



Office of the Public Auditor

FY 2009 - Budget Presentation



Mission Statement

- We audit, assess, and analyze government activities with integrity, independence, and impartiality to improve the accountability, effectiveness, and efficiency of the Government of Guam.
- In other words. . .



Mission Statement cont.

- We serve the public interest by providing the Governor, the Legislature, and the People of Guam with reliable, unbiased analysis and recommendations to improve the fiscal well-being of government operations.



2007- Year in Review

- Calendar Year 2007 was one of turmoil and anxiety for OPA staff
- The issues of independence and the authority to compensate, promote, and hire new staff remain our primary concerns
- P.L. 29-02 cut our budget and our ability to pay essential staff
- P.L. 29-19 (FY '08 Budget Act) mandated the rollback of supervisory salaries which were above Step 10, adversely affecting three OPA supervisor positions



2007- Year in Review

- As a direct result, one supervisor has resigned and took a higher paying position with UOG
- The two remaining supervisors still face salary cuts, despite not receiving a salary increment in three years
- The OPA continues to function effectively despite the loss of six other staff and the promotion freeze
- In CY '07 OPA personnel was cut 40%, from a staff of 18 to 11
- In August 2006, when personnel responsibilities of CSC were transferred to DOA, DOA stated that it would no longer process OPA personnel actions



2007- Year in Review

- DOA reversed its five year position that the Public Auditor had the authority to set salaries for unclassified staff
- In Jan. 2001 the elected Public Auditor sought the advice of CSC legal counsel as to the status of OPA staff
- With the approval of CSC legal counsel, DOA processed all OPA personnel actions in the unclassified service -- some above Step 10 -- from Jan. 2001 until 2006
- At no time during these years did CSC staff, the DOA Director or DOA personnel staff indicate that OPA hiring practices were inappropriate or contrary to law
- Until Legislation is passed to clarify the classification and hiring of OPA staff, DOA will not process pay adjustments, promotions, or new staff



OPA Independence In Jeopardy

- No independent audit office should be controlled by the auditee
- OPA conducted 11 audits of DOA, the central accounting, procurement, and human resource agency for line entities
- With the change of personnel function from CSC, DOA reversed its five year position as to the status, recruitment, and promotion of OPA staff
- DOA now has the authority over OPA staff recruitment and promotion, rather than the PA
- This change affects the very independence of any audit office



Mission Statement

- OPA supervisors and staff are key to the operation and function of the organization and our Motto remains:

“Auditing for Better Government”



2007- Year in Review

- Despite the loss of staff, OPA issued 19 audits, analyses, and other reviews in CY 2007, and identified over **\$33.3M** in financial impact, **\$11.4 million (M) in questioned costs, waste, and abuse**, **\$6.5M in foregone revenues**, and **\$15.4M in revenues diverted from the General Fund for tax credit programs**
- These reports made **45 recommendations** to the audited government entities to improve accountability and operational efficiency



Audits Completed in 2007

- **Of the 19 audits, analyses, and reviews, seven were mandated by public law:**
 - GPSS's follow-up to the FY 2007 payroll analysis (P.L. 28-149)
 - GPSS's FY 2007 cash disbursement schedule report (P.L. 28-149)
 - The four quarterly financial reports, submitted by government entities (P.L.'s 28-149, 28-150, 29-02)
 - A summary of the 3rd and 4th quarter financial reporting



Audits Completed in 2007

- **Eight reports were initiated at Legislative and Executive branch requests:**
 - Attorney General's Financial Condition and Historical Data
 - GovGuam Retirement Fund COLA
 - COLA Fund Transfers
 - GovGuam Debt Ceiling Calculation and Re-Calculation
 - SPIMA Bingo Funds
 - DPW Tipping Fees
 - Cost of Legal Services to the Government of Guam



Audits Completed in 2007

- **The remaining reports included the audits of:**
 - GovGuam’s Vehicle Fleet Inventory
 - GovGuam’s Tax Credit Programs
 - DOA Travel Advances
 - Status of OPA’s Recommendations



Audits Completed in 2007

Report No. 07-01 GPSS Cash Disbursement Schedule

- Of the \$173M appropriated for GPSS operations, OPA estimated that:
 - \$120.5M will be needed for salaries
 - \$31.9M for benefits
 - \$12.4M for power
 - \$1.7M for water
 - \$271,262 for telephone
 - Leaving only \$6.2M for capital outlay, supplies, equipment, travel, and miscellaneous expenditures



Audits Completed in 2007

Report No. 07-02 Office of the Attorney General Financial Condition and Historical Data

- This audit found that a higher percentage of federal expenditures were used in the first four months; or 52% compared to 31% of local expenditures
- Of \$8.1M in FY 2007 local appropriations, \$2.5M or 31% had been expended by January 31, 2007, leaving \$5.6M for the remainder of the fiscal year
- Of \$6.5M in FY 2007 federal appropriations, \$3.4M or 52% been expended by January 31, 2007, leaving \$3.1M for the remaining eight months
- Despite the higher usage of funds within the first four months, we found nothing to merit a further review



Audits Completed in 2007

Report No. 07-03 Follow-up of GPSS Payroll Analysis

- We found discrepancies in GPSS allotments recorded by DOA and GPSS
 - GPSS claims that \$9.3M of cash received was for FY 2006 appropriations while DOA states it was for FY 2007
- Employee count grew by 120, from 2,999 to 3,119 employees in just five months
- Labor costs from September 2003 and February 2007 increased by \$1.2M or 26% per pay period
- The increased labor costs leave fewer dollars to meet GPSS's current operational needs, make past due payments of \$17.2M to the Retirement Fund, or reduce its \$42.1M deficit



Audits Completed in 2007

Report Nos. 07-04, 07-07, 07-11, 07-16, 07-17 Quarterly Financial Reports

- The FY 2007 Budget Act required 58 entities to submit various reports manually, electronically, and to be posted on the entity's website, to avoid penalties
- In the 3rd qtr, P.L. 29-02 replaced the de-appropriation penalty with a 20% salary reduction for directors, deputies, and CFOs who fail to comply with the reporting requirements
- By the 4th qtr, 49 entities or 84% complied with all the reporting requirements, an improvement from 40 entities or 69% in the third quarter
- To date, no agency head and related staff has been penalized with a 20% salary reduction for non-compliance in the 3rd and 4th quarters



Audits Completed in 2007

Report No. 07-05 Cost of Living Allowance (COLA)

- At the request of the DOA Director, we compared the COLA calculations of the Retirement Fund, the Governor's Office, and the Superior Court's final settlement Order
- The \$123.6M COLA amount awarded by the Superior Court was **\$27M more** than the Retirement Fund's \$96M calculation and **\$117M more** than the Governor's Office calculation of \$6.6M
- The differences stemmed from the inflation rates used
 - Retirement Fund used the Guam Department of Commerce's floating base year inflation rates depending on the individual's retirement year
 - Governor's Office used Hawaii's floating base year inflation rates depending on the individual's retirement year
 - Superior Court used the Guam Department of Commerce's 1988 base year inflation rates regardless of the individual's retirement year



Audits Completed in 2007

Report No. 07-05 Cost of Living Allowance (COLA) (cont.)

- Of 4,877 GovGuam retirees:
 - 52% are entitled to COLA awards of \$20,000 or less, consuming 21% of the \$123.6M
 - 48% are entitled to COLA in excess of \$20,000, taking up 79% of the entire award
 - Of the 48%, 61 retirees will be entitled to awards greater than \$100K each
- None of the three calculations deducted the \$76M in supplemental annuities already given to retirees from FY 1991- FY 1995



Audits Completed in 2007

Report No. 07-06 GGARP / SPIMA Bingo Activities

- A senator in the 28th Guam Legislature expressed concerns about the accountability, maintenance, and management of bingo funds at the 12 Senior Centers
- Our audit found that DPHSS did not provide sufficient oversight and GGARP/SPIMA did not establish adequate cash controls over bingo activities estimated at nearly \$2.2M
- Bingo activities had grown significantly between 2004 and 2006 without adequate monitoring, oversight, and proper cash reconciliation
- We found discrepancies in amounts deposited of \$19,667 and questioned costs or unsupported and unapproved disbursements of \$10,325



Audits Completed in 2007

Report No. 07-08 DPW Commercial Tipping Fees

- Commercial tipping fees were not properly applied, billed, and collected as DPW and DOA did not issue timely billing notices or collect on past due accounts
- Of the \$3.6M in commercial tipping fee receivables as of January 31, 2007, \$2.4M or 65% were over 120 days old
- Some commercial haulers continue to utilize the Ordot Dump due to DPW's inability to aggressively collect from delinquent haulers
- We estimated revenue loss of \$4 million due to DPW's inability to provide service to approximately 12,000 residential customers
- Undetermined amount in government revenues lost since 1997 due to DPW not replacing a broken weigh scale
- DPW is still in the process of procuring a new weigh scale but has temporarily contracted with a private firm to place an operable scale at the dump until a new scale is purchased



Audits Completed in 2007

Report No. 07-09 Dept. of Administration Fund Transfers

- \$9M was transferred to the General Fund pursuant to P.L. 28-151 to pay court ordered COLA:
 - \$4M from the Tourist Attraction Fund Construction Fund,
 - \$4M from the Territorial Highway Fund Construction Fund
 - \$1M from the GTA Privatization Fund
- However, the funds were used to pay FY 2007 annual COLA and other operational expenses
- The THF Construction Fund needs the cash to complete ongoing projects
- The Attorney General determined that DOA must repay these transfers



Audits Completed in 2007

Report Nos. 07-10, 07-13 GovGuam Debt Ceiling Calculation and Re-calculation

- P.L. 29-19 amended the calculation of assessed value of property from 35% to 70% of the appraised value. The Organic Act debt ceiling is 10% of the assessed value
- This doubled the amount the government could borrow without a corresponding increase in the real estate tax rate, a concern raised in the U.S. Supreme Court ruling
- Our initial calculation of the GovGuam debt ceiling as of October 2006 was \$406.9M and re-calculated to \$813.7M
- As of December 31, 2006, the total GovGuam debt subject to the debt ceiling is \$251.6M
- The amount available for additional bond borrowing by GovGuam increased from \$155.2M to \$562.1M as of December 31, 2006, as a result of the change in law



Audits Completed in 2007

Report No. 07-12 GovGuam Vehicle Fleet Inventory

- No complete, accurate, and reconciled record of the government's general purpose vehicle inventory exists
- Duplicate records of government vehicles remain with DPW, DRT, and DOA which do not reconcile
- Staff resources are replicated in the inputting, updating, and tracking of the same vehicle data by three different agencies
- Significant differences in inventory counts exist between DPW, DRT, DOA, and other agencies
- DPW's antiquated vehicle inventory software cannot be electronically read or interface with software used by DRT or DOA
- Of the 40 vehicles inspected, 26 vehicles or 65% did not have any agency logo or name as required by law



Audits Completed in 2007

Report No. 07-14 DOA's Travel Advances

- The continued disregard of travel policies resulted in the growth of travel advances not cleared timely
- \$1.1M in travel advances were not cleared as of December 31, 2006, compared to \$113K in 1995
- \$203,000 in recorded travel advances where no specific departments have been charged and travelers' names no longer have a payroll match in the system
- Travel vouchers are not filed within the 15 days of return, as required, and some vouchers were found as long as 200 days overdue



Audits Completed in 2007

Report No. 07-15 GovGuam Tax Credit Programs

- Nine tax credit programs authorized a minimum of \$23.6M in tax credits to taxpayers who contribute to the government for various programs
- \$8.2M was offset against companies' taxes for their participation in the Guam Raceway Park, \$1.5M for the Paseo Stadium, and \$1M for the Soccer Stadium projects. \$13M is pending in other programs
- GEDCA merely processed tax credits and did not authorize credits in accordance to law or compliance with rules because related special-interest groups were allowed to make key decisions
- GEDCA lacked verification and documentation of \$595,440 for the dollar-for-dollar matching requirement to the Soccer Stadium
- These tax credit programs have a higher funding priority than education, health, and safety because they do not compete in the annual budget process



Audits Completed in 2007

Report No. 07-18 Status of OPA Audit Recommendations

- From January 2001 through December 2006, OPA issued 64 reports, which identified \$46.2M in questioned costs, \$9.6M in unrealized revenue, and \$18.3M of potential savings, dormant bank accounts, unreported amounts, and unreconciled differences, for a total of \$74.1M in financial impacts
- The 64 reports also made 420 recommendations
- As of July 31, 2007, 301 recommendations or 72% have been closed; 119 or 28% remain open
- OPA reports generally found that government managers lack an understanding of the importance of implementing effective internal controls, or checks and balances, such as monitoring, supervisory review, separation of duties, establishing a positive control environment, and ensuring accurate and timely recording of transactions



Audits Completed in 2007

Report on the Cost of Legal Services

- At a Senator's request we provided a schedule of legal costs for line and autonomous entities
- We were unable to determine the total legal costs for the entire government, since all legal contracts could not be obtained
- Of the contracts we did obtain, we determined that \$2,483,305 was expended for legal services in FY 2006 by government entities
- This figure was \$13,998 less than the \$2,497,303 for FY 2005



Prior Year Audit Plans and Current

- Since its inception, OPA audits have focused on uncovering fraud, waste, and abuse in our government; we will continue to focus resources in these areas
- In our fourth and fifth years, we performed accountability and internal control audits of non-appropriated funds
- In our sixth year, we conducted audits mandated by public laws, follow-up reviews of past audits, and other core accountability and compliance audits
- In our seventh year, mandated audits and requests for audits by government officials have taken 32% of staff resources
- In our eighth year, to the extent of our shrunken workforce can manage, our focus will be on government wide issues affecting our ever-growing General Fund deficit now at over half a billion



High Risk Areas

- When conducting audits, we apply a risk-based approach to audit selection; identifying those areas that have the highest risk of loss or possible mismanagement of funds
- High risk areas have been small entities that have checking accounts. OPA audits of these entities have consistently shown:
 - Lack of understanding of the importance of internal controls, checks, and balances
 - Lack of monitoring and oversight
 - Improper procurement and
 - Lack of financial reporting



Financial Impacts Identified by OPA

2007: \$ 33.3M

2006: \$ 20.9M

2005: \$ 6.2M

2004: \$ 16.4M

2003: \$ 26.8M

2001 & 2002: \$ 3.8M

TOTAL: \$107.4M

- Financial impacts are the questioned costs, waste and abuse, lost revenue opportunities, dormant bank accounts, unreported amounts, and un-reconciled accounts identified by OPA audits



Audits in Progress

- Quarterly financial reporting mandated by the FY 2008 Budget Act
- Solid waste landfill contract
- GPSS cash disbursement schedules
- GPSS capital and maintenance procurement
- Promissory notes
- GPSS cost per pupil
- GovGuam overtime



Indictments from Audits

Recent indictments and convictions from audits include:

- In 2008 a former GIAA Executive Manager was sentenced to four months of house arrest and fined \$5,000 after being convicted in 2005 for official misconduct and fraudulent use of a government credit card
- In 2007 three government employees were indicted and legal action was taken:
 - The former president and the former treasurer of the PAG Goodwill and Morale Association were charged with conspiracy and theft as a felony
 - The Attorney General sued the former Guam Baseball League commissioner for misusing Paseo Stadium funds



Indictments from Audits

Based on audits in prior years:

- Four government officials were indicted
 - Of the four, two indictments were dismissed and two others are still awaiting trial
- Four government officials entered into plea agreements
- One government official was found guilty at trial



Financial Audits Issued in 2007

- 1 GCA §1909(a) and Federal Single Audit Act require all financial audits to be issued by June 30 (9 months after year end)
- The FY 2006 government of Guam audit was submitted in June 2007, the second timely issuance in the history of our government, the first year being the FY 2005 audit
- For the first time, all component units were included
- However, the audit had two qualifications: (1) the inability to audit the provision for tax refunds of \$272.9M as of 9/30/06 and (2) GMHA's inadequate accounting records for receivables and capital assets



Financial Audits Issued in 2007

- We reviewed and analyzed 18 financial audits of autonomous agencies and the General Fund which identified:
 - \$4M in questioned costs
 - 136 audit findings and
 - 66 management letter comments
- General Fund questioned costs increased by 375% to \$2.8M from \$584K with procurement findings being the majority of the questioned costs



Financial Audits Issued in 2007

- In FY 2002, DOA had over \$51.3M in cumulative questioned costs
- In FY 2006, DOA resolved \$7.5M in prior year questioned costs
- Between Fiscal Years 2002 and 2006 DOA resolved \$50.7M, leaving \$5.8M in unresolved General Fund costs
- We applaud DOA's continued efforts to resolve questioned costs for all Executive Branch agencies
- The accounting infrastructure continues to be weak at most government entities, particularly at GPSS, GMH, and KGTF
- GMH and GPSS had questioned costs of \$607K and \$245K, respectively. GPSS remains on high-risk status with the US Dept. of Education



Financial Audits

- Over the past seven years, financial audits have improved with timely issuance, lower questioned costs, and fewer findings
- CY 2006
 - 20 Financial Audits Issued
 - \$4.4M in Questioned Costs
 - 188 Audit Findings and 79 Management Letter Comments
- CY 2005
 - 26 Financial Audits Issued
 - \$2.1M in Questioned Costs
 - 236 Audit Findings and 21 Management Letter Comments
- CY 2004
 - 25 Financial Audits Issued
 - \$13.1M in Questioned Costs
 - 485 Audit Findings and 29 Management Letter Comments



Financial Audits

- CY 2003
 - 14 Financial Audits Issued
 - \$22.4M in Questioned Costs
 - 260 Audit Findings
- CY 2002
 - 13 Financial Audits Issued
 - \$10M in Questioned Costs
 - 181 Audit Findings
- CY 2001
 - 11 Financial Audits Issued
 - \$15K in Questioned Costs
 - 39 Audit Findings



General Fund Deficit

- The General Fund has serious fiscal problems because actual expenditures have consistently exceeded actual revenues
- The FY 2006 General Fund deficit was \$524.1M, exceeding the actual revenue of \$423.3M
- FY 2006 deficit increased by \$175.7M, a 50% jump over FY 2005
- In March 2007 Standard & Poor's (S&P) downgraded GovGuam's bond status and placed GovGuam on a Credit Watch with negative implications
- In June 2007 S&P removed the Credit Watch and affirmed GovGuam's B rating on its General Obligation Debt
- Unpaid tax refunds totaled \$272.9M at the end of FY 2006 compared to \$207M for FY 2005

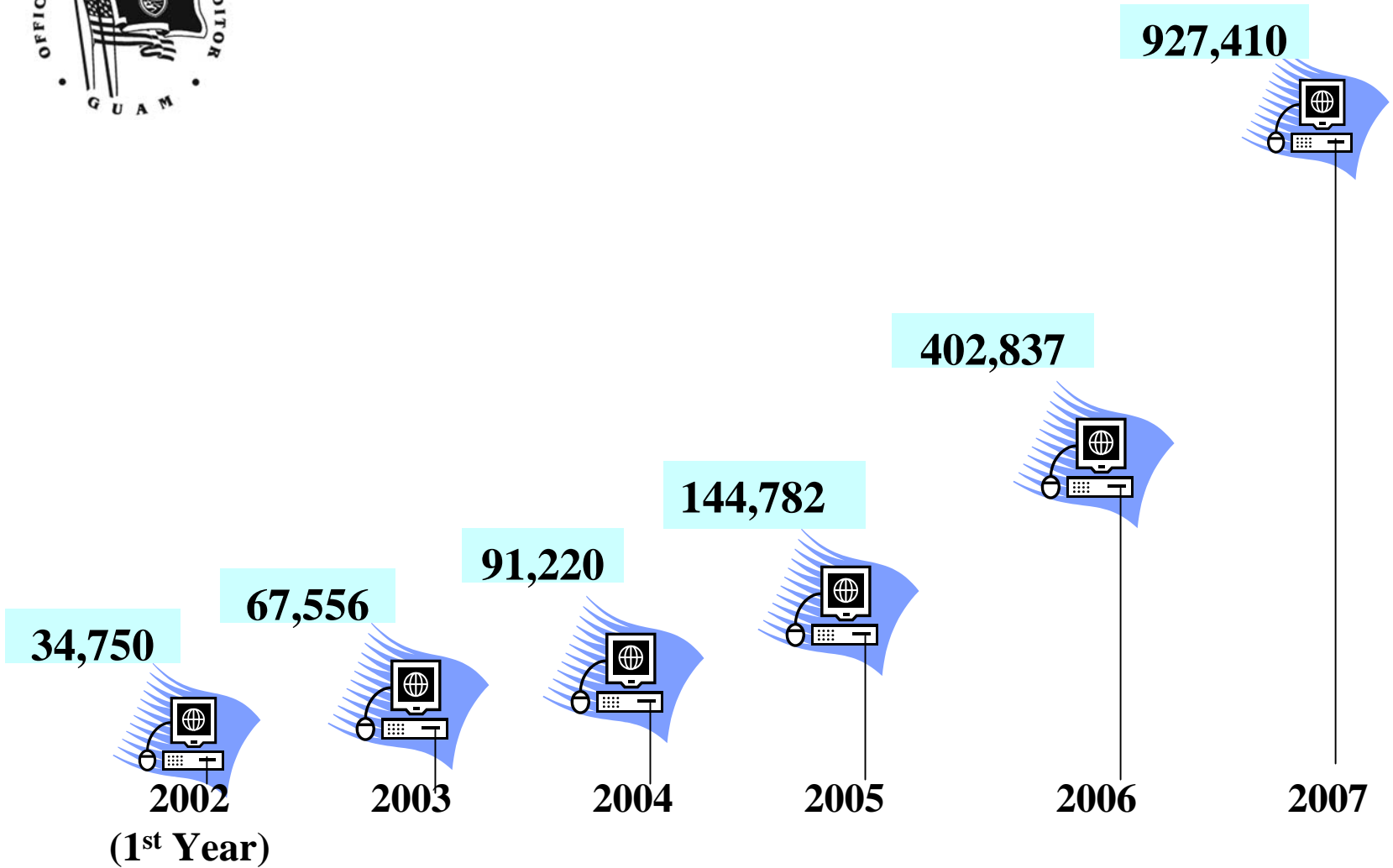


OPA Website Hits / Visits

- To ensure public accountability and enhance transparency in our government, all OPA audit reports and financial audits of government entities are posted on OPA's website, www.guamopa.org
- In addition to performance and financial audit information, the OPA website also contains budget, expenditure, and staffing patterns required by the various Budget Acts
- In 2006 our website recorded 402,837 hits. In 2007 the hits doubled to nearly one million, the largest number thus far
- The OPA website has become an important source of reliable information about the financial condition of our government



OPA Website Hits / Visits





HOTLINE Tips

- The OPA HOTLINE provides the public with the means to pass on questions and concerns about our government
- HOTLINE tips are investigated and addressed accordingly
- In HOTLINE's first year, 2001, we received 163 tips
- Our highest number of tips was 175 in 2004 and our lowest was 112 in 2006
- OPA's sole investigator addressed more than 85% of the 2006 tips
- In 2007 we received 157 HOTLINE tips



Investigative Section

- OPA's sole investigator retired from government service in the summer of 2007; he has yet to be replaced
- Since the loss of our Investigator, nearly 98% of our 2007 tips have remained unaddressed
- Now, in addition to audit duties, audit staff are assigned to handle HOTLINE tips and to follow-up and coordinate with the Attorney General's Office for indictment and prosecution



Reduced Appropriation by P.L. 29-02

- In May 2007 OPA's audit and procurement appeals divisions faced a 13% budget cut in the last five months of the fiscal year
 - \$1.1M **reduced to** \$958K for audits; a **\$145K cut**
 - \$134K **reduced to** \$116K for procurement; **an \$18K cut**
- Given the General Fund deficit, we expressed no objection to the initial 5% budget cut. However, the final cut of 13% in the remaining five months of the fiscal year was tantamount to a 26% annual cut



Re-assignment of Work as a Result of Budget Cuts

- Our 13% reduction, one of the highest cuts of any government agency, resulted in:
 - The decision of our sole investigator to retire and of four other OPA staff to resign
 - Two auditors, the Hearing Officer and her Assistant
 - More cost cutting measures and the reassignment of the workload
 - Re-configured OPA budget and existing contracts to handle cuts
 - Re-negotiated and reduced office space rental
 - Re-assigned audit work in progress
 - Re-assigned of procurement work in progress and search for a temporary Hearing Officer from the Attorney General's Office and private attorneys
 - Re-assigned investigative work, although unable to address most investigative requests
 - Transfer of one management analyst from audit to procurement appeals
 - Staff continue to function despite increased workload
 - End result: fewer audits and investigations due to fewer staff



Staff Turnover & Retention

- As an elected office, OPA staff were hired as unclassified employees with the approval of the CSC legal counsel
- All personnel actions, including hiring and promotions, are processed by DOA
- Neither DOA nor CSC staff expressed reservations, concerns or objections to the hiring of unclassified employees above Step 10
- In FY 2006, with the transfer of CSC duties to DOA, DOA reversed its position that OPA pay adjustments above Step 10 should be consistent with the Hay Methodology, which states that staff above Step 10 are required to wait two years for an increment
- DOA HR asserts that all auditors, including OPA auditors, are the same and therefore do not merit different pay grades
- OPA auditors differ from other government auditors in that their work is performance auditing in compliance with the *Government Auditing Standards* issued by the US Comptroller General
- OPA auditors are required to have 40 hours of continuing professional education annually and are subject to tri-annual quality reviews by outside auditors



Staff Turnover & Retention

- Classified employees may receive a minimum two-step increment upon promotion, but unclassified employees are not afforded the same consideration
- Local CPA firms and autonomous agencies continue to provide higher salaries to their staff
- OPA salaries should remain competitive to retain competent, qualified staff in which hundreds of training hours have been invested for their professional development
- From the initial staff of eight recruited in 2001, only one individual remains
- Staff turnover has been a continuing problem, but was most severe in 2007 as OPA' staff was reduced by 40%



Staff Turnover & Retention

- Consistent with 1 GCA § 1900, which states that the OPA is independent from the Executive, Legislative, and Judicial branches, the Civil Service Commission afforded the elected Public Auditor the same authority and flexibility as afforded other elected officials to determine staff salaries and increments
- 1 GCA § 1909 (i) also states that subject to the availability of funds. . . [OPA] may employ such necessary staff to carry out the functions and responsibilities of the office
- We urge the Legislature to amend 1 GCA § 1907(b), which states that the salaries shall be fixed by DOA in accordance with the Hay Study and allow the Public Auditor to give pay adjustments as are afforded other elected officials



FY 2008 Budget Act

P.L. 29-19

- The FY 2008 Budget Act passed a punitive provision:
 - Section 63 added a new 4 G.C.A. Section 6205.2 which states:
 - (a) No agency, department, autonomous agency, public corporation, or other instrumentality of the government of Guam shall authorize compensation above Step 10 for the initial appointment, hiring, or recruitment of an employee. This Section shall not apply to the Office of I Maga'lahen Guahan, Office of Segundo Na Maga'lahen Guahan, Guam State Clearinghouse, I Liheslaturan Guahan, to any agency whose governing board has exclusive authority over compensation, or to any positions specifically exempted by law.
 - (b) Notwithstanding any other provision of law, the Director of Administration shall adjust the compensation of an unclassified employee who was hired above Step 10 before the enactment hereof effective the date of this enactment [September 29, 2007]. Failure to comply with this section shall result in the de-appropriation of the total amount of compensation paid in violation hereof from the budget of the non-compliant agency.



FY 2008 Budget Act

P.L. 29-19

- OPA was the **only** office affected by this provision. Other elected offices and autonomous entities were exempted
- OPA's three audit supervisors were the only ones affected by this provision with potential pay cuts of \$11K, \$17K, and \$20K, respectively
- In November 2007, distress and financial pressure forced one supervisor to resign and accept a higher paying job with an autonomous entity
- Only a temporary court order has forestalled the pay cuts of the remaining two supervisors and we continue to await the court's determination on this punitive provision



FY 2008 Budget Act

P.L. 29-19

- If all supervisors are lost, OPA will not be able to hire replacements
- A Step 10 salary is not sufficient to attract qualified professionals for these positions
- This is the same case for OPA's Procurement Hearing Officer, who must be a qualified and licensed attorney, and the OPA Investigator



FY 2008 Budget Act

P.L. 29-19

- Overall, Section 63 affects OPA's independence and its ability to hire and maintain qualified and professional staff to carry out the Public Auditor's directive and statutory mandates
 - These mandates include the requirement to annually audit all departments, offices, corporations, authorities, and agencies in all branches of the Government of Guam
- Many state auditors' staff serve at the pleasure of the state auditor
- The CNMI and the VI Public Auditors are able to set salaries prescribed by government pay grades



Staffing Issues

- As a result of PLs 29-02 and 29-19, OPA lost seven of its 18 staff, a 40% loss in personnel
- These cuts were experienced in a five month period, from July 2007 (before P.L. 29-02) to December 2007 (after P.L. 29-19)
- As of Feb. 2008 DOA continues not to process OPA personnel actions for promotion or recruitment

BEFORE PL 29-02

- Public Auditor
- 3 Audit Supervisors
- Admin Officer
- Investigator
- Hearing Officer
- 1 procurement staff
- 10 audit staff

AFTER PL 29-02

- Public Auditor
- 3 Audit Supervisors
- Admin Officer
- 1 procurement staff
- 8 audit staff

AFTER PL 29-19

- Public Auditor
- 2 Audit Supervisors
- Admin Officer
- 1 procurement staff
- 6 audit staff



Audit Staff Compensation

- The Public Auditor highly encourages staff to obtain national certifications and advanced degrees
- In 2007 three staff obtained national certification as Certified Government Financial Managers.
- The following 7 OPA staff are en route to earning additional certifications or graduate degrees:
 - 2 Certified Public Accountant candidates
 - 2 Certified Government Financial Manager candidates
 - 1 Certified Internal Auditor candidate
 - 1 Master of Business Administration candidate
 - 1 Master of Public Administration candidate
- DOA continues not to process OPA personnel action forms because unclassified staff who acquire advanced professional certifications or graduate degrees are not entitled to merit increments above Step 10
- OPA also lost certified personnel due to the budget cuts



Staff Certifications

At the beginning of CY 2007 18 Staff had these Certifications

- 4 Certified Public Accountants
- 2 Certified Internal Auditors
- 1 Certified Fraud Examiner
- 7 Certified Government Financial Managers
- 2 Masters of Business Administration
- 1 Master of Organizational Management

By the end of CY 2007 11 Staff had these Certifications

- 2 Certified Public Accountants (decreased from 4)
- 2 Certified Internal Auditors
- 6 Certified Government Financial Managers (decreased from 7)
- 1 Master of Business Administration (decreased from 2)
- 1 Master of Organizational Management



Training Grant

Working with Department of the Interior's Office of Inspector General (DOI OIG), the OPA received the following

Technical Assistance Grant No. G-109

<u>Description</u>	<u>Grant Amount</u>	<u>Date Approved</u>
Initial Grant	\$38,100.00	Oct. 9, 2003
Amendment #1	19,050.00	Jul. 15, 2004
Amendment #2	95,200.00	Nov. 3, 2004
Amendment # 3	66,500.00	Feb. 2, 2007
Total Grant G-109:	\$218,850.00	

- To date, we have expended \$193K of this grant
- A training grant request for \$80,000 was approved by DOI OIA in Feb. 2008
- Three staff attended the IG Academy for basic non- investigator training at Glynco, GA.



Training Grant

- Seven staff received 8 to 10 weeks of on-the-job training at DOI OIG offices: three in Albuquerque, NM and four in Lakewood, CO.
- Our former Investigator received on-the-job training at the DOI OIG Sacramento, CA office for six weeks and two weeks training at the IG Academy in Glynco, GA
- OPA staff also attended other training courses



DOI OIA Urges Strong Public Auditor Offices

- In December 2007 DOI OIA Deputy Assistant Secretary David Cohen reiterated his commitment to the territories' Public Auditors and expressed that strong Public Auditor Offices will be a factor in determining discretionary DOI grants
- Mr. Cohen also wanted to ensure “that public auditor’s offices are protected in their independence and are properly funded and properly staffed with qualified people, starting from the very top”
- Because of Guam OPA problems, he stated that “we simply want to ensure that public auditor’s offices are not allowed to fall so far as to become irrelevant, unable to perform their role in any significant fashion”



GovGuam Audit Spending

- GovGuam spends less than a half cent of every dollar of general fund and special revenues of \$685.6M on audits, or \$2.1M: \$1M for financial audits and \$1.1M for OPA
- With a \$1.1M appropriation for FY 2007, we completed 19 audits, analyses, and reports that identified \$33.3M in questioned costs, waste, abuse, improper procurement, lost revenue opportunities, and un-reconciled differences in accounts
- That is a significant return on investment



Additional Responsibilities

- The Legislature passed over 34 laws affecting and expanding the role of OPA:
 - Procurement Appeals Jurisdiction
 - Standards for public officials' ethics training and seminar coordination
 - Quarterly review of FY 2006, 2007, and 2008 financial reporting requirements
 - High risk monitoring of Guam Public School System federal grants
 - GPSS cash disbursement schedule reviews



Additional Responsibilities

- Biennial compliance audit of the Public Market Revolving Fund
- Triennial audit of the GPD Asset Forfeiture Fund
- Reporting center for certain funds:
 - Emergency declaration expenditures
 - Typhoon expenditures
 - Mayors' non-appropriated funds - quarterly
 - Veterans Affairs donations - quarterly
 - GPD Asset Forfeiture Fund - annually
 - Guam Football (Soccer) Federation and Guam Baseball Federation - annually
 - Public Market Fund – biennial



FY 08 Appropriation

• Salaries & Benefits	\$ 973,239
• Contractual	78,000
• Rent & Janitorial	76,500
• Miscellaneous	11,000
• Supplies	10,500
• Equipment	10,000
• Travel	9,000
• Telephone & water	<u>9,000</u>
• Total	<u>\$1,177,239</u>



FY 2009 Budget Request

- We request a budget of \$1,133,066, a 4% decrease of \$44,173 from our FY 2008 appropriation of \$1,177,239. The decrease is attributable to vacancies not beyond Step 10 and no salary increments for staff who are at Step 10
- For FY 2008, with the loss of seven staff and the inability to give salary increments, we project a \$270,000 lapse in personnel costs
- Until clarifying legislation is enacted, OPA's ability to recruit new staff, provide salary increments, and promote staff to higher levels remains in limbo



FY 2009 Budget Request

• Salaries & Benefits	\$ 941,796
• Rent & Janitorial	74,400
• Contractual	49,020
• Equipment	30,500
• Travel	12,050
• Miscellaneous	10,100
• Telephone & water	9,200
• Supplies	6,000
Total	<u>\$ 1,133,066</u>



Procurement Appeals

- The designation of OPA as the hearing authority for Procurement Appeals indicates a significant level of trust and confidence in OPA. We are humbled by the Legislature's trust and will continue to ensure fair and balanced procedures for all procurement appeals
- Procurement Appeals became fully operational and began accepting appeals in October 2006, when the rules of procedures were promulgated through the AAA
- We acknowledge and thank the first Hearing Officer and her assistant for the development of the procurement rules and regulations, operational since October 2006



Procurement Appeals

- If Procurement Appeals were a separate entity, there would have been additional costs. Cost savings and other benefits include:
 - OPA staff provides administrative support, including back-up personnel when on leave
 - Common Use of OPA equipment, telephone and fax numbers, fax and copy machines, and the website
 - OPA audits provide historical perspective of procurement
 - Use of space without charge for rent
- In FY 2006, its first year, Procurement Appeals received \$100,000 and expended \$78,000. For FY 2007, the appropriation was increased to \$118,046 while the carryover of \$22,000 was not allowed
- In FY 2008 we received \$173,193



Procurement Appeals

- In July 2007, with the budget cut by P.L. 29-02, there was insufficient appropriation for the payment of salaries beyond August 2007 and we lost our Hearing Officer and the procurement appeals staff assistant
- Seven pending procurement appeals went without resolution
- To handle the backlog of appeals, OPA contracted two private attorneys to serve as the Hearing Officer, one primary and the other secondary
- Having two attorneys allows OPA to select, should one or the other be in conflict with a specific appellant or appellee involved in the appeal



Procurement Appeals

- In 2007, 11 appeals were filed and addressed by the OPA
 - Four dismissed
 - Two decisions issued
 - Two had hearings and await decisions
 - Three in pre-hearings and await further proceedings
- The appeals are a **267% increase** from the 3 appeals filed in 2006



Appeals Filed in 2007

- Dismissals:

- 07-001 (Jones & Guerrero Co. Inc. vs. UOG)

Due to cancellation of bid and no evidence of formal protest filed to UOG

- 07-003 (Maeda Pacific Corporation vs. GIAA)

Due the appellant's withdrawal of the appeal

- 07-004 (Teal Pacific LLC vs. GMHA)

Due to the Public Auditor's personal impairment. Teal Pacific's recourse is now to file with the Superior Court

- 07-008 (Advance Management Inc. vs. GPSS)

Due to no evidence of formal protest filed with GPSS. However, in Pre-Hearing agreements, GPSS would forward appropriate vendor contracts to the Dept. of Labor for further review as they are the correct agency to handle labor and wage issues



Appeals Filed in 2007

- Decisions Issued:
 - 07-002 (Emission Technologies Inc. vs. GPA)
 - TRC Environmental Inc. lacked a Guam business license required by GPA-RFP-07-002 at the time of submittal. OPA directed GPA to cease TRC consideration for award and proceed with the procurement in accordance with 5 GCA Section 5451
 - TRC Environmental appealed this decision to the Superior Court for OPA's alleged lack of jurisdiction. Post litigation on this decision still continues and the final hearing was held in Superior Court on Feb. 1, 2008.
 - 07-007 (Dick Pacific Construction Inc. vs. GIAA)
 - OPA found that GIAA properly rejected DPC's bid as DPC was not a responsive bidder for IFB No. GIAA-C09-FY07. As such, DPC's appeal was hereby denied and GIAA's Decision denying DPC's protest of award was sustained



Appeals Filed in 2007

- Two had hearings and await decisions:
 - 07-006 (Great-West Retirement Services vs. GGRF)
 - A hearing was held for this appeal on January 21, 2008 and a decision will be forthcoming
 - 07-009 (Pacific Security Alarm vs. GMHA)
 - A hearing was held for this appeal on February 21, 2008 and a decision will be forthcoming.



Appeals Filed in 2007

- Three appeals had pre-hearings and await further proceedings
 - 07-005 (Jones and Guerrero vs. GMHA)
 - This appeal concerns the procurement of a GMHA warehouse expansion project
 - 07-010 (Far East Equipment Company vs. PAG)
 - This appeal concerns the procurement of a 40-ton forklift
 - 07-011 (JMI Medical Systems Inc. vs. GMHA)
 - This appeal concerns the procurement of an automated microbiology analyzer



CY 2008 Appeals in Progress

- Three appeals received as of February 2008
 - Two were dismissed
 - 08-001 (Far East Pacific Company vs. GSA / PAG)
 - 08-002 (Far East Pacific Company vs. GSA / PAG)
 - Both dismissed due to the Public Auditor's personal impairment with PAG's attorneys
 - One is in progress and awaiting further proceedings
 - 08-003 (Jones and Guerrero Co. dba Island Business Systems vs. GPSS)
 - This bid concerns copier contracts on equipment and related supplies and materials



FY 08 Appropriation Procurement Appeals

• Contractual	\$120,000
• Salaries & Benefits	49,200
• Supplies	1,500
• Miscellaneous	1,293
• Equipment	1,200
• Rent	0
• Total	<u>\$173,193</u>



FY 2009 Budget Request

Procurement Appeals

- We request a budget of \$177,643. The minor increase from the \$173,193 FY 2008 budget reflects additional expenses and technical training required to handle the increase in procurement appeals filed
- The number of appeals filed in CY 2007 increased by 267% from CY 2006, from 3 to 11. And, trends in 2008 show we can expect the same amount of appeals filed in CY 2007 or more, as three appeals were filed within the first six weeks of CY 2008



Procurement Appeals

FY 2009 Budget Request

• Contractual	\$ 114,080
• Salaries & Benefits	48,563
• Travel	12,000
• Supplies	2,000
• Equipment	1,000
• Rent	0
• Total	<hr/> <u>\$177,643</u>



Proposed Amendments to Procurement Appeals Rules & Law

Proposed Rule Changes

- Issuing Separate Findings of Fact
 - Amend 2 GAR Section 12110 to eliminate the requirement for the Hearing Officer (HO) to issue a separate Findings of Fact and provide for only one Decision issued by the PA, with guidance from the HO
- 30 Days to Issue Decision
 - Amend 2 GAR Section 12110 so OPA is not confined to issue a Decision within 30 days of the hearing, as appeals are complex and may require more time
- Disqualification of Public Auditor
 - Amend 2 GAR Section 12602 to allow for other OPA officers (i.e. audit supervisor or HO) to hear appeals rather than have appeals be taken to Superior Court, should the PA be disqualified, provided the alternate is not in conflict.

Proposed Law Changes

- Decisions of the Public Auditor
 - Amend 5 GCA Section 5702 to allow other officers of OPA (i.e. audit supervisor or HO) to issue a decision once the Public Auditor is disqualified or in conflict and cannot take appropriate action on an appeal

OPA will go through the AAA for all proposed rule changes and will request any amendments to law to the Legislature



FY 2008 Budget Comparison

CNMI

- FY 08 Budget:
\$2.994 M
- Staff: 30 (17 in audit, 5 investigators, 3 in compliance, 2 legal, 2 admin & PA)
- PA Salary: \$100,000
- Formula for Budget: 1% Total Govt. Revenues/\$1M base
- Financial Audits = \$670K
- FY 06 Total Govt. Revenues: \$345M

General Fund	\$192.7M
Special Revenue	\$50.1M
Other Funds	\$54M
subtotal	\$297M
Autonomous Entities	\$48M

GUAM

- FY 08 Budget:
\$1.2M Audit & Investigation plus
\$173K Procurement Appeals
- Staff: 13 (8 in audit, 1 admin, 1 procurement, two contract attorneys & PA)
- PA Salary: \$100,000
- Formula for Budget: None
- Financial Audits paid by autonomous agencies
- FY 06 Total Govt. Revenues: \$1.2 billion

General Fund	\$432.6M
Special Revenue	\$106.5M
Other Funds	\$146.6M
subtotal	\$685.7 M
Autonomous Entities	\$563.7M



FY 2008 Budget Comparison

- By comparison, the CNMI Public Auditor's approved budget is three times larger than the Guam OPA for a government 1/3 the size of Guam
- The CNMI PA has total authority to set salaries for his staff, review taxes, and the ability to set personnel rules for his office