



EXECUTIVE SUMMARY
Port Authority of Guam Unclassified Employees' Pay Raises and Bonuses
Report No. 20-04, July 2020

Our audit of the Port Authority of Guam (PAG) unclassified employees' pay raises and bonuses found that 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 session minutes 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 ratification¹ 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.

Former General Manager's Hiring Discussed/Decided during PAG Executive Session

According to 5 GCA §8111(a), 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 must be held in a public meeting and minutes shall be kept and open to the public. Also, 5 GCA §8111(d) requires that all voting must be held in a public meeting and minutes shall be kept and open to the public.

PAG generally complied with the Open Government Law relative to personnel matters. However, we found that the Board of Directors discussed and decided on the hiring of the *former* General Manager in its executive session. We acknowledge that the Board of Directors motioned and approved the hiring of the *former* General Manager once the general session reconvened.

Inconsistency in the Ratification of the Former General Manager's Pay Adjustments

From the *former* General Manager's hiring in December 2012 until her retirement in January 2019, the *former* General Manager received nine pay adjustments in total. Of the nine pay adjustments provided to the *former* General Manager, seven were due to formal performance evaluations and two pay adjustments were as a result of PAG's Compensation and Classification Plan. While the Board of Directors ratified the October 2016 and September 2018 pay adjustments, the *former* General Manager's pay adjustments from October 2013 through February 2018 were not ratified.

Former Deputy General Managers' Pay Adjustments Not Ratified

Throughout their employment, the *former* General Manager conducted formal performance evaluations of the *former* Deputy General Manager of Administration and Finance and *former* Deputy General Manager of Operations and Maintenance. The PAG Board of Directors approved the *former* Deputy General Managers' performance evaluations presented by the *former* General Manager. While we believe that the *former* Deputy General Managers' pay adjustments were

¹ "Ratify" means to approve or sanction formally (<https://www.merriam-webster.com/dictionary/ratify>).

justified through formal performance evaluations, the PAG Board of Directors did not ratify these adjustments.

No Record of Performance Review for Former PAG General Manager in 2018

Although a pay adjustment was received in 2018, the Board of Directors did not conduct a formal evaluation of the *former* General Manager's performance for the period covering December 2017 through December 2018. Based on 5 GCA §43202, governing boards for all agencies must issue performance reviews of the Chief Executive selected for that agency six months after appointment of the Chief Executive and every 12 months thereafter that the Chief Executive is retained by the Governing Board. As a result, we questioned PAG's basis for providing the *former* General Manager a pay increase for that period.

Discussion on the Cost of the Migration of CTP Personnel to the 25th Market Percentile in Working Sessions

Public Law 30-43 authorized PAG to implement a market-based compensation model that would aid in the attraction and retention of Certified, Technical, and Professional (CTP) personnel. According to PAG, there were 172 employees that were below the 25th market percentile implementation range and 183 employees that were above the 25th market percentile implementation range. The Board of Directors and Management granted a 3% increase to the 183 employees. This action granted employees to exceed the maximum step of their respective position's pay grade implementation range, as long as the employee did not exceed Step 20 of that pay grade.

The Board of Directors complied with the Open Government Law when they discussed and voted on the approval and adoption of Board Resolution 2018-05. However, they violated the spirit of the law when discussions on the cost of migrating employees to the plan's 25th market percentile took place during working sessions that were not open to the public.

Except for the vote on the matter, there was no other discussion involving the Port Compensation and Classification Plan and the 25th market percentile migration. A former Board Member confirmed that there were two other meetings held to discuss the plan and the migration prior to the August 28, 2018 general session. These sessions were held with PAG staff and not open to the public. PAG noted that the Board of Directors' practice of conducting working sessions not open to the public no longer exists.

Further, the public was not aware of how much PAG would spend to migrate CTP personnel to the 25th market percentile. In Resolution 2018-05, there was no mention of any fiscal impact nor was this fiscal impact provided in the FY 2019 Budget. PAG's FY 2019 budget was approved without any regard to the full implementation of the 2018 Classification and Compensation Plan.

Conclusion

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 PAG Board of Directors consistently ratify all pay adjustments for PAG unclassified employees on a going forward basis.

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