

# GovGuam legal costs: \$9M

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GOVERNMENT agencies that retain private law firms have incurred nearly \$9 million in **legal expenditures over the past six years**, with the Guam International Airport Authority leading the pack with a total cost of \$4.35 million from 2008 to 2013.

The total amount was based on the legal service expenditure records released by six agencies in response to Vice Speaker Benjamin Cruz's Freedom of Information Act request.

"Every dollar spent on excessive legal fees is paid by the people of Guam or our visitors," said Cruz, main author of Bill 180-32, which mandates government agencies and autonomous public corporations to hire unclassified in-house counsel.

Under the current law, certain government entities are authorized to hire outside counsel. These include the airport authority, the Port Authority of Guam, Guam Economic Development Authority, Guam Memorial Hospital, Guam Election Commission, and the Guam Visitors Bureau.

"When the airport pays a million dollars in legal fees, that becomes a tax on tourism; when port legal fees skyrocket, we pay for it at the grocery store," Cruz said.

"Both (Sen. Tom) Ada and I have introduced similar measures to Bill 180 in past legislatures. While those measures languished in committee, our new proposal allows in-house counsel to handle the day-to-day legal needs of an agency at huge savings to the people of Guam. At the same time, this bill allows agencies to receive specialized legal help only when a special need exists."

Scrutiny over the government agencies' legal expenditures and the eventual introduction of the bill was prompted by concerns about the exorbitant legal fees at the port.

## ***Breakdown***

Based on records, the total amount incurred by the six agencies reached \$8.98 million between 2008 and 2013.

In 2013 alone, GIAA has paid Calvo & Clark \$1.35 million for 6,317 in total billed hours. The rates range from \$150 to \$325 an hour.

The airport authority is currently embroiled in litigation with DFS over the contract for retail concessionaire, which has been awarded to Lotte Duty Free.

GMH ranked as the second top spender, incurring a total of \$1.72 million from 2008 to 2013.

The amount included \$114,679 in reimbursements made to the Department of Administration for the legal services rendered by Assistant Attorney General Robert Weinberg, and \$11,386 from a legal assistance loan with the Bank of



Guam.

Besides the AGO, the hospital administration has separate contracts with private law firms including Unpingco & Associates; Civile & Tang; Mair, Mair, Spade & Thompson; Greg Hall/Depo Resources; and Fisher & Associates.

The Guam Economic Development Authority's legal expenditures totaled \$1 million from 2008 to 2012. The agency retains Fisher & Associates; Calvo & Clark LLP; Lujan, Aguigui & Perez LLP, and McCulley & Beggs.

The Guam Election Commission's legal expenditure from 2008 to 2013 totaled \$807,793. The commission's current legal counsel, Jeffrey Cook, was hired in November 2011 to replace its former counsel, Cabot Mantanona LLP.

It was not clear as of press time if the election commission had already settled the \$200,000 it owed Cabot Mantanona in 2012 for the legal services rendered during prior elections.

For the Port Authority of Guam, the only available records covered the period between 2011 and 2013, which showed a total of \$699,000 paid to Phillips & Bordallo.

The port's original contract with Phillips & Bordallo was capped at \$499,000 but the ceiling was lifted in April.

The Guam Visitors Bureau's legal expenditures totaled \$410,205 from 2008 to 2013. The bureau retains Fisher & Associates; Lujan, Aguigui & Perez; Dreir, Stein & Kahan; and Robins, Kaplan, Miller & Ciresi.

Not included in Cruz's FOAI request was the General Services Agency, which pays its legal counsel, Robert Kono, \$159,173.77 a year as an unclassified employee.

Kono's position was created through Public Law 31-93.

### ***2005 decision***

The question regarding legal representation of government agencies was first raised in 2004 by former Attorney General Douglas Moylan, who questioned the airport authority's \$1 million contract with Mair, Mair, Spade & Thompson.

Moylan, the first elected attorney general of Guam, argued that the Attorney General's Office was the government's chief legal counsel.

However, Moylan lost the case in the Supreme Court, which in a 2005 ruling upheld the Legislature's power to authorize government agencies to hire private legal counsel.

Cruz's Bill 180-32, however, seeks to impose restrictions on legal contracts by requiring agencies to hire in-house counsel at a maximum rate of \$125,000 a year.

"Good legal counsel is essential but taxpayers shouldn't have to pay hundreds of thousands of dollars when a more cost-effective option exists," Cruz said in an earlier press release.

Under the proposed bill, the AGO must certify the need for outside counsel in writing to the Speaker of the Guam Legislature and the governor of Guam.