



OFFICE OF PUBLIC ACCOUNTABILITY

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February 2, 2024

The Honorable Roy A.B. Quinata
Chairperson, Committee on Infrastructure, Economic Development, Simon Sanchez High School, Disability Services, Self-Determination and Historic Preservation, Housing, Public Accountability, and the Guam Buildup

I Mina'trentai Siette Na Liheslaturan Guåhan

Suite 807 DNA Building
238 Archbishop Flores Street
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Re: TESTIMONY IN SUPPORT OF Bill No. 213-37 – AN ACT TO ADD A NEW ITEM (1) TO PARAGRAPH (c) OF SECTION 1909 OF CHAPTER 19 OF TITLE 1 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTIES OF THE PUBLIC AUDITOR

Håfa adai Senator Quinata and Committee Members,

Thank you for the opportunity to provide testimony on Bill No. 213-37. The Guam Office of Public Accountability (OPA) supports this bill as it seeks impose a fine for every department or agency that is delinquent in submitting information under their control to our office in order for us to carry out our duties and functions. Fines, as mentioned in the bill, will be deposited into the Guam Memorial Hospital Authority Hospital Operations Fund. We send our utmost appreciation to the bill's author, Senator Taitague, and her co-sponsors, Senators Brown, Lujan, Parkinson, Barnett, Perez, Blas, and Speaker Terlaje, in introducing this bill.

When you really look at the purpose of this bill, it really is a measure to provide a consequence to any department or agency that fails to submit information that is vital and necessary for our office to discharge our duties. Outlined in 1 GCA § 1909, you will see the Public Auditor is tasked with 11 specific powers and duties, which are included as an attachment.

Taking our office's first duty as an example, and one which we think the Guam Legislature will be very interested in, the Public Auditor is *"To direct and supervise all financial and management audits conducted pursuant to §1908 of this Chapter so that annual audits are completed for the prior fiscal year no later than June 30."* Each year, the OPA oversees the financial audits of 27 different entities. The Government-Wide audit, which we call the Big Audit, incorporates all of the financial information for the line agencies and component units of the Government of Guam. That audit, by statute, needs to be completed by June 30th. But in order for that audit to be completed, all the other component units have to be done at least a month in advance.

When I came into this office in 2018, and through my experience as the past Appropriations Chair, I knew of the significance of getting these audits in more timely, specifically for the Legislature and the Office of Finance and Budget to have all the data they need to deliberate the upcoming

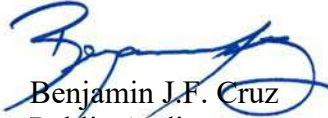
budgets and needs for relevant GovGuam entities. As the financial audit contracts expired and procured anew, we moved the deadline up contractually for audits to be completed, February 28th for the component units, and March 31st for the Big Audit. Just based on the past couple of years the Big Audit was issued on November 21st, 2023 for the FY 2022 audit and July 19th, 2022 for FY 2021, obviously coming up short of the goal.

Another measure we implemented for the financial audits was requiring a Gantt chart for each entity. These Gantt charts provide the plan, using the contracted deadline as the goal, and working backwards, identifying which reports were due and when. The only requirement we had was meeting the deadline. It was the audited entity that gave us their timeline on when they were going to submit the required financial information to the auditors. For various reasons and for some entities, the deadlines they gave themselves were not met. If Bill 213-37 is enacted, the consequence for not submitting information becomes monetized and puts the onus on the entities to submit information when they said they were going to submit it.

We thank Senator Taitague and her co-sponsors for introducing this bill. It's a short bill that has a big impact in getting things done more timely so decision makers can have vital information in front of them.

Thank you.

Senseramente,



Benjamin J.F. Cruz
Public Auditor

Cc: The Honorable Telo T. Taitague, Senator, 37th Guam Legislature

ATTACHMENT 1 – 1 GCA § 1909

§ 1909. Duties of Public Auditor.

The Public Auditor shall have the following powers and duties:

(a) To direct and supervise all financial and management audits conducted pursuant to § 1908 of this Chapter so that annual audits are completed for the prior fiscal year no later than June 30.

(b) To settle, in accordance with law and administrative regulations, the accounts of Disbursing Officers and Certifying Officers who are accountable for the proper payment of vouchers certified and presented to them for payment and for cash and related assets in their custody and control.

(1) This authority shall not extend to the collection of income taxes; however, once the taxes are collected, the authority shall extend to the disbursement or transfer of such revenues.

(2) This authority shall not be construed so as to repeal any provision of the Government Claims Act.

(c) To communicate directly with any person or with any department, officer or person having official relations with the office in any matter relating to the expenditures of government funds and property or to the settlement thereof.

(d) To conduct public hearings, to subpoena witnesses, to conduct depositions, to administer oaths, to require the production of any books, records or documents in the exercise of the powers of the Public Auditor in the carrying out of the Public Auditor's duties under this Chapter and other laws of Guam. In doing any of the activities in this subsection, the Public Auditor may, at his discretion, utilize the services of the Attorney General or an attorney in private practice.

(e) To carry out other duties and powers as may be designated to the Office of Public Accountability by law.

(f) To submit annual reports to the Governor and the Legislature within ninety (90) days after the close of each government fiscal year, such reports to include recommendations for necessary legislation to improve and to protect the integrity of the financial transactions and condition of the government.

(g) To make rules and regulations, subject to the provisions of the Administrative Adjudication Law, as may be necessary to carry out the duties and powers of the Office.

(h) To report to the Attorney General of Guam for prosecution of violations of law regarding violations coming to the Public Auditor's attention, where such violations pertain to the expenditures of funds and property of the government of

Guam, including its autonomous agencies and instrumentalities, including those pertaining to trust funds held by the government of Guam; or for such other civil or criminal action as the Attorney General may determine.

(i) Subject to the availability of funds provided by annual appropriation by I Liheslatura (the Legislature), to employ such necessary staff to carry out the functions and responsibilities of the office; and for such employment, the Public Auditor shall serve as the Office of Public Accountability's appointing authority for all personnel employed at the Office of Public Accountability, hiring employees from an established list of qualified applicants in accordance with established criteria, and assigning, detailing, and transferring employees as the Public Auditor deems necessary for the effective operation of the Office of Public Accountability.

(j) Provide copies of all audits to the Director of Administration, the Director of the Bureau of Budget and Management Research, to the Chairperson of the Committee on Rules of the Legislature, and to the Controller of the Superior Court of Guam. Copies of all audits shall also be available to members of the public.

(k) Shall hear and decide all appeals of decisions that arise under 5 GCA § 5425(c), as provided for by 5 GCA § 5425(e).

SOURCE: Added by P.L. 21-122:1 (July 20, 1992). Subsection (k) added by P.L. 28-068:IV:64 (Sept. 30, 2005). Subsection (i) amended by P.L. 33226:2 (Jan. 9, 2017).