONE

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted by the Guam Housing and Urban Renewal Authority Board of Commissioners on **January 11, 2019.**

(SEAL)

[redacted]
Acting Chairman, Board of Commissioners

GUAM HOUSING AND URBAN RENEWAL AUTHORITY
BOARD OF COMMISSIONERS
RESOLUTION NO. FY 2019-010

Moved By: [redacted] **Seconded By:** [redacted]

RESOLUTION TO APPROVE THE 2019 STARTING PAY FOR THE DEPUTY DIRECTOR'S POSITION

WHEREAS, pursuant to Section 5104, Title 12 of the Guam Code annotated, the Board of Commissioners of the Guam Housing and Urban Renewal Authority (**GHURA**) is given the right and responsibility to govern and control the operations of the Authority, and to establish polices for its day-to-day operations, and generally to undertake its responsibilities as supreme authority for the Agency; and

WHEREAS, the **GHURA** Board of Commissioners is empowered to employ a Deputy Director who shall serve at the pleasure of Executive Management and the Board; and

WHEREAS, in June 2012, notwithstanding GHURA's compensation methodology, the Board of Commissioners reduced the starting pay of the 2012 Deputy Director's salary to E-SG2-7(F), $84,742.00 per annum; $40.74 p/hr; and

WHEREAS, the 2012 Deputy Director's position pay rate did not move for two years from June 2012 to his subsequent resignation on October 2014; and

WHEREAS, in keeping with GHURA's compensation methodology, in May 2016, the incoming Deputy Director worked at the position's salary of E-SG2-8(C), $87,260.00 per annum or $41.95 per hour as a result of two performance evaluation increments; and

WHEREAS, recognizing that the starting pay for the current 2019 Deputy Director's position should have moved two steps for the years of 2013 and 2014, Executive Management is requesting the Deputy Director's position pay rate be reallocated two corresponding steps upon board approval to E-SG2-10(F); $100,930 per annum; $48.52 per hour; and

WHEREAS, funding for this position's pay rate available under COCC funds; and now therefore be it

RESOLVED, the Board of Commissioners hereby approves the 2019 starting pay for the Deputy Director to E-SG2-10(F), $100,930.00 per annum or $48.52 per hour to be effective as of today.

IN REGULAR BOARD MEETING, HAGATNA, GUAM -- January 25, 2019
PASSED BY THE FOLLOWING VOTES:
AYES: [redacted]
NAYS: **NONE**
ABSENT: **NONE**
ABSTAINED: NONE

(SEAL)

I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted by the Guam Housing and Urban Renewal Authority Board of Commissioners on **January 25, 2019.**

[redacted]
Board of Commissioners, Chairman (Acting)

GUAM HOUSING AND URBAN RENEWAL AUTHORITY
BOARD OF COMMISSIONERS
RESOLUTION NO. FY2019-018

Moved By: [redacted] **Seconded By:** [redacted]

Resolution Approving the GHURA/SECTION 8 ACTION PLAN, as Approved by the Board of Commissioners during the July 8, 2019 Regular Scheduled Meeting

WHEREAS, management respectfully requests, for record purposes, that the Board of Commissioners memorialize their July 8, 2019 approval of the GHURA/Section 8 Action Plan, in the form of a board resolution; and

WHEREAS, pursuant to Section 5103 and Section 5104, Title 12 of the Guam Code Annotated, the Board of Commissioners of the Guam Housing and Urban Renewal Authority (GHURA), is given the right and responsibility to govern and control the operations of the Authority, and to establish policies for its day-to-day operations, and generally to undertake its responsibilities as supreme authority for the Agency; and

WHEREAS, during the July 8, 2019 Board of Commissioners (BOC) regular scheduled meeting, Executive Director Ray S. Topasna, reported that officials from the U.S. Department of Housing and Urban Development (HUD) indicated that as much as $2.7M may be recaptured from the GHURA Section 8 (S8) housing program if the program's budget allotment is not expended; and

WHEREAS, reserve funds from the Public Housing (PH) program is also at risk of being recaptured for having four (4) times the amount of the required six-month reserves; and

WHEREAS, the Executive Director presented action items in detail that could immediately be implemented as follows: establish a new Fair Market Rent; expedite the process to obtain Guam Police Department (GPD) clearances; develop a S8 Marketing Campaign; increase the number of PBV to the maximum amount; develop a S8 Lease Up Task Team by hiring additional personnel (i.e., Housing Specialist, Building Inspector and Interviewer Clerk); restore FY2019 salary increments to eligible employees; implement an across-the-board one-step pay shift (new pay schedule) to all employees; make adjustments to address operating reserves; increase S8 operational efficiency; determine if refinancing of the USDA mortgage loan is allowable; implement the cost allocation of the Deputy Director's work to both S8 and PH programs; apply maximum allowable management fees to both S8 and PH; and adjust S8 rent to a more justifiable standard; and

WHEREAS, after discussion for specificity of the GHURA/Section 8 Action Plan (see attachment), the Board authorized immediate action be implemented where costs have been clearly identified – staffing shortfalls and Compensation Plan, restoration of salary increments, and across-the-board one-step pay shift; and

WHEREAS, the BOC approved the GHURA/Section 8 Action Plan during the July 8, 2019 regularly scheduled meeting; and

WHEREAS, the funding for this Action Plan is available under respective budgets as identified in the GHURA/Section 8 Action Plan (see attachment); and now therefore be it

RESOLVED, that the "GHURA Board of Commissioners approved GHURA Resolution FY2019-018, approving the GHURA/Section 8 Action Plan, as approved by the Board of Commissioners on July 8, 2019, and consistent with the minutes of said meeting, as approved by the Board on July 29, 2019." - verbatim by Commissioner Carl Dominguez.

IN A REGULAR BOARD MEETING, SINAJANA, GUAM – JULY 29, 2019

PASSED BY THE FOLLOWING VOTES:
AYES: [redacted]

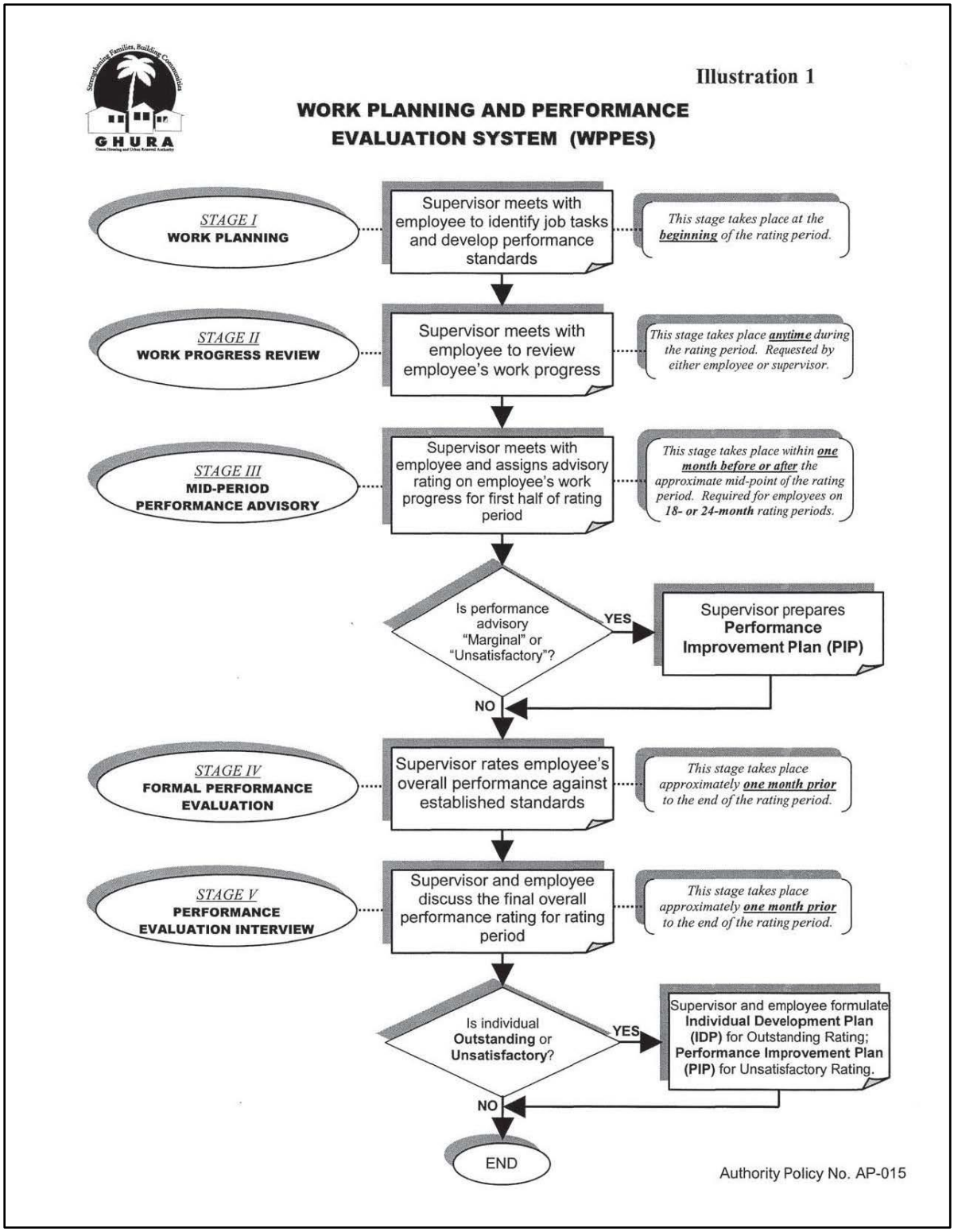
NAYES: **NONE**
ABSENT: **NONE**
ABSTAINED: **NONE**

I hereby certify that the foregoing is a full, true and correct copy of a Resolution duly adopted by the Guam Housing and Urban Renewal Board of Commissioners on **July 29, 2019**.

(S E A L)

[redacted]
Secretary/Executive Director

Appendix 5:
Work Planning and Performance Evaluation System



Appendix 6:
GHURA Management Response

GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudat Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
Website: www.ghura.org

EQUAL HOUSING OPPORTUNITY

Lourdes A. Leon Guerrero
Governor of Guam

Joshua F. Tenorio
Lt. Governor of Guam

Sabino P. Flores
Chairman

Monica O. Guzman
Vice Chairwoman

Anisia S. Delia
Commissioner

Frank T. Ishizaki
Commissioner

George F. Pereda
Commissioner

Joseph M. Leon Guerrero
Resident Commissioner

Ray S. Topasna
Executive Director

Elizabeth F. Napoli
Deputy Director

September 15, 2020

Mr. Benjamin F. Cruz
Public Auditor
Office of Public Accountability
238 Archbishop Flores Street, Ste. 401
Hagatna, Guam 96910

RE: Draft Findings – Unclassified Employees' Pay Raises and Bonuses Performance Audit

Dear Mr. Cruz:

Thank you for the opportunity in allowing us to respond to your draft audit report via zoom video conferencring on September 10, 2020.

To restate, the objective of your review was:

1. To determine whether pay raises and bonuses granted to unclassified employees complied with applicable laws (Open Government Law; Prohibition on Bonus Pay for Unclassified Employees).
2. To determine whether performance reviews were conducted for agency heads, with a review period of October 1, 2014 to September 30, 2019.

Under the two OPA objectives above, the Authority believes we were in compliance with the applicable laws and did not grant illegal pay raises or bonuses to unclassified employees. Additionally, pursuant to 5GCA Chapter 43, performance reviews were conducted for agency heads as it is tied to our formal Performance Evaluation System and compensation plan.

As stated during our September 10, 2020, zoom video conferencing meeting, it is our position to address issues only that occurred on our watch. Thank you for allowing us to provide you with the necessary documentation to close three (3) preliminary findings.

Since taking the helm with our new Board, GHURA has already made significant improvements to our executive management performance evaluation process. As always, we are open for better ways to improve efficienciences and will accept your recommendations moving forward.

Thank you again for allowing us the opportunity to respond to your draft audit report. Should you have any questions, please let me know.

Ray S. Topasna
Executive Director

CC: File

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 above address and telephone numbers.

Appendix 7:
Status of Audit Recommendations

No.	Addressee	Audit Recommendation	Status	Action Required
1.	Board of Commissioners	Consistently adhere to the requirement that the minutes of every meeting shall be fairly recorded and open to public inspection.	OPEN	Please provide the target date and title of the official(s) responsible for implementing the recommendation.
2.	Board of Commissioners	Ensure that voting on matters takes place during general sessions.	OPEN	Please provide the target date and title of the official(s) responsible for implementing the recommendation.
3.	Board of Commissioners	Consistently ratify all pay adjustments for GHURA unclassified employees on a going-forward basis.	OPEN	Please provide the target date and title of the official(s) responsible for implementing the recommendation.
4.	Board of Commissioners	Develop policies and procedures to ensure consistency in the evaluation process of the Executive Director and Deputy Director.	OPEN	Please provide the target date and title of the official(s) responsible for implementing the recommendation.

Guam Housing and Urban Renewal Authority
Unclassified Employees' Pay Raises and Bonuses
Report No. 20-05, September 2020

ACKNOWLEDGEMENTS

Key contributions to this report were made by:

Amacris Legaspi, CGFM, Auditor-in-Charge
Andriana Quitugua, CFE, Auditor-in-Charge
Clariza Roque, CGFM, CGAP, CICA, Audit Supervisor
Benjamin J.F. Cruz, Public Auditor

MISSION STATEMENT

To ensure public trust and good governance in the Government of Guam, we conduct audits and administer procurement appeals, with objectivity, professionalism, and accountability.

VISION

The Government of Guam is a model for good governance with OPA leading by example as a model robust audit office.

CORE VALUES

Objectivity: To have an independent and impartial mind.
Professionalism: To adhere to ethical and professional standards.
Accountability: To be responsible and transparent in our actions.

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- **Visit our website at www.opaguam.org**
- **Call our office at 475-0390**
- **Fax our office at 472-7951**
- **Or visit us at Suite 401, DNA Building in Hagåtña**

All information will be held in strict confidence.

Doc. No. 35GL-20-2230.*