

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
Informational Briefing/Hearing/ Oversight Hearing / Roundtable Hearing

STANDING COMMITTEE / SENATOR	HEARING	COMMITTEE REPORT	HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
Committee on Education, Self-Determination and Historic Preservation, Infrastructure, Border Safety, Federal and Foreign Affairs, and Maritime Transportation	Oversight Hearing	Digital Oversight Committee Report on the Port Authority of Guam	2/2/21 10:00 a.m.	3/31/21 2:33 p.m.	



THE OFFICE OF SENATOR TELENA CRUZ NELSON

I MINA'TRENTAI SAIS NA LIHESLATURAN GUAHAN | 36th GUAM LEGISLATURE

COMMITTEE ON
EDUCATION,
SELF DETERMINATION
AND HISTORIC
PRESERVATION,
INFRASTRUCTURE,
BORDER SAFETY,
FEDERAL AND
FOREIGN AFFAIRS,
AND
MARITIME
TRANSPORTATION

March 15, 2021

The Honorable Tina Rose Muña Barnes

Chairperson

Committee on Rules

I Mina'trentai Sais na Liheslaturan Guahan

163 Chalan Santo Papa

Hãgatña, Guam 96910

RE: Committee Report on Virtual Oversight Hearing on Port Authority of Guam

Hãfa Adai Chairperson Muña Barnes:

Transmitted herewith is the Committee Report on the Port Authority of Guam Virtual Oversight Hearing to discuss the Recruitment Practices, Hiring Procedures and Human Resources Management: 2016 to Present.

Sincerely,



Senator Telena Cruz Nelson

Chairperson

Committee on Education, Self-Determination and Historic Preservation, Infrastructure, Border Safety, Federal and Foreign Affairs, and Maritime Transportation

COMMITTEE ON RULES

RECEIVED:

March 15, 2021

3:42 P.M.



Revision Rec'd:

March 31, 2021 @ 1:56 P.M.



THE OFFICE OF SENATOR TELENA CRUZ NELSON

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÁHAN | 36th GUAM LEGISLATURE

COMMITTEE ON
EDUCATION,
SELF DETERMINATION
AND HISTORIC
PRESERVATION,
INFRASTRUCTURE,
BORDER SAFETY,
FEDERAL AND
FOREIGN AFFAIRS,
AND
MARITIME
TRANSPORTATION

COMMITTEE REPORT

VIRTUAL OVERSIGHT HEARING On

**Port Authority of Guam's recruitment
practices, hiring procedures, and human
resources management from 2016 to present.**

by Senator Telena Cruz Nelson



Telena Cruz Nelson <senatortcnelson@guamlegislature.org>

FIRST NOTICE of Virtual Oversight Hearing on Tuesday, February 2, 2021 at 10:00 a.m.

1 message

Office of Senator Telena Cruz Nelson <senatortcnelson@guamlegislature.org>

Mon, Jan 25, 2021 at 12:56 PM

To: phnotice@guamlegislature.org

Cc: Tom Unsiog <sgtarms@guamlegislature.org>, mis <mis@guamlegislature.org>, Audio / Video <av@guamlegislature.org>

Bcc: Rory Respicio <rjrespicio@portofguam.com>, marge <mduenas@portofguam.com>, Dominic Muna <dgmunas@portofguam.com>, Luis Baza <lrbaaz@portofguam.com>

January 25, 2021

MEMORANDUM

To: All Honorable Senators, Stakeholders and Media

From: Senator Telena Cruz Nelson

Subject: **FIRST NOTICE of Virtual Oversight Hearing on Tuesday, February 2, 2021 at 10:00 a.m.**

Buenas yan Håfa Adai! Please be advised that the Committee on Education and Infrastructural Advancement, Border Protection and Maritime Transportation, *Guåhan* Preservation and Self-Determination, and Federal and Foreign Relations will convene a Virtual Oversight Hearing on Tuesday, February 2, 2021 at 10:00 a.m., via Zoom Conference platform. The agenda includes the following:

Tuesday, February 2, 2021 at 10:00 a.m.

Overisght Hearing Agenda: Port Authority of Guam

- Recruitment Practices, Hiring Procedures and Human Resources Management: 2016 to Present.

Written testimonies may be delivered to the Office of Senator Telena Cruz Nelson at 173 Aspinall Avenue, Suite 202A, Ada Plaza Center, Hagåtña, Guam 96910 or via email to senatortcnelson@guamlegislature.org. The Committee requests that testimonies be submitted at least forty-eight (48) hours prior to the scheduled hearing. In compliance with the Americans with Disabilities Act (ADA), individuals requiring assistance or accommodations should contact the Office of Senator Telena Cruz Nelson via phone call at 671-989-7696 or via email at senatortcnelson@guamlegislature.org.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4, and stream online via I Liheslaturan Guåhan's live feed on YouTube. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing. We look forward to your participation! *Si Yu'os Ma'åse'!*



The Office of Senator Telena Cruz Nelson

Committee on Education & Infrastructural Advancement, Border

Protection & Maritime Transportation, Guåhan Preservation

& Self-Determination, & Federal & Foreign Relations

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature

173 Aspinall Avenue, Suite 202A Ada Plaza Center, Hagåtña, Guam 96910

Phone: (671) 989-7696/4678

Email: senatortcnelson@guamlegislature.org

 **02-02-2021 FIRST NOTICE.pdf**
427K



THE OFFICE OF SENATOR TELENA CRUZ NELSON

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN | 36th GUAM LEGISLATURE

COMMITTEE ON

EDUCATION AND
INFRASTRUCTURAL
ADVANCEMENT


BORDER
PROTECTION AND
MARITIME
TRANSPORTATION

GUÅHAN
PRESERVATION AND
SELF-DETERMINATION

FEDERAL AND
FOREIGN RELATIONS

January 25, 2021

MEMORANDUM

To: All Honorable Senators, Stakeholders and Media
From: Senator Telena Cruz Nelson 
Subject: **FIRST NOTICE of Virtual Oversight Hearing on Tuesday, February 2, 2021 at 10:00 a.m.**

Buenas yan Håfa Adai! Please be advised that the Committee on Education and Infrastructural Advancement, Border Protection and Maritime Transportation, *Guåhan* Preservation and Self-Determination, and Federal and Foreign Relations will convene a Virtual Oversight Hearing on Tuesday, February 2, 2021 at 10:00 a.m., via Zoom Conference platform. The agenda includes the following:

Tuesday, February 2, 2021 at 10:00 a.m.

Overisight Hearing Agenda: Port Authority of Guam

- Recruitment Practices, Hiring Procedures and Human Resources Management: 2016 to Present.

Written testimonies may be delivered to the Office of Senator Telena Cruz Nelson at 173 Aspinall Avenue, Suite 202A, Ada Plaza Center, Hagåtña, Guam 96910 or via email to senatortcnelson@guamlegislature.org. The Committee requests that testimonies be submitted at least forty-eight (48) hours prior to the scheduled hearing. In compliance with the Americans with Disabilities Act (ADA), individuals requiring assistance or accommodations should contact the Office of Senator Telena Cruz Nelson via phone call at 671-989-7696 or via email at senatortcnelson@guamlegislature.org.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4, and stream online via I Liheslaturan Guåhan's live feed on YouTube. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing. We look forward to your participation! *Si Yu'os Ma'åse!*



Telena Cruz Nelson <senatortcnelson@guamlegislature.org>

RESCIND AND REPLACE - FIRST NOTICE of Virtual Oversight Hearing on Tuesday, February 2, 2021 at 9:00 a.m.

Office of Senator Telena Cruz Nelson <senatortcnelson@guamlegislature.org>

Mon, Jan 25, 2021 at 5:47 PM

To: phnotice@guamlegislature.org

Cc: Ed Pocaigue <sgtarms@guamlegislature.org>, mis <mis@guamlegislature.org>, Audio / Video <av@guamlegislature.org>

Bcc: Rory Respicio <rjrespicio@portofguam.com>, marge <mduenas@portofguam.com>, Luis Baza <lbaza@portofguam.com>, Dominic Muna <dgmuna@portofguam.com>

January 25, 2021

MEMORANDUM

To: All Honorable Senators, Stakeholders and Media

From: Senator Telena Cruz Nelson

Subject: **RESCIND AND REPLACE - FIRST NOTICE of Virtual Oversight Hearing on Tuesday, February 2, 2021 at ~~10~~ 9:00 a.m.**

Buenas yan Håfa Adai! Please be advised that the Committee on Education and Infrastructural Advancement, Border Protection and Maritime Transportation, *Guåhan* Preservation and Self-Determination, and Federal and Foreign Relations will convene a Virtual Oversight Hearing on Tuesday, February 2, 2021 at ~~10~~ 9:00 a.m., via Zoom Conference platform. The agenda includes the following:

Tuesday, February 2, 2021 at ~~10~~ 9:00 a.m.

9:00 A.M. - Reconvened Virtual Informational Hearing: Port Authority of Guam

- Drug-Free-Workplace-Program Policy: drug test protocols, disciplinary action, and Employee Assistance Program.

10:00 A.M. - Oversight Hearing Agenda: Port Authority of Guam

- Recruitment Practices, Hiring Procedures and Human Resources Management: 2016 to Present.

Written testimonies may be delivered to the Office of Senator Telena Cruz Nelson at 173 Aspinall Avenue, Suite 202A, Ada Plaza Center, Hagåtña, Guam 96910 or via email to senatortcnelson@guamlegislature.org. The Committee requests that testimonies be submitted at least forty-eight (48) hours prior to the scheduled hearing. In compliance with the Americans with Disabilities Act (ADA), individuals requiring assistance or accommodations should contact the Office of Senator Telena Cruz Nelson via phone call at 671-989-7696 or via email at senatortcnelson@guamlegislature.org.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4, and stream online via I Liheslaturan Guåhan's live feed on YouTube. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing. We look forward to your participation! *Si Yu'os Ma'åse'!*



The Office of Senator Telena Cruz Nelson

Committee on Education & Infrastructural Advancement, Border

Protection & Maritime Transportation, Guåhan Preservation

& Self-Determination, & Federal & Foreign Relations

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature

173 Aspinall Avenue, Suite 202A Ada Plaza Center, Hagåtña, Guam 96910

Phone: (671) 989-7696/4678

Email: senatortcnelson@guamlegislature.org



THE OFFICE OF SENATOR TELENA CRUZ NELSON

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN | 36th GUAM LEGISLATURE

COMMITTEE ON

EDUCATION AND
INFRASTRUCTURAL
ADVANCEMENT

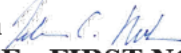
BORDER
PROTECTION AND
MARITIME
TRANSPORTATION

GUÅHAN
PRESERVATION AND
SELF-DETERMINATION

FEDERAL AND
FOREIGN RELATIONS

January 25, 2021

MEMORANDUM

To: All Honorable Senators, Stakeholders and Media
From: Senator Telena Cruz Nelson 
Subject: **RESCIND AND REPLACE - FIRST NOTICE of Virtual Oversight
Hearing on Tuesday, February 2, 2021 at 10 9:00 a.m.**

Buenas yan Håfa Adai! Please be advised that the Committee on Education and Infrastructural Advancement, Border Protection and Maritime Transportation, *Guåhan* Preservation and Self-Determination, and Federal and Foreign Relations will convene a Virtual Oversight Hearing on Tuesday, February 2, 2021 at **10 9:00 a.m.**, via Zoom Conference platform. The agenda includes the following:

Tuesday, February 2, 2021 at 10 9:00 a.m.

9:00 A.M. - Reconvened Virtual Informational Hearing: Port Authority of Guam

- Drug-Free-Workplace-Program Policy: drug test protocols, disciplinary action, and Employee Assistance Program.

10:00 A.M. - Oversight Hearing Agenda: Port Authority of Guam

- Recruitment Practices, Hiring Procedures and Human Resources Management: 2016 to Present.

Written testimonies may be delivered to the Office of Senator Telena Cruz Nelson at 173 Aspinall Avenue, Suite 202A, Ada Plaza Center, Hagåtña, Guam 96910 or via email to senatortcnelson@guamlegislature.org. The Committee requests that testimonies be submitted at least forty-eight (48) hours prior to the scheduled hearing. In compliance with the Americans with Disabilities Act (ADA), individuals requiring assistance or accommodations should contact the Office of Senator Telena Cruz Nelson via phone call at 671-989-7696 or via email at senatortcnelson@guamlegislature.org.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4, and stream online via I Liheslaturan Guåhan's live feed on YouTube. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing. We look forward to your participation! *Si Yu'os Ma'åse!*



Telena Cruz Nelson <senatortcnelson@guamlegislature.org>

SECOND NOTICE of Virtual Oversight Hearing on Tuesday, February 2, 2021 at 9:00 a.m.

Office of Senator Telena Cruz Nelson <senatortcnelson@guamlegislature.org>

Thu, Jan 28, 2021 at 8:00 AM

To: phnotice@guamlegislature.org

Cc: Ed Pocaigue <sgtarms@guamlegislature.org>, mis <mis@guamlegislature.org>, Audio / Video <av@guamlegislature.org>

Bcc: Rory Respicio <rjrespicio@portofguam.com>, marge <mduenas@portofguam.com>, Dominic Muna <dgmuna@portofguam.com>, Luis Baza <lr baza@portofguam.com>

January 28, 2021

MEMORANDUM

To: All Honorable Senators, Stakeholders and Media

From: Senator Telena Cruz Nelson

Subject: **SECOND NOTICE of Virtual Oversight Hearing on Tuesday, February 2, 2021 at 9:00 a.m.**

Buenas yan Håfa Adai! Please be advised that the Committee on Education and Infrastructural Advancement, Border Protection and Maritime Transportation, *Guåhan* Preservation and Self-Determination, and Federal and Foreign Relations will convene a Virtual Oversight Hearing on Tuesday, February 2, 2021 at 9:00 a.m., via Zoom Conference platform. The agenda includes the following:

Tuesday, February 2, 2021 at 9:00 a.m.

9:00 A.M. - Reconvened Virtual Informational Hearing: Port Authority of Guam

· Drug-Free-Workplace-Program Policy: drug test protocols, disciplinary action, and Employee Assistance Program.

10:00 A.M. - Oversight Hearing Agenda: Port Authority of Guam

· Recruitment Practices, Hiring Procedures and Human Resources Management: 2016 to Present.

Written testimonies may be delivered to the Office of Senator Telena Cruz Nelson at 173 Aspinall Avenue, Suite 202A, Ada Plaza Center, Hagåtña, Guam 96910 or via email to senatortcnelson@guamlegislature.org. The Committee requests that testimonies be submitted at least forty-eight (48) hours prior to the scheduled hearing. In compliance with the Americans with Disabilities Act (ADA), individuals requiring assistance or accommodations should contact the Office of Senator Telena Cruz Nelson via phone call at 671-989-7696 or via email at senatortcnelson@guamlegislature.org.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4, and stream online via I Liheslaturan Guåhan's live feed on YouTube. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing. We look forward to your participation! *Si Yu'os Ma'åse'!*



The Office of Senator Telena Cruz Nelson

Committee on Education & Infrastructural Advancement, Border

Protection & Maritime Transportation, Guåhan Preservation

& Self-Determination, & Federal & Foreign Relations

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature

173 Aspinall Avenue, Suite 202A Ada Plaza Center, Hagåtña, Guam 96910

Phone: (671) 989-7696/4678

Email: senatortcnelson@guamlegislature.org



THE OFFICE OF SENATOR TELENA CRUZ NELSON

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN | 36th GUAM LEGISLATURE

COMMITTEE ON

EDUCATION AND
INFRASTRUCTURAL
ADVANCEMENT

BORDER
PROTECTION AND
MARITIME
TRANSPORTATION

GUÅHAN
PRESERVATION AND
SELF-DETERMINATION

FEDERAL AND
FOREIGN RELATIONS

January 28, 2021

MEMORANDUM

To: All Honorable Senators, Stakeholders and Media
From: Senator Telena Cruz Nelson 
Subject: **SECOND NOTICE of Virtual Oversight Hearing on Tuesday, February 2, 2021 at 9:00 a.m.**

Buenas yan Håfa Adai! Please be advised that the Committee on Education and Infrastructural Advancement, Border Protection and Maritime Transportation, *Guåhan* Preservation and Self-Determination, and Federal and Foreign Relations will convene a Virtual Oversight Hearing on Tuesday, February 2, 2021 at 9:00 a.m., via Zoom Conference platform. The agenda includes the following:

Tuesday, February 2, 2021 at 9:00 a.m.

9:00 A.M. - Reconvened Virtual Informational Hearing: Port Authority of Guam

- Drug-Free-Workplace-Program Policy: drug test protocols, disciplinary action, and Employee Assistance Program.

10:00 A.M. - Oversight Hearing Agenda: Port Authority of Guam

- Recruitment Practices, Hiring Procedures and Human Resources Management: 2016 to Present.

Written testimonies may be delivered to the Office of Senator Telena Cruz Nelson at 173 Aspinall Avenue, Suite 202A, Ada Plaza Center, Hagåtña, Guam 96910 or via email to senatortcnelson@guamlegislature.org. The Committee requests that testimonies be submitted at least forty-eight (48) hours prior to the scheduled hearing. In compliance with the Americans with Disabilities Act (ADA), individuals requiring assistance or accommodations should contact the Office of Senator Telena Cruz Nelson via phone call at 671-989-7696 or via email at senatortcnelson@guamlegislature.org.

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4, and stream online via I Liheslaturan Guåhan's live feed on YouTube. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing. We look forward to your participation! *Si Yu'os Ma'åse!*



Telena Cruz Nelson <senatortcnelson@guamlegislature.org>

ZOOM LINK: Virtual Oversight Hearing on Tuesday, February 2, 2021 at 9:00 a.m.

1 message

Office of Senator Telena Cruz Nelson <senatortcnelson@guamlegislature.org> Mon, Feb 1, 2021 at 8:00 AM
To: "Hon. Therese M. Terlaje" <senatorterlajeguam@gmail.com>, Vice Speaker Tina Rose Muña Barnes <senatormunabarnes@guamlegislature.org>, "Hon. Amanda L. Shelton" <officeofsenatorshelton@guamlegislature.org>, Vice Speaker Telena Cruz Neslson <senatortcnelson@guamlegislature.org>, "Hon. Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, "Senator Clynton E. Ridgell" <clyntridgell@guamlegislature.org>, Senator Sabina Perez <office@senatorperez.org>, Senator Jose Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, "Senator Telo T. Taitague" <senatortelot@gmail.com>, Office of Senator Moylan Guam Legislature <officeofsenatormoylan@guamlegislature.org>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>, vanthonyada@gmail.com, office@senatorfrankblas.com, senatorchrisduenas@gmail.com, j.msbrown@yahoo.com
Cc: mis <mis@guamlegislature.org>, Audio / Video <av@guamlegislature.org>



Håfa adai Senators and Stakeholders,

Please find below the link to participate in the Virtual Oversight Hearing via the Zoom Conference platform, scheduled for Tuesday, February 2, 2021 at 9:00 a.m.

Please do not share the following hearing link with persons who have not confirmed participation with the Office of Senator Telena Cruz Nelson and direct them to register via email at senatortcnelson@guamlegislature.org or call 989-7696. All others may watch the broadcast live on GTA Channel 21, Docomo Channel 117/60 and live-streamed via the Guam Legislature YouTube Channel.

Guam Legislature is inviting you to a scheduled Zoom meeting.

Topic: Virtual Oversight Hearing - Senator Telena C. Nelson
Time: Feb 2, 2021 09:00 AM Guam, Port Moresby

Join Zoom Meeting



Meeting ID:
Passcode:

We ask for your cooperation and assistance in order to ensure a smooth and productive hearing by following the virtual guidelines:

1. Please LOG IN **no later than 8:45 a.m.** We will go live at 9:00 a.m.;
2. Please ensure that your VIDEO remains ON and you are visible throughout the hearing;
3. Participants must be visible at all times and as much as possible, not engaged in other activity during the hearing;
4. As much as possible, log in from an area with good lighting and little to no background noise and good internet connectivity;
5. Please MUTE your AUDIO unless called upon to present, respond or to ask questions;
6. Further hearing protocol and decorum requirements will be announced at the beginning of the hearing;
7. If you are having technical difficulties, kindly log off and return using the same link, we will work toward reconnecting you.
8. You may contact the Guam Legislature MIS Division at mis@guamlegislature.org if you are having technical issues.
9. Further hearing protocol and decorum requirements will be announced at the beginning of the hearing.

Please let me know if you have any questions.



The Office of Senator Telena Cruz Nelson

Committee on Education & Infrastructural Advancement, Border

Protection & Maritime Transportation, Guåhan Preservation

& Self-Determination, & Federal & Foreign Relations

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature

173 Aspinall Avenue, Suite 202A Ada Plaza Center, Hagåtña, Guam 96910

Phone: (671) 989-7696/4678

Email: senatortcnelson@guamlegislature.org



Telena Cruz Nelson <senatortcnelson@guamlegislature.org>

Google Drive Link: Virtual Oversight Hearing on Tuesday, February 2, 2021 at 9:00 a.m.

1 message

Office of Senator Telena Cruz Nelson <senatortcnelson@guamlegislature.org> Tue, Feb 2, 2021 at 8:00 AM
 To: "Hon. Therese M. Terlaje" <senatorterlajeguam@gmail.com>, Vice Speaker Tina Rose Muña Barnes <senatormunabarnes@guamlegislature.org>, "Hon. Amanda L. Shelton" <officeofsenatorshelton@guamlegislature.org>, Vice Speaker Telena Cruz Neslson <senatortcnelson@guamlegislature.org>, "Hon. Joe S. San Agustin" <senatorjoessanagustin@gmail.com>, "Senator Clynton E. Ridgell" <clyntridgell@guamlegislature.org>, Senator Sabina Perez <office@senatorperez.org>, Senator Jose Pedro Terlaje <senatorpedo@senatorjpterlaje.com>, "Senator Telo T. Taitague" <senatortelot@gmail.com>, Office of Senator Moylan Guam Legislature <officeofsenatormoylan@guamlegislature.org>, "Senator Mary C. Torres" <senatormary@guamlegislature.org>, vanthonyada@gmail.com, office@senatorfrankblas.com, senatorchrisduenas@gmail.com, j.msbrown@yahoo.com
 Cc: mis <mis@guamlegislature.org>, Audio / Video <av@guamlegislature.org>
 Bcc: Rory Respicio <rjrespicio@portofguam.com>, Dominic Muna <dgmuna@portofguam.com>, Luis Baza <lr baza@portofguam.com>, marge <mduenas@portofguam.com>, "Betty W. Perez" <bwperez@portofguam.com>, franksantos1914@ [REDACTED], ntaimanglo@docomopacific.com, ikoki88@ [REDACTED], dmspharris@ [REDACTED]

Buenas yan Hafa Adai,

Documents for the Virtual Oversight Hearing scheduled for Tuesday, February 2, 2021 at 9:00 a.m. can be accessed at the following link:

[REDACTED]

Guam Legislature is inviting you to a scheduled Zoom meeting.

Topic: Virtual Oversight Hearing - Senator Telena C. Nelson
 Time: Feb 2, 2021 09:00 AM Guam, Port Moresby

Join Zoom Meeting

[REDACTED]

Meeting ID: [REDACTED]
 Passcode: [REDACTED]

We ask for your cooperation and assistance in order to ensure a smooth and productive hearing by following the virtual guidelines:

1. Please LOG IN **no later than 8:45 a.m.** We will go live at 9:00 a.m.;
2. Please ensure that your VIDEO remains ON and you are visible throughout the hearing;
3. Participants must be visible at all times and as much as possible, not engaged in other activity during the hearing;
4. As much as possible, log in from an area with good lighting and little to no background noise and good internet connectivity;
5. Please MUTE your AUDIO unless called upon to present, respond or to ask questions;
6. Further hearing protocol and decorum requirements will be announced at the beginning of the hearing;
7. If you are having technical difficulties, kindly log off and return using the same link, we will work toward reconnecting you.
8. You may contact the Guam Legislature MIS Division at mis@guamlegislature.org if you are having technical issues.
9. Further hearing protocol and decorum requirements will be announced at the beginning of the hearing.

Please let me know if you have any questions.

--

The Office of Senator Telena Cruz Nelson
Committee on Education & Infrastructural Advancement, Border



*Protection & Maritime Transportation, Guåhan Preservation
& Self-Determination, & Federal & Foreign Relations*

I Mina'trentai Sais na Liheslaturan Guåhan | 36th Guam Legislature

173 Aspinall Avenue, Suite 202A Ada Plaza Center, Hagåtña, Guam 96910

Phone: (671) 989-7696/4678

Email: senatortcnelson@guamlegislature.org



THE OFFICE OF SENATOR TELENA CRUZ NELSON

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN | 36th GUAM LEGISLATURE

COMMITTEE ON
EDUCATION,
SELF DETERMINATION
AND HISTORIC
PRESERVATION,
INFRASTRUCTURE,
BORDER SAFETY,
FEDERAL AND
FOREIGN AFFAIRS,
AND
MARITIME
TRANSPORTATION

Oversight Briefing

via Virtual Platform

Tuesday, February 2, 2021

9:00 a.m.

Agenda

- I. Call to Order at 9:00 A.M.
- II. Opening Remarks by Senator Telena C. Nelson, Chairperson
- III. Items for discussion – Port Authority of Guam

9:00 a.m. – Reconvened Virtual Informational Hearing Agenda

- Drug-Free-Workplace-Program-Policy: drug test protocols, disciplinary action, and Employee Assistance Program;

10: 00 a.m. – Virtual Oversight Hearing Agenda

- Recruitment Practices, Hiring Procedures and Human Resources Management: 2016 to Present.

- IV. Closing Remarks
- V. Adjournment

The hearing will broadcast on local television, GTA Channel 21, Docomo Channel 117/60.4, and stream online via *I Liheslaturan Guåhan's* live feed on YouTube. A recording of the hearing will be available online via Guam Legislature Media on YouTube after the hearing. We look forward to your participation!

Si Yu'os Ma'åse'



THE OFFICE OF SENATOR TELENA CRUZ NELSON

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN | 36th GUAM LEGISLATURE

COMMITTEE ON
EDUCATION,
SELF DETERMINATION
AND HISTORIC
PRESERVATION,
INFRASTRUCTURE,
BORDER SAFETY,
FEDERAL AND
FOREIGN AFFAIRS,
AND
MARITIME
TRANSPORTATION

Virtual Oversight Hearing Sign-In Sheet Tuesday, February 2, 2021 – 10:00 A.M. Port Authority of Guam

NAME	AGENCY OR ORGANIZATION (IF ANY)	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	CONTACT NUMBER	EMAIL ADDRESS
Rory Respicio	GM - Port	Yes	X	X		
Francisco Santos	Board Chairperson	Yes		X		
Dominic Muna	DGM – Port Op.	Yes		X		
Luis Baza	DGM – Port Admin	Yes		X		
Sean Cepeda	Port HR	Yes		X		
Carmen Nededog	Port HR	Yes		X		
Jesse Mendiola	Plumber II, Port	Yes		X		

Page 1 of 1



PORT OF GUAM

ATURIDAT I PUETTON GUAHAN

Jose D. Leon Guerrero Commercial Port

1026 Cabras Highway, Suite 201, Piti, Guam 96925

Telephone: 671-477-5931/35 Facsimile: 671-477-2689/4445

Website: www.portguam.com



Lourdes A. Leon Guerrero
Governor of Guam

Joshua F. Tenorio
Lieutenant Governor

TESTIMONY OF
PORT AUTHORITY OF GUAM
GENERAL MANAGER RORY J. RESPICIO

February 2, 2021

Good morning Madam Chair, Vice Chair and Senators.

I will start today by giving some brief remarks with some perspective and then I will have two of our staff from our Human Resources Division available to speak, and to also take questions during this oversight hearing. I want to also ask, if possible, to set aside the last 15 minutes before the conclusion of this oversight hearing for our closing remarks. Thank you.

Madam Chair, You made public statements that you are looking into, “anyone hired at the Port with a criminal record.”

You also stated in your news release, “While I continue to have confidence in the Port’s merit system, we must listen to the concerns of our community and ensure that our government is hiring qualified workers deserving of the taxpayer’s dime.”

You further stated in this same press release that, “An additional audit of the Port will help us understand the Port’s hiring process and the measures they take to provide our people the gold standard of public service.”

Madam Chair, in order for the Port to uphold the new Platinum Standard to which our agency has achieved, we have compiled a listing of all of the Port’s hires beginning in Fiscal Year 2010 to present. I want to assure you that we are willing to address any legislative concerns with this matter, and any other matter you may hear concerning the Port. We are committed to doing so in the interest of maintaining the present high level of transparency and accountability.

Yesterday we delivered to you the list of names and we have requested more specific information from you on this matter. Specifically, we request that you highlight any individuals on the listing provided who you heard are criminals. Identifying these criminals you have heard about will permit us to focus our attention solely on those you have heard are criminals hired at the Port. We will then work to obtain all pertinent records thereof.

In the meantime, we did take a look at some past practices to see if there was anything we could learn from the prior general manager, and some special insight to see how she rejected applicants because of their past. To our surprise, though, we found that the previous general manager also believes in second chances.

A random sampling of past hires has revealed:

Case #1 – On October 16, 2017 the previous general manager hired an employee recently released from federal prison after serving time for drug importation convictions for his convictions of Conspiracy to Distribute more than 50 grams of Methamphetamine Hydrochloride, 21 U.S.C. §§841(a)(1) and 846. He remains on federal supervised probation and is currently employed at the Port.

Case #2 – Despite numerous criminal convictions and federal drug forfeitures and seizures, the former general manager hired this employee on April 9, 2015.

OFFICIAL MISCONDUCT INCIDENT: While this employee was still considered a casual employee without any merit protection he was arrested by port police on July 9, 2015 in

connection with assault and official misconduct for an incident that occurred on the docks. This employee even wrote to the former general manager and offered “my sincerest apologies for my misconduct.” Despite his arrest for official misconduct with numerous police reports, witness statements and even the employee admitting to misconduct – the former General Manager did not terminate this employee and later permanized him as a full time employee. He resigned the following year and is no longer employed at the port.

Case #3 – Despite a police court certificate of search showing at least one criminal case and without a police clearance as is required and despite being named in federal drug forfeitures and seizure cases the former general manager hired this employee on April 9, 2015. On September 30, 2016 the previous general manager permanized this employee. He remains employed at the Port.

Case #4 - On June 26, 2013 the previous general manager hired an employee who was convicted in federal court of Theft of Government Property, in violation of Title 18, United States Code, Section 641.

OFFICIAL MISCONDUCT INCIDENT: While this employee was still on probationary status - on September 12, 2013 – he was arrested by Port police in connection with official misconduct, obstructing governmental function and making false reports. Despite his arrest for official misconduct, obstructing governmental function and making false reports and with numerous police reports and witness– the former General Manager did not terminate this employee and later permanized him as a full time employee following his probationary period. He remains employed at the port.

Case #5 – An employee with a previous conviction on his record for official misconduct was in a similar situation with the previous general manager.

OFFICIAL MISCONDUCT INCIDENT: That employee was arrested by port police on charges of official misconduct and theft of government property on September 19, 2014. That employee acknowledged to the former general manager his “unprofessional behavior and lapse of judgement on the unlawful taking of the items. It was an inexcusable lapse in judgement and moral behavior on my part.” The former general manager did not terminate this employee following the official misconduct incident which was his second arrest by port police for official misconduct. He remains employed at the port.

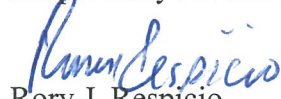
Case #6 – The previous general manager on March 2, 2017 hired an employee who had a police record showing a conviction for criminal mischief as a misdemeanor as well as one other pending case.

We have verified with the Human Resources Division personnel who assisted the previous general manager and they have all indicated that the general manager was made aware of the convictions and criminal records prior to her decision to hire them.

It should be noted that the previous general manager used her discretion to hire employees convicted of felony crimes and allowed employees who admitted to committing official misconduct while under her watch - and who were arrested in connection with that crime - to remain employed. That is allowed under the rules and the law. Therefore, based on past actions, the previous general manager did believe in second chances.

I would now like to call up to join me Mr. Shawn Cepeda our Acting HR Administrator and Mrs. Carmen Nededog who was Acting HR Administrator during the previous general manager’s tenure. They can join me as we answer any questions you may have.

Respectfully submitted,



Rory J. Respicio
General Manager

CHAPTER 10
PORT AUTHORITY OF GUAM

- Article 1. Port Authority of Guam.
- Article 2. Jose D. Leon Guerrero Commercial Port Revenue Bonds and Other Indebtedness.
- Article 3. Prohibition on the Privatization, Lease, or Sale of the Jose D. Leon Guerrero Commercial Port.
- Article 4. Public-Private Partnership through a Performance Management Contract.

ARTICLE 1
PORT AUTHORITY OF GUAM

- § 10101. Definitions.
- § 10102. Authority.
- § 10103. Board.
- § 10104. Same: Duties.
- § 10105. Same: Powers.
- § 10106. Manager.
- § 10107. Same: Duties.
- § 10108. Claims.
- § 10109. Fiscal Authority.
- § 10110. Contracts and Purchases. [Repealed]
- § 10111. Employment.
 - § 10111.1. Port Authority Police.
 - § 10111.2. Training of Officers.
 - § 10111.3. Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions.
- § 10112. Violation of Regulation: Penalty.
- § 10113. Territorial Transportation and Communications Coordinating Council.
 - § 10113.1. Duties.
- § 10114. Adoption of the Personnel Rules and Regulations for Jose D. Leon Guerrero Commercial Port.

§ 10101. Definitions.

As used herein, unless otherwise indicated:

- (a) Authority means the Port Authority of Guam.

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

(b) Board means the Board of Directors of the Authority.

(c) Port facilities means channels, waterways, basins, seawalls, docks, piers, land areas, utilities, warehouses, cargo handling machinery and equipment, tugboats, barges, fire boats and other works, properties, structures or other facilities necessary for the development or operation of the Port of Guam and recreational boating facilities of Guam.

(d) Port means the Civil Port, small boat marinas, and all related facilities of the territory of Guam located on Cabras Island, Apra Harbor, Agana Boat Basin, and all other Government of Guam small boat marinas.

(e) Manager means the General Manager of the Authority.

(f) Director means the Director of the Board.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14000 GC. Codified as 12 GCA § 10101. Subsection (c) amended by P.L. 17-071:1 (Oct. 2, 1984); Subsection (d) amended by P.L. 17-071:2 (Oct. 2, 1984).

§ 10102. Authority.

There is hereby established the Port Authority of Guam as a public corporation and autonomous instrumentality of the government of Guam, which shall provide for the needs of ocean commerce, shipping, recreational and commercial boating, and navigation of the territory of Guam. The Authority shall have perpetual succession unless sooner terminated by law and shall adopt a seal and sue or be sued in its own Corporate name.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14001. Codified as 12 GCA § 10102. Amended by P.L. 17-071:3 (Oct. 2, 1984).

2014 NOTE: Subsection designation deleted to adhere to the Compiler's general codification scheme in accordance to the authority granted by 1 GCA § 1606.

§ 10103. Board.

(a) The Authority shall be directed by the Board which shall consist of five (5) directors appointed by the Governor with the advice and consent of the Legislature.

(1) Directors shall be appointed and their names transmitted to the Legislature within thirty (30) days of the effective date of this Chapter.

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

(2) The five (5) directors first appointed shall classify themselves by lot so that their terms shall expire respectively as follows:

(A) One (1) on December 31, 1976, Two (2) on June 30, 1977 and Two (2) on June 30, 1978.

(B) Their successors shall be appointed each for a term of three (3) years to commence on the date of their confirmation by the Legislature.

(3) Any director vacancy shall be filled by the Governor, with the advice and consent of the Legislature, for the unexpired term.

(b) Any director may be removed upon charges, and after hearing, by the Governor.

(c) Three (3) directors shall constitute a quorum of the Board and three (3) affirmative votes are required for the transaction of all business.

(1) The Board shall meet in regular session at least once each month and in special session as often as it may deem necessary.

(2) (A) The Board shall keep a minute book wherein all its actions and proceedings shall be recorded.

(B) Minutes shall be signed by the Board Secretary and a copy thereof shall be forwarded to the Governor within forty-eight (48) hours following adjournment of each meeting.

(d) Directors shall be paid Fifty Dollars (\$50.00) per meeting but not to exceed One Hundred Dollars (\$100.00) a month and shall be reimbursed for actual travel, subsistence and out-of-pocket expenses incurred in the discharge of their responsibilities.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14002 GC. Codified as 12 GCA § 10103.

2017 NOTE: Subitem designations added pursuant to authority granted by 1 GCA § 1606.

§ 10104. Same: Duties.

The Board shall:

(a) Conduct their first meeting within thirty (30) days of their confirmation.

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

(b) Elect a Chairman, Vice-Chairman and Secretary from among its members.

(c) Appoint a Manager and fix his compensation within forty-five (45) days of their first meeting.

(d) Maintain constant review and evaluation of the planning, promotion, development, construction, alteration, maintenance and operation of the port facilities, any of which activities the Board may delegate to the Manager.

(e) Establish its internal organization and management and adopt regulations for the administration of its operations and the conduct of its affairs.

(f) In accordance with law, control, manage and have jurisdiction over all government of Guam lands within the boundaries of Cabras Island and Drydock Island and seaward therefrom to the limits of the Glass Breakwater and all areas designated as small boat basins or recreational boating facilities, including submerged lands except for the following:

(1) those facilities under the control and jurisdiction of departments or agencies of the United States government; and

(2) all seashore properties and facilities which fall under the Territorial Parks System and boat launching ramps under the jurisdiction of the Department of Parks and Recreation.

(g) Employ a firm of independent certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Authority. Copies of any such report shall be furnished to the Governor and to the Legislature.

(h) Report to the Governor concerning its administration of the Authority by annual report within one hundred twenty (120) days after the end of each fiscal year and, if requested by the Governor, shall present special reports within thirty (30) days after the end of each intervening quarter. The financial information presented in such reports shall be in accordance with the Uniform System of Accounts adopted by the Board.

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

(i) Require operators of water terminal properties and facilities to keep same in proper condition and repair and shall have the right to inspect such terminal facilities at reasonable times.

(j) Establish and modify from time to time, subject only to the regulatory oversight supervision and approval of the Public Utilities Commission, all rates, dockage, rentals, tolls, pilotage, wharfage and charges for the use and occupation of the public facilities or appliances of the Port, and for services rendered by the Port and to provide for the collection thereof.

(k) Review the Manager's annual estimates and schedules and promptly adjust rates and charges prepared to recover the cost of each facility and service, including interests, loan repayments, amortization of depreciable assets and a reasonable return on value of assets. Additional adjustments in rates may be made from time to time upon approval by the Public Utilities Commission and its determination that such adjustments are "just" and "reasonable".

(l) Exercise its powers and perform its duties by resolution adopted by majority vote of the Board in public meeting for which notice of an agenda was published in a Guam newspaper of general circulation three (3) times within five (5) days of the meeting. Resolutions shall be signed by the Board Chairman and attested by its Secretary. The Board shall index all of its resolutions which shall be public record, provided, that the Board shall not, except as expressly provided herein, delegate its responsibility for the general operation of the Port.

(m) Adopt, amend and repeal pilotage rules and regulations in accordance with the Administrative Adjudication Law and § 56403 of Title 18 of the Guam Code Annotated, which rules and regulations shall provide for safe and efficient navigation of all vessels entering, leaving and operating within Guam waters that are required by § 56403.13 to have a licensed pilot on board; and to ensure an adequate supply of qualified pilots in aid of commerce and navigation.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14003 GC. Codified as 12 GCA § 10104. Subsection (f) amended by P.L. 17-071:4 (Oct. 2, 1984). Subsection (m) added by P.L. 25-009:28 (May 12, 1999). Subsections (j) and (k) amended by P.L. 30-052:2 (July 14, 2009).

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

NOTE: P.L. 25:009:29 states: Savings Clause. Pending the promulgation or amendment of rules and regulations governing mandatory pilot licensing by the Port Authority of Guam pursuant to the Administrative Adjudication Law, the Port Authority's existing harbor rules and regulations shall be construed as requiring the use of a harbor pilot by all vessels within pilotage waters, *unless* exempt pursuant to § 56403.15, and for the supervision and investigation of complaints against all pilots by the Manager of the Port Authority of Guam.

§ 10105. Same: Powers.

The Board may:

(a) Enter into and perform such contracts, leases, cooperative agreements and other transactions with any agency or instrumentality of the United States, or with any state, territory or possession, or any political subdivision thereof, or with any person, firm, association or corporation, as may be deemed necessary for the execution of its responsibilities.

(b) In accordance with 5 GCA Chapter 5 (Procurement Law) and other laws, any property real, personal or mixed, tangible or intangible and hold, maintain, use, operate, encumber or dispose of same whenever deemed necessary in the execution of its responsibilities.

(c) Make any investigation deemed necessary to enable it to carry out its responsibilities, and for this purpose take and hear proofs and testimony and compel by subpoena the attendance of witnesses and the production of books, papers, records and documents, including public records.

(d) Enter into contracts for loans or grants with the government of Guam or with the United States.

(e) At any time or from time to time, incur indebtedness.

(f) Employ, retain or contract for the services of qualified managers, specialists or experts as individuals or as organizations, for advice and assistance.

(g) Adopt, enforce, amend or repeal harbor and port regulations for the use and navigation of Apra Harbor and the facilities of the Port Authority of Guam, and to adopt, enforce, amend or repeal such other orders, regulations and practices that are necessary for the administration and discharge of its duties and powers.

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

(h) Rules and regulations previously promulgated under the authority of the Department of Parks and Recreation concerning small boat basins and recreational boating facilities are to remain in effect unless or until the Board promulgates additional or different rules and regulations pursuant to Subsection (g) of this Section. All references and rules and regulations pertaining to persons in or duties of the Department of Parks and Recreation in regard to small boat basins and recreational boating facilities shall be considered as pertaining to the General Manager or his designee and the duties of the Port Authority of Guam until or unless the Board amends or promulgates additional or different rules and regulations pursuant to Subsection (g) of this Section.

(i) Notwithstanding any other provision of law, make, negotiate and enter into a commercial lease, or issue a permit or license for the use of its real property and other related facilities for a term not to exceed five years.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14004 GC. Subsection (b) as amended by P.L. 16-124:18 (Dec. 29, 1982). Codified as 12 GCA § 10105. Subsection (g) amended by P.L. 17-058:1 (June 22, 1984). Subsection (h) added by P.L. 17-071:5 (Oct. 2, 1984). Subsection (i) added by P.L. 26-028:2 (July 19, 2001).

§ 10106. Manager.

The Manager shall be the Authority's chief executive officer and who shall serve at the Board's pleasure. He shall be responsible for the maintenance, operation and development of the Port administration and for the Authority's business affairs.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14005 GC. Codified as 12 GCA § 10106.

2013 NOTE: Subsection designation deleted to adhere to the Compiler's general codification scheme in accordance to the authority granted by 1 GCA § 1606.

§ 10107. Same: Duties.

The Manager shall:

- (a) Insure that the Board's rules and regulations are enforced;
- (b) Attend all board meetings;
- (c) Keep the Board advised as to the needs of the Authority;

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

(d) Approve demands for the payment of obligations of the Authority within the purposes and amounts authorized by the Board;

(e) Prepare or cause to be prepared all plans and specifications for the construction of the works of the Authority;

(f) Select and appoint the employees of the Authority, except as otherwise provided by this Chapter, and plan, organize, coordinate and control the services of such employees;

(g) Publish a financial report in a manner provided by the Board within one hundred twenty (120) days from the end of each fiscal year showing the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof;

(h) Render a monthly accounting statement to the Board in such form as the Board directs;

(i) Shall annually submit to the Board and the Governor programs and financial plans in accordance with the provisions of 5 GCA Chapter 4;

(j) Chair the Territorial Transportation and Communications Coordinating Council;

(k) Perform such other and additional duties as the Board may direct.

(l) Grant licenses to pilots pursuant to 18 GCA § 56403;

(m) Develop appropriate standards and procedures for licensure of harbor pilots, including such examinations and investigations to determine whether persons applying for a pilot's license are qualified as the Manager deems necessary or appropriate;

(n) Enforce the provisions of 18 GCA § 56403 and rules adopted pursuant thereto;

(o) Suspend, revoke or deny the issuance of any pilot's license for any cause prescribed by 18 GCA § 56403, or for any violation of the Port Authority of Guam's pilotage rules and regulations;

(p) Appoint members of the Pilot License Advisory Committee;

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

(q) Investigate complaints and any violation of the provisions of § 56403 of Title 18 of the Guam Code Annotated or the Port of Authority of Guam's rules and regulations; and

(r) Do all things reasonable, necessary, and expedient to ensure safe navigation and proper pilotage, and to facilitate the efficient administration of 18 GCA § 56403.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14006 GC. Codified as 12 GCA § 10107. Subsection (j) added by P.L. 21-095:4 (Mar. 30, 1992); subsection (k) relettered by same law. Subsections (l) - (r) added by P.L. 25-009:21-27 (May 12, 1999).

NOTE: Pursuant to the authority granted by 1 GCA § 1606, the reference to the Government Code in subsection (i) was altered to reflect the codification of the chapter and title in the GCA.

§ 10108. Claims.

(a) Cargo shortage and property damage claims shall be presented to the Manager within six (6) months of accrual for payment under this Act. Claims shall be in such form as the Manager shall direct.

(b) The Manager shall personally entertain cargo shortage or property damage claims in excess of Five Hundred Dollars (\$500.00). He may, however, delegate the review, settlement and payment of claims for cargo shortages or property damage up to One Hundred Dollars (\$100.00).

(c) Payments of claims for cargo shortage or property damage shall be charged to an account title "Shortage and Damage Claims," said account to be shown in the monthly accounting statement to the Board. A listing of each payment in excess of One Hundred Dollars (\$100.00) shall accompany the statement.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14007 GC. Codified as 12 GCA § 10108.

§ 10109. Fiscal Authority.

(a) There is hereby established a fund to be known as the Port Authority Fund which shall be maintained by the Board separate and apart from other funds of the government of Guam. Independent records and accounts shall be maintained in connection therewith.

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

(b) All moneys received by the Authority from whatever source derived shall be deposited in the Port Authority Fund in eligible banks as defined in 5 GCA § 21112.

(c) All expenditures including payments into sinking funds or other special accounts shall be made from the Port Authority Fund.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14008 GC. Codified as 12 GCA § 10109.

NOTE: Pursuant to the authority granted by 1 GCA § 1606, the reference to the Government Code section in subsection (b) was altered to reflect the codification of this section in the GCA.

§ 10110. Contracts and Purchases.

[Repealed.]

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as §14009. Repealed by P.L. 16-124:19 (Dec. 29, 1982). Codified as 12 GCA § 10109.

§ 10111. Employment.

(a) Pursuant to the provisions of 4 GCA §§ 4104 and 4105, the Board shall establish, and may amend, rules and regulations governing selection, promotion, performance evaluation, demotion, suspension and other disciplinary action for the employees of the Authority. Such rules and regulations shall be effective upon approval by the Civil Service Commission before implementation. Such rules and regulations shall be filed with the Legislative Secretary.

(b) Employees of the Authority, excluding the directors, shall be members of the Government of Guam Retirement Fund, subject to the provisions of 4 GCA § 8105 except that for the purposes of Subsection (a) of said Section, the employees of the Authority shall not be considered employees of a public corporation whereby their membership in the Fund is optional and membership therein must be specifically requested. The Authority shall contribute to the Government of Guam Retirement Fund on the basis of monthly billings as determined by the Board of Trustees of the Government of Guam Retirement Fund, for the benefit payments made from such Fund on account of the Authority's employees.

(c) Notwithstanding any other provision of law, the manager, assistant managers, the manager's secretary, the comptroller and assistant comptroller shall be within the unclassified service of the government of

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

Guam and shall be hired, compensated and employed under the terms and conditions fixed by and at the pleasure of the Board.

(d) The Board shall establish, and may amend from time to time, the compensation rates and classification plan of the employees. Such rates and plan shall be effective upon approval by the Governor.

(e) The Authority shall contribute to the Worker's Compensation Fund, on the basis of annual billings or as determined by the Worker's Compensation Commission, for the benefit payments made from such Fund on account of the Authority's employees for injuries prior to July 1, 1985. The Authority shall obtain Worker's Compensation insurance coverage no later than July 1, 1985.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14010 GC; Subsection (a) amended by P.L. 16-023:11 (Aug. 11, 1981). Codified as 12 GCA § 10110. Subsection (a) amended by 17-058:2 (June 22, 1984). Subsection (b) amended by P.L. 17-058:3 (June 22, 1984). Subsection (c) amended by P.L. 17-005:14 (Apr. 21, 1983), P.L. 17-011:2 (June 22, 1983), and P.L. 17-012:4 (June 22, 1983). Subsections (d) and (e) added by P.L. 17-058:4 and 5 (June 22, 1984).

§ 10111.1. Port Authority Police.

(a) (1) There is hereby established, under the direction of the Authority, a Port Authority Police which shall be responsible for the protection of persons and property at the Port Authority of Guam and all related facilities, and which shall coordinate its activities with the Guam Police Department, which shall have concurrent jurisdiction therewith.

(2) The Board, pursuant to the Administrative Adjudication Law, shall adopt reasonable rules and regulations regarding its personnel, which rules and regulations shall be consistent with the provisions of Title 4 of this Code.

(b) Members of the Port Authority Police, while on Port grounds and acting within their official capacity, shall have the powers of peace officers, including, but not limited to, the authority to arrest and enforce the Port Rules and Regulations, applicable federal security programs, and the Vehicle Code of Guam.

(c) Employees currently occupying positions in the Port Authority of Guam Security Force upon enactment of this section shall be reassigned to the new positions within the new Port Authority Police.

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

SOURCE: Added by P.L. 20-130:1 (Jan. 24, 1990). Amended by P.L. 23-028:2 (June 27, 1995).

CROSS-REFERENCES: See 8 GCA § 5.55 relating to “peace officers”.

§ 10111.2. Training of Officers.

All Port Security Force officers shall be required to complete training, with a minimum of one hundred twenty (120) hours, on the laws of arrest, searches and seizures, the Vehicle Code of Guam, the Criminal and Correctional Code, the use and handling of firearms, and such other training as required to effectively carry out their duties and responsibilities as peace officers.

(a) In addition, refresher training in the areas of search and seizure, arrest and the use of firearms shall be given to each officer annually for a minimum of ten (10) hours.

(b) All such training shall be conducted at a local institution applying the standards used in the training of the police officers for the Guam Police Department.

SOURCE: Added by P.L. 20-130:2 (Jan. 24, 1990).

2017 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 10111.3. Maritime Positions Unique to Port Operations and Certified, Technical and Professional Positions.

(a) The Board shall adopt rules and regulations governing selection, compensation, promotion, performance evaluation, disciplinary action and other terms and conditions of employment of personnel occupying maritime positions unique to Port operations and certified, technical and professional positions, subject to the provisions of the Administrative Adjudication Act.

(b) Such rules and regulations shall provide for the employment and retention of persons on the basis of merit and shall include an orderly and systematic method of recruitment and the establishment of a list of qualified applicants.

(c) Maritime positions unique to Port operations and certified, technical and professional positions are defined as:

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

(1) positions whose qualification requirements mandates certifications and licensing requirements, e.g., stevedores, cargo checkers, equipment operators, marine traffic controllers, etc.;

(2) positions with multi-skill qualification requirements, e.g., preventive maintenance mechanics, crane mechanics, etc.;

(3) positions with specific maritime knowledge and skills, e.g., tariff technicians, etc.; and

(4) other similar technical and professional positions which are unique and critical to the Port's operations and no other government entity which is not a port of entry, but not limited to those jobs listed herein.

(d) Compensation for all other positions shall remain consistent with compensation plans and pay scales as determined by law.

SOURCE: Added by P.L. 29-024:2 (Oct. 24, 2007).

§ 10112. Violation of Regulation: Penalty.

Every person who violates, causes or permits to be violated, or fails or refuses to comply with any rule or regulation adopted pursuant to this Article, is guilty of a misdemeanor.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as § 14011 GC. Amended by P.L. 13-187:119.1. Codified as 12 GCA § 10112.

§ 10113. Territorial Transportation and Communications Coordinating Council.

(a) There is hereby created a Territorial Transportation and Communications Coordinating Council (the Council), which Council shall meet on a regular basis as determined by its membership but not less than once each calendar quarter to exchange views and information on transportation, communications and related matters.

(b) The Manager shall be the chairperson of the Council.

(c) The Authority shall provide staff support for all Council meetings.

(d) The Council shall be composed of eighteen (18) members:

(1) ten (10) members from the government, including

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

(A) the Manager of the Jose D. Leon Guerrero Commercial Port of Guam;

(B) the Executive Manager of the A. B. Won Pat International Airport Authority Guam;

(C) the General Managers of

(i) the Guam Visitors Bureau and

(ii) the Guam Mass Transit Authority;

(D) the Directors of

(i) the Department of Public Works,

(ii) the Guam Economic Development and Commerce Authority,

(iii) the Department of Revenue and Taxation,

(iv) the Bureau of Planning;

(E) the President of the Mayors Council;

(F) a representative from the Guam Public Utilities Commission involved with regulating the New Guam Telephone Authority; and

(G) eight (8) appointed by *I Maga'lahi* (the Governor) with the advice and consent of *I Liheslatura* (the Legislature) from among the Guam business community as follows:

(i) one (1) representing the shipping industry;

(ii) one (1) representing the airline/cargo industry;

(iii) one (1) representing the telecommunications industry;

(iv) one (1) representing the trucking industry;

(v) one (1) representing the construction industry;

(vi) one (1) representing the wholesalers/retailers;

(vii) one (1) representing the Chamber of Commerce;

and

(viii) one (1) representing the disabled community.

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

(e) Appointed members shall serve four (4) year terms, and every effort shall be made to appoint a representative number of women members.

(f) Each member appointed as a representative of the business community must have background or experience within the respective industry.

(g) Nine (9) members shall constitute a quorum.

SOURCE: Added by P.L. 21-095:2 (Mar. 30, 1992). Subsection (c) amended by P.L. 27-110:7 (Nov. 1, 2004).

2017 NOTE: Subsection/subitem designations altered/added pursuant to authority granted by 1 GCA § 1606.

2009 NOTE: Public Law 30-043 (July 2, 2009) added a new subsection (e) regarding the adoption of personnel rules and regulations. This new subsection (e) was renumbered by the Compiler and given its own section number, 10114, to better fit this chapter.

§ 10113.1. Duties.

The Council shall focus its discussions on international, regional and local transportation and communications issues to enhance and assist in the long-range planning efforts for the island, including:

(a) The exchange of views, plans, contacts and information among members and with national and international organizations on transportation, communications and related matters;

(b) The coordination of activities with appropriate local and Federal and international entities including but not limited to the Guam Economic Development Authority, the Guam Environmental Protection Agency, the Aviation Task Force, the Guam Civil Defense, the Guam Educational Telecommunications Corporation, the Territorial Land Use Commission (TLUC), the U.S. Department of Transportation, the Federal Aviation Administration, the Federal Communications Commission, the U.S. Department of Commerce, and the United Nations;

(c) The implementation and monitoring of the progress of transportation and communications recommendations made by the TLUC;

(d) The formation of recommendations concerning the planning and development of transportation and communications

infrastructure for Guam and the monitoring of progress of infrastructure projects to facilitate better coordination of private sector responses for expansion programs. The Council shall have sixty (60) days after preparing the same to submit its recommendations to the appropriate agencies;

(e) The report of its findings and recommendations to the TLUC, the Governor and the Legislature for appropriate action; and

(f) The submission of an annual report to the Governor and the Legislature.

SOURCE: Added by P.L. 21-095:3 (Mar. 30, 1992).

§ 10114. Adoption of the Personnel Rules and Regulations for Jose D. Leon Guerrero Commercial Port.

(a) (1) The Personnel Rules and Regulations for Jose D. Leon Guerrero Commercial Port (hereafter referred to as the “Proposed Rules”) as received by the Legislative Secretary of *I Mina’Trenta Na Liheslaturan Guåhan* on May 14, 2009, are hereby adopted with the exclusion of: “Appendix A: Listing of Maritime positions Unique to Port Operations and Certified and Technical positions” and “Appendix B: Pay Schedule” found in the Proposed Rules document and shall apply to all classified positions within the Jose D. Leon Guerrero Commercial Port.

(2) The Compensation and Classification Plan shall apply to all positions, classified and unclassified, within the Jose D. Leon Guerrero Commercial Port, inclusive if the positions for Port Police Officers, notwithstanding the DOA’s current study for Law Enforcements and Public Safety positions.

(b) The General Manager shall identify and list by title, the position description and starting pay range no later than sixty (60) days after the effective date of this Act.

(c) The compiled information shall be posted on the PAG website for no less than two (2) weeks to enable affected employees to review and comment on the identified positions and to provide the opportunity to appeal the findings to the General Manager.

(e) The General Manager shall submit said list to the Board of Directors of PAG.

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

(1) The Board, shall approve, disapprove, or amend said list at any regularly scheduled Board meeting and shall transmit a copy of the approved list to the Legislature.

(2) The list which the Board acted upon shall not take effect until forty-five (45) days after the date of receipt by the Legislative Secretary.

(f) The implementation of the new Pay Scale levels will not go into effect until the Board of Directors has approved a financial plan to fund the proposed Pay Scale.

(g) The General Manager may petition the Board of Directors to amend, to include, but not limited to, deleting, adding, or modifying such positions, the approved list of the Port's Positions.

(1) The Petition shall include:

(A) The justification for the amendment;

(B) The essential details of the amendment;

(C) An analysis of the similarities or differences between the existing position and the amendment; and

(D) The job title, pay range and position description affected by the amendment.

(2) The General Manager shall post the petition on the Port's website for ten (10) days (Saturday, Sunday and government of Guam holidays excepted).

SOURCE: Added by P.L. 30-043:2 (July 2, 2009) as § 10111.3(e). Renumbered by Compiler to harmoniously fit this chapter.

2017 NOTE: Subitem designations in subsections (a) and (e) added pursuant to authority granted by 1 GCA § 1606.

**ARTICLE 2
JOSE D. LEON GUERRERO COMMERCIAL PORT
REVENUE BONDS AND OTHER INDEBTEDNESS**

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as Chapter II of Title XV of the Government Code, §§ 14050-14085. Codified as 12 GCA § 10201 *et seq.* Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

- § 10201. Short Title.
- § 10202. Definitions.
- § 10203. Powers of Board; Incurring Indebtedness.
- § 10204. Amounts of Rates and Charges; Refunds.
- § 10205. Validity of Authorization and Issuance of Bonds and Incurring of Other Indebtedness.
- § 10206. Board to Determine Issuance of Bonds and Incurring of Other Indebtedness; Guam Not Liable for Indebtedness; Authority Only Liable as Provided by Indenture or Contract.
- § 10207. Board to Declare Purpose and Maximum Amount of Bonds to be Issued.
- § 10208. Indenture Providing Terms and Conditions of Bonds.
- § 10209. Issues of Bonds.
- § 10210. Covenants and Agreements That May Be Contained in Indenture.
- § 10211. Trustee for Authority and Holders of Bonds.
- § 10212. Duties and Powers of Trustee.
- § 10213. Issuance and Interchange of Coupon and Registered Bonds.
- § 10214. Redemption of Bonds Prior to Maturity.
- § 10215. Places of Payment.
- § 10216. Execution and Authentication of Bonds.
- § 10217. Dates and Maturities of Bonds.
- § 10218. Sale of Bonds.
- § 10219. Payment of Bonds From Sources Other Than Revenues.
- § 10220. Payments Which May be Made Out of Proceeds of Sale of Bonds.
- § 10221. Bonds Shall be Secured by Revenues of System.
- § 10222. Temporary Bonds.
- § 10223. Replacement of Bonds or Coupons.
- § 10224. Tax Exemptions.
- § 10225. Bonds as Legal Investments and as Security For Performance of Any Act.
- § 10226. Refunding Bonds.
- § 10227. Use of Other Funds for System.
- § 10228. Insurance.
- § 10229. Pledge by the Government of Guam.
- § 10230. Limitations as to Competitive Systems.
- § 10231. Jose D. Leon Guerrero Commercial Port Construction Fund.
- § 10232. Jose D. Leon Guerrero Commercial Port Revenue Fund.

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

- § 10233. Investment of Money in Funds.
- § 10234. Use of Balances of Funds and of Surplus Money in Funds.
- § 10235. Appropriation of Money in Funds.
- § 10236. Payment Agreements.
- § 10237. Credit Enhancement.
- § 10238. No Personal Liability.
- § 10239. Waiver of Immunity.
- § 10240. Construction of Article.

§ 10201. Short Title.

This Article may be cited as the “Jose D. Leon Guerrero Commercial Port Revenue Bond Act.”

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14050. Codified as 12 GCA § 10201. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10202. Definitions.

The following terms wherever used or referred to in this Article or in any indenture entered into pursuant hereto (except to the extent modified therein in accordance with any indenture), *shall* have the following meanings, respectively, unless a different meaning appears from the context:

(a) *Authority* means the Jose D. Leon Guerrero Commercial Port, formerly known as/also known as the Port Authority of Guam.

(b) *Board* has the meaning given in 12 GCA § 10101(b).

(c) *Bonds* means bonds, notes or other evidences of indebtedness, including, but not limited to, direct loans and payment obligations of the Authority under payment agreements and credit provider reimbursement agreements.

(d) *Bondholder* or *holder of bonds* or any similar term means any person who shall be:

(1) the bearer of any outstanding bond or bond registered to bearer or not registered; or

(2) the registered owner of any such outstanding bond or bond which shall at the time be registered other than to bearer;
or

(3) the direct holder of any bond.

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

(e) *Credit provider* means any municipal bond insurance company, bank or other financial institution or organization which is performing in all material respects its obligations under any credit support arrangements for some or all of the bonds.

(f) *Credit provider reimbursement agreement* means any agreement providing for the Authority to repay, from revenues, amounts advanced by a credit provider as credit support for bonds.

(g) *Credit support* means a policy of insurance, a letter of credit, a stand-by purchase agreement, revolving credit agreement or other credit arrangement pursuant to which a credit provider provides credit or liquidity support with respect to the payment of interest, principal or the purchase price of any bonds.

(h) *Jose D. Leon Guerrero Commercial Port Act* means Article 2 of Chapter 10, Title 12, Guam Code Annotated.

(i) *Indenture* means an agreement pursuant to which bonds are issued or incurred by the Authority, regardless of whether such agreement is expressed in the form of a resolution of the Board or by other instrument and including, without limitation, indentures of trust, trust agreements, payment agreements and Credit provider reimbursement agreements.

(j) *Organic Act* means the Organic Act of Guam, as amended, and in effect on the effective date of this Article (48 U.S.C.A. § 1421 *et seq.*)

(k) *Payment agreement* has the meaning given such term in 12 GCA § 10236.

(l) *Person* includes any individual, firm, corporation, association, partnership, trust, business trust or receiver or trustee or conservator for any thereof, and also includes the United States, Guam or any public corporation, political subdivision, city, county or district or any agency or instrumentality of the United States or of Guam.

(m) *Revenue* means

(1) all gross income and other amounts received or receivable by the Authority as revenues of any kind from the ownership or operation of any part of the system or the

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

supplying and furnishing of services and commodities thereof, including

(2) all rates, rentals, tolls, fees and charges assessable and chargeable by the Authority in respect to dockage, wharfage, demurrage and rates appertaining to the system or derived from the rental of all or part of the system or from the sale or rental of any commodities or goods in connection with the system,

(3) all amounts received by the Authority pursuant to any payment agreement, and

(4) all proceeds of insurance or grants covering business interruption loss (and related losses and expenses) relating to the system, and

(5) all other income and revenue howsoever derived by the Authority from the ownership or operation of, or arising from, the system,

(6) together with all interest, profits or other income derived from the investment of amounts in the Jose D. Leon Guerrero Commercial Port Revenue Fund.

(n) *System* means all works, property and facilities now owned, operated or leased by the Authority, and used by and useful to the Authority for providing a deep water commercial port known as the Jose D. Leon Guerrero Commercial Port, as well as the Civil Port, small boat marinas, and all related facilities of Guam located on Cabras Island, Apra Harbor, *Agaña* Boat Basin, and all other Government of Guam small boat marinas, comprising all harbor works and facilities of the Authority, including all channels, waterways, basins seawalls, docks, piers, land areas, utilities, warehouses, cargo handling machinery and equipment, tugboats, barges, fire boats and other works, properties, structures or other facilities in or upon or pertaining to the lands, improvements and waters of the Authority used or useful for, or necessary for or incidental to, the development and operation of the Jose D. Leon Guerrero Commercial Port, as well as the Civil Port, small boat marinas, and all related facilities of Guam located on Cabras Island, Apra Harbor, *Agaña* Boat Basin, and all other Government of Guam small boat marinas, together with all improvements to such works,

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

property and facilities or any part thereof hereafter acquired or constructed by the Authority, now or hereafter existing, owned and/or operated by the Authority or its contractors, agents or subcontractors.

(o) *System operation and maintenance costs* means such reasonable and necessary current expenses of the Authority, paid or accrued, for operation, maintenance and repair of the System as may be determined by the Board, and the term may include, at the Board's option, except as limited by contract or otherwise limited by law, without limiting the generality of the foregoing, and which shall not include depreciation:

(1) legal and overhead expenses of the Authority directly related and reasonably allocable to the administration of the system;

(2) fidelity bond and insurance premiums appertaining to the system or a reasonably allocable share of a premium of any blanket bond or policy pertaining to the system;

(3) contractual services, professional services, salaries, administrative expenses, and costs of labor appertaining to the system;

(4) the costs incurred in the collection of all or any part of the Revenues; and

(5) any costs of utility services furnished to the system by the Authority or otherwise.

(p) *United States* means the United States of America.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14051. Codified as 12 GCA § 10202. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: Subitem designations were added to adhere to the Compiler's alphanumeric scheme, pursuant to the authority granted by 1 GCA § 1606.

§ 10203. Powers of the Board; Incurring Indebtedness.

(a) Pursuant to 12 GCA § 50103(k), the Board, through the Guam Economic Development Authority (GEDA), has the power and is hereby authorized, in addition to and in amplification of all other powers conferred upon the Board by the Jose D. Leon Guerrero Commercial Port Act or any other provision of this Chapter or by any law of Guam or of

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

the United States, but subject to the requirements of 12 GCA § 12116, to exercise any or all of the powers granted to the Board by this Article. The Board, through the agency of GEDA, with the approval of *I Liheslaturan Guåhan* in addition to this Article, may at any time or from time to time authorize the Authority to incur indebtedness:

(1) pursuant to 12 GCA § 10235; or

(2) by the issuance of bonds to raise funds for the purpose of acquiring, constructing, improving, equipping, maintaining, repairing, renewing, replacing, reconstructing or insuring the system, or any part thereof, or for the purpose of refunding any such bonds or any other prior obligations of the Authority, for any purpose authorized by law, or for any combination of such purposes for which bonds may be issued or incurred and secured as provided in this Article.

(b) The sale of the bonds *shall* be approved by the Board of Directors of GEDA as provided by Chapter 50 of Title 12, Guam Code Annotated, and the terms and conditions of the issuance of the bonds *shall* be approved by the PUC as provided by Chapter 12 of Title 12, Guam Code Annotated.

(c) It is hereby declared that the system is and *shall* be a public improvement or undertaking as that term is used in Section 11 of the Organic Act of Guam (48 U.S.C.A. § 1423a). All indebtedness issued or entered into by the Authority pursuant to this Section *shall* be repayable only from funds of the Authority available therefor or solely from revenues of the system and, therefore, will not be and *shall not* be deemed to be public indebtedness of Guam as that term is used in Section 11 of the Organic Act of Guam.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14052. Codified as 12 GCA § 10203, entitled *Powers of Board; Incurring Indebtedness and Issuing Bonds; Special Obligations; Pledge; Lien; Priority and Trust Fund*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: Subsection/subitem designations added/altered pursuant to the authority granted by 1 GCA § 1606.

§ 10204. Amounts of Rates and Charges; Refunds.

Except to the extent otherwise permitted or required by an indenture or any contract relating to indebtedness issued or incurred by the

Authority, the Authority *shall* set rates and charges that *shall* at all times be fixed to yield annual revenues at least equal to:

(a) the annual principal payments and interest charges and reserve fund requirements on all bonds at any time issued and outstanding hereunder;

(b) the annual system operation and maintenance costs; and

(c) the annual principal payments and interest charges on all other outstanding indebtedness issued by the Authority. An indenture or contract of indebtedness may provide for payment from revenues of refunds of rates and charges that are collected in error and that are refundable by the Authority.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14053. Codified as 12 GCA § 10204, entitled *Rates and Charges*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10205. Validity of Authorization and Issuance of Bonds and Incurring of Other Indebtedness.

The validity of the authorization and issuance of or incurrence by the Authority of any bonds is not dependent on nor affected in any way by:

(a) proceedings taken by the Authority for the acquisition, construction or improvement of the system or any part thereof;

(b) any contracts made by the Authority in connection with the acquisition, construction or improvement of the system or any part thereof; or

(c) the failure to complete the system or any part thereof for which bonds are authorized to be issued.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14054. Codified as 12 GCA § 10205. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This section was originally enacted as *Bonds: Maximum Amount; Purpose and Term of*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10207, *Board to Declare Purpose and Maximum Amount of Bonds to be Issued*.

§ 10206. Board to Determine Issuance of Bonds and Incurring of Other Indebtedness; Guam Not Liable for Indebtedness; Authority Only Liable as Provided by Indenture or Contract.

(a) The Board shall determine the time, form and manner of issuance of bonds.

(b) No bond issued or sold pursuant to this Article shall be or become a lien, charge or liability against the government of Guam or against the Authority or against any property or funds of the government of Guam or the Authority, except to the extent of the pledge of revenues or part of revenues, as may be provided by the indenture pursuant to which such bonds are issued and every such bond shall contain a recital on its face stating that neither the payment of the principal or any part thereof, nor of any interest thereon, is a debt, liability or obligation of Guam.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14055. Codified as 12 GCA § 10206, entitled *Same: Form of; Recitals*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10207. Board to Declare Purpose and Maximum Amount of Bonds to be Issued.

Before issuing any bond or bonds, the Board *shall* declare the purpose for which the proceeds of the bonds proposed to be issued *shall* be expended and *shall* specify the maximum amount of bonds to be issued or sold for such purpose. Bonds *shall not* be issued or sold for such purpose in an amount exceeding such specified maximum.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14056. Codified as 12 GCA § 10207. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Indenture Providing Terms and Conditions*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10208, *Indenture Providing Terms and Conditions of Bond*.

§ 10208. Indenture Providing Terms and Conditions of Bonds.

The Authority, subject to the approval of *I Liheslaturan Guåhan* in addition to this Article, may enter into indentures providing for the aggregate principal amount, date or dates, maturities, interest rates or methods for determination thereof, denominations, form, registration, transfer and exchange of any bonds and coupons issued pursuant to this Article and the terms and conditions on which the same *shall* be executed, issued, secured, sold, paid, redeemed, funded and refunded. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all the provisions of the indenture and of this Article and is bound thereby.

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14057. Codified as 12 GCA § 10208. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally named *Issues, Series and Divisions of Bonds*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10209, *Issues of Bonds*.

§ 10209. Issues of Bonds.

An indenture may provide for one or several issues of bonds and that bonds may be issued in series or that any issue may be divided into one or more divisions with different maturities or dates of issue, different rates of interest or methods for determining such rates, or different terms and conditions for the bonds of the several series or divisions. It is not necessary that all bonds of the same authorized issue be of the same kind or character, have the same security, or be of the same interest rate, but the terms thereof *shall* in each case be as set forth in such indenture that has been authorized by the Board.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14058. Codified as 12 GCA § 10209, entitled *Same: Interest*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10210. Covenants and Agreements That May Be Contained in Indenture.

An indenture pursuant to which bonds are issued may include any and all covenants and agreements on the part of the Authority as the Board deems necessary or advisable, including without limiting the generality of the foregoing, any one or more of the following:

(a) A provision that payments of principal and interest of bonds *shall* be secured by all or by part of revenues and provisions creating one or more funds or accounts to be held by the Authority or bond trustee into which all or any part of revenues shall be deposited:

- (1) for payment of the principal of and interest on bonds at or prior to maturity; or
- (2) for reserve or sinking funds for the further security of bonds.

All moneys in any such fund or account *shall* be paid out by the Authority or its agent to pay the principal of and interest on

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

the bonds when due or when redeemed or purchased prior to maturity, as provided in any indenture.

(b) A provision requiring the Authority or its agent, as trustee as hereinafter provided, to pay or cause to be paid punctually the principal of all such bonds and the interest thereon on the date or dates, or at the place or places and in the manner mentioned in such bonds and/or in the coupons appertaining thereto in accordance with such indenture.

(c) A provision requiring the Authority to operate the system continuously, to the extent practicable under conditions as they may from time to time exist, in any efficient and economical manner.

(d) A provision requiring the Authority to maintain the system and to make all necessary repairs, renewals and replacements to the system and to keep the system at all times in good working order and condition.

(e) A provision requiring the Authority to preserve and protect the security of the bonds and the rights of the holders thereof and to warrant and defend such rights.

(f) A provision requiring the Authority to pay and discharge or cause to be paid and discharged all lawful claims for labor, materials and supplies or other charges which, if unpaid, might become a lien or charge upon revenues or any part thereof, or which might impair the security of the bonds.

(g) A provision which limits, restricts or prohibits any right, power or privilege of the Authority to mortgage or otherwise encumber, sell, lease or dispose of the system or any part thereof, or to enter into any lease or agreement which impairs or impedes the operation of the system or any part thereof necessary to secure adequate revenues or which otherwise impairs or impedes the right of the holders of bonds with respect to such revenues.

(h) A provision requiring the Authority to fix, prescribe and collect annually rates or other charges in connection with the system services furnished from the system which, together with other available revenues, will be:

(1) sufficient to pay the principal of and interest on the bonds as they become due and payable, together with such

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

additional sums as may be required for any bond reserve fund or account or other fund or account created by the indenture for the security of such bonds;

(2) sufficient to pay the annual system operation and maintenance costs; and

(3) in such additional amount as *shall* be provided in the indenture for the further security or protection of such bonds.

(i) A provision that no service relating the system shall be furnished free of charge to any person, except to the extent permitted by the indenture.

(j) A provision requiring the Authority to hold or cause to be held in trust the revenues or any part of revenues pledged to the payment of such bonds and the interest thereon, or to any fund or account created by any indenture relating to such bonds for the further security or protection of such bonds and to apply such revenues or any part of revenues or cause them to be applied only as provided in the indenture and to invest all or any part of such revenues pending such application in such securities and subject to such limitations as are specified in the indenture.

(k) A provision defining the power of the Authority in applying the proceeds of the sale of any issue of bonds for the acquiring, constructing or completing of the system or any part thereof.

(l) A provision permitting the Authority to issue additional bonds or one or more additional series of bonds, equally secured with bonds theretofore issued under the indenture, for the purpose of acquiring, constructing or completing, improving or extending the system or any part thereof or for the purpose of refunding any prior bonds or any other obligations of the Authority or for any purpose authorized by law; and a provision limiting the power of the Authority to issue any additional bonds so secured or any other additional bonds for such purpose.

(m) A provision requiring, specifying or limiting the kind, amount and character of insurance (or any reserve fund or funds in lieu of insurance) to be maintained by the Authority on the system or any part thereof and the use and disposition of the proceeds of

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

any such insurance thereafter collected or of the moneys in any such reserve fund.

(n) A provision specifying the events of default and the terms and conditions upon which any or all of the bonds of the Authority then or thereafter issued may become or be declared due and payable prior to maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

(o) A provision designating the rights, limitations, powers and duties arising upon breach by the Authority of any of the covenants, conditions or obligations contained in the indenture.

(p) A provision prescribing a procedure by which the terms and conditions of the indenture may be subsequently amended or modified with the consent of the Authority and the vote or written consent of the holders of a specified principal amount or specified proportion of the bonds issued and outstanding, including provisions for meetings of bondholders and for the manner in which the consent of the bondholders may be given and specifically stating the effect of such amendment or modification upon the rights of the holders of all of the bonds and interest coupons appertaining thereto, whether attached thereto or detached therefrom. With respect to any provision relating to the modification or amendment of an indenture, the Authority may agree that bonds held by the Authority, Guam, the United States or any instrumentality of either thereof (including every public corporation, political subdivision, city, county, district, board, agency or instrumentality of any kind of class) *shall not* be counted as outstanding bonds, or be entitled to vote or assent, but *shall*, nevertheless, be subject to any such modification or amendment.

(q) A provision limiting the right of action by individual bondholders in the event of a default by the Authority or proscribing the procedure for the conduct of any such action by an individual bondholder.

(r) A provision permitting the Authority to purchase outstanding bonds of the Authority from any moneys or funds or accounts referred to in the indenture or otherwise legally available for such purpose.

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

(s) A provision for any working capital fund or account or contingency fund or operating reserve account relating to the system.

(t) A provision for the replacement of lost, destroyed or mutilated bonds or coupons.

(u) A provision or provisions relating to such other acts and matters as may be necessary or convenient or desirable in order better to secure the bonds or to make the bonds more marketable.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14059. Codified as 12 GCA § 10210. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Issuance and Interchange*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10213, *Issuance and Interchange of Coupon and Registered Bonds*.

§ 10211. Trustee for Authority and Holders of Bonds.

(a) The Authority or any agent designated by GEDA on behalf of the Authority *shall* act as trustee for the Authority and the holders of bonds issued hereunder and the Authority may authorize the trustee to act on behalf of the holders of the bonds or any stated percentage thereof and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders.

(b) The Authority may provide in an indenture:

(1) for the deposit of all or any portion of the revenues with the Authority and for the holding thereof by the Authority in one or more separate funds or accounts in the Jose D. Leon Guerrero Commercial Port Revenue Fund; and

(2) for the transfer to the trustee of all or any portion of the revenues as are provided as security for the bonds and for the holding thereof by the trustee in one or more separate funds or accounts. All money in each such fund or account *shall* be disbursed only as provided herein and in the indenture.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14060. Codified as 12 GCA § 10211. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Redemption Prior to Maturity*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10214, *Redemption of Bonds Prior to Maturity*.

§ 10212. Duties and Powers of Trustee.

The Authority *shall* prescribe in any indenture the duties and powers of the trustee with respect to the issuance, authentication, sale and delivery of the bonds provided for in such indenture and with respect to the payment of principal of and interest on such bonds, the redemption thereof, the registration and discharge from registration thereof and the management of any and all funds provided as security therefor.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14061. Codified as 12 GCA § 10212. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Places and Manner of Payment*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10215, *Places of Payment*.

§ 10213. Issuance and Interchange of Coupon and Registered Bonds.

An indenture may provide that bonds may be issued as coupon bonds or as registered bonds and for the interchange of coupon bonds for registered bonds and registered bonds for coupon bonds, and may provide that bonds shall be registered as to principal only or as to both principal and interest or otherwise as the Authority may determine.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14062. Codified as 12 GCA § 10213. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Covenants and Agreements*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10210, *Covenants and Agreements That May Be Contained in Indenture*.

§ 10214. Redemption of Bonds Prior to Maturity.

An indenture may provide that bonds may be redeemed prior to maturity upon such terms, conditions and upon such notice as are stated in the indenture and upon the payment of such premium as may be fixed by the indenture.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14063. Codified as 12 GCA § 10214, entitled *Same: As Negotiable Instruments*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10215. Places of Payment.

An indenture may provide for the payment of the principal and interest of bonds at any one or more places in Guam or in the United States and in any specified coin or currency of the United States.

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14064. Codified as 12 GCA § 10215. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Trustee: Federal Reserve Member Bank*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10211, *Trustee for Authority and Holders of Bonds*.

§ 10216. Execution and Authentication of Bonds.

An indenture may provide for the execution and authentication of bonds by the manual or facsimile signature of any one or more officers of the Authority and by additional authentication by endorsement by the manual signature or a signature stamp of any one or more officers of the Authority or of any agent designated by the Authority as trustee. If any officer or agent whose signature, countersignature or endorsement appears upon the bonds or coupons ceases to be an officer or agent before the delivery of the bonds or coupons, his signature, countersignature or endorsement is nevertheless valid and of the same force and effect as if he had remained such officer or agent until the delivery of the bonds and coupons.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14065. Codified as 12 GCA § 10216. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Places and Manner of Payment*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10212, *Places of Payment*.

§ 10217. Jose D. Leon Guerrero Commercial Port Construction Fund.

The proceeds from the sale of all bonds authorized by this Article shall be deposited forthwith to the credit of a fund to be designated as the Guam Port Authority Development Fund, which fund is hereby created, and shall be expended for the purposes authorized by this Article and the indenture subject to any limitations provided therein. This fund shall be a separate account within the Port Authority Fund (See § 10108 (b), this Title).

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14066. Codified as 12 GCA § 10217, entitled *Guam Port Authority Development Fund*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10218. Sale of Bonds.

Bonds authorized to be issued under this Article *shall* be sold by the Authority for cash, in accordance with the provisions of a resolution

providing for such sale adopted by the Board. The bonds may be sold at either public or private sale, and upon such terms and conditions as *shall* be authorized by the Board, which may provide that the bonds may be sold at lesser or greater than their par or face value.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14067. Codified as 12 GCA § 10218. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Balances of Fund*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10234, *Use of Balances of Funds and of Surplus Money in Funds*.

§ 10219. Payment of Bonds from Sources Other Than Revenues.

The Authority may use and expend all or any part of any funds other than revenues or proceeds of any property owned by it other than the system, whether received by gift, appropriation or otherwise (if not restricted as to the use of such funds or proceeds of property by the terms of gift or trust or provision of law) for the payment of bonds issued pursuant to the provisions of this Article and of interest due thereon.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14068. Codified as 12 GCA § 10219, entitled *Preparation of Bonds and Documents*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10220. Payments Which May Be Made Out of Proceeds of Sale of Bonds.

The proceeds of sale of any bonds may be expended for any one or more of the following purposes, all as provided in the indenture relating to such bonds:

(a) for payment of any costs or expenses of the acquisition, construction or improvement of the system or any part thereof or any costs or expenses incidental thereto, including payment to the United States or any other public body for the portion to be borne by the Authority of the cost of any work done by the United States or such public body for or jointly or in conjunction with the Board;

(b) for payment of any engineering, inspection, legal, consultants', bond trustees', escrow agents' or paying agents' fees relating or incidental to:

(1) the acquisition, construction or improvement of the system or any part thereof; or

(2) the authorization, issue or sale of bonds;

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

(c) for payment of any costs or expenses relating to the authorization, issuance or sale of bonds;

(d) for deposit in any one or more reserve funds or accounts in lieu of insurance or in any working capital fund or account or contingency fund or reserve account relating to the system;

(e) for payment of interest on bonds during the projected period of acquisition, construction or improvement of the system or any part thereof for the acquisition, construction or improvement of which such bonds have been issued and for a period not to exceed three (3) years thereafter;

(f) for deposit in any reserve or sinking fund;

(g) for payment of the principal of and interest on any indebtedness incurred pursuant to 12 GCA § 10235 that is by its terms repayable from the proceeds of sale of bonds;

(h) for payment of any prior bonds or other obligations of the Authority; or

(i) The Authority is prohibited from using bond proceeds for any purpose not provided for in this Section without legislative approval in the form of duly enacted legislation.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14068. Codified as 12 GCA § 10220. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Bonds: Execution and Authentication*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10216, *Payments Which May Be Made Out of Proceeds of Sale of Bonds*.

§ 10221. Bonds Shall Be Secured by Revenues of System.

(a) All bonds authorized by this Article *shall* be secured by a statutory lien on revenues of the system.

(1) This lien *shall* arise automatically without the need for any action or authorization by *I Maga'låhen Guåhan*, the government of Guam, the Authority or any other person or entity.

(2) Such lien *shall* be valid and binding from the time bonds are issued.

(3) The revenues of the system *shall* immediately be subject to such lien, and the lien *shall* automatically attach to the revenues of

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

the system and be effective, binding, and enforceable against the Authority, its successors, assignees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act.

(4) Revenues of the system that are not required to make payments on the bonds *shall* automatically, and without the need for any further action, be released from such lien and *shall* be available for appropriation for any other lawful purpose of the government.

(5) The statutory lien described in this Section *shall not* be subject to Division 9 of Title 13, Guam Code Annotated, or any successor statute.

(b) In addition to the statutory lien provided for in this Section, an indenture may provide that payment of the bonds and the interest thereon *shall* be secured by a pledge of and lien upon all or a portion of the revenues of the system.

(1) Any such pledge and lien *shall* be valid and binding from the time the pledge is made without any further act.

(2) The revenues pledged and thereafter received by the Authority or by any trustee, depository or custodian *shall* be deposited in the Jose D. Leon Guerrero Commercial Port Revenue Fund and *shall* be immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge *shall* be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Authority or such trustee, depository or custodian, irrespective of whether the parties have notice thereof.

(3) The pledge *shall not* be subject to Division 9 of Title 13, Guam Code Annotated, or any successor statute.

(4) The indenture by which such pledge is created need not be recorded.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14070. Codified as 12 GCA § 10221. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Sale of*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10218, *Sale of Bonds*.

Subsection/subitem designations added pursuant to the authority of 1 GCA § 1606.

§ 10222. Temporary Bonds.

An indenture may provide that pending the actual issuance or delivery of definitive bonds, the Authority may issue temporary or interim bonds, certificates or receipts or any denomination whatsoever and with or without coupons, to be exchanged for definitive bonds when ready for delivery.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14071. Codified as 12 GCA § 10222. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Payment from Other than Revenues*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA §10219, *Payment of Bonds from Sources Other Than Revenues*.

§ 10223. Replacement of Bonds or Coupons.

The Authority may provide for the replacement of lost, destroyed or mutilated bonds or coupons.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14072. Codified as 12 GCA § 10223. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Payments from Sale*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10223 *Replacement of Bonds or Coupons*.

§ 10224. Tax Exemptions.

Bonds issued pursuant to the provisions of this Article and the interest or income therefrom are exempt from taxation to the extent permitted by the provisions of Section 11 of the Organic Act of Guam.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14073. Codified as 12 GCA § 10224. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Temporary*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10222, *Temporary Bonds*.

§ 10225. Bonds as Legal Investments and as Security for Performance of Any Act.

Notwithstanding any other provision of law, all bonds issued pursuant to the provisions of this Article are legal investments for all trust funds and for the funds of all banks, both commercial and savings and may be deposited as security for the performance of any act whenever any evidence of indebtedness of Guam may be so deposited

and may also be used as security for the deposit of public moneys in banks in Guam.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14074. Codified as 12 GCA § 10225. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Replacement of, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10223, Replacement of Bonds or Coupons.*

§ 10226. Refunding Bonds.

The Authority may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds issued under the provisions of this Article or any other prior obligations of the Authority. All provisions of this Article applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14075. Codified as 12 GCA § 10226. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Tax Exemptions, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10224, Tax Exemptions.*

§ 10227. Use of Other Funds for System.

In addition to the proceeds of any bonds issued and sold pursuant to this Article, the Authority may use for the payment of the costs of acquisition, construction or improvement of the system or any part thereof any available money or funds of the Authority and any money or funds made available to the Authority by any person or provided from any source which may be expended for the accomplishing of the purposes set forth in this Article or in the Jose D. Leon Guerrero Commercial Port Act.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14076. Codified as 12 GCA § 10227. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Bonds as Legal Investments and Security, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10225, Bonds as Legal Investments and as Security for Performance of Any Act.*

§ 10228. Insurance.

The Authority may insure against loss of revenues from any cause whatsoever. The Authority may insure against public liability or property

damage from any cause. An indenture may provide for the carrying of such insurance or any other insurance in such amount and of such character as shall be specified in such indenture, for the payment of the premiums thereon and for the disposition of all proceeds received from any such insurance. At the option of the Board, or as provided in any indenture, any insurance may be provided by funded reserves or any other means.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14077. Codified as 12 GCA § 10228. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Same: Refund*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10226, *Refunding Bonds*.

§ 10229. Pledge by the Government of Guam.

The government of Guam is fully committed to ensuring that the Authority has the ability to implement the capital improvements authorized to be financed by this legislation. The government also is fully committed to ensuring that bondholders are protected to ensure full and timely repayments of their bonds. The government of Guam hereby pledges that while any bonds of the Authority issued under this Article remain outstanding and not fully performed or discharged:

(a) to maintain the rights, powers and duties of the Board and the Guam Public Utilities Commission, or their respective successors in accordance with law, to fulfill the terms of any agreements made with bondholders in accordance with this Article;

(b) to maintain the rights and remedies of bondholders provided in this Article and any indenture;

(c) to protect the exclusive right of the Authority to operate or maintain within Guam any system operated by the government or its designees by preventing the acquisition, operation, maintenance or permitting of any instrumentality of the Government or any other public or private agency, entity or person to operate a separate and competitive system; and

(d) not to transfer any additional non-system operating responsibilities or other unfunded mandates to the Authority without providing for the payment of the costs of such additional responsibilities, with the exception of annual supplemental annuity and COLA contributions paid by the Authority on behalf of retired

employees of the Authority (or its lawful predecessors) as may be required by the laws of Guam; and with the exception that the Authority *shall* collaborate fully, including, but not limited to, with the Guam Customs and Quarantine Agency and other local law enforcement and regulatory agencies to facilitate the inspection and prevention of illegal entry into Guam of potentially unlawful immigrants or items or invasive species, by or through any works, property, and facilities owned, operated, or leased by the Authority, and to facilitate the protection of coral, wildlife and biodiversity in Apra Harbor.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14078. Codified as 12 GCA § 10229, entitled *Same: Same: Principal Amount*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10230. Limitations as to Competitive Systems.

An indenture may include such limitations as to acquisition, ownership or operation by the government of Guam of enterprises which may compete with the system as may be deemed necessary or desirable for the security of bonds issued pursuant to this Article.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14079. Codified as 12 GCA § 10230, entitled *Title in Authority Subject to Trusts in Favor of Bondholders*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10231. Jose D. Leon Guerrero Commercial Port Construction Fund.

The proceeds from the sale of all bonds authorized by this Article shall be deposited to the credit of a fund to be designated as the Jose D. Leon Guerrero Commercial Port Construction Fund, which fund is hereby created. The money in said Construction Fund shall be expended in the manner provided by law for any of the purposes authorized by this Article, including any or all of the purposes specified by 12 GCA § 10220, and for such other purposes, subject to the restrictions provided by law or by such indenture, as may be authorized by such indenture.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14080. Codified as 12 GCA § 10231. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Use of Other Funds*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10227, *Use of Other Funds for System*.

§ 10232. Jose D. Leon Guerrero Commercial Port Revenue Fund.

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

All revenues received from the operation of the system shall be deposited to the credit of the Jose D. Leon Guerrero Commercial Port Revenue Fund, which fund is hereby created. Moneys in the Jose D. Leon Guerrero Commercial Port Revenue Fund may be used for any of the following purposes in the order of priority set forth in any indenture as provided in 12 GCA § 10210(j):

- (a) to pay the annual system operation and maintenance costs;
- (b) to pay principal or interest on any bonds;
- (c) to replenish any debt service reserve funds related to bonds;
- (d) to pay any amounts due and owing under any payment agreement or any credit provider reimbursement agreement; and
- (e) for any other purposes of the Authority; all as provided in any indenture or indentures and subject to any restrictions provided by law or any indenture.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14081. Codified as 12 GCA § 10232. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Insurance*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10228, *Insurance*.

§ 10233. Investment of Money in Funds.

Moneys in the Jose D. Leon Guerrero Commercial Port Construction Fund and Revenue Fund may be invested by the Authority and any revenues in any other fund or account held by or on behalf of the Authority or its agent may be invested by the Authority or its agent, as the case may be, in any investment authorized by any indenture providing for the issuance of bonds. All interest or other earnings received pursuant to such investments shall be collected by the Authority or its agent, as the case may be, and shall be deposited to the credit of the fund or account from which such interest or other earnings are derived, unless otherwise provided in an indenture.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14082. Codified as 12 GCA § 10233, entitled *Right of Bondholders to Bring Action*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10234. Use of Balances of Funds and of Surplus Money in Funds.

Any balance remaining in any of the funds or accounts created by this Article or any indenture after payment of all costs, expenses and charges required or authorized to be expended therefrom, may be allocated and used for such other purposes relating to the acquisition, construction, improvement, operation and maintenance of the system or to the Authority, as the Board may determine, subject to the limitations and restrictions in any indenture. After all bonds *shall* have been fully paid and discharged or provision for their payment and discharge irrevocably made, any surplus moneys in any fund or account created by this Article or any indenture *shall* be transferred to the Authority and *shall* be and remain available for the acquisition, construction, improvement, maintenance or operation of the system or for any other purposes of the Authority herein or hereafter authorized by law.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14083. Codified as 12 GCA § 10234. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally enacted as *Appropriation of Money in Funds*, which was reenacted by P.L. 34-070:2 (Dec. 7, 2017) as 12 GCA § 10235, *Appropriation of Money in Funds*.

§ 10235. Appropriation of Money in Funds.

All money in the funds and accounts created by this Article or any indenture is hereby appropriated for expenditure in carrying out the purposes herein and therein provided.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14084. Codified as 12 GCA § 10235 entitled *Validity of Bonds, Recital or Issuance Pursuant to Article*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10236. Payment Agreements.

In addition to and in amplification of the powers conferred upon the Board by the Jose D. Leon Guerrero Commercial Port Act, this Article or any other law of Guam or of the United States, the Board has power and is hereby authorized to cause the Authority to enter into any contracts in connection with, or incidental to, the issuance of bonds or other indebtedness, or the carrying of any investment or program of investment or entering into or maintaining any agreement which secures bonds or other indebtedness (each, a “payment agreement”), which the Board determines to be necessary or appropriate to place the obligation or investment of the Authority, as represented by the bonds or such indebtedness, investment, program of investment or agreement and the

contract or contracts, in whole or in part, on the interest rate, currency, cash-flow, or other basis desired by the Board in furtherance of the purposes of this Chapter, including, without limitation, contracts commonly known as interest rate swap agreements or contracts providing for payments based on levels of, or changes in, interest rates, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, interest rate floors or caps, options, put or call to hedge payment, rate, spread, or similar exposure with the parties, selected by the means, and containing the payment, security, default, remedy, and other terms and conditions, authorized by the Board, after giving due consideration for the creditworthiness of the counterparties, where applicable, including any rating by a nationally recognized rating agency or any other criteria as may be appropriate; provided, that any amounts received by the Authority pursuant to any payment agreement *shall* constitute revenues and that any obligation of the Authority under any payment agreement *shall* be payable solely from, and secured solely by a pledge of, revenues in accordance with 12 GCA § 10237. Any payment agreement may include a provision that any obligation of the Authority under any such payment agreement *shall* be secured by all or by part of revenues; provided that, at the time of execution and delivery of each payment agreement, any such provision *shall* be in compliance with and *shall not* violate or breach any provision of any indenture then in effect with respect to the bonds.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14085. Codified as 12 GCA § 10236, entitled *Publication of Notice of Adoption of Resolution; Statute of Limitations on Action Involving Bonds*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10237. Credit Enhancement.

(a) The Board has the power and is hereby authorized to cause the Authority to enter into such contracts or agreements with such banks, insurance companies or other financial institutions as it determines are necessary or desirable to improve the security and marketability of the bonds or the security of the government's obligations under any contract or agreement entered into under 12 GCA § 10236.

(b) Such contracts or agreements may contain an obligation to reimburse, with interest, any such banks, insurance companies or other financial institutions for advances used to pay principal of or interest on the bonds and to indemnify any such banks, insurance companies or

other financial institutions for costs and expenses incurred in connection with any such advance; provided, that any obligation of the Authority under any reimbursement agreement *shall* be payable solely from revenues.

(c) Any reimbursement agreement may include a provision that the obligations of the Authority under the agreement *shall* be secured by all or by part of revenues; provided, that at the time of execution and delivery of each such agreement, any such provision *shall* be in compliance with and *shall not* violate or breach any provision of any indenture then in effect with respect to bonds.

SOURCE: Added by P.L. 13-087:1 (Oct. 31, 1975) as GC § 14086. Codified as 12 GCA § 10237 entitled *Short Term Borrowing*. Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: Subsection designations added pursuant to the authority granted by 1 GCA § 1606.

§ 10238. No Personal Liability.

No member of the Board, employee of the Authority, or elected official of the government of Guam shall be individually or personally liable for the payment of any amounts due on any bonds, or for any other liability arising in connection with the bonds; provided, however, that nothing in this Section shall relieve any employee or elected official from the performance of any ministerial duty required by law.

SOURCE: Added by P.L. 32-042:2 (June 28, 2013), entitled *Sovereign Immunity Waived*. Amended by P.L. 32-107:1 (Feb. 4, 2014). Repealed and reenacted by P.L. 34-070:2 (Dec. 7, 2017).

§ 10239. Waiver of Immunity.

Notwithstanding any substantive or procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the Authority *shall not* be entitled to immunity from any suit or action in contract on the indebtedness authorized by this Article. For the purposes of this Act only, immunity is waived as to the award of attorney's fees in connection with any suit brought to enforce any right or obligation given under this Act or in connection with the enforcement of the terms of any agreement or indenture that arises directly from the issuance of bonds. *I Liheslatura* (the Legislature) does not waive immunity for costs, pre-judgment interest and post-judgment interest.

**12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM**

SOURCE: Added pursuant to the reenactment of this Article by P.L. 34-070:2 (Dec. 7, 2017).

2017 NOTE: This provision was originally added as 12 GCA § 10238, by P.L. 32-042:2 (June 28, 2013), entitled *Sovereign Immunity Waived*. Amended by P.L. 32-107:1 (Feb. 4, 2014).

§ 10240. Construction of Article.

This Article *shall* be liberally construed to carry out the objects and purposes and the declared policy of Guam as in this Article set forth. Nothing contained in this Article shall be construed directly or by implication to be in any way in derogation or limitation of powers conferred upon or existing in the Authority or the Board by virtue of any provisions of the Organic Act or laws of Guam.

SOURCE: Added pursuant to the reenactment of this Article by P.L. 34-070:2 (Dec. 7, 2017).

**ARTICLE 3
PROHIBITION ON THE PRIVATIZATION, LEASE OR SALE
OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT**

§ 10301. [Untitled].

§ 10301. [Untitled].

Unless otherwise explicitly authorized by statute, the Board of Directors of the Jose D. Leon Guerrero Commercial Port is hereby prohibited from expending anything of value, either through cash or in-kind, directly or indirectly, or executing any solicitations through the Request for Proposal or Request for Information, or invitation to bid consistent with Title 5 of the Guam Code Annotated, or to commission the development of a master plan, either through its employees, partners, or agents, exploring the sale or lease of the Port. Let it be known, therefore, to anyone contemplating this notion that the Port is not to be privatized, leased or sold.

SOURCE: Added by P.L. 27-060:1 (Dec. 21, 2003). Repealed and reenacted by P.L. 31-035:2 (Apr. 18, 2011).

12 GCA AUTONOMOUS AGENCIES
CH. 10 PORT AUTHORITY OF GUAM

2014 NOTE: As added by P.L. 27-060:1 (Dec. 21, 2003), this Chapter was entitled “Jose D. Leon Guerrero Commercial Port Public-Private Partnership” and included the following provisions:

- § 10301. Short Title.
- § 10302. Legislative Intent.
- § 10303. Public-Private Partnership Authorization.
- § 10304. Submission of Proposals.
- § 10305. Terminal Operator.
- § 10306. Port Employees.
- § 10307. Port Employment..
- § 10308. Temporary Casual Employment Authorized.
- § 10309. Revenue Sharing.
- § 10310. Capital Improvement Fund.
- § 10311. Tariffs.
- § 10312. Equipment.
- § 10313. Operational Area.
- § 10314. Indemnification.
- § 10315. Cargo Handling Operations.
- § 10316. Insurance.
- § 10317. Port Master Plan.
- § 10318. Legislative Approval.
- § 10319. Specific Disclosure Rules.
- § 10320. Conflicts of Interest.
- § 10321. Transitional Period.
- § 10322. Severability.

ARTICLE 4
PUBLIC-PRIVATE PARTNERSHIP THROUGH A
PERFORMANCE MANAGEMENT CONTRACT

SOURCE: Article added by P.L. 29-023:1 (Oct. 24, 2007).

- § 10401. Public-Private Partnership Authorization through a Performance Management Contract.
- § 10402. Contract Limits.
- § 10403. Conflicts.
- § 10404. Other Public-Private Partnership through Performance Management Contract.
- § 10405. Termination of Contract for Reasons Unrelated to Performance.
- § 10406. Severability.

§ 10401. Public-Private Partnership Authorization through a Performance Management Contract.

(a) The Board of Directors of the Jose D. Leon Guerrero Commercial Port (Port) is authorized to issue a Request for Proposal (RFP), Multi-Step Bid (MSB), Invitation for Bid (IFB), soliciting bids or proposals from qualified parties for the management, operation and maintenance of its cargo handling equipment through a performance management contract, subject to the procurement laws of Guam. The scope of work required through this RFP, MSB or IFB shall include the daily operation and maintenance of its cargo handling equipment; any repairs required, inclusive of all parts and labor; performance monitoring requirements; and preventive maintenance of all equipment and/or facilities directly associated with the equipment, including, but not limited to, the acquisition for replacement of such equipment.

(b) The RFP, MSB and/or IFB shall include performance standards that will provide operating criteria, guidelines and requirements to minimize costly downtime and maximize cargo handling equipment availability and its life span. Parties interested in submitting proposals shall have sixty (60) days to prepare and submit a response to the Port. The General Services Agency Chief Procurement Officer shall be an observer throughout the RFP, MSB or IFB process as specified in this Section, shall receive copies of all documents involved and shall be invited to any meetings regarding the public-private partnership process specified in this Section.

(c) The Port may award a performance management contract subject to the RFP, MSB or IFB detailed in this Section no later than two hundred twenty (220) days from the established deadline for submission or receipt of the RFP, MSB or IFB; provided, that qualified offerors have submitted proposals in compliance with the procurement laws of Guam and the provisions of this Section. The Attorney General shall act as legal advisor during all phases of the solicitation or procurement process and shall have the authority to extend the timelines as outlined in this Section as it deems necessary.

SOURCE: Added by P.L. 29-023:1 (Oct. 24, 2007). Amended by P.L. 30-090:2 (Feb. 8, 2010).

2013 NOTE: Subsection designations were added to adhere to the Compiler's alpha-numeric scheme in accordance to the authority granted by 1 GCA § 1606.

§ 10402. Contract Limits.

The awarded contract, which is subject to the provisions of this Act, may be awarded for periods of not less than five (5) years, with options to renew every five (5) years and not to exceed a total of twenty (20) years. The awarded contract, subject to the provisions of this Act, must contain performance reviews at least annually, and provisions for contract termination and penalty based upon such review.

SOURCE: Added by P.L. 29-023:1 (Oct. 24, 2007).

§ 10403. Conflicts.

No contract awarded subject to the provisions of this Act shall be awarded to any party who has a blood or marital relationship to the third (3rd) degree of consanguinity with the General Manager of the Port, a Board Member of the Port, *I Maga'lahaen Guåhan* or a Member of *I Liheslaturan Guåhan*.

SOURCE: Added by P.L. 29-023:1 (Oct. 24, 2007).

§ 10404. Other Public-Private Partnership through Performance Management Contract.

Notwithstanding any other provisions of law, the Board of Directors is authorized to enter into a public-private partnership through a performance management contract for other aspects of the Port operations it deems necessary, provided that the processes outlined in the above sections are complied with.

SOURCE: Added by P.L. 29-023:1 (Oct. 24, 2007).

§ 10405. Termination of Contract for Reasons Unrelated to Performance.

Should at some point in the future, a determination be made by *I Liheslaturan Guåhan*, that a broad-scale public-private partnership for the Port operations be advisable, subject to legislative approval, and if any agreements entered into pursuant to this Act are viewed as impeding, such provisions may be included in each contract for the purchase of such contract, except that no contract shall be purchased in any circumstance where a Contractor's performance has been deemed to be unacceptable in accordance with the provisions of this Act.

SOURCE: Added by P.L. 29-023:1 (Oct. 24, 2007).

§ 10406. Severability.

If any provision of this Act or its application to any person or circumstances is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

SOURCE: Added by P.L. 29-023:1 (Oct. 24, 2007).



THE OFFICE OF SENATOR TELENA CRUZ NELSON

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN | 36th GUAM LEGISLATURE

COMMITTEE ON
EDUCATION,
SELF DETERMINATION
AND HISTORIC
PRESERVATION,
INFRASTRUCTURE,
BORDER SAFETY,
FEDERAL AND
FOREIGN AFFAIRS,
AND
MARITIME
TRANSPORTATION

COMMITTEE REPORT DIGEST

I. OVERVIEW

The Committee on Education, Self-Determination and Historic Preservation, Infrastructure, Border Safety, Federal and Foreign Affairs, and Maritime Transportation convened a Virtual Oversight Hearing on the Port Authority of Guam on Tuesday, February 2, 2021 at 10:00 AM in *I Liheslatura's* Zoom Conference platform to discuss recruitment practices, hiring procedures and human resources management from 2016 to present.

Public Notice Requirements

Public Hearing notices were disseminated via email to all senators, stakeholders, and all main media broadcasting outlets on Monday, January 25, 2021 (5-Day Notice), and again on Thursday, January 28, 2021 (48-Hour Notice). Notice was also provided on the Guam Legislature website.

Senators Present

Senator Telena Cruz Nelson, Chairperson
Senator Mary Torres, Vice Chairperson
Senator Telo Taitague, Committee Member
Senator Joanne Brown
Senator V. Anthony Ada
Senator Frank Blas, Jr.
Senator Christopher Duenas
Speaker Therese Terlaje

Appearing before the Committee

Rory Respicio, General Manager, Port Authority of Guam
Sean Cepeda, Human Resources, Port Authority of Guam
Jesse Mendiola, Plumber II, Port Authority of Guam

II. SUMMARY OF TESTIMONY & DISCUSSION

The Virtual Informational Hearing was Called to Order at 10:35 A.M.

Senator Telena Cruz Nelson, Committee Chairperson: Okay, good morning, everyone. We are now convening our Oversight Hearing on the recruitment practices, hiring procedures and human resources management in the Port Authority of Guam.

Today is Tuesday, February 2, 2021. It is now 10:35 in the morning. For the record and in accordance with the Open Government Law, Public Notices were sent out via email to all senators, stakeholders and all main media broadcasting outlets on Monday, January 25, 2021 and the second notice on Thursday, January 28, 2021. Notice of today's hearing was also available on the Guam Legislature's website.

General Rules of Conduct

All must abide by the rules of conduct and quality assurance standards. Please keep video on at all times and ensure you are in a room with little interruptions and adequate lighting, specifically to make sure the participants face is visible at all times.

1. The host of this hearing will mute participants until called upon by the chair.
2. When called to speak, please ensure that you are "un muted" and that you are speaking into your microphone.
3. Members of the Committee wishing to speak may indicate via the in app feature chatbox.
4. Individuals testifying shall first be recognized by the Chair before speaking and shall state their name for record keeping purposes.
5. The order of questioning will begin with the panel of Senators, who shall complete their lines of questioning for each respective item on the agenda. Upon completion of the panel's line of questioning, the Chair will pose questions.
6. Each member will be allowed to pose a question to an individual testifying for a round and will be provided another round, if needed.
7. Questions and testimony shall be confined to the substance or nature of the agenda. Personal inference as to the character or the motive of any Senator, or any individual testifying, is NOT permitted.

Any violation of this general rule of conduct will result in removal from the hearing by the host.

Okay, I'd like to thank Senator Therese Terlaje; Speaker Terlaje for being here today. Thank you, Senator Torres, Senator Taitague, Senator Brown, Senator Duenas, Senator Frank Blas and I think Senator Ada, might join us shortly. And we have with us the General Manager Rory Respicio and Chairman Santos and other members of the Port Authority board, thank you for being present today.

We call this Oversight Hearing because of the recent concerns within our community and I want to set the record straight, I didn't...I am not saying because I heard that there were some instances where I was saying that the Port Authority has criminals, that's not what I'm saying.

We are conducting this Oversight Hearing and I sent a letter of inquiry to the Civil Service Commission to inquire if the hiring practices of the Port for individuals with prior criminal history is within the left and right limits of the law and that is simply what it is. I am not making any inference or any allegations to employees at the Port. As a matter of fact, I believe that the Port is...we have a lot of our employees that are hard working and it is an injustice to generalize these statements of negativity about drugs being used and that there are criminals at the Port. I have never said that and that is incorrect. What we are looking at as the Oversight for this Committee, which is also my fiduciary responsibility is to address the concerns that the people have with the hiring practices and to ensure that they are within the limits of the law.

So, let's stay focused on the bottom line and let's continue this Oversight Hearing with professionalism and dignity. So, that we can have an opportunity for the people of Guam to understand what is the statutes, what do they say and how do we move forward? Thank you colleagues and thank you General Manager Respicio for ensuring that. Okay, Mr. Respicio, can you please give us a synopsis of the Port Authority of Guam's recruitment process?

Rory Respicio, General Manager, Port Authority: Thank you, Madam Chair, for that questions but, first I have a brief statement that I like to enter into the record. Would I be permitted to do so?

Senator Telena Cruz Nelson, Committee Chairperson: Mr. Respicio, I just want to make sure that your statement is containing facts.

Rory Respicio, General Manager, Port Authority: Always.

Senator Telena Cruz Nelson, Committee Chairperson: Okay, you may enter it into the record.

Rory Respicio, General Manager, Port Authority: Please see attached statement. [Begins statement.]

Senator Telena Cruz Nelson, Committee Chairperson: Mr. Respicio, I'm going to stop you right there. Who there has been reference with criminal history, I am not saying that people are criminals. Okay, so, please get it right, do not mix my words.

Rory Respicio, General Manager, Port Authority: Please see attached statement. [continued statement]

Senator Telena Cruz Nelson, Committee Chairperson: That's exactly what I asked you for. In the letter where I asked you if that you had any employees with criminal history, if you could send us the process at which you hired them and the job description. Thank you.

Rory Respicio, General Manager, Port Authority: Please see attached statement. [continued statement and end of statement.]

And at this time, Madam Chair, we still have Mr. Sean Cepeda and Ms. Carmen Nededog, who will be here to answer any questions you may have and I do have all the supporting documents upon your request and I would be very happy to provide it to you as our Oversight Chair.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you and again this is our fiduciary responsibility to address these concerns that the community has had. There has been inference that I've said that the employees at the Port are criminals and that is incorrect statement. The letter that I asked for, the information that I asked for is those that have had criminal history and have been hired with the Port and are still hired at the Port. That is the concern and what we are looking into is if this process that allows them to remain hired. If this is a process that is in accordance with the statute. That's why we are here today.

So, now, that we set the record straight, I'd like to ask for any of my colleagues, if they have any questions. Speaker Terlaje, do you have any questions at this time?

Speaker Therese Terlaje: Yes, can you just clarify whether that list goes all the way up until today? Is that complete?

Rory Respicio, General Manager, Port Authority: No, this list was based on the past actions of the former General Manager.

Speaker Therese Terlaje: But, I thought the question was regarding up until today. So, can we get the list, please.

Rory Respicio, General Manager, Port Authority: But, I wanted to report that the application...

Senator Telena Cruz Nelson, Committee Chairperson: Up to 2020, Mr. Respicio.

Rory Respicio, General Manager, Port Authority: And then you've asked us to go back to 2010.

Senator Telena Cruz Nelson, Committee Chairperson: So, right, well I think yesterday or today a letter for 2010 because there were some concerns in the public that we were being biased. So, to show that there's unbiasedness that we went that far back. What I did this information this Oversight Hearing. We asked for up to the present from 2016 up to the present. So, can you continue the status for the current that we had today.

Rory Respicio, General Manager, Port Authority: So, I did provide a list of all the hires from 2010 to present and I've asked you to identify those individuals who you've heard have a criminal history.

Senator Telena Cruz Nelson, Committee Chairperson: What I'm asking here what I asked you is for those that have criminal history. I'm not asking for a list of what you're hiring, right, I don't know of individuals that have had criminal history. I am asking you if there were practices of individuals who were hired with a past criminal record. So, I am not saying that I know who these individuals are. I was asking the Port to provide it.

Rory Respicio, General Manager, Port Authority: You must be getting it from somewhere, Madam Chair, so, guide me, help me, give me the name.

Senator Telena Cruz Nelson, Committee Chairperson: Mr. Respicio, I am asking you for the information to the present. Are you going to provide for us for what this Oversight Hearing had originally asked for which was from 2016 to 2020, up to the present of any hiring that had occurred for the individuals with past criminal record.

Rory Respicio, General Manager, Port Authority: So, based on all the examples that I've given.

Senator Telena Cruz Nelson, Committee Chairperson: Do you have anything to present. You've given examples but do you have anything current?

Rory Respicio, General Manager, Port Authority: I do.

Senator Telena Cruz Nelson, Committee Chairperson: So, can we please...can you please tell us this...

Rory Respicio, General Manager, Port Authority: There's one (1) case recently where the individual was convicted of official misconduct there's nothing personnel rules or regulations or in the law. The Attorney General even said that those employees aren't barred from going back into the government. However, they could have used that as a determination to disqualify but in looking at that particular situation, these are not like positions. The individual who left the Department of Corrections, law enforcement is not at the Port Police and he's not doing law enforcement type work here at the Port.

So, the reason why I pointed those past cases out, Madam Chair and Madam Speaker, is to show that the hiring practices and the disciplinary actions are all consistent and it's exactly what I've been doing over the last two (2) years as General Manager.

Senator Telena Cruz Nelson, Committee Chairperson: So, can we just take a step back. Can we just take a step back and discuss the process that allows employees to be hired even with the past criminal record and for example, you stated that they are not hired in the like positions for whatever reason. Can you please explain to the public, take a step back and explain to the public how that process is or what that process is and how the decisions are made forward that allows the government to do so in accordance with the law. So, let's start the process first is what I'm saying. Can we talk about the process.

Rory Respicio, General Manager, Port Authority: The positions are announced.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you.

Rory Respicio, General Manager, Port Authority: Competitively if it's open recruitment, they're announced outside the Port. If it's in house recruitment then it's only those Port employees are eligible. The employee...the position is announced, the employees submit an application. The applications get rated by HR staff and they're grouped in accordance of the highest rating to the lowest rating and based on the number of applicants, applications received. We either go one (1) round, two (2) rounds or three (3) rounds in the interview process and then it's the interview panel who comprises of employees of the Port that will interview these applicants and then come up with a recommendation to myself as a General Manager and the General Manager or agency head can choose anywhere of the top five (5) that's been recommended now as a standard practice.

I probably 99.9% of the time, Madam Chair, deferred to the recommendation of the interview panel and in the case of the individual that's been the focus of as of late. He was top recommended by the interview panel and we also have HR staff here, if you have any specific questions. But that's the merit process. I do not predetermine who the outcome is or going to be, that's just the process.

Senator Telena Cruz Nelson, Committee Chairperson: Okay, thank you, I'd like to acknowledge Vice Speaker Barnes and Senator Ada, for being here today. Thank you for joining us. Okay, so, that is the process now. If the Port were to hire individuals with criminal history, what is within the left and right limits of the law that allows the Port to hire in specific job descriptions.

Rory Respicio, General Manager, Port Authority: Thank you for the question. So, there's instances where a government employee is barred from employment, one (1) is if they're on the sex offender registry. They cannot they're not employable by the government or they cannot be a contractor or a subcontractor of a government contract. The other case is the issue in the case of family violence, an agency head even down to a supervisor level cannot hold a government job. If they're...they have a family violence conviction and so, the third thing for me is if an employee at the Port cannot get a TWIC card that's highly regulated by the Department of Transportation then they cannot be a Port employee because a TWIC card is a requirement of

the job. And so, those are the three (3) factors to which an employee would not be eligible to work in the case of the Port.

Senator Telena Cruz Nelson, Committee Chairperson: Okay, so, there are three (3) types of classification where employees are not eligible and it's those that have a criminal record of criminal sexual conduct, family violence conviction and if they're not able to get a TWIC card. Are all employees at the Port required to get a TWIC card and can you please explain what a TWIC card is?

Rory Respicio, General Manager, Port Authority: A TWIC card is regulated by the Department of Transportation and it provides the security access clearance and security into the secured areas.

Senator Telena Cruz Nelson, Committee Chairperson: And what is the process in order to get a TWIC card. Do they have to go on background investigation? What is the process?

Rory Respicio, General Manager, Port Authority: Yeah, they would apply with the Department of Transportation and then they have their own processes to screen these applicants and in some cases if they're denied based on a record that they have. The employee can always appeal and to clarify that the record has been either adjudicated by the courts or expunged and so, in those few instances, I'm aware the employee was able to receive clearance.

Senator Telena Cruz Nelson, Committee Chairperson: And this is a federal process, correct?

Rory Respicio, General Manager, Port Authority: Correct.

Senator Telena Cruz Nelson, Committee Chairperson: Okay, thank you. And every employee that is hired at the Port today has a TWIC card, is that correct?

Rory Respicio, General Manager, Port Authority: Unless, Madam Chair, they're a new employee and they're going through the process.

Senator Telena Cruz Nelson, Committee Chairperson: How long does the process take?

Rory Respicio, General Manager, Port Authority: I want to say like four (4) to six (6) weeks.

Senator Telena Cruz Nelson, Committee Chairperson: Okay, so, with by the two (2) month or three (3) month period they should have a TWIC card?

Rory Respicio, General Manager, Port Authority: And correct and what we're doing in the meantime is they're having to be escorted into the yard for those that are going through the TWIC card application.

Senator Telena Cruz Nelson, Committee Chairperson: What if they're not able to...what if they are denied a TWIC card, do you still keep them employed during an appeal process with DOT; Department of Transportation.

Rory Respicio, General Manager, Port Authority: Well, had one (1) case where the employee was initially denied and so, because the Department of Transportation denied this employee's, it was a renewal that was denied. I did not allow that employee access into the yard. That employee because they were in another division housed inside the yard. I moved that employee to a division for physical space outside the yard but that the individual was still doing that particular assignment.

So, if an employee, Madam Chair, is ultimately not allowed to get a TWIC card then the employees know that they have to be terminated.

Senator Telena Cruz Nelson, Committee Chairperson: Okay and that is within the law.

Rory Respicio, General Manager, Port Authority: Correct.

Senator Telena Cruz Nelson, Committee Chairperson: Okay, thank you. Okay, I will open it up. Thank you for the process. This is what we're trying to understand is the process. I'll open it up to my colleagues if they have any questions. Speaker Terlaje, do you have any questions at this time?

Speaker Therese Terlaje: Well, I just wanted to follow up with the list was provided earlier. So, do we now have a full list of the number of times persons with a criminal record have been hired at the Port or are there more and you were just giving us examples.

Rory Respicio, General Manager, Port Authority: So, Madam Speaker, I was giving some examples to demonstrate consistency between the past and the present. I don't have a list of those employees with criminal records is what I'm asking the Committee identify. And I'm trying to ask the Committee to identify who have they heard have criminal records because you're talking about some employees who are twenty (20), thirty (30) years at the Port. They may have got a police clearance early on.

Speaker Therese Terlaje: I believe the question was asked about hiring practices in a certain number of years. So, for me I just want to know for those years who was hired and you said you gave a list of all that was hired and if you went through the files of those who were hired if you could tell easily whether they had a criminal record or not and whether that's all I thought we were looking for in this list and if that's you know the examples. For me I just want to know the relevance.

We want to know if you're saying it's a common practice. So, how common is it? What types of criminal records are we talking about and what positions, I think the question also asks what positions are these people in because that's what's relevant. For me, I want to know what positions are they in? What types of crime were they you know accused of.

So, the second question would be for those who you said must be terminated. If they don't receive approval under Department of Transportation then but you also said that you transferred one (1) employee to a physical space outside you know the restricted area. So, which one (1) is it, are they terminated or are they just moved to another area?

Rory Respicio, General Manager, Port Authority: So, what I said was while this employee was going through the appeal process, they were moved another area and ultimately they got a TWIC card.

Speaker Therese Terlaje: Okay, all right. For this round, Madam Chair, I'm done. Thank you.

Senator Telen Cruz Nelson, Committee Chairperson: Thank you, Madam Speaker. Senator Torres, you're recognized, if you have any questions at this time.

Senator Mary Torres, Committee Vice Chairperson: Can you just move onto the others. I'm still formulating a thought.

Senator Telen Cruz Nelson, Committee Chairperson: Sure. Senator Duenas, do you have any questions at this time?

Senator Chris Duenas: I don't at this point, Madam Chair. I think that's most have been covered but I might down the road. Thank you.

Senator Telen Cruz Nelson, Committee Chairperson: Thank you. Senator Ada, do you have any questions at this time?

Senator V. Anthony Ada: None at this time, Madam Chair. Thank you.

Senator Telen Cruz Nelson, Committee Chairperson: Senator Brown, do you have any questions at this time?

Senator Joanne Brown: Thank you very much Madam Chair and certainly I appreciate some of the questions that have been asked by my colleagues prior. Since the current General Manager is inferring certain things with regards to my tenure, I assume even though there are a panel of two (2) former General Manager here at the Port but you know I seen the attempt here to try to have us reveal who potentially these individuals are but I do like the question was raised earlier by one (1) of my colleagues. Didn't want to ask the current General Manager is he aware during his tenure, has he hired anyone that has a criminal background during his tenure now in the past two (2) years, he served as General Manager.

Rory Respicio, General Manager, Port Authority: Yes, as part pf the process those things become aware to me as the hiring authority.

Senator Joanne Brown: And what type of crimes are we talking about? Do you know?

Rory Respicio, General Manager, Port Authority: Well, can you be more specific in who you're actually talking about, so, I don't make any...

Senator Joanne Brown: Well, you were very quick to want to point out during my tenure but I will state for the record, Madam Chair and to the members of the Committee and to the public, I've never knowingly hired anyone with a criminal background.

So, I'm asking General Manager Respicio, he is saying he has hired individuals with a criminal background. Can you tell us what type of crimes these individuals may have committed since you're aware of what type of criminal history they may have.

Rory Respicio, General Manager, Port Authority: Well, that's very convenient to say you didn't knowingly but try using that at the Civil Service Commission where they say management knew or should have known the responsibility and the onus always falls on the General Manager of the Port for all the actions at the Port and so, if you want to name any particular individual, name the individual.

Senator Joanne Brown: Well, you seem to have pointed out five (5) or six (6) individuals. So, I'm asking you aware during your tenure perhaps last year in the midst of the pandemic was there anyone you could have hired that had a serious criminal history at the Port Authority of Guam, since you say you are aware. Could it be someone who might have a sexual assault, someone who has a felony perhaps even something more serious.

Rory Respicio, General Manager, Port Authority: So, be more specific, Senator Brown.

Senator Joanne Brown: Oh, I'm not going to be more specific. You've come out and make public statements referencing my tenure and I'm stating for the record as I'm telling you, as I'm saying to the Committee, as I'm saying to the public that I serve, I never knowingly hired anyone with a criminal background. You mentioned there's a process with regards to hiring and I'd like to ask your HR staff perhaps to elaborate for the Committee's interests and for the public what exactly is that process with regards to what is it when someone applies for a job and what is that process, that application goes through with the HR.

In terms, of their review and then after that I believe before an employee is considered they go through a panel I believe. So, I'd like since you have offered your HR staff to elaborate on that for our edification of that of the general public, Madam Chair, if I can ask them that question of outlining what that process is with regards to hiring so, that we can all informed on that.

Rory Respicio, General Manager, Port Authority: Senator Brown...

Senator Telen Cruz Nelson, Committee Chairperson: Mr. Respicio, Senator Brown has a questions to HR to understand the hiring process and so, if you can have the HR Personnel yield

as you offered earlier to the questions and Senator Brown, please if you can be direct with the questioning.

Senator Joanne Brown: Yes, thank you, Madam Chair, I appreciate it. Thank you.

Senator Telen Cruz Nelson, Committee Chairperson: Okay, go ahead and proceed with it, with your question Senator Brown.

Senator Joanne Brown: I just wanted to ask of the HR staff there, Ms. Nededog and Mr. Sean Cepeda, which could answer the question. What is the procedure if someone comes to the Port and applies for a position at the Port? What is the process of that application and that individual? What do they go through to be reviewed by the Port Authority before it even gets to the General Manager's desk for consideration?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Well, the HR staff rates the application and reviews their background and on their resumes if one (1) is provided then we establish a list based on...

Senator Joanne Brown: Can I ask Madam Chair, I can't see Mr. Cepeda, is he on?

Senator Telen Cruz Nelson, Committee Chairperson: Mr. Respicio, can you please have Mr. Cepeda be visible for the camera.

Rory Respicio, General Manager, Port Authority: He's there and he's on the camera, he's far away...

Senator Telen Cruz Nelson, Committee Chairperson: He's right there. You see him, Senator Brown, at the table in the room the Port Authority.

Senator Joanne Brown: I might have to scroll. I just want to make sure he's on for myself and anyone else. I'll scroll down. Thank you, go ahead, Mr. Cepeda.

Senator Telen Cruz Nelson, Committee Chairperson: Thank you, sir.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Okay, again, with the process when applicants submit their applications and/or resumes. We rate it, we go through

their experience and then we establish a list. Which is then forward to the General Manager for his approval and then ratings are sent out to the applicants and then after the ten (10) day period, if we move forward with the interview; it's conducted by in house panel members.

Senator Joanne Brown: Mr. Cepeda, can I just ask when you talk about ratings, what are you rating for? What do you...what is in that process of rating?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Their work experience based on the position they're applying for.

Senator Joanne Brown: Okay, so, you come up with that initial assessment through your evaluation at HR?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Correct.

Senator Joanne Brown: Okay, then what's the next step?

Sean Cepeda, Human Resources Division, Port Authority of Guam: After we evaluate the applications, we establish the list based on rank from highest to lowest.

Senator Joanne Brown: Okay.

Sean Cepeda, Human Resources Division, Port Authority of Guam: After the eligibility list is signed. We send out the ratings to each individual who applied.

Senator Joanne Brown: At that point with regards to the application is at that point, I know the process has changes. I know that Senator Torres in the twentieth (20) or is it the thirty fourth (34) Guam Legislature it passed. A new process to be set up that an employee could not be asked the question with regards to any criminal history that they were charged with until I believe an offer. I guess it was called the Fair Chances Hiring Practices Act. How is that from prior and how are you doing that now with regards to reviewing if they're submitted with regards to the Guam Police Clearance, how is that handled?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Well, based on the law, if they're upon condition of selection. If they're not guaranteed the employment until they their clearances upon conditional offer.

Senator Joanne Brown: And is the clearances only the Guam Police Clearance?

Sean Cepeda, Human Resources Division, Port Authority of Guam: It's both, Police and Court.

Senator Joanne Brown: Okay, but that's just our local court, our Superior Court of Guam.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Yes, Superior and Guam Police Clearance.

Senator Joanne Brown: Is the federal clearance required from the Federal Court here, the District Court?

Sean Cepeda, Human Resources Division, Port Authority of Guam: No, ma'am.

Senator Joanne Brown: No, it is not, okay. Is the applicant also required to indicate on their application whether or not they have been convicted of a felony?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Correct, yes.

Senator Joanne Brown: Has in all cases of an application, an individual always indicated if they have been convicted of a felony, if they've been convicted of a felony. Are you aware, Mr. Cepeda?

Sean Cepeda, Human Resources Division, Port Authority of Guam: They're supposed to indicate it on their application.

Senator Joanne Brown: Okay and if they don't how would you know?

Sean Cepeda, Human Resources Division, Port Authority of Guam: True, until they provide us the clearances.

Senator Joanne Brown: Okay, but right now, there's a federal...where the federal court is not required is what you're telling us?

Sean Cepeda, Human Resources Division, Port Authority of Guam: We will find that information upon the applicant applying for the TWIC card.

Senator Joanne Brown: Okay, you're assuming that you'd be notified once the application for a TWIC card is submitted. Have you ever been notified?

Sean Cepeda, Human Resources Division, Port Authority of Guam: In the past, we've asked for a federal court clearances but applicants were turned away from the federal courthouse district court.

Senator Joanne Brown: Do you know why?

Sean Cepeda, Human Resources Division, Port Authority of Guam: No, they didn't give a specific reason. I'm not aware why federal court didn't allow them to provide that.

Senator Joanne Brown: Okay and did you guys ever follow up to check or inquire as to why the federal court was not providing such clearances.

Sean Cepeda, Human Resources Division, Port Authority of Guam: From what I recall they provided a database for the HR staff to go and go to the courthouse to look up certain individuals.

Senator Joanne Brown: Okay so, would you say in all cases that all applicants provide their history.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Upon conditional offer just police and local court.

Senator Joanne Brown: But that's all that's required but do you know that's been provided in all cases, if they've had a federal conviction.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Not that I'm aware of.

Senator Joanne Brown: After this process, you mentioned that once they've been rated. I guess depending on how many positions that it goes to a panel and who sits on this panel to review these applications?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Normally it's the division head for that particular section and other supervisors mainly.

Senator Joanne Brown: Okay and what happens during this process?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Well, the applications are interviewed orally and then the panels have a score sheet, which they used to determine each applicant's score.

Senator Joanne Brown: And is the panel provided with the full application of this individual and all their submitting documents?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Yes, ma'am.

Senator Joanne Brown: Okay, but you can't guarantee to know whether or not documents are submitted in all cases then?

Sean Cepeda, Human Resources Division, Port Authority of Guam: The panel just reviews the application and resume.

Senator Joanne Brown: Okay, do they also review their as you mentioned is only the local court and the local police, do they also review those clearances?

Sean Cepeda, Human Resources Division, Port Authority of Guam: No, the panel doesn't have access to that, the interview panel does not.

Senator Joanne Brown: So, the inter...and why is that? Why would they not be provided that information to be aware, if particularly if it is a designated positions out in the yard you know if they're working in a position out in the yard and they've been convicted of a federal crime relating to drugs. Would that not be something the panel should be made aware of at the time of evaluating that applicant.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Look it's based on the Personnel Rules and Regulations.

Senator Joanne Brown: And what is that, Mr. Cepeda?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Let me. [pause] Okay, I'm just going to cite it from the rules now.

Senator Joanne Brown: Yes, sir, Mr. Cepeda. Thank you.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Okay, I'll just read the whole sentence on regarding from Chapter Four (4), the application form. The General Manager may not make any pre employment inquiry about disability or about the nature or severity of a disability on application forms, job interviews or in background reference checks. So, those reference checks also include the police and court clearance to my knowledge.

Senator Joanne Brown: Does it state that? I certainly understand with regards to discrimination but does it state specifically with regards to police and court clearances?

Sean Cepeda, Human Resources Division, Port Authority of Guam: I define the background check as a police and court clearance.

Senator Joanne Brown: Okay, that's your interpretation then?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Right, yes, ma'am.

Senator Joanne Brown: Can you at least provide that information. I think it'd be helpful, Madam Chair, if the Committee could review that because certainly, I think in the process of all this. It'd be good to know where the gaps are and certainly what we can do if through policy to address that. But, I do want to point out and it'll be my last comment on this round, Madam Chair.

If issues are brought to my attention as in one (1) particular case, I just want to relay this to the Committee and to the public. We did have an employee that was at the Port for quite a number of years; who had been hired to a designated position and by virtue of that specific designated position. That individual could not have had a convicted felon. It was brought to our attention

during my ten (10) years GM, that particular individual did have a federal conviction and upon review of that individual's application and records at the Port. It was determined that individual did not review his felony, did not indicate nor did provide information or evidence of his felony conviction nor did that individual mark the box that's designated on the application.

Essentially, I might be miswording the question but essentially the question is asking have you been convicted of a felony. So, if there's any opportunity where information is brought to my attention that would be conflict with our desire to ensure that the Port is properly operating. I've taken respective action and in that particular case terminated that employee.

So, I think we need to look at the process review, the process inferences are being made by the current General Manager with regards to decisions that were made during my term but I think it's important to outline as Mr. Cepeda has referenced; there are several layers of review process that occur at the Port with regards to application. And whether or not information was or not provided. I think that's something that needs to be looked in.

So, that there's an actual accounting process of what the actual applications are. What information was submitted and certainly at the time when decisions are being made to hire someone. Signatures that are there to recognize who actually reviewed it because right now that doesn't seem to be a clear process and you do unfortunately have circumstances where individuals of course, maybe because of their history don't want to report that. But of course, you know they want the opportunity to have a job.

So, at least at this point, I think those are things certainly that we can look into and I certainly in my policy position now, will look into but you know inferences are what I know. I'm willing to comment on what I know, I certainly hope and appreciate the question earlier from our other colleagues that all current cases including to date be brought up so, that all of that information can be provided to the public. With that, thank you very much Madam Chairperson for the opportunity to ask these questions.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you, Senator Brown. Mr. Respicio, does a felony negate you from being hired as an employee with the Port Authority of Guam?

Rory Respicio, General Manager, Port Authority: Yes, it does and I also needed to point out that in accordance with §4203.1 of Title 4, no person shall be employed as a Police Officer in the

law enforcement positions with the authority who has been previously convicted of a felony in any civilian or military court. A crime involving moral turpitude. A crime of domestic of family violence regardless of whether he was pardoned or committed by *I Maga'lahren* regarding such conviction.

Senator Telena Cruz Nelson, Committee Chairperson: Okay, thank you, Mr. Respicio.

Rory Respicio, General Manager, Port Authority: Go ahead...

Senator Telena Cruz Nelson, Committee Chairperson: Senator Taitague, did I call on you? Do you have any questions at this time?

Senator Telo Taitague: *Si Yu'os Ma'ãse'*, Madam Chair, for the opportunity and you know we were talking about the hiring of individuals with well let me ask the General Manager in your capacity and authority, you're allowed to hire if I'm not mistaken the Deputies, Board Secretary, and Controller, on your own as an unclassified, is that correct? Am I missing anybody?

Rory Respicio, General Manager, Port Authority: You're missing everything because the Board is the one (1) that hires these individuals not myself. All of them that you named.

Senator Telo Taitague: Okay.

Rory Respicio, General Manager, Port Authority: The Controller, we don't, he's a classified position here at the Port and so, it'll just be myself, the two (2) Deputy General Managers and the Board Secretary that the Board will hire.

Senator Telo Taitague: That the Board hires, okay. So, you have no authority to hire anyone it all has to go through.

Rory Respicio, General Manager, Port Authority: Senator, I'm not saying I have no...I'm struggling to understand your line of question and I will work harder to understand what you're trying to say but the Board hires myself...

Senator Telo Taitague: That's okay, I'm sorry.

Rory Respicio, General Manager, Port Authority: The Board Secretary, everybody else has hired through the merit process.

Senator Telo Taitague: Okay, so, in any unclassified positions that you don't have that ability to go ahead and hire on your own that has to be gone through the Port Board, is that correct?

Rory Respicio, General Manager, Port Authority: There are no unclassified positions other than those positions I named.

Senator Telo Taitague: Okay, which is...can you name them, please.

Rory Respicio, General Manager, Port Authority: General Manager, the Deputy General Manager for Operations, Deputy General Manager for Administration and Finance, and the Board Secretary.

Senator Telo Taitague: Not the Controller, then, yeah. You mentioned that earlier.

Rory Respicio, General Manager, Port Authority: That position, it's not Comptroller, it's a Financial Affairs Administrator and he is a classified position.

Senator Telo Taitague: So, have you hired anybody in the unclassified employees since you became General Manager in the unclassified position? Have you hired anyone?

Rory Respicio, General Manager, Port Authority: In the unclassified position, no, because I talked about the three (3) positions that the Board hires.

Senator Telo Taitague: Okay.

Rory Respicio, General Manager, Port Authority: And our Board Secretary position is still vacant...

Senator Telo Taitague: What do you or the Board have with authority where is it say that gives you the authority to hire unclassified?

Rory Respicio, General Manager, Port Authority: Senator, you're...we do not have unclassified positions at the Port except for those established by statute; the General Manager, the Deputy General Manager and the Board Secretary.

Senator Telo Taitague: Okay, I just wanted to just verify that first because okay...that okay...I'll move on. Thank you, Madam Chair. I just wanted to ask that particular...oh another one (1) the hiring of the individual that you know that I guess has been in the media with regards to the convicted misdemeanor. Am I saying that right, is it a misdemeanor or is it or how do you title his...

Rory Respicio, General Manager, Port Authority: Misdemeanor for official government misconduct.

Senator Telo Taitague: Okay, thank you Director. And in the hiring if this individual was this position created or was it a position that was already created...I mean of did you create this position or was it already there.

Rory Respicio, General Manager, Port Authority: It was a position that already existed.

Senator Telo Taitague: Okay and how long was that position vacant?

Rory Respicio, General Manager, Port Authority: I have to check the record but I need the Committee to understand. Please, how the Board has allowed the Port Authority to remain solvent coming into this Port, in January 2019, I learned to the Transition Committee that there were as many as twenty (20) new hires that were being processed not even interviewed yet. So, we managed to ask them to put a hold on all these new hires until such time we can do an agency wide assessment of the hiring needs.

And so, we really our hiring like for last Fiscal Year was twenty three (23) total. Where average was forty (40) to fifty (50) hires a year. We have a few less staff we do today than we did in the beginning of 2019. And so, these the Board allows...allowed to Board policy onto this budget that was adopted to create a vacancy pool and so, whenever these positions are needed by the division but I want you to know too that the Agency head, the division heads are the ones who request for these positions to be filled and so, I don't operate in a vacuum...

Senator Telo Taitague: So, you don't know, okay. Was this position was it announced? Was there any announcement for that opening of that particular position and I still want to know how long this position was vacant for? If you can get that information too, I appreciate it. You can give the Oversight Chair but was this particular position posted? Was it announced?

Rory Respicio, General Manager, Port Authority: Yes, the position was recruited for the merit system. It's a classified position, it was openly announced and we had people who applied for the position.

Senator Telo Taitague: Okay, thank you. And sorry...okay, thank you, Madam Chair. That's all I have for now, thank you, appreciate it.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you, Senator Taitague. Senator Blas, do you have any questions at this time? No? I will circle back to Speaker Terlaje, do you have any questions at this time?

Speaker Therese Terlaje: No, well yeah, as described by Mr. Cepeda, the process. So, at what point does a termination in your past employment come up in the hiring process at the Port.

Senator Telena Cruz Nelson, Committee Chairperson: Mr. Cepeda, can you please answer the question.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Can I listen to the question, again, I apologize.

Senator Telena Cruz Nelson, Committee Chairperson: Madam Speaker, can you repeat the question, please?

Speaker Therese Terlaje: Oh, yeah, sure. At what point would a termination in past employment come up in the hiring process?

Sean Cepeda, Human Resources Division, Port Authority of Guam: I didn't quite get your question.

Speaker Therese Terlaje: Okay, so, if you're considering an application. Does termination from a prior job come in to the record at any time and if so, when?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Uh, no.

Speaker Therese Terlaje: If you don't find out whether they were terminated from their last job.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Only if it's indicated on the application.

Speaker Therese Terlaje: Okay and if...when they get...do they get their police report, their police clearance before or after the interview?

Sean Cepeda, Human Resources Division, Port Authority of Guam: It's upon a conditional offer of employment after the interview.

Speaker Therese Terlaje: After the interview, okay. And so, what is the step after the conditional appointments are made, is that subject to the discretion of the General Manager or are they just made according to the interview panels, you know priority listing.

Sean Cepeda, Human Resources Division, Port Authority of Guam: It's based on a panel recommendation.

Speaker Therese Terlaje: Okay, so, then you send out notices and you tell them where they are on this list and then so, who reviews prior convictions or when would they review the police report.

Sean Cepeda, Human Resources Division, Port Authority of Guam: Upon submission after they're given the conditional offer.

Speaker Therese Terlaje: All right and does that matter...

Sean Cepeda, Human Resources Division, Port Authority of Guam: After they're offered the conditional employment then that's when the applicants provide us both clearances.

Speaker Therese Terlaje: All right and at that point is it still subject to discretion whether they are hired or not?

Sean Cepeda, Human Resources Division, Port Authority of Guam: Yes, correct.

Speaker Therese Terlaje: And whose discretion?

Sean Cepeda, Human Resources Division, Port Authority of Guam: The General Manager, ma'am.

Speaker Therese Terlaje: Okay, so, General Manager could overrule the panel's priority listing. You know based on an interview and the application upon, if when the General Manager reviews. What is you know their response including police or court clearances. All right. And just to follow up, yeah, if we could just don't want to forget about the list that you've inquired, Madam Chair. And if yeah, I'm still wanting to get the response to that list, the positions, I'm curious about positions. Where persons are hired so, the Director; the General Managers indicated that no hiring of persons with a criminal record was made for those in law enforcement positions.

Well, I want to make sure first of all, General Manager, is that your statement? That none, no one with a criminal record or police is hired in the law enforcement positions at the Port, is that correct?

Rory Respicio, General Manager, Port Authority: Correct, Madam Chair. It says specifically a felony.

Speaker Therese Terlaje: Right, what about misdemeanors? Are they hired in those positions but and when you did your review; the positions and the hiring are any in those positions?

Rory Respicio, General Manager, Port Authority: Not that I'm knowingly aware.

Speaker Therese Terlaje: Okay, so, but you've made the list right for the Chairperson and so, there's none on that list that are in law enforcement positions at the Port right now?

Rory Respicio, General Manager, Port Authority: Madam Speaker, the list that I provided yeah, was all the hires from Fiscal Year 2010 to present. It's everybody, it's everybody that was hired by the Port during those periods. Now, what we have to do and I'm asking the Committee for guidance is to identify for me who have they have been hearing has criminal records and

then will be very happy to submit records based on those guidances. I think it's reasonable thing for me to ask this Committee.

Senator Telen Cruz Nelson, Committee Chairperson: Mr. Respicio, I'm only going to say this one (1) more time.

Rory Respicio, General Manager, Port Authority: And I'll keep repeating...

Senator Telen Cruz Nelson, Committee Chairperson: Mr. Respicio, the inquiry was that those that the Port just ware of that have passed criminal history or record that is inquiry. I do not have names for you. I am asking that information from you and the Speaker asked you a question, so, please answer the question.

Speaker Therese Terlaje: All right, so, my interest in this Oversight Hearing was because prior to the hearing a question had been sent to the Port asking you know what hires had been made and in what positions of people who has passed. I believe the question included criminal records and so, I think that's a fair question. I think I want to know as you know a member of the Legislature who or what positions at the Port might have people who have passed criminal records because this is a matter of policy for the Legislature to you know examine and determine are we going to continue this policy, where we allow any type you know and persons with criminal records to be hired and we might want to limit it to certain positions. We might to exclude them from certain positions.

And I think that's absolutely within the realm of the Legislature to inquire about and to find out and I'm not asking you names, I'm asking you positions and based on the question that was sent to you prior to this hearing.

So, I would like to know which positions and frankly, it's just because what we've heard from the hiring process is that a disciplinary determination is being made that it's okay in this certain position or this prior record is you know okay. And I've not been in that position to make that type of determination. So, you know that's a judgement call but I want to know where it's being made, I think that's fair and I think we should know that throughout the government and not just the Port but through the government.

What positions are not excluded right from hiring those official accused of different types of crime and I would have liked to know what the records show like are we talking about drug

crimes? Are we talking about official misconduct where we can't determine what the crime was or you know or is very specific and I agree with those who mentioned earlier about you know that the law enforcement officials tell us the Legislature, that drugs are coming in through one (1) of our ports. It's either the airport, the commercial port or the post office that they're coming in or they're coming in with people who are coming in through those areas.

And those are the only ways that some of these drugs are coming into Guam because they're not being manufactured here or at least on a very small scale but the major you know component of what we are trying to fight here on Guam is a drug problem that is being imported and so, I think have every right to find out you know we're talking about positions at the Port and just what types of criminal records are being you know including in this hiring process. So, thank you, Madam Chair, thank you very much.

Rory Respicio, General Manager, Port Authority: Madam Chair, can I just...

Senator Telen Cruz Nelson, Committee Chairperson: Thank you, Madam Speaker. Senator Torres, do you have any questions at this time.

Rory Respicio, General Manager, Port Authority: Well, ma'am, sure can I just clarify. I appreciate what the Speaker was saying in this FOIA request. Correct me, if I'm wrong but I'm going to read it word for word. You've asked me to provide resumes of all individual applicants received by the Port Authority of Guam for 2016, 2017, 2018, 2019, and 2020 and you amended this to go all the way back to 2010.

In your own FOIA request of me, you didn't day with those of a criminal record. You said all individual received by the Port Authority of Guam. So, I asked you very respectfully to identify those individuals that you like us...

Senator Telen Cruz Nelson, Committee Chairperson: I understand what you are getting at if your agreement over a phone call that I had with you is not enough for you to say that you would provide me with the criminal histories and I will write it in the FOIA. So, it can be on record for you to clearly understand what we are asking for. I will rewrite the FOIA.

Rory Respicio, General Manager, Port Authority: Are we...

Senator Telena Cruz Nelson, Committee Chairperson: I think...Mr. Respicio, we are here. I understand and we will make that to be very specific for you. Senator Torres, do you have any questions at this time?

Rory Respicio, General Manager, Port Authority: Madam Chair?

Senator Telena Cruz Nelson, Committee Chairperson: Thank you, Mr. Respicio.

Senator Mary Torres: I'd like to bring the question back to the application process. You had were asked previously, Mr. Respicio, about the process by which you're hired and by which employees are hired at the Port and I believe that a lot of your discussion about your discretion in addressing any employee that might have a criminal record is addressed in three (3)...at least three (3) different places; one (1) in the application form itself under suitability determination where it asks you know is essentially three (3) questions. One (1) is whether there is any dismissal from employment or dishonorable separations from the military service; the second is convictions for violations of law and it just talks about violations of law generally; and then another third disclosure is family members in the government. So, that's one (1) tier where disclosure is made.

Secondly, the Personnel Rules and Regulations for the Port Authority of Guam which is Guam adopted by Guam law also under Section 4410, rejection of applicants and that highlights some of the areas that you described already that those conditions that would deem an applicant submission to be rejected by you.

Some of which includes as you discuss conviction of a crime, sex offender registry and also the failure to submit information or to even submit false information and the item lists is from a I, so, it's quite extensive and any finding of one (1) of those gives you the discretion to reject the application and notify the applicant of the rejection.

And then there was some comment today about the Fair Chances Hiring Process Act which is Public Law, which also talks about that level of discretion when a person had a criminal record and makes an application to the Port because as you've discussed and we know just on a read of the Personnel Rules and Regulations that a conviction is not a bar from employment automatically.

I wanted to ask you though because there's a lot of discussion and speculation about the hiring of persons with criminal records. We know that the Fair Chances Hiring process by law gives a process by which you have to discern whether a person can be suitable for an employment at a Port and generally it's best business practices that's outlined in law and consistent with many Fair Chances practices and even your Personnel Rules and Regs. But I'm going to ask you a very pointed question, if I can? In the list of employees that you provided us, did you are you aware of one (1) employee that you hired who had a criminal conviction; a felon...a felony conviction in 1979, a person who served his life, prison term has been out for many years and has worked in both the private sector and the federal government as well and the Government of Guam. A person who was vetted went through the process and was determined suitable for some employment at the Port. Are you aware of such a situation amongst the list of people because you named some things but I believe that there was at least one (1) person with a criminal record that you hired? Are you aware of a person that you hired with a criminal record felony going back to 1979?

Rory Respicio, General Manager, Port Authority: Yes, Senator and this matter was made aware to me and if you look at the file and I will provide these documents to the Committee. This individual applied in 2018 at the Port and was vetted by the former General Manager and that process and he was deemed eligible in an eligibility listing. When I was hired in January 2019, suspended all hirings at the Port until we could determine what those priority areas are. And when we needed stevedore casuals as a former General Manager you know that's one (1) of the positions that kind of rotate through.

There was already an eligibility listing for stevedore casuals. I could not re announce any position until those eligibility listings expire and so, this individual was on an eligible listing that was vetted by the former General Manager and him and a whole bunch of others at the time in one (1) fell swoop of a pen were hired. And so, he was hired in March of 2020, Senator and he has since was able to get a TWIC card, he since being productive at the Port...

Senator Mary Torres: So, can I then ask if you were to hire somebody because you know there are different processes that are outlined in the Personnel Rules and Regs in the public law on Fair Chances Hiring Process and assuming that you follow all those to a T and the person is hired. If a person fails to secure a TWIC card and not have access you said this person was a stevedore, who's on the yard and would need an access card to get through. What is that person could not get an access card? Are people ever allowed to work without access cards on the dock

or would that make that person now not eligible to continue to stay on the job and have to be fired?

Rory Respicio, General Manager, Port Authority: They wouldn't be allowed on the year unless they were escorted. So, we had a case before my time where an employee could not get a TWIC card immediately and so, they were having to be escorted in daily into the yard. When that situation presented itself to me in another employee like I said I moved them to another division because he was in a division, he wasn't the stevedore or equipment operation or any dock worker. He was just in one (1) of those divisions housed inside the yard. And so, I did not want to give him access to the yard simply because I don't...if we get audited by Captain Chase you know at the Coast Guard that would be a violation.

And so, this individual that you asked received the TWIC card eventually and this individual that I talked about also received a TWIC card. So, that's other layer of scrutiny and protection and that vetting process.

Senator Mary Torres: So, when you're and I just want to be clear then so, when you're using your discretion as a General Manager and you're following for example the Fair Chances Hiring Process guidelines on what is best business practices to determine if this person is suitable. For example, if a person was convicted of theft, you are clearly would not hire that person to run a cashier. You know that's the best business practices but maybe that person can work in an area that doesn't involve money or anything you know a value or the mishandling of anything with value.

So, for example, that would be a type of suitability versus unsuitability decision but as General Manager, when you're making those decisions and Rory, are you always given then you would have to be given the records and all the documentation that the employee would give you to substantiate their...what the crime was, what the restitution was, etc..., is that correct or I mean how could you make a decision otherwise.

Rory Respicio, General Manager, Port Authority: Correct, then you know what I also do is I just google the name and when you google the name all these cases come up that there are cases involving the individuals. So, just to say that I didn't knowingly knew or didn't know. It's just not being responsible in those positions of leadership and you talk about the suitability. There's a difference between a stevedore and a cargo checker a cargo checker has access to the

manifest and additional sensitive information; stevedore you know the kind of work that they do, they don't have anything to do with cleaning cargo or inspecting cargo.

But customs as they're inspecting the cargo. So, you have in my discretion, I kind of look at the like position. If they worked at a bank and they got fired for embezzlement, you don't want them near cash register and so, that's the kind of discretion that the policy provides and so, these individuals whoever we're talking about. I believe they're not in like positions and even at that they have to go through a probationary process. They get subject they get drug tested upon hiring and all those clearances are vetted and if there was an instance where any of these employees did not meet the requirements to be hire or they have a felony on their record; then I would also take action as General Manager to terminate that employee.

Senator Mary Torres: And if they lied to you, that's grounds also for adverse action, right? If somebody didn't give you information or lied about something or misrepresent because it's all laid out in your Personnel Rules and Regs, anyways right? If they falsify anything that in and of itself, so, I suppose you know sometimes you worry that you might not know something. But the remedies I would think between what you do, your scrutiny, the TWIC card and then any subsequent reports, you know they're process there's many layers of the process. But I also think what I'd like to just bring up, Madam Chair, is you know we really need to also remember that under the merit protection system, the Civil Service Commission has authority to investigate aby complaints that should be brought up and I understand that anybody can file a complaint with a Civil Service Commission, if they believe that someone was erroneously hired into a classified position in the government. And so, you know we've had the Director Leon Guerrero discussed that in other forums before the legislature where all it really takes is if there's a suspicion by somebody, anybody that someone was erroneously hired that all it takes is a compliant to Civil Service Commission who will then take initiate a Post Audit investigation into that hiring process and determine in their own independent way you know whether it was in conformance with the law or not. And maybe that's really the avenue that is best suited for all these sorts of concerns that the public has.

And you know in his defense not that I'm trying to be overly generous but to in defense of the Manager, if really we have an issue with somebody or can spot that something is up. Really the obligation is on anybody who has that kind of a suspicion of a violation to call it out and give it to the Civil Service Commission, who's entrusted to conduct those and to issue their recommendations.

So, I just want to bring that up but thank you for confirming that you in fact, hired somebody who you knowingly had a criminal record and went through the vetting process. I think people just need that was one (1) thing that we were expecting you to add to you report in addition to the official misconduct right?

Rory Respicio, General Manager, Port Authority: And there's an example you asked me to talk about that vetting process was done under the former General Manager, that employee...

Senator Mary Torres: But the ultimate hiring was yours...but the ultimate hiring was yours and that's why I asked you know did you see him, was that your discretion...

Rory Respicio, General Manager, Port Authority: And well because I couldn't announce the position because it was still eligible for that position, Senator, did not expire and so we need casuals. I think that's the difference, I wanted to point out. Thank you for allowing me to point that out.

Senator Mary Torres: All right, thank you, Madam Chair. Thank you, Mr. Respicio.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you, Senator Torres. Colleagues is there anyone else that would like to pose any questions to the General Manager or to the other members of the Port? No, okay, Senator Taitague, yes, you are recognized.

Senator Telo Taitague: Thank you, Madam Chair. Not really a question but just a reminder to find out the time frame on the vacancy of that position I was talking about earlier; we can find out how long that position was vacant for. Thank you.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you, Senator Taitague. Is there anyone else? Okay, Mr. Respicio, there are some requests that will be asked of you and one (1) of them is the vacancy timeline; I am updating my FOIA to specifically state criminal record rather just by going on a phone conversation and then is there anything that I might have let out from the rest of the members on the panel? If there was any other things that were pending and would like have to be submitted to our Committee, okay. So, please standby and we'll be sending those things that request to you in writing and then hopefully within five (5) days you can get it to us. Okay, we will also be publishing the Committee Report with some of our findings and what had taken place to here today.

It is now 11:50.

Rory Respicio, General Manager, Port Authority: Sorry, but I'm trying to ask if I could have some time to introduce you and your Committee to a new hire at the Port and only take about ten (10) minutes. Okay, so, I want to ask you to dismiss Carmen and Sean.

Senator Telena Cruz Nelson, Committee Chairperson: What are you asking?

Rory Respicio, General Manager, Port Authority: I'm asking you if you could dismiss Carmen and Sean, so, we can bring in an individual who is...second day here at the Port. Go ahead Sean...thank you, Madam Chair.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you.

Rory Respicio, General Manager, Port Authority: So, Madam Chair, with all this conversation, which is extremely productive regarding Second Chances and the Port's hiring practices. I want to introduce you and the Committee to a new hire at the Port, who came to me and asked for an opportunity to address the Oversight Chair and to kind of humanize and personalize his journey and this process to which he was hired. His name is Jesse Mendiola.

Senator Telena Cruz Nelson, Committee Chairperson: Please proceed. Rory the mic is on mute.

Jesse Mendiola, Port Authority of Guam: Okay, good morning, Madam Chair, Vice Chair and Senators. My name is Jesse Mendiola and I am...I have a criminal history. I am proud and humbled to sit here today before you as the newest member of the Port strong family.

I was hired through the merit system and because someone believed in giving me a second chance and not through politics. Certainly, and clearly, it was not a political hire as I campaigned for one (1) of the current sitting senators on the republican party. The talk over the past few weeks had gotten me really worried that my dream of becoming a long time employer at the Port may not come to fruition.

Even though today, I sit here before all of you, I ask do I have anything to worry about? Is my future in jeopardy? Most of you know me personally and some of you know my story but for those who don't know my story, I made some mistakes in the past. I was sentenced to federal

prison in the states and I lost everything. I came home with a plan to change my life and I never looked back. I found the greatest compliment in my life and I married that compliment. My beautiful wife is a nurse, a public health nurse and a front liner. She along with all the other nurses are my heroes.

I have dedicated my life to helping others turn their lives around. I have become a parole advisor for both the federal level and the local level. I help those inmates transition into society and find a new way of life centers. This has been a dream for me to one (1) day not just work at the Port but in a job to where I can provide stable home environment for my family, my kids and my grandkids

I have worked so hard to get to where I'm at today. My first day yesterday was you know pretty ecstatic and amazing. I was welcomed by everybody, nobody judged me. I felt appreciated and excited to be able share my skills in the construction industry with my new family here at the Port.

More importantly, I was excited to be in an environment where my past didn't define me. I want to thank those who have given me this chance but mostly importantly I want to know from you all, our elected leaders; my elected leaders, do you think I deserve a second chance? Do I have to worry that myself and others making the change for a better life will forever be under a cloud of judgement or held prisoner by their past . Thank you.

Senator Telen Cruz Nelson, Committee Chairperson: Thank you, Jesse. I am in no place to pass judgement on anyone. We all have a history and I want to congratulate you on your hire. What we are doing here is ensuring that the process is within the statutes of the law. I am glad that you have this opportunity to rebuild your life and to start new. This is something that every human being is...has a right to and so, I wish you the best and I'm very happy for you. I'm happy that you're able to fight the battles that you have fought thus far and I wish you the best and your family the best.

Is there anyone that would like to make any remarks before we close this Oversight Hearing? Speaker Terlaje, you're recognized.

Speaker Therese Terlaje: Yes, Jesse, I just wanted to say thank you for your testimony today as well and to the General Manager, thank you for your answers. I'm looking forward to more answers and I too, just want to make the record very clear that, I voted in favor of the Second

Chance law and this is I don't think about that. This is clearly for me at least about there are allegations that people you know even with the Second Chance law police records, court records are supposed to be reviewed and you're supposed to use your discretion and they're also you know. Particularly at the Port, I think you're supposed to ensure that we are going to have you know safety before anything else. And that there will be no threat of any improprieties. Particularly for me, involving you know drug importation or anything like that.

And so, I still think it's within the purview of the legislature to review hirings made under that law to see you know which positions these affect or do not affect. And you know let's face it, we're all here because of allegations in the news regarding personnel that were hired who have police records or court records or you know conviction records and are related to high level people in the government. You know that's why we are...why this has become a big deal, I think you know.

And that if they are if their records are being overlooked simply because they are related to somebody high up in the government then that's relevant if we are you know overlooking everyone's record regardless. You know of the type of record or the position that they're being put in. I just think all of that's relevant and so, we just have to keep it in perspective you know. And that you know I don't think anybody is trying to well you know, I think as a matter of policy, we're all trying to follow the policy that we've adopted and we stand by it. But I still think where discretion is available that of course we should be determining whether that is still appropriate. So, thank you again, Madam Chair for this hearing and we're trying to ascertain the truth. Thank you.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you, Speaker Terlaje. Senator Duenas, you're recognized.

Senator Chris Duenas: Yes, I wanted to join in and also congratulate Jesse. I followed your journey as well but I had to follow our good Speaker as well because I believe what our Madam Chair is trying to accomplish here is that Jesse along with you, there's a lot of people with first chances that applied alongside you. There's a lot of people who you know have a dream of working at the Port, who have a dream of working in the government, who have a dream of securing employment for their future too.

And what we have a responsibility to do with the legislature is to ensure that those agencies for which we have Oversight that the buck stops all the way at the top. That the documents that

need to go through and be vetted are something that is a full review at the end of the day by the appointing authority because that is the final signature that goes on a piece of paper to ensure that you and others can realize your dreams.

So, for the people of Guam that are watching Jesse, I'm sure they're proud of you and they're rooting for you but they're also rooting for their brothers, their sisters, their cousins; anybody who comes to Guam to make this beautiful place their home. To have an equal opportunity as well and to ensure that when they walk away should they not be able to receive that positions, that they know it was fairly done and that all the purposes of transparency and accountability. Everything was in place and I believe that's what our Chairwoman and this good Committee is trying to do. *Si Yu'os ma'åse'* Madam Chair, for the opportunity to share my thoughts after having heard collectively particularly by individuals who have the responsibility in the past and wanted to be a listener but I thought that I had to add that in the end. Thank you for the opportunity.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you, Senator Duenas. Since there are no others that...Senator Taitague, you're recognized.

Senator Telo Taitague: *Si Yu'os ma'åse'* Madam Chair and thank you so much for having this Oversight. I would have never...I know Jesse. I remember listening to him when he came to testify and did his civic duty as a citizen to come and testify on some important legislation. And I appreciate it and this is the first time I found out that you've applied at the Port Authority of Guam. I didn't realize that. So, congratulates on your hire. I'm glad to see that you did go through the merit system. And you know I did want to ask maybe I didn't hear it clearly, my volume is very badly but what position have you applied for? Jesse, I think it's on mute. It's one me so, I can't hear.

Jesse Mendiola, Port Authority of Guam: I applied for a Plumber II position which was my positions in my previous job in the private sector. Once I found out that there was an opening on the announcement. I immediately jumped at the opportunity to try and get in. there's no harm no foul of me trying to get in and by the grace of God, I was selected. I got rated and my rating you know this was all new to me. So, I got you know I guess a decent rating and then called for the interview and I guess the impression I made up on the panel to their liking.

So, the selection process, I was selected in the process and hired conditionally upon my turning in my police and court clearance.

Senator Telo Taitague: I'm sorry, I didn't. Jesse, I didn't hear it. You got the position again, was what?

Jesse Mendiola, Port Authority of Guam: Plumber II position.

Senator Telo Taitague: Okay, Plumber II. Thank you, sorry, I have a bad connection here. Plumber okay, and Jesse, when you were hired in this position you said that you hear about it. Was it posted somewhere that you heard about this opening?

Jesse Mendiola, Port Authority of Guam: Yes, I checked the government online registry every now and again. Actually, I have my wife do it because you know she's my wife. So, she checks it for me and she told me about an opening here at the Port and it was a plumber position. And that's exactly what I do for the last fifteen (15), twenty (20) years is plumbing. So, you know it's a no brainer let me give it a shot, see where it leads me.

Senator Telo Taitague: Okay, well, thank you so much for answering my questions and it's always good to see you. Thank you, Jesse.

Jesse Mendiola, Port Authority of Guam: Thank you.

Senator Telena Cruz Nelson, Committee Chairperson: Thank you very much. So, thank you, Jesse for your testimony and congratulations again and we wish you the best.

It is now 12:02 in the afternoon. Colleagues, I'd like to thank you for participating in the Informational Oversight Hearing. Mr. Respicio, members of the Port and members of the board, I'd like to thank you for all your hard work and dedication that you have done ensuring our island had receives our goods and to make sure that we are in a safe environment. I am hoping that we can continue to work together to identify some of the gaps that if there may be that we can address and move forward in policy to improve it. I'd like to thank all the employees at the Port for their hard work that they continue to do especially during COVID coming to work every day without any breaks, ensuring that we are able to sustain ourselves within our community. So, thank you for all your hard work.

It is now 12:03 p.m. we will adjourn this Oversight Hearing. Thank you very much. Have a good day and god bless.

The public hearing was adjourned at 12:03 P.M.

III. FINDINGS & RECOMMENDATIONS

In a virtual oversight hearing conducted by the Committee on Border Protection and Maritime Transportation, Chairperson Senator Telena Cruz Nelson meets with the Port Authority of Guam (PAG). The oversight hearing consisted of discussing the recruitment practices, hiring procedures and human resources (HR) management from 2016 to present.

At the conclusion of the hearing, the Oversight Committee ascertained the following:

- The PAG has had multiple previous experiences with hiring employees with criminal convictions.
- Applications that are submitted to the PAG are reviewed and rated from highest to lowest by the HR staff based on experience and background, wherein those who are selected can go between one (1) to three (3) rounds of interviews. From there, the interview panel will make recommendations to the General Manager (GM), and the GM or Agency Head can choose who to hire.
- The interview panel consists of in-house employees, usually the Head of the Division the applicant applied for, as well as other supervisors.
- As per the HR's interpretation of the PAG's Personnel Rules and Regulations, the interview panel and GM are unable to conduct preemployment review of police and court clearances of applicants.
- Any individual who has been convicted of a felony with regards to domestic/family violence or a crime involving moral turpitude shall not be employed as a Police Officer in the law enforcement.
- There are three cases where an individual is ineligible to work for the PAG:
 - o If the individual has a conviction of criminal sexual conduct.
 - o If the individual has a conviction of family violence.
 - o If the individual is unable to obtain a Transportation Worker Identification Credential (TWIC) Card.
- A TWIC Card is acquired from the Department of Transportation and is a federal process. All PAG employees are required to have a TWIC Card.
- There are only three (3) unclassified positions at the PAG: General Manager, Deputy General Manager, and Board Secretary.