



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

EXECUTIVE ORDER NO. 95-11

RELATIVE TO ESTABLISHING A DEFINITION OF EMPLOYEES EMPLOYED IN A BONAFIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY, ESTABLISHING A POLICY DECLARING THOSE EMPLOYEES INELIGIBLE FOR PAYMENT OF OVERTIME OR COMPENSATORY TIME, AND DIRECTING ITS IMMEDIATE IMPLEMENTATION.

WHEREAS, the General Fund of the government of Guam recorded a deficit of approximately \$185 Million as of September 30, 1994 and will approach \$207 Million by September 30, 1995; and

WHEREAS, the cash position of the General Fund continues to worsen, to the extent of endangering the payment of employee salaries, benefits, tax refunds for tax year 1994, and other vendor payments; and

WHEREAS, the government of Guam is committed to ensuring that its costs are effectively managed, and is intent upon ensuring that growth in the deficit is abated and ultimately reversed; and

WHEREAS, \$12.7 Million for overtime was paid to approximately 4,300 line agency employees in Fiscal Year 1994, of which \$3.2 Million, including benefits, was paid to employees serving in an administrative, professional, or executive capacity; these funds might otherwise have been expended directly for services or benefits to the public; and

WHEREAS, decreasing the General Fund subsidy utilized for overtime to autonomous agencies, with approximately 6,000 additional employees, would have resulted in further savings equal to, if not more than, the savings that would have resulted from decreasing overtime payments in the line agencies; and

WHEREAS, the Governor of Guam has revised the General Fund revenue estimate for Fiscal Year 1995 from \$540 Million to \$527 Million, and the Governor of Guam, by virtue of §4103 of Title 5, Guam Code Annotated, must administer the executive budget and ensure that expenditures do not exceed available revenues; and

WHEREAS, the Fair Labor Standards Act (FLSA), Subsection (b) of Section 46006 of the Government Code, provides that the government is not required to pay overtime or compensatory time to employees who are employed in a bonafide executive, administrative, or professional capacity; and



WHEREAS, all agencies and departments of the government of Guam are governed by the term "bonafide executive, administrative, or professional capacity" as defined in 29 CFR, Part 541.

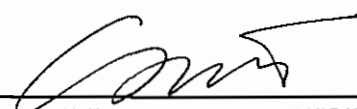
NOW, THEREFORE, I, CARL T. C. GUTIERREZ, by virtue of the authority vested in me by the Organic Act of Guam, do hereby order the following:

1. Effective the first day of the pay period next following the promulgation date of this Executive Order, employees whose position titles are listed in Attachment I, herein, as set by §6201 of Title 4, Guam Code Annotated, and those in the executive level are defined as administrative, professional or executive positions of the government of Guam and, accordingly, shall not receive overtime pay or compensatory time for working more than Forty (40) hours per week.

2. Regarding future determinations or redeterminations, the Department of Labor, using Fair Labor Standards Act guidelines, shall establish whether government of Guam employee positions are executive, administrative, or professional and therefore ineligible to receive overtime pay or compensatory time.

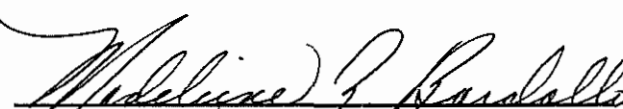
3. The Department of Administration, Civil Service Commission, in conjunction with the Department of Labor, shall conduct appropriate orientations to departments and agencies regarding the provisions of this Executive Order.

SIGNED AND PROMULGATED at Agana, Guam this 21st day of April, 1995.



CARL T. C. GUTIERREZ
Governor of Guam

COUNTERSIGNED:



MADELEINE Z. BORDALLO
Lieutenant Governor of Guam