



Guam Waterworks Authority Typhoon Chata'an Expenditures

Investigative Letter Report For the Month of July 2002

**OPA Report No. 03-05
May 2003**

Distribution:

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May 2003

Honorable Vicente C. Pangelinan
Speaker 27th Guam Legislature
155 Hesler Street
Hagåtña, GU 96910

Dear Speaker Pangelinan:

On October 7, 2002, then Senator Joseph F. Ada said in a letter to the Public Auditor, "Clearly, GWA has not effectively used all of the monies appropriated for typhoon recovery." The Senator requested the OPA to examine "how funds appropriated to GWA for typhoon recovery were used...." The request was made during a period when schools were being closed due to lack of water and the island was experiencing intermittent boil water notices. The situation had been exacerbated by the passage of Typhoons Chata'an and Halong in July 2002. Because the Senator who requested the review is no longer in the Legislature, we are directing our response to you.

Scope and Objective

OPA staff met with Senator Ada and his staff on November 14, 2002, for further clarification. Although there were many issues discussed spanning the last three years, we ultimately determined that our efforts should be focused on the period in July in which the two typhoons affected the island and which was the subject of the original request.

Our objective was to determine whether funds that were appropriated to GWA for the purpose of repairing motors and other equipment were used for the purpose of restoring the island's water and wastewater systems. The scope of our work was limited to that defined area and we did not perform an audit of the general effectiveness and efficiency of the overall operations of GWA.

Background

OPA staff reviewed legislation enacted to facilitate the typhoon recovery effort, reviewed documentation regarding funds transferred to GWA for typhoon recovery costs, and interviewed members of the financial staff of GWA.

Section 2 of Public Law 26-117 made up to \$17.4 million available to the Governor for typhoon restoration.¹ The legislation provided for the restoration of damaged

¹ Section 2 specifically provided: "**Expenditure Authority.** Beginning July 3, 2002 and for forty-five (45) days from the enactment of this Act, *I Maga'lahaen Guåhan* may spend up to Five Million Dollars

government services and infrastructure “including but not limited to restoration of roads and highways; restoration of power; restoration of water; restoration of telephone; repair of schools to pre-typhoon conditions both private and public, with *priority* of spending to public schools; repair of facilities belonging to non-profit organizations to pre-typhoon conditions; repair of public buildings; restoration of public parks; restoration of sports facilities; interim public housing;...overtime compensation for existing personnel needed to perform emergency and restorative services; and classified supervisory personnel overtime.”

The \$17.4 million were available “beginning July 3, 2002 and for 45 days from the enactment of this Act”² “Any funds appropriated and unexpended 65 days thereafter shall revert to the General Fund.”³ The latest expenditure report as of March 31, 2003 reflects expenditures of approximately \$9,417,272. In order to confirm the accuracy of this number, we compared it to an April 14, 2003 report created by the Recovery Coordination Office (RCO) and found there to be a difference of nearly \$3 million (See Appendix B). We recommend the Department of Administration reconcile their records with those of the RCO and issue a final closeout report for Typhoon Chata’an expenditures by the Government of Guam as required by Public Law 26-116.

Of the \$17.4 million appropriated for typhoon recovery, GWA received \$500,000 that was used to reimburse payroll-related costs incurred during the typhoon recovery process and not for repairing motors and other equipment. PL 26-117 did not restrict GWA to equipment-related purchases.

(\$5,000,000) of the unexpended proceeds of the new money bonds under Article 10, Chapter 22 of Title 5 of the Guam Code Annotated, currently slated for Phase II of the Tumon Redevelopment Project, *up to* Eight Million Dollars (\$8,000,000) from the unreserved fund balance of the Territorial Highway Bond, *up to* One Million Eight Hundred Thousand Dollars (\$1,800,000) from the unreserved fund balance of the Educational Bond Fund, and notwithstanding any other provision of law, a sum *not to exceed* in aggregate Two Million Six Hundred Thousand Dollars (\$2,600,000) from Special Funds of the Executive Branch of the government of Guam, for Typhoon Chata’an and Typhoon Halong recovery efforts.

To the greatest extent possible, typhoon-related expenditures shall be those pre-approved by Federal Emergency Management Agency (‘FEMA’) for reimbursement to the government of Guam, for the purpose of providing and restoring damaged government services and infrastructure to the People of Guam resulting from Typhoon Chata’an or Typhoon Halong which serve to benefit and promote public health, safety, sanitation and welfare, including, but *not* limited to, restoration of roads and highways; restoration of power; restoration of water; restoration of telephone; repair of schools to pre-typhoon conditions, both private and public, with *priority* of spending to public schools; repair of facilities belonging to non-profit organizations to pre-typhoon conditions; repair of public buildings; restoration of public parks; restoration of sports facilities; interim public housing; repairing damage to government property; **overtime compensation for existing personnel needed to perform emergency** and restorative services; and classified supervisory personnel overtime, including, but *not* limited to, police, fire, public health and hospital, and for other services consistent with the intent of this Act.”

² P.L. 26-117 became law July 26, 2002, giving the Governor until September 9, 2002, to encumber funds.

³ P.L. 26-117 Section 3 (d)

Findings and Conclusions

Reporting Requirements

We contacted the Recovery Coordination Office (RCO) for a status of eligible typhoon expenditures. According to the RCO report as of April 14, 2003, the Government of Guam line agencies had submitted over \$5 million in disaster related expenditures that has been approved. The autonomous agencies submitted another \$7 million of typhoon expenditures, the bulk of which were submitted by the Guam Power Authority, which had over \$5.7 million in eligible expenses. GWA, on the other hand, had only \$343,434 of eligible typhoon expenditures.

RCO informed us that GWA's initial Disaster Survey Report indicated that they had incurred approximately \$3.6 million in typhoon related damage. However, of this \$3.6 million submitted, the RCO has determined thus far that only \$343,434 has been sufficiently documented to warrant reimbursement. GWA and the Government of Guam may be losing nearly \$3 million on FEMA reimbursements due to GWA's inability to produce the proper documentation. The failure of GWA to adequately document typhoon Chataan expenditures is indicative of the lack of proper management oversight that existed at GWA during this timeframe.

Documents obtained from GWA and the Department of Administration indicated that \$500,000 had been received by GWA from the General Fund. Because the expenditures that have been adequately documented by GWA are less than the \$500,000 received from the Government of Guam, we believe the difference of \$190,909 (\$500,000 minus \$309,091 (90% of \$343,434))⁴ should be returned to the General Fund. We recommend that the Director of Administration pursue collection from GWA. We also recommend that GWA devote immediate attention to documenting other costs that may be recoverable from FEMA.

Drawdowns Included Regular Payroll Reimbursements

GWA requested four draw downs from the Department of Administration totaling \$773,467 as follows:

Overtime 7/13/02	\$219,207
Local Matching Fund	200,000
Overtime 7/27/02	138,529
Regular payroll 7/13/02	<u>215,731</u>
Total	\$773,467

⁴ In a letter to Governor Carl T. C. Gutierrez dated August 28, 2002, President George W. Bush authorized a cost sharing arrangement for typhoon recovery costs wherein Federal funds would cover 90% of total eligible costs.

There was no documentation to indicate which costs were being reimbursed. The typhoon legislation allowed agencies to be reimbursed for overtime for emergency and restorative services but did not address regular overtime. The issue of whether regular payroll that was also used for typhoon recovery should be clarified with FEMA.

Payroll Testing

We tested selected transactions for the two pay periods in July 2002. We non-statistically selected five payroll items for testing from the pay period ending July 13, 2002. This was one of the July pay periods that we were asked to review by Senator Ada and it is the pay period when Typhoons Chata'an and Halong occurred. As is shown in the table below, the five employees tested earned a combined \$26,524 in the two-week pay period:

Employee Designation	Amount Paid for PPE 7/13/02
Employee 1	\$ 5,691
Employee 2	\$ 3,966
Employee 3	\$ 4,923
Employee 4	\$ 7,110
Employee 5	\$ 4,834
Total	\$ 26,524

Upon further review of the details of the payroll register, we found the following:

For the five employees tested during the pay period, we found 14 instances in which an employee claimed more than 16 hours worked in a single day in his timesheet.

Further, of the 14 instances noted above, there were six occasions in which three employees were paid for working more than 24 hours in a single day. One employee was paid for working 37.5 hours on July 5, 2002.

It is apparent that the controls over the payroll system are insufficient. We discussed this with some members of the GWA staff and were advised that GWA timekeepers were on a very tight deadline between the date of system restoration following the typhoons and the payroll due date. We asked if there had been any post audit work to identify possible payroll discrepancies and were told that there are insufficient resources available in the payroll section to perform that type of work.

We recommend that GWA management ensure there is a post audit of payroll costs incurred in future situations in which the payroll section and timekeepers are required to perform under unusually stressful and complicated conditions.

We further recommend that GWA perform a post audit of payroll expenses immediately following Typhoon Chata'an, determine the total number of employees who charged excessive hours on their timesheets, and recoup the amounts that were overpaid. We recommend the Attorney General review this matter to determine if these payments of excessive hours constitutes official misconduct, theft of government resources, or other illegal acts.

Time Sheets Not Available

We requested time sheets for the five employees but we were advised that there is no central collection point for time sheets. GWA staff told us that the time sheets might be retrievable, but they were not confident of their ability to obtain the documents. We had again requested copies of the time sheets but have not received the timesheets as of the date of this report.

Employee #4 Inputs own Hours, Lack of Supervisory Review

We viewed the time entry input screens for the five employees and found that Employee #4 had input his own time. When we asked to see evidence of supervisory review of the time entered by this employee, GWA staff replied that the system is not set up to require the online review by a supervisor prior to processing.

Further testimony from GWA staff indicated this employee frequently took advantage of what they characterized as political connections⁵ and engaged in possible misconduct without appropriate censure from GWA management.

We are disturbed by GWA's lack of control over payroll one of the most significant expense classes on the GWA financial statements. We recommend that GWA immediately review the procedures governing the processing of payroll data to ensure this type of abuse is not repeated. We further recommend that GWA review the entire payroll listing for the pay period ending July 13, 2002, to determine how widespread the abuse was and to take appropriate personnel action. We are forwarding this matter to the Attorney General for a determination as to whether or not any aspect of these findings constitute official misconduct, theft of government resources or other illegal acts.

⁵ The employee is a sibling of a member of the 27th Guam Legislature, but we note that the person who is now a Senator did not hold political office in 2002.

The hours worked in excess of 24 per day are shown below:

Employee ID	1 st Occurrence	2 nd Occurrence	3 rd Occurrence
Employee #1	26	34	N/A
Employee #2	26	N/A	N/A
Employee #4	33.5	37.5	31

A full summary of the number of hours worked for the five employees tested is reflected in Appendix A.

Inconsistent Timekeeping Practices

We found inconsistencies in the determination of hours eligible for overtime payments. In some instances, overtime hours were charged for all hours worked on a Sunday. In other instances, overtime hours were not accumulated until the employee had worked 40 hours.

The personnel rules provided to us by GWA include the following clause:

“In determining the number of hours worked by an employee within a given workweek or work period, time spent off on annual, administrative, sick, compensatory time-off, other leave (with or without pay), or holidays will not be counted as time worked. Such time off with pay shall be included in straight time pay, but it is not included in computing whether a covered employee has worked in excess of forty (40) straight time hours in a workweek.”

For each of the five employees tested, we found that overtime was paid prior to the completion of 40 straight time hours. The numbers of hours paid incorrectly were 2, 3, 5, 5.5, and 20 hours for the five employees, respectively.

We were advised by GWA payroll staff that employees are entitled to receive straight-time pay in addition to administrative-leave pay for the first eight hours they work during Typhoon Condition 1. We found instances in which employees were paid straight time for hours worked during Typhoon Condition 1; however, we also found instances in which employees were paid time and one-half for the first eight hours they worked during Condition 1.

We were provided a copy of the GWA personnel rules and regulations and were advised they follow the Department of Administration personnel rules and regulations. The section cited to us was Section 7.404/F/5. The policy was not clear to us so we contacted DOA for a clarification of the proper payment for an employee who works during Conditions 1 and 2. DOA payroll staff advised us that employees who work

during Conditions 1 and 2 are entitled to receive time and half for all hours worked in addition to 8 hours of administrative leave.

It is apparent that additional training is required governing the proper rates of pay to be earned by employees during emergencies. Additionally, we recommend that the Director of the Department of Administration and the Consolidated Commission on Utilities consider modifying the personnel rules and regulations as to the payment of overtime. The current practice of paying the equivalent of two and one-half times an employee's base rate for hours worked by critical personnel during Typhoon Conditions 1 and 2 is difficult to reconcile with the austere conditions our government faces. An alternative would be to compensate people in the same manner as holiday pay, where an employee receives 2 times the employee's base rate for the eight hours or more worked rather than 2 ½ times the base rate.

We urge uniformity of Personnel Rules and Regulations. The Consolidation Commission on Utilities and the Department of Administration should not have different personnel rules and regulations. This is one government not a multiplicity of governments. All government employees, regardless of where employed, should be governed by the same Personnel Rules and Regulations. We urge the Guam Legislature to consider passage of legislation to ensure uniformity of Personnel Rules and Regulations throughout the Government of Guam. We urge the Department of Administration to issue a close out report summarizing Typhoon Chata'an expenditures and reimbursements.

Management Response

We provided a draft copy of this report to GWA management on April 23, 2003. Preliminary comments indicated they generally concurred with the findings in this report. Management did not concur with our finding regarding excessive overtime hours, however, they were unable to provide us with evidence to support their position. As of the issuance of this report, a written response to our findings has not been received from GWA management.

Limitations of the Report

This letter contains only evidentiary conclusions based on limited documentation reviewed by OPA staff. OPA did not perform an audit utilizing generally accepted government auditing standards.

This letter has been released to the GWA interim General Manager, the Consolidated Commission on Utilities, the Governor, members of the 27th Guam Legislature, the

Attorney General and the Director of Administration. This letter is a matter of public record and its distribution is not limited.

Senseramente,

A handwritten signature in black ink, appearing to read 'Dor Brooks'.

Doris Flores Brooks, CPA, CGFM
Public Auditor

APPENDIX A

Employee 1

Pay Type	4-Jul	5-Jul	9-Jul	10-Jul	11-Jul
Straight Time	8	8	8	8	8
Time and a half	7	4	12	20	6
Double Time	6	2	6	6	0
Total Hours Worked	21	14	26	34	14
Holiday	8	0	0	0	0
Admin Leave	0	8	6	8	0
Total Hours Paid	29	22	32	42	14

Employee 2

Pay Type	4-Jul	5-Jul	9-Jul	10-Jul	11-Jul
Straight Time	8	8	8	8	8
Time and a half	13	5	0	0	5.5
Double Time	5	10	4.5	5	0
Total Hours Worked	26	23	12.5	13	13.5
Holiday	8	0	0	0	0
Admin Leave	0	8	7	8	0
Total Hours Paid	34	31	19.5	21	13.5

Employee 3

Pay Type	4-Jul	5-Jul	9-Jul	10-Jul	11-Jul
Straight Time	8	0	0	0	8
Time and a half	6.5	12	15	16	8
Double Time	4	0	0	0	0
Total Hours Worked	18.5	12	15	16	16
Holiday	8	0	0	0	0
Admin Leave	0	8	8	8	0
Total Hours Paid	26.5	20	23	24	16

Employee 4

Pay Type	4-Jul	5-Jul	9-Jul	10-Jul	11-Jul
Straight Time	8	8	8	0	8
Time and a half	17.5	19	0	0	23
Double Time	8	10.5	2	11	0
Total Hours Worked	33.5	37.5	10	11	31
Holiday	8	0	0	0	0
Admin Leave	0	8	8	8	0
Total Hours Paid	41.5	45.5	18	19	31

Employee 5

Pay Type	4-Jul	5-Jul	9-Jul	10-Jul	11-Jul
Straight Time	6	2	8	8	8
Time and a half	6	4	1	0	7
Double Time	7	3	2	7	0
Total Hours Worked	19	9	11	15	15
Holiday	8	0	0	0	0
Admin Leave	0	8	6	8	0
Total Hours Paid	27	17	17	23	15

APPENDIX B

Analysis of Chata'an Expenditures by GovGuam

Expenditures from DOA Schedule as of 3/31/03	\$ 35,650,836
Less: Individual Family Grant*	16,545,696
Less: Disaster Unemployment Assistance*	2,566,276
Less: Displaced Workers Benefits*	<u>7,121,592</u>
Net Expenditures by GovGuam	\$ 9,417,272
Expenditures from Recovery Coordination Office as of 4/14/2003	<u>12,204,516</u>
Difference	(\$2,787,244)

* Federal expenditure data provided by the Department of Administration.