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**Ch .4 Program Budgeting and Financial Management**

**Chapter 4**  
**Program Budgeting and Financial Management**

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**§ 4101. Short Title.**

This Chapter may be cited as *The Executive Budget Law*.

**SOURCE:** GC §5150 added by P.L. 12-115.

**§ 4102. Statement of Policy.**

It is the purpose of this Chapter to establish a comprehensive system for territorial program and financial management which furthers the capacity of the Governor and Legislature to plan and finance the services which they determine the Territory will provide its citizens. The system shall include procedures for:

- (a) The orderly establishment, continuing review and periodic revision of the programs and financial goals and policies of the Territory.

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(b) The development, coordination and review of long-range program and financial plans that will implement established territorial goals and policies.

(c) The preparation, coordination and analysis, and enactment of a budget organized to focus on territorial services and their costs, that authorizes the implementation of policies and plans in the succeeding budget period.

(d) The evaluation of alternatives to existing policies, plans and procedures that offer potential for more efficient or effective territorial services.

(e) The regular appraisal and reporting of program performance.

**SOURCE:** GC §5151 added by P.L. 12-115.

**§ 4102.1. Fiscal Year.**

The fiscal year of the Government of Guam shall be October 1st through September 30th.

**SOURCE:** Added by P.L. 14-132:V:13 to implement the amendment of Section 11 of the Organic Act relative to conforming the Government of Guam's fiscal with that of the federal government. Implemented with fiscal year beginning October 1, 1978.

**§ 4103. Responsibilities of the Governor.**

The Governor shall direct the preparation and administration of the territorial budget. He shall evaluate the long-range program plans, request budget and alternatives to territorial agency policies and programs; and formulate, and recommend for consideration a financial plan which shall cover all estimated receipts and expenditures of the government of Guam for the General Fund and all special funds whether or not their resources are annually appropriated by the Legislature, including all grants, loans and moneys received from the Federal government or other agencies both governmental and nongovernmental. No such recommendation shall exceed estimated revenues.

**SOURCE:** GC §5152 added by P.L. 12-115; amended by P.L. 13-149:VII:1 and P.L. 14-5:5.

**§ 4104. Responsibilities of the Legislature.**

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The Legislature shall:

(a) Consider the program and financial plan recommended by the Governor, including proposed goals and policies, recommended budget, revenue proposals and proposed long-range program plans.

(b) Adopt programs and alternatives to the plan recommended by the Governor as it deems appropriate.

(c) Adopt legislation to authorize the implementation of a comprehensive program and financial plan.

(d) Provide for a post audit of financial transactions, program accomplishments and execution of legislative policy direction.

**SOURCE:** GC §5153 added by P.L. 12-115.

**§ 4105. Responsibilities of the Bureau of Budget and Management Research.**

The Bureau of Budget and Management Research shall:

(a) Assist the Governor in the preparation and explanation of the proposed comprehensive program and financial plan, including the coordination and analysis of territorial agency program goals and objective, program plans and program budget requests.

(b) Develop procedures to produce the information needed for effective policy decision-making.

(c) Assist territorial agencies in their statement of goals and objectives, preparation of program plans, program budget requests and reporting of program performance.

(d) Administer its responsibilities under the program execution provisions of this Chapter so that the policy decisions and budget determinations of the Governor and the Legislature are implemented to the fullest extent possible within the concepts of proper management.

(e) Provide the Legislature with any budget information it may request.

**SOURCE:** GC §5154 added by P.L. 12-115.

**§ 4106. Agency Program and Financial Plans.**

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(a) Each department or agency of the Government (other than the Legislature and the courts), on the date and in the form and content prescribed by the Bureau of Budget and Management Research shall prepare and forward to the Bureau of Budget and Management Research the following program and financial information:

(1) The goals and objectives of the agency programs, together with proposed supplements, deletions and revisions.

(2) Its proposed plans to implement the goals and objectives including estimates of future service needs, planned methods of administration, proposed modification of existing program services and establishment of new program services, and the estimated resources needed to carry out the proposed plan.

(3) The budget requested to carry out its proposed plans in the succeeding fiscal year. The budget request information shall include the expenditures during the last fiscal year, those estimated for the current fiscal year, those proposal for the succeeding fiscal year, and explanation of the services to be provided, the need for the services, the costs of the services and any other information requested by the Bureau of Budget and Management Research.

(4) A report of the receipts during the last fiscal year, an estimate of the receipts during the current fiscal year, and an estimate for the succeeding fiscal year.

(5) A statement of legislation required to implement the proposed programs and financial plans.

(6) An evaluation of the advantages and disadvantages of specific alternatives to existing or proposed programs, policies or administrative methods.

(b) The territorial agency proposals prepared under Subsection (a) shall describe the relationships of their program services to those of other territorial agencies, of other governments and of nongovernmental bodies.

(c) The Bureau of Budget and Management Research shall assist agencies in the preparation of their proposals under Subsection (a). This assistance may include technical assistance; organization of materials;

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centrally collected accounting, budgeting and personnel information; standards and guidelines formulations; population and other required data; and any other assistance that will help the territorial agencies produce the information necessary for efficient agency management and effective decision-making by the Governor and the Legislature.

(d) If any territorial agency fails to transmit the program and financial information provided under Subsection (a) on the specified date, the Bureau of Budget and Management Research may prepare such information.

(e) The Bureau of Budget and Management Research shall compile and submit to the Governor-elect in any year when a new Governor has been elected, not later than November 20, a summary of the program and financial information prepared by territorial agencies.

(f) Each territorial agency shall send a representative or representatives to the legislative hearing or hearings dealing with that part of the Executive Budget dealing with such agency. At least four days prior to such hearing, each agency shall submit to the Chairman of the Committee on Ways & Means a statement indicating the priority of each program contemplated within the proposed budget which will be the subject of such hearing or hearings. Such prioritization shall be set out in such a manner that the Legislature may decide, from necessity or objective determination of the inappropriateness of any program to eliminate or reduce the portion of the proposed budget related to that program.

**SOURCE:** GC §5155 added by P.L. 12-115; subsection (f) added by P.L. 15-22:1.

**§ 4107. Governor's Recommendation.**

(a) The Governor shall formulate the program and financial plan to be recommended to the Legislature after considering the territorial agency proposed program and financial plans, and other programs and alternatives that he deems appropriate. The plan shall include his recommended goals and policies, recommended plans to implement the goals and policies, recommended budget for the succeeding fiscal year and recommended revenue measures to support the budget.

(b) The Governor shall present the proposed comprehensive program and financial plan in a message to the Legislature not later than

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January 31 prior to each fiscal year. If the Governor is in the first year of his first term or an additional non-consecutive term, then the message shall be presented not later than April 8 of that same year. The message shall be accompanied by a budget document which shall contain the Governor's recommended goals, plans and appropriations. The budget document shall be furnished each member of the Legislature and each department or agency of the Government. The budget document shall contain the following information:

(1) The coordinated program goals and objectives that the Governor recommends to guide the decisions on the proposed program plans and budget appropriations;

(2) The program and budget recommendations of the Governor for the succeeding fiscal year;

(3) A summary of the Territory's receipts in the last fiscal year, a revised estimate for the current fiscal year, and an estimate for the succeeding year;

(4) A summary of expenditures during the last fiscal year, those estimated for the current fiscal year and those recommended by the Governor for the succeeding fiscal year;

(5) Drafts of appropriation bills and revenue measures; and

(6) Any additional information which will facilitate understanding of the Governor's proposed program and financial plan by the Legislature and the public.

(c) After delivery of the Governor's message, the bills incorporating his recommendations may be introduced in the Legislature in accordance with the provisions of its Standing Rules.

**SOURCE:** GC §5156 added by P.L. 12-115; subsection (b), para. 1 amended by P.L. 13-149: VII:2, repealed/reenacted by P.L. 15-82:2, amended by P.L. 17-8:2.

**§ 4108. Legislative Review.**

The Legislature shall consider the Governor's proposed comprehensive program and financial plan; evaluate alternatives to the Governor's recommendations; and determine the comprehensive program and financial plan to support the services to be provided the citizens of

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the Territory.

**SOURCE:** GC §5157 added by P.L. 12-115; amended by P.L. 13-37:VI:10 and by P.L. 13-149:VII:2.

**§ 4109. Program Execution.**

(a) Except as limited by policy decisions of the Governor, appropriations by the Legislature, and other provisions of law, the territorial agencies shall have full authority for administering their program service assignments, and shall be responsible for their proper management.

(b) Each territorial agency, (other than the Legislature and the courts), shall prepare an annual plan for the operation of each of its assigned programs. The operations plan shall be prepared in the form and content and be transmitted on the date prescribed by the Bureau of Budget and Management Research.

(c) The Bureau of Budget and Management Research shall:

(1) Review each operations plan to determine that it is consistent with the policy decisions of the Governor and appropriations by the Legislature, that it reflects proper planning and efficient management methods, that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year.

(2) Approve the operations plan if satisfied that it meets the requirements under Paragraph (1). Otherwise the Bureau of Budget and Management Research shall require revision of the operations plan in whole or in part.

(3) Modify or withhold the planned expenditures at any time during the appropriation period if the Bureau of Budget and Management Research finds that such expenditures are greater than those necessary to execute the programs at the level authorized by the Governor and the Legislature, or that the receipts and surpluses will be insufficient to meet the authorized expenditure levels.

(d) No territorial agency (except the Legislature and the courts), may increase the salaries of its employees, employ additional employees or expend money or incur any obligations except in accordance with law

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and with a properly approved operations plan.

(e) The Bureau of Budget and Management Research shall report quarterly to the Governor and the Legislature on the operations of each territorial agency, relating actual accomplishments to those planned, and modifying, if necessary, the operations plan of any agency for the balance of the fiscal year.

**SOURCE:** GC §5158 added by P.L. 12-115.

**§ 4110. Performance Reporting.**

(a) Each territorial agency (other than the Legislature and the courts), shall submit a performance report to the Bureau of Budget and Management Research on or before September 1 for the preceding fiscal year. These reports shall be in the form prescribed by the Bureau of Budget and Management Research and shall include statements concerning:

(1) The work accomplished and the services provided in the preceding fiscal year or other meaningful work period, relating actual accomplishments to those planned under Subsection (b) of § 4109.

(2) The relationship of accomplishments and services to the policy decisions and budget determinations of the Governor and the Legislature.

(3) The costs of accomplishing the work and providing the services, and, to the extent feasible, citing meaningful measures of program effectiveness and cost.

(4) The administrative improvements made in the preceding year, potential improvements in future years, and suggested changes in legislation or administrative procedures to make further improvements.

(b) The Bureau of Budget and Management Research shall summarize the performance reports and forward, through the Governor, copies of the Legislature.

**SOURCE:** GC §5159 added by P.L. 12-115.

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**§ 4111. Appropriation for Unauthorized Agencies and Programs.**

In order to insure that appropriations are made only for agencies and programs, or projects, authorized by law, appropriation bills shall be separate from bills creating an agency of Government or authorizing a new program or new project. In the submission of annual budgets under the provisions of this Chapter, no request for appropriation for the operation of any agency of Government nor any request for appropriation for any new program, or project, which has not been created nor authorized previously by law shall be included in such annual budgets.

**SOURCE:** GC §5160 added by P.L. 12-115.

**§ 4112. Agencies to Submit Budget Request.**

All agencies shall submit requests for supplemental appropriations on or before January 10 of the fiscal year for which the funds are requested except that for every fourth year, beginning in fiscal year 1979, the deadline shall be extended to April 10. The Legislature shall act on the Governor's request as expeditiously as possible.

**§ 4113. Funding Required for New Programs.**

No new program created by the Legislature or by any department, commission or agency shall have force or effect unless funding for such program is appropriated from local funds to finance the cost of implementing such program.

**SOURCE:** GC §5162 added by P.L. 15-48:V:6.

**NOTE:** The Organic Act, §20, provides that the Legislature does not have the power to appropriate funds which have been appropriated already by the United states Congress. See *Wong v. Camina*, 2 Guam Rep. 132 (1978).

**§ 4114. Other Available Funds.**

Funds other than appropriated funds may be used for the operation of a government program and activity, provided, that the Legislature, by resolution, shall first give its approval to said program or activity.

**SOURCE:** GC §5163 added by P.L. 15-48:V:6.

**NOTE:** The Legislature does not have the power to approve, with binding effect, by resolution any matter which will have the force and effect of law. See Attorney

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General Opinion PCF #85-1031; see also *INS v. Chada*, 103 S.Ct. 2754 (1983).

In addition, the Organic Act, §20, provides that the Legislature does not have the power to appropriate funds which have been appropriated already by the United States Congress. See *Wong v. Camina*, 2 Guam Rep. 132 (1978).

**§ 4115. Inapplicability of § 4113 and § 4114.**

The provisions of § 4113 and § 4114 of this Chapter shall not apply to the Guam Power Authority, Guam Waterworks Authority, Guam Memorial Hospital Authority, Jose D. Leon Guerrero Commercial Port, Guam Housing and Urban Renewal Authority, Guam Housing Corporation, A. B. Won Pat International Airport Authority Guam, and Guam Economic Development and Commerce Authority.

**SOURCE:** GC § 5164 added by P.L. 15-48:V:6. Repealed and reeacted by P.L. 27:110:1.

**§ 4116. Transmittal of Mandates.**

Each Executive Branch agency, department, instrumentality, commission, board or any organized unit thereof, including any semi-autonomous, autonomous or line agency or department, shall prepare and transmit to *I Liheslaturan Guåhan* a listing of mandates, both funded and un-funded, that they are tasked by law to carry out. Each listing shall be arranged in order of highest priority to lowest priority. Each listing shall also indicate any mandates that are recommended to be repealed. These listings shall be transmitted to *I Liheslaturan Guåhan* within sixty (60) days of the effective date of this Act.

**SOURCE:** Added by P.L. 26-16:2 (enacted 5/20/2001).

**§ 4117. Definitions.**

(a) *Agency* shall mean each and every line department of the Executive Branch, each autonomous/semi-autonomous agency, public corporation or instrumentality of the government of Guam, every educational institution whether secondary or post secondary, the Judicial Branch, the Public Defender Service Corporation, and every public entity hereafter to be created by law which receives funding under the General Appropriations Act of 1998 and 1999.

(b) *Capital Outlay* includes:

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(1) Equipment, such as loader trucks, tractors, trailers, automobiles or other vehicles; machinery; reference books; filing cabinets, typewriters, computers, microcomputers and printers, facsimile machines, adding and calculating machines, other business machines and office equipment; and tools, implements and instruments which may be used continuously without material change in physical condition and having a useful life of one (1) year or longer and cost not less than Five Hundred Dollars (\$500.00);

(2) repair, remodeling or alteration of a building or replacement thereof and the replacement and renewal of plumbing, wiring and air conditioning systems costing more than Fifteen Thousand Dollars (\$15,000.00);

(3) construction of an entirely new building, including the materials and labor either supplied by an agency of the government or supplied by contract; or

(4) non-structural improvements to buildings, the grading, leveling, drainage and landscaping of land or the construction of roadways, fences, ditches, or sanitary or storm sewers.

*Capital Outlay* does not include normal maintenance expenditures.

(c) *Contingency* means expenditure for unbudgeted items.

(d) *Contractual Services* include:

(1) services rendered or performed by businesses or other government agencies or individuals other than expenses for personnel services;

(2) current services or charges for rental of personal property, insurance premiums (not employee benefits), dues, paid subscriptions and other fixed charges; or

(3) telex and other forms of communication, except telephone and facsimile.

(e) *Equipment* means items having a purchase price of Five Thousand Dollars (\$5,000.00) or less.

(f) *Encumbrances* means commitments related to unperformed

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(executory) contracts for goods and services, which are generally evidenced by outstanding purchase orders, contracts and inter-departmental work requests. Encumbrances reported at year end are reported as a reservation of fund balance since they do not constitute expenditures or liabilities.

(g) *Expenditures* means all amounts of money, other than refunds authorized by law, paid out or encumbered for payment by a Territorial agency other than for investment securities or as agent or trustee for other governmental entities or private persons.

(h) *Federal Funds* means payments by the United States Government to the Territorial government or Territorial agencies for specific purposes or in lieu of taxes, including grants, reimbursements and payments made in accordance with contracts, but does not include payments pursuant to Section 30 of the Organic Act of Guam.

(i) *Full Time Equivalency (FTE)* means the equivalent of one (1) permanent position continuously filled for two thousand eighty (2,080) hours per year commencing October 1, 1997.

(j) *General Fund* means that Fund as defined by Title 5 Guam Code Annotated §21110.

(k) *Match* means direct cost sharing or in-kind General Fund support required as a condition for acceptance for Federal funds.

(l) *Office Space Rental* means payment to an entity for rental of office space and may include the cost of maintenance, power and other utility expenses.

(m) *Operating Expense* means the individual and collective budget categories of ‘Travel,’ ‘Contractual Services,’ ‘Supplies,’ ‘Equipment,’ ‘Office Space Rental,’ ‘Utilities’ and ‘Miscellaneous.’

(n) *Personnel Services* includes:

(1) salaries and wages payable to persons employed by the government;

(2) the government’s contributions to the Government of Guam Retirement Fund and the employer’s contributions under the Federal Insurance Contribution Act;

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(3) the government's contributions for health, dental and life insurance plans; or

(4) overtime.

(o) *Power* includes all expenses incurred for the use of electricity or liquid propane gas, propane or butane gas.

(p) *Revenue* means all amounts received by a Territorial agency from sources external to that agency, net of refunds and other correcting transactions, other than from the issuance of debt liquidation of investment, or as agent or trustee for other governmental agent, entities or private persons.

(q) *Special Fund* means revenue available to Territorial agencies from sources other than the General Fund and Federal funds.

(r) *Supplies and Materials* means materials which by their nature are consumable, that have a useful lifetime of less than one (1) year, and which, after use, undergo an impairment or a material change in physical condition.

(s) *Telephone* includes all charges for telephone and cellular telephone services.

(t) *Toll Calls* includes all charges for long distance telephone calls, including, but not limited to, facsimile.

(u) *Total Revenue* is defined as General Fund Revenue plus School Operations Fund Revenue.

(v) *Travel and Transportation* means off-island travel expenses and local mileage reimbursement in accordance with the laws of Guam.

(w) *Water/Sewer* includes all expenses for the purchase of water and all expenses for waste-water treatment.

**SOURCE:** Added by P.L. 23-45 (Oct. 1, 1995). Repealed by P.L. 23-46 (Oct. 19, 1995). Repealed and reenacted by P.L. 24-59:14 (Sept. 12, 1997) as §§ 4120.1 and 4120.2. Renumbered by Compiler to § 4117 to maintain section number consistency within this chapter. Subsection (e) amended by P.L. 28-068:IV:80 (Sept. 30, 2005).

**NOTE:** P.L. 23-45:I:5 created 5 GCA §§ 4120, 4120.1 and 4120.2. These new codes gave definitions regarding the General Appropriation Act of 1996. In P.L. 23-46, the legislature uncodified §§ 4120 and 4120.1 but did not uncodify §

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4120.2. In P.L. 23-46, the legislature stated:

Section 10. Non-codification of definitions which are not applicable. Since the definitions contained in [P.L. 23-45] are not complete, and the definition of “agency” does not apply to agencies which do not receive funding from the Legislature, it is not desired that these definitions be codified.

Notwithstanding the language in P.L. 23-46, the legislature in P.L. 24-59 repealed and reenacted §§ 4120.1 and 4120.2 as herein provided. Sections 4120.1 and 4120.2 are combined here by Compiler as a single § 4117 to maintain numerical consistency with this chapter.

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