



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U. S. A.

EXECUTIVE ORDER NO. 2001-35

RELATIVE TO PROVIDING FOR 3-HOUR WEEKLY PAY ENTITLEMENT, HAZARDOUS PAY, AND NIGHT DIFFERENTIAL PAY FOR ELIGIBLE PERSONNEL OF THE DEPARTMENT OF YOUTH AFFAIRS.

WHEREAS, the FY 2002 Budget Act provides language in Section 3 of Public Law No. 26-47 stating that: "The combined funding levels of all positions, within each department, program, division, or section as grouped in Appendix C, may be used to fund any position authorized therein, to the extent that funds may be lapsing due to vacancies in the course of the year"; and

WHEREAS, Section 2 of Public Law No. 26-47 authorized and appropriated \$500,000 for Guam Police Department, Department of Corrections, Guam Fire Department, and the Department of Youth Affairs (DYA) to fund holiday pay for the 1st Quarter of this fiscal year; and Section 9 of Public Law No. 26-55 added the Department of Mental Health and Substance Abuse without providing for an additional appropriation; and

WHEREAS, Section 8 of Public Law No. 26-55 provided for a generic authorization for the department head to use lapses to fund positions deemed eligible by the Civil Service Commission to be entitled to hazardous and night differential pay, making no reference to the 3-hour weekly pay entitlement for eligible DYA personnel; and

WHEREAS, the FY 2002 Budget Act, inclusive of 5 subsequent legislative attempts, does not authorize the Director of DYA to fund the additional 3-hour weekly pay entitlement for eligible DYA personnel; although Section 3 of Public Law No. 26-47 authorizes the uses of lapses for authorized, but un-funded positions, it failed to legislatively address the use of lapses for the special pay categories, meaning subsequent legislative attempts to address deficiencies in the FY 2002 Budget Act, thereafter only authorize holiday, hazardous, and night differential pay, but fail to legislatively address the additional 3-hour weekly pay entitlement for eligible DYA personnel; and

WHEREAS, because Section 8 of Public Law No. 26-55 authorizes the department head to use lapses to fund positions deemed eligible by the Civil Service Commission to be entitled to hazardous and night differential pay, doing so clearly established the Legislature's further intent to treat holiday pay, hazardous pay, and night differential pay separate from the employee's base pay from the special pay entitlements;

NOW, THEREFORE, I, CARL T.C. GUTIERREZ, I Maga'Lahen Guåhan, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, do order:



1. **Use of lapses to fund all pay entitlements for the Department of Youth Affairs entitled positions.** All lapsed funds within the Department of Youth Affairs for personnel services may be utilized to fund any position within the Department of Youth Affairs, to include all entitlements to the position, including hazardous pay, night differential pay, and the additional 3-hour weekly pay entitlement, thereby granting that the department's Youth Correctional Facilities and Cottage Homes programs remain operational 24 hours a day, 7 days a week; this is a temporary means contingent upon the availability of lapses occurring within the DYA.
2. **Authority.** This Executive Order provides the Director of the DYA with the authority to use all lapsed funds for personnel services within the Department of Youth Affairs, to include all entitlements to the position, including hazardous pay, night differential pay, and the additional 3-hour weekly pay entitlement, which is contingent upon the availability of lapsed funds, pursuant to Section 3 of Public Law No. 26-47 and Section 8 of Public Law No. 26-55; Holiday pay is treated separately, as outlined in Section 2 of Public Law No. 26-47.

SIGNED AND PROMULGATED at Hagåtña, Guam this 21st day of November, 2001.

A handwritten signature in black ink, appearing to read "Carl T. C. Gutierrez".

CARL T. C. GUTIERREZ
I Maga'Lahen Guåhan
Governor of Guam