PUBLIC DEFENDER SERVICE CORPORATION
Board of Trustees Regular Meeting
Tuesday, October 08, 2013
Conference Room,
Public Defender Service Corporation
12:30 p.m.

A G E N D A

I. Call to Order

II. Roll Call

III. Proof of Due Notice of Meeting:

5 Working Days Notice:	Marianas Variety, Friday, September 27, 2013
48 Hours Notice:	Marianas Variety, Friday, October 04, 2013

IV. Determination of Quorum

V. Approval of Minutes: (Regular Meeting of August 27, 2013)

VI. Old/Unfinished Business:

A. Financial Status Update (PDSC and APD Allotment Releases)
B. Domestic Violence Program Update
C. Alternate Public Defender Update
D. PDSC's Policy for Conflicts of Interest
E. PDSC Client Eligibility Criteria
G. Pacific Judicial Council Public Defender's Training

VII. New Business:

A. Resolution No. 01-14
PDSC Fiscal Year 2014 Budget Appropriation
(Request to Use Lapsed Funds to Cover Budgetary Shortfalls for Operations in Fiscal Year 2014)
B. Resolution No. 02-14
(Request to Use Lapsed Funds to Rectify Inconsistency In Pay Assignment for JOLEEN M.G. CRUZ)

VIII. Public Discussion

IX. Adjournment and Next Meeting Date

Navy issues BOS notice

By Frank Whitman
frank@mvguam.com
Variety News Staff

THE Department of Defense has posted a pre-solicitation notice for the Base Operations Support Services contract for Joint Region Marianas.

The contract is currently held by DZSP21 LLC. DZSP was awarded the contract in December 2004 and it will expire in December 2014.

The government intends to award a cost-plus-award-fee-award option contract. DZSP operates the current contract on a cost-plus basis, but it had been a matter of some speculation as to whether the arrangement would continue with the new contract.

On Dec. 13, 2012, DZSP was awarded $90.4 million for the fourth award option period for its current contract.

Services to be provided under the anticipated procurement include management and administration, port operations, ordnance, supply material management, facility management, facility investment including at Andersen Air Force Base, electrical, wastewater, steam, water, base support vehicles and equipment, and environmental, according to the notice.

The contract performance period is anticipated to be a 12-month base period to include a four-month mobilization phase-in period, four one-year option periods, and, provided eligibility is established, three one-year award option periods.

A pre-proposal conference and site visit is scheduled around Nov. 13 to 15. Requests for the pre-proposal conference and site visit are to be submitted by Oct. 30.

The solicitation will be issued on or after Oct. 10, according to the notice.

Naval Facilities Engineering Command Pacific at Pearl Harbor, Hawaii, is the contracting unit.

FAS migration cost Guam, Hawaii up to $400M

By Mar-Vic Cagurangan
marvic@mvguam.com
Variety News Staff

Local governments and regional organizations have been urged to unify their voice in addressing issues related to FAS migration. Variety file photo

THE federal government provides a reimbursement package of $30 million a year for insular areas that host citizens from freely associated states, but the actual combined cost of Compact-authorized migration for Guam and Hawaii alone is estimated at between $300 million and $400 million a year, a former federal official said yesterday.

Anthony Babauta, former assistant secretary of the U.S. Department of Interior, said local governments and regional organizations must "unify their voice" in addressing issues related to FAS migration and making an aggressive plea to obtain federal funding currently available.

"These amounts are significant; it's real money and would be difficult for any local economy or government to absorb," Babauta said in his address before the Pacific Judicial Council at the conclusion of the organization's four-day conference at the Hyatt Regency Guam.

Quantifying the actual impact of FAS migration is not an easy task due to a lack of a unified system to weigh the social cost and the contributions of Micronesians to their host communities, Babauta said.

"There is no system in place that identifies those who are born on U.S. soil though of Micronesian descent. So we are lumping everyone together everyone and it's not fair in the whole process of looking at this issue," he said.

Stigma

"In additional to the cost of providing services, some of the public discourse has devolved into stigmatizing those migrants from the FAS," Babauta said.

He also noted that some elected officials have tried to build their careers on blaming Micronesians for the government's own failure.

"I think this approach is wrong. It ignores facts, invites confusion and animosity, and attempts to simplify an otherwise complex policy issue," Babauta said.

Compact issue

The Compacts of Free Association allow citizens from Palau, the Federated States of Micronesia, and the Marshall Islands to travel visa-free to any U.S. jurisdiction and avail of public services offered to U.S. citizens and permanent residents.

The cost of social services, however, has been a contentious issue between the federal government and the host states and jurisdictions including Hawaii, American Samoa, Guam and the Northern Mariana Islands.

"This is a significant problem that has garnered a great deal of attention for those in Washington D.C. who pay close attention to Pacific issues," Babauta said.

However, he said, the latest attempt by the late Hawaii Sen. Daniel Inouye to raise the mandatory Compact funding level above $30 million fell through.

"Instead of seeking funding from Washington D.C., we sought solutions from the islands themselves," he said.

Two years ago, the Department of Interior began an initiative to work with regional organizations such as the Micronesian Chief Executives and the Association of Pacific Island Legislatures toward addressing Compact-related issues such as health care and education.

However, Babauta said, public safety and law enforcement are left out.

"When the issue of the impact of migration comes up, the largest cost by far is health care. And I think, after that, you start getting into judiciary and law enforcement. But no one speaks about it too often because the healthcare numbers are so large," Babauta told the council.

Waiting for Washington to offer a solution will not cut it, the former interior official added.

"I do feel very strongly that members of the judiciary need to have thoughtful deliberation about FAS migration. I believe the judiciary needs to embark on inter-judicial cooperation to find meaningful ways to address the impacts of FAS migration," Babauta said.

NOTICE OF PUBLIC MEETING

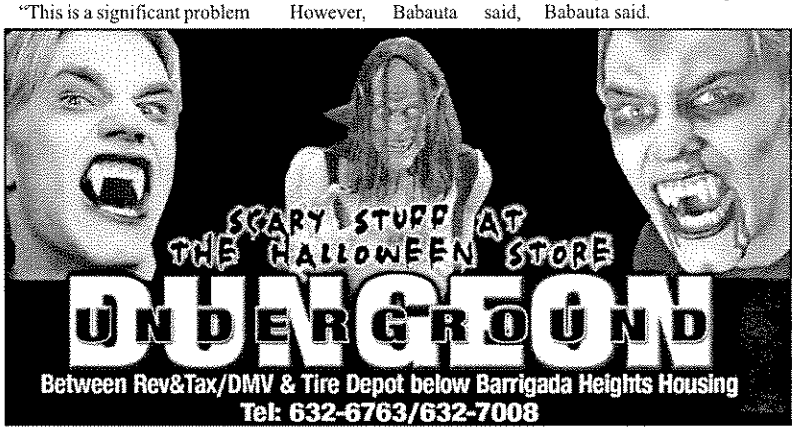
The Public Defender Service Corporation Board of Trustees will conduct a regular meeting on **Tuesday, October 8, 2013. at 12:30 p.m.** in the Conference Room of the Public Defender Service Corporation, located at the MVP Sinajana Commercial Building, Unit B, 779 Route 4, Sinajana, Guam 96910.

Copies of the agenda will be available prior to the meeting at the Public Defender Service Corporation (address above).

Individuals requiring special accommodations are asked to contact Mrs. Bernadette S.N. Chargualaf at 475-3100.

/s/ CHIEF JUSTICE F. PHILIP CARBULLIDO
Chairman

This public notice is paid for with government funds administered by the Public Defender Service Corporation.



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Cruz calling for oversight hearing on GovGuam IT

By Louella Losinio
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Variety News Staff

FOLLOWING repeated delays in the submission of mandated intra-agency revenue reports and the approval of emergency procurement for government telecommunication services, Vice Speaker Benjamin Cruz has called upon the Department of Administration's newly created Office of Technology to answer critical questions about the government of Guam's state of information technology and systems integration.

"The enactment of Public Law 32-10 that created the Office of Technology last April was a promising precursor to progress with intra-agency information systems," Cruz stated in a letter to DOA Director Benita Manglona. "With this in mind, it was to my immense dismay that I read two notices indicating some very troubling issues arising from incomplete system implementation."

In a letter to the Guam Legislature dated Sept. 30, Bureau of Budget Management and Research Director John Rios wrote that the Special Revenues report for the period ending Aug. 30, 2013 "cannot be submitted at this time due to the ongoing work by the departments of Administration and Revenue and Taxation on the date [sic] integration system."

Cruz said this is the fifth time that reporting from the budget bureau has been delayed since DOA upgraded its computer system to the Power7 platform in July.

The Vice Speaker added that BBMR has since failed to meet reporting deadlines for the Special Revenues Fund Tracking reports and Consolidated Revenue/Expenditure reports for June, July and August.

Gina Tabonares-Reilly / Variety

Dr. Charles Kim, director of Robotic Surgery at the Pali Momi Medical Center in Honolulu, Hawaii, demonstrates how robotic surgery is conducted.

Robot surgeon emerges from science fiction

By Mar-Vic Cagurangan
marvic@mvguam.com
Variety News Staff

WE LIVE in the future, where sci-fi collides with reality. Meet your new surgeon: Dr. Robot. Yes, he will perform your surgery.

Robotic surgery has been the standard operating procedure in most medical centers in the United States over the past decade, according to Dr. Charles Kim, director of Robotic Surgery at the Pali Momi Medical Center in Honolulu, Hawaii.

"Basically, robotic surgery is an extension of laparoscopy," Kim said.

But this medical wonder from the future doesn't necessarily replace human surgeons; rather, it is a tool that supplements the doctors' skills and allows them to conquer human limitations.

"With robotic surgery, we are able to overcome a lot of technical challenges," Kim said.

The robot gives surgeons the dexterity and mobility to dissect small tissues and operate in the confined and claustrophobic interior of the body without having to do incisions.

The automated medical assistant, such as the Da Vinci Surgical System, comes in the form of a tower with four arms that hold medical instruments such as scissors, needle holders, and graspers.

"The robot arm is hinged so you can actually use it like a hand," Kim said.

The arm can hold and maneuver an instrument that can be as small as half an inch, allowing the surgeon to reach small areas in the body.

"We are able to do much more precise and delicate surgery," Kim said.

3D images

Dr. Robot also comes with an advanced imaging system that clearly captures the interior of the patient's body.

"The robots that we currently use allow us to see a magnified view of images in three-dimension," Kim said.

The system doesn't operate autonomously; it is controlled by the surgeon who sits in a console, which Kim likens to an arcade game machine.

"The console has a binocular vision. You look inside and you can see the inside of the belly. You have two instruments for your hands and two pedals for your feet. It's like driving a car," Kim explained.

"You can move the arms of the robots by moving your own hands; you can control little things with your feet when you would like to magnify the image or when you want to go in and out. You don't have to be in the same room as the patient."

From the console, the surgeon can control the remote instruments to make holes and insert the operating tools into the patient's body. This allows the operation to be performed without having to put the patient under the knife.

"What's nice about this is that it leaves less scars and you recover much faster from the surgery," Kim said.

Commercial use

Robotic surgery was initially developed in the 1950s by the military to allow the treatment of soldiers injured in a battle.

"The surgeon would do the surgery from the hospital through the robot because there might not be time for the injured soldier to get back to the hospital," Kim said.

The commercialization of robotic surgery began in the late 1990s. "By early 2000, it became much more popular and more advances in robotic surgery have been made in the past decade," Kim said.

The technology was first used in urology and has since expanded to other areas such as surgeries on kidney, bladder, ovarian, uterine or cervical cancer among many others.

And the level of success or failure?

"I guess there would be a failure, like robot jam. But that is very, very rare," Kim said. "I would say that the complication rate is similar to regular surgery. There's no increased risk."

Most older surgeons go through further training in robotic surgery but the new generation of surgeons have some kind of experience in this technology during their training, Kim said.

Kim, who was stationed at the Naval Hospital in 1996, came back to Guam for the three-day Healthcare Innovations Conference, which opens tonight at the Hyatt Regency Guam.

Kim is among the resource speakers at the conference sponsored by the Guam Medical Association and Cedars-Sinai Medical Center.

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/s/ CHIEF JUSTICE F. PHILIP CARBULLIDO
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PUBLIC DEFENDER SERVICE CORPORATION
BOARD OF TRUSTEES
Regular Meeting
of
Tuesday, August 27, 2013
12:54 p.m.
PDSC Conference Room

M I N U T E S

I. CALL TO ORDER:

This meeting was called to order by the Chairman, Chief Justice F. Philip Carbullido at 12:54 p.m.

II. ROLL CALL:

Present: Chief Justice F. Philip Carbullido, Chairman
Presiding Judge Alberto C. Lamorena III, Vice Chairman
Attorney Cynthia Ecube, Guam Bar Association President
Donna Muna-Quinata, Member
CathyAnn C. Gogue, Member

Others Present: Attorney Eric D. Miller, PDSC Executive Director
Attorney Ana Maria Gayle, APD Supervising Attorney
Bernadette S.N. Chargualaf, PDSC Administrative Director
Michael S. Moreno, Chief Fiscal Officer
Julito B. Tingson, Jr., MIS Administrator
Bernadette L.P. Lizama, Personnel Specialist IV
Cecelia M. Fernandez, Administrative Assistant

III. PROOF OF DUE NOTICE OF MEETING:

"Notice of Public Meeting" was published in Marianas Variety on Friday, August 16, 2013 and Friday, August 23, 2013.

IV. DETERMINATION OF QUORUM:

With the presence of all five (5) board members, a quorum was determined for this meeting.

V. APPROVAL OF MINUTES: Minutes of the regular board meeting held on Thursday, July 11, 2013 were adopted and approved.

VI. OLD BUSINESS:

A. Financial Status Update (PDSC and APD Allotment Releases): Chief Fiscal Officer Michael S. Moreno reported that PDSC received allotments through August 15, 2013 (96%). Quarterly allotments for the Alternate Public Defender (APD) are up-to-date.

B. Domestic Violence Program Update: The monthly releases of funds for this program are up to date.

C. **Alternate Public Defender Update:** APD Supervising Attorney Annie Gayle informed those present that APD's Fiscal Year 2014 Budget Request was approved by the Judicial Council on July 18, 2013.

D. **PDSC's Policy for Conflicts of Interest:** PDSC Eric Miller distributed the proposed policy to board members; this matter was tabled until the next board meeting so that members will have time to review the document prior to holding discussions on this issue.

E. **PDSC Client Eligibility Criteria:** Executive Director Eric Miller circulated copies of a survey of private attorneys relative to fees charged especially in criminal cases. This item was also tabled until the next board meeting in order to allow time for evaluations by board members before discussions take place.

F. **Pacific Judicial Council Public Defender Training:** Director Miller mentioned that this forum would take place on February 26 - 28, 2014 at the U.S. District Court of Guam, with possible sixty-nine (69) attorneys in attendance. The Pacific Judicial Council would provide funding for two (2) trainers, while the PDSC will fund one (1) trainer from registration fees received. A request was also submitted to the Chief Justice and Presiding Judge relative to a lighter criminal hearing calendar in order to afford attorneys with an opportunity to attend.

Chief Justice Carbullido directed Attorney Miller to submit documents to him reflecting a Budget and the Curriculum for this training. This matter will be placed on the Agenda for the Pacific Judicial Council meeting scheduled to take place in September.

VII. NEW BUSINESS:

A. **PDSC Fiscal Year 2014 Budget Request Status Report:** Administrative Director Bennette Chargualaf reported that a budget bill for FY204 has yet to be signed by Governor Calvo. Further information will be provided to board members at the next meeting.

B. **Agreement to Provide Attorney Services for Indigent Defendants (Alternate Public Defender's Operations for FY2014:** Bennette Chargualaf indicated that the document was transmitted to Staff Attorney B. Ann Keith for review and completion. She will follow up on the status of the agreement.

C. **Resolution No. 07-13 (Request to Use Additional Lapsed Funds for Abacus Mobile Links):** MIS Administrator Julito Tingson requested that additional monies for this purpose be approved to allow for more PDSC attorneys to access Abacus from their personally-owned mobile devices. Those who currently use this feature have reported positive results as far as efficiently inputting data related to their case files. Board Resolution No. 07-13 was adopted and approved.

D. **Resolution No. 08-13 (Request to Use Lapsed Funds for Necessary Corrections to Personnel Actions re: Attorney Suresh Sampath):** Administrative Director Chargualaf explained the documents attached to this resolution which described the incorrect slotting of Attorney Sampath at the time of his hiring. Corrections involved the proper slotting of Suresh Sampath, as well as the effective date for his Pay Adjustment. Summarily, the PDSC owes Attorney Sampath $1,584.00.

Director Miller has discussed the matter with Attorney Sampath, who agreed to and accepted the settlement of this matter. Board Resolution No. 08-13 was adopted and approved.

E. **Request for Administrative Leave (Executive Director Eric Miller) to Attend the "Forensic Mental Health & the Law" Conference sponsored by the National Association of Criminal Defense Lawyers (September 19-20, 2013) in Denver, Colorado:** Following a brief discussion, Administrative Leave was granted to Director Miller for this purpose.

VI. **PUBLIC DISCUSSION:** None.

VII. **NEXT MEETING DATE:** A tentative date of September 17, 2013 was set for the next board meeting. There being no further business up for discussion, this meeting was adjourned at 1:22 p.m.

Respectfully submitted,

BERNADETTE S.N. CHARGUALAF
Secretary

AGENDA ITEM #VI (D)

PDSC's Policy
For
Conflicts of Interest
(Proposed)

PDSC Conflict Procedure

August 26, 2013

1. Front office receives court appointment with charging documents.
2. Legal clerk checks for conflicts in Abacus for parties and witnesses and notes potential conflicts in writing inside file notes of file.
3. Assigned Attorney reviews potential conflicts. If Attorney determines there is a conflict he/she requests written permission to withdraw from Conflict Coordinator (Executive Director or his designee)
4. When police reports are received Assigned Attorney identifies all relevant names in police report which need to be checked for conflicts in Abacus.
5. Secretary processes identified names in abacus and reports back to assigned attorney
6. Attorney reviews potential conflicts and determines whether there is a conflict.
7. If Attorney determines there is a conflict he/she seeks written permission from Conflict Coordinator (Executive Director or his designee) to withdraw

Draft 6 Conflict of Interest Policy PDSC Feb 8, 2013

The Public Defender Service Corporation shall not accept clients where the acceptance of the client would create a conflict of interest with respect to a current or former client or an employee of the PDSC. In determining whether a conflict exists the PDSC will be guided by the Guam Rules of Professional Conduct (GRPC). The following is a guide to making those decisions in specific situations:

Witness is a former client:

1. PDSC shall not reveal information relating to the former representation except as allowed by GRPC. GRPC 1.9(c)(2)

2. PDSC shall not represent a client where current representation is with respect to the same or substantially related matter and the current and former clients have interests adverse to each other. GRPC 1.9(a)

> **Example:** PDSC represents the victim of Domestic Violence in obtaining an Order of Protection. Subsequently the PDSC is appointed to represent the abuser in a new assault against the former client.

PDSC would move to withdraw from representing the abuser in the Assault case because current representation is with respect to the same or substantially related matter and the current and former clients have interests adverse to each other.

Witness is current client: This is a conflict GRPC 1.7(a)(1) unless:

1. Representation of witness is unrelated to current case and

2. Continued representation of both will not negatively impact the representation of either client and

3. Both clients sign a waiver of conflict. GRPC1.7(b)

> **Example:** PDSC represents a child in a Juvenile case. PDSC is subsequently appointed to represent the child's father in a family violence case where the juvenile client is a victim. Although the two cases are unrelated continuing representation of both would negatively impact the representation of the two clients. Continued representation of the father would mean challenging the

veracity of our juvenile client and would harm the attorney-client relationship in the juvenile case.

Example: PDSC represents a client on a DWI charge. Subsequently we are appointed to represent a defendant charged with drug possession where the DWI client is a passenger in the car at the time client was arrested for possession of drugs in the car. The drug case is unrelated to the DWI case. Continued representation of both would probably not negatively impact representation of either client but we would require both clients to sign a waiver of conflict before we continued with both cases.

Victim is current client: This is a conflict. GRPC1.7(a)(1)

Where 2 cases come in at about the same time but there is determined to be a conflict the PDSC will continue with the case which came in first and move to withdraw from the case which came in second in time, unless we can avoid a conflict by taking the second in time (because we represented the second in time on other cases)

Where an employee of the PDSC or a member of her or his immediate family is the victim or witness: This is a conflict GRPC 1.7 (a) (2)

Where an employee has a connection to the victim or witness:

Representation will be declined by the staff attorney where there is a significant risk that the representation of the client will be materially limited by the personal interests of the staff attorney. PDSC will assign the case to another staff attorney without a disqualifying conflict. The client and the Court will be advised of the staff attorney's disqualifying personal interest. GRPC 1.7(a)(2)

Disclosure: Where the PDSC has a potential conflict but determines that withdrawal is not required, the PDSC shall nevertheless advise the Court and the Parties of the potential conflict.

AGENDA ITEM #VI (E)

PDSC's
Client Eligibility Criteria

PUBLIC DEFENDER SERVICE CORPORATION
(Kotperasion Setbision Defensot Pupbleku)

GOVERNMENT OF GUAM
MVP Sinajana Comm. Bldg. Unit B
779 Route 4 Sinajana, GU 96910
Tel: (671) 475-3100; Fax: 477-5844

5/27/13 mcg

May 24, 2013

Subject: Investigation Report
RE: Private Attorney fees

The Investigations section contacted the following private attorneys in research of their fees/charges for felony & misdemeanor cases, they related the following:

1. Firm: **Cunliffe, Cook, Moots, 472-1824**; charges a flat rate fee of $1500 for misdemeanors & $3000 for felonies, fee is a pretrial fee, full payment is required, no retainer fee is charged, fees increase if case proceeds toward trial.

2. Firm: **C. Vandeveld 472-4396**; charges a flat rate non-refundable fee of $1500 for misdemeanors & felonies for pretrial work, full payment is preferred but payment plans are available. Cases proceeding to trial are charge a flat rate non-refundable fee of $6000, and trial hourly rate is $200/hour.

3. Firm: **Lujan, Aguigui, Perez 477-8064**; did not want to participate or cooperate in this research, the undersigned was left on hold for 10 minutes after speak with 4 different staff workers.

4. Firm: **William Pole 475-0200**; charges a retainer fee of $2500 for misdemeanors & $5000 - $10,000 for felonies at a fixed pretrial cost, his hourly charge is $300/hour charged to the retainer. Misdemeanor cases proceeding to trial are not charged other than the initial retainer fee. Felony cases proceeding to trial are charged at $300/hour, and should the initial retainer fee be depleted then the client will have to pay another retainer fee what he called an "ever-green retainer".

5. Firm: **Douglas Moylan 483-9292**; did not want to participate in this research.

6. Firm: **Howard Trapp 477-7000**; did not want to participate in the research and gave a lengthy discussion about his right to privacy. That he will only discuss his fees with actual clients and that he is fairly flexible about payment options.

7. Firm: **Shane Black, Mark Condice 477-9084**; charges a retainer fee of $2000 for misdemeanors & $5000 for felonies, and an hourly rate of $350/hour toward the retainer fee. If the case is settled without a trail and there is a balance of the retainer fee then it is refunded, however if the case proceeds toward trial the charges continue to apply toward the fee. If the case exceeds the initial retainer fee then the hourly charge continue to toll against the client.

8. Firm: **Jacqueline Terlaje 648-9001**; research was discussed with a staff member and the undersigned was informed that attorney Terlaje would return my call, however there has been no response.

9. Firm: **Terry Timblin, Louie Yanza, 477-7059**; charges at retainer fee of $2500 for misdemeanors at a rate of $200/hour, and $2500 - $5000 for felonies at a rate of $225/hour. Should the case proceed to trial and exceed the retainer fee then the hourly charge continues to toll against the client.

10. Firm: **Leevin Camacho (John & Edward Terlaje) 477-8894**; charges a flat rate fee of $1000 - $1500 for misdemeanor cases which are settled through a plea-agreement. Rates go up if the case proceeds to trial and if the case is a felony, however he did not want to disclose any further rates/charges.

11. Firm: **Joshua Walsh (Ceville & Tang) 472-8868**; charges a retainer fee starting at $1500 and up depending upon the complexity of the case, such as if it is a felony case and if a case proceeds to trial. The firm also charges an hourly cost of $225/hour that is charged to the retainer. If the retainer is exhausted then the client will have to deposit another retainer or continue to be billed at the hourly charge.

12. Firm: **Thomas Fischer 472-1131**; was contacted by email and phone however there has been no response.

13. Firm: **Phillips & Bordallo 477-2223**; was contacted by email and phone however there has been no response.

The undersigned submits this report to Executive Director Eric Miller for review.

Robbie T. Call
Chief Investigator

AGENDA ITEM #VII (A)

Resolution No. 01-14
(Request to Use Lapsed Funds To Cover Budgetary Shortfalls For Operations in Fiscal Year 2014)

BEFORE THE
BOARD OF TRUSTEES OF THE
PUBLIC DEFENDER SERVICE CORPORATION
RELATIVE TO THE USE OF LAPSED FUNDS
TO COVER BUDGETARY SHORTFALLS FOR OPERATIONS
IN FISCAL YEAR 2014

RESOLUTION NO. PDSC 01-14

WHEREAS, §11113.1 of 12 GCA authorizes the Public Defender Service Corporation (PDSC) to retain unexpended appropriations beginning with Fiscal Year 2000, and to carry these funds over into succeeding fiscal years; and

WHEREAS, the PDSC Board of Trustees adopted Resolution No. 99-07 requiring Board approval for the budgeting of and/or spending authorization(s) for these lapsed funds; and

WHEREAS, Public Law 32-068 ultimately appropriated **$3,855,135** ($3,661,522 in Chapter VII, Part II, Section 1; $35,354 for Merit Bonus Awards in Chapter VII, Part II, Section 1; and $158,259 for Medical, Dental and Life Insurance contributions in Chapter XIV, Part II, Section 4), which falls short of the funds required for the Corporation's fulfillment of its mandates and operational costs for this fiscal period; and

WHEREAS, the PDSC has certain operational needs which are imperative for the compliance of certain accounting principles, and Guam law regarding salary increments and/or pay adjustments for government employees, as well as the acquisition of various supplies and materials, and other purposes, and

WHEREAS, the PDSC has re-evaluated its spending priorities, and has determined that in order to meet the above-described needs in support of PDSC client services and operations, the use of lapsed funds in Fiscal Year 2014 is necessary; now therefore be it

RESOLVED, The Board of Trustees of the Public Defender Service Corporation, in its meeting of October 8 2013, hereby approves the Corporation's request for the expenditure of **$6,415** of lapsed funds for the purposes described in the attached spreadsheet, which is made a part of this resolution, and such expenditures are to be implemented at the discretion of the PDSC Executive Director, in consultation with the Chief Justice and Chairman of the Board, not to exceed the amount of **$6,415**.

DULY AND REGULARLY ADOPTED this 8th day of October, 2013.

Chief Justice F. PHILIP CARBULLIDO

ATTEST:

BERNADETTE S.N. CHARGUALAF
Secretary

Function: Public Safety

Department/Agency: Public Defender Service Corporation **BD-1**

Program: Summary (As adjusted 10/04/2013)

AS400 Account Code	Appropriation Classification	A General Fund FY 2012 Expenditures & Encumbrances	B General Fund FY 2013 Authorized Level	C General Fund FY2014 Request	D General Fund FY2014 Adjusted
	PERSONNEL SERVICES				
111	Regular Salaries/Increments/Special Pay	2,422,682	2,444,401	2,521,339	2,390,353
	Merit Bonus				33,678
112	Overtime	0	0	0	0
	Benefits (Merit Bonus)				1,601
113	Benefits	731,660	787,590	832,161	765,969
114	Insurance Benefits (Medical / Dental / Life)	137,306	153,641	168,247	141,173
	TOTAL PERSONNEL SERVICES	$3,291,648	$3,385,632	$3,521,747	$3,332,774
	OPERATIONS				
220	TRAVEL- Off-Island/Local Mileage Reimburs.	0	0	0	0
230	CONTRACTUAL SERVICES:	97,151	40,054	123,096	127,096
233	OFFICE SPACE RENTAL:	271,200	112,557	271,200	271,200
240	SUPPLIES & MATERIALS:	21,703	11,911	13,900	28,700
250	EQUIPMENT:	16,504	9,587	19,700	19,800
270	WORKERS COMPENSATION	0	0	0	0
271	DRUG TESTING	0	0	2,000	2,000
280	SUB-RECIPIENT/SUBGRANT:	0	0	0	0
290	MISCELLANEOUS:	19,006	8,311	27,315	30,465
	TOTAL OPERATIONS	$425,564	$182,420	$457,211	$479,261
	UTILITIES				
361	Power	28,800	19,922	28,800	28,800
362	Water/ Sewer	0	0	0	0
363	Telephone/ Toll	8,784	13,248	20,640	20,640
	TOTAL UTILITIES	$37,584	$33,170	$49,440	$49,440
450	**CAPITAL OUTLAY**	$15,975	$0	$0	$0
	TOTAL APPROPRIATIONS	$3,770,771	$3,601,222	$4,028,398	$3,861,475
	1/ Specify Fund Source				
	FULL TIME EQUIVALENCIES (FTEs)				
	UNCLASSIFIED	1	1	1	
	CLASSIFIED	49	50	51	
	TOTAL FTEs	50	51	52	

Appropriations from General Fund (Chp VII, Part II, Sec 1)	3,661,522	General Appropriation
Appropriations from General Fund (Chp VII, Part II, Sec 3)	35,354	Merit Bonus
Allocations from Special Fund (Chp XIV, Part II, Sec 4)	158,259	Allocation for Med, Den, Life
FY 2014 budget CY2013	**3,855,135**	

FY 2014 BUDGET PROJECTION

	Originally as requested FY 2014	Adj	Adj FY 2014
111 Salaries	**2,521,339**	(130,986)	2,390,353
Merit Bonus		33,678	33,678
113 Benefits - Retirement, Medicare and DC D&D Ins	**832,161**	(66,192)	765,969
Benefits - Merit Bonus		1,601	1,601
114 Medical, Dental and Life	**168,247**	(27,074)	141,173
	3,521,747	**(188,973)**	**3,332,774**

Note: Reduction in the rate on retirement for FY14 to 30.03% and change in insurance rates

FY 2014 BUDGET PROJECTION

220 Off-island travel	**FY 2014**	**Adj**	**Adj FY 2014**
Director	-		-
Attorneys 3 x 5000	-		-
	-	-	-

amended 10/04/2013

FY 2014 BUDGET PROJECTION

230 Contractual			
	FY 2014	**Adj**	**Adj FY 2014**
Prof Dues- Malpractice Ins.	14,500	-	14,500
Equipment Rental Copy/Scanning/Faxing/Printing 1250x 12= $15,000	24,000	(9,000)	15,000
Westlaw Services $1718 pdsc share x 12 mons added $69	31,116	(8,116)	23,000
Lease of telephone system est $1138 x 12 currently at $991.70 x 12= $11900, don't know who will get the bid leave at higher amt	-	13,656	13,656
Lease of vehicle -Rav 4 $605 x 12	7,260	-	7,260
Lease of vehicle- Corolla le$460 *12	5,520	-	5,520
Vehicle insurance	3,900	-	3,900
Services for Surveillance Camera $80 x 12	960	-	960
Content insurance	8,000	-	8,000
Sub total -Director's Office	**95,256**	**(3,460)**	**91,796**
License for phone - proposed attorney	200	(200)	0.00
Abacus license for proposed attorney	300	(300)	0.00

Microsoft Office License	400	(400)	0.00
Sub total - Attorney	**900**	**(900)**	**0.00**
Notary bonding 2 x 250	-		0.00
License for phone - 1 new legal secretaries 200 x 1	-		0.00
Abacus license for proposed 1 new leg secre 1 x 300	-		0.00
Sub total - Legal Secretaries	**-**	**-**	**0.00**
Equipment Maintenance-Canon Archiving	3,500	(100)	3,400
Commercial Shredding of Documents			-
Sub total - Records	**3,500**	**(100)**	**3,400**
Equipment Maint- Gets Business 250 x 2	500		500
Sub total - Legal Clerical	**500**	**-**	**500**
Equipment Rental			
Pitney Bowes 150 x 4	600		600
Equipment Maintenance $250 x 4	-	1,000	1,000
Purchase accounting software	1,300		1,300
Quickbooks payroll subscription	500		500
Sub total - Fiscal	**2,400**	**1,000**	**3,400**
HR Software	-	2,860	2,860
Adobe Acrobat X Suite	-	1,300	1,300
Sub total - Personnel	**-**	**4,160**	**4,160**
Annual renewal for Recorder Software (SonClear)	400	-	400.00
Off-site Data Backup Solution service (online backup)	-		0.00
Firewall Security Service (Sonic Wall)	1,500		1,500
Abacus Software Tech Support	13,140	-	13,140
Norton Endpoint Security (50 users license) Anti virus	1,000	-	1,000
Internet Domain name and hosting web site	500		500
Server Hard Disk Software Diskkeeper	-	1,200	1,200
Fixed Asset Software	-	500	500
Mobile access to Abacus (8)	-	1,600	1,600
Annual renewal for Archive Software	4,000		4,000
Sub total - MIS	**20,540**	**3,300**	**23,840**
Total Contractual	**123,096**	**4,000**	**127,096**

amended 10/04/2013

FY 2014 BUDGET PROJECTION

233 Building Rental	**FY 2014**	**Adj**	**Adj FY 2014**

Base rent 1.88333 x 12000sf = $22,600 x 12	**271,200**	-	**271,200**

FY 2014 BUDGET PROJECTION

240 Supplies and Materials	**FY 2014**	**Adj**	**Adj FY 2014**
Director, added $2800 for refueling of leased vehicles	2,800	1,000	3,800
Attorneys	500	1,100	1,600
Investigation	500	300	800
Legal Secretaries	900	1,800	2,700
Records/Property	300	300	600
Process	400	400	800
Legal Clerical	1,000	200	1,200
Fiscal	3,500	7,500	11,000
Personnel	500	200	700
MIS	3,500	2,000	5,500
Total Supplies	**13,900**	**14,800**	**28,700**

note> included $300 postage replenishment under fiscal
added $2800 for refueling of leased vehicles under Director's office

amended 10/04/2013

FY 2014 BUDGET PROJECTION

250 Small Equipment

	FY 2014	**Adj**	**Adj FY 2014**
Executive desk new atty	1,400	(1,400)	0.00
Executive chair - new atty	600	(600)	0.00
4-drawer filing cabinet	350	(350)	0.00
2-drawer filing cabinet	250	(250)	0.00
Client chairs 2 ea x 250	500	(500)	0.00
Book shelf 2 ea x 250	500	(500)	0.00
Telephone instrument	300	(300)	0.00
Computer work station	1,800	(1,800)	0.00
For new atty	5,700	(5,700)	0.00
	-		-
Sub total - Attorney	**5,700**	**(5,700)**	**0.00**
Computer work station for Vanessa Diaz	-		0.00
Client chair Cil Aquino	-		0.00
Secretarial Chair - Charmaine San Nicolas	-		0.00
Sub total - Legal Secretaries	**0.00**	**-**	**0.00**
Heavy duty shredder	0.00	2,000	2,000
Sub total - Records	**-**	**2,000**	**2,000**
External Drive for B/Up Fiscal Data	-	1,000	1,000

Replace Obsolete Printer - for New Acctng Software	-	1,200	1,200
Sub total - Fiscal	**-**	**2,200**	**2,200**
Replace obsolete battery ups	2,500	-	2,500
Desktop Scanner	1,500	-	1,500
Replace obsolete computers	10,000	1,600	11,600
Sub total - MIS	**14,000**	**1,600**	**15,600**
TOTAL SMALL EQUIPMENT	**19,700**	**100**	**19,800**

amended 10/04/2013

FY 2014 BUDGET PROJECTION

271 Drug Testing

FY 2014	Adj	Adj FY 2014
2,000	-	**2,000**

FY 2014 BUDGET PROJECTION

#290 MISCELLANEOUS

	FY 2014	Adj	Adj FY 2014
Guam Bar Dues 300 x 16 +$150	4,800	150	4,950
NACDL $200,NLADA $715	915		915
Training On-Island attys	6,000		6,000
Training On-Island staff	-	3,000	3,000
Advertising Cost-Board Meeting $300 x 16 = $4800	4,800		4,800
Advertising Cost-job announcement $275 x 8	2,200		2,200
Advertising Cost-Bids, RFP $430 x 4=1720	2,500		2,500
Board Stipends 2 x $50 x 16	1,800		1,800
Anticipated fees for Payroll	1,300		1,300
Legal Subscriptions	2,100		2,100
Process Server Fees $50 x 7	350		350
Other fees (police clearance, transcript copy)	300	-	300
Rental Safe Deposit Box (MIS B/Up Data)	250		250
TOTAL MISCELLANEOUS	**27,315**	**3,150**	**30,465**

09/04/12 Per Janet from Marianas Variety, they don't aniticipate increase; maybe change in expedite fees; currently at $256 monthly ($128 x 2); decreased projection from $340 to $300 per month x 16 (projected at 16 months in the event emergency meeting)
Note 2: GBA fees calculated at $300; fees may go up for 2014.

FY 2014 BUDGET PROJECTION

361 Power

FY 2014	Adj	Adj FY 2014
Power $2400 x 12	28,800	28,800

based on current $2400 x 12=28800 round up $30,000

amended 10/04/2013

FY 2014 BUDGET PROJECTION

363 Telephone/Toll- Charge to Director's Office

	FY 2014	Adj	Adj FY 2014
Telecom Service 1720 x 12 mos	20,640		20,640
currently paying $730 x 12 = $8760 , but don't know who will get the bid for FY 2014			
Toll Estimated $25 per month included	-		-
	20,640	**-**	**20,640**

currently paying PDS 727.98 round up 800= $9600
Est budget of $31620 -9600=22020
round up 9900 to $10000

09/04/13 per BSNC keep at same level as fy 2013; don't know who is going to win the bid
amended 10/04/2013

FY 2014 BUDGET PROJECTION
450 Capital Outlay >$5000

	FY 2014	Adj	Adj FY 2014
Data Storage Server	-		-

amended 10/04/2013

TOTAL	**4,028,398**	**(166,923)**	**3,861,475**

Total: General Fund / Merit Bonus / Spec ial Fund	3,855,060
(Shortfall)	6,415

AGENDA ITEM #VII (B)

Resolution No. 02-14
(Request to Use Lapsed Funds To Rectify Inconsistency in Pay Assignment for JOLEEN M.G. CRUZ)

BEFORE THE
BOARD OF TRUSTEES OF THE
PUBLIC DEFENDER SERVICE CORPORATION
RELATIVE TO APPROVING THE USE OF LAPSED FUNDS TO RECTIFY THE INCONSISTENCY IN PAY ASSIGNMENTS FOR JOLEEN M.G. CRUZ

Resolution No. PDSC 02-14

WHEREAS, §4114 of Chapter 4, Title 4 GCA provides for "Inter-Branch Employee Transfers" which states: "Any employee in the classified service may be appointed or transferred to a position in a different branch, department, agency, instrumentality, authority or corporation requiring equivalent qualifications for the one held or to a higher position. Qualification and standards as established by the Director of Administration in cooperation with any branch, department, agency or instrumentality authorized by law to administer the personnel laws and determine its own personnel rules shall be honored and accepted. **Any employee affected by this Section shall not have affected adversely his governmental service, retirement credits, sick or annual leave, and other fringe benefits normally granted to an employee of the Government.**"

WHEREAS, PDSC Legal Secretary I JOLEEN M.G. CRUZ was initially hired by the Corporation as a Legal Clerk I on March 29, 2010, and was slotted at Pay Grade F, Step 1; and

WHEREAS, immediately prior to her employment with the PDSC, Ms. Cruz was a Messenger Clerk with the Office of the Attorney General for almost two (2) years; and

WHEREAS, at the time of hire, Joleen Cruz's move to the PDSC should have been treated as a "Transfer-Promotion", (rather than a "Probational Appointment"), thereby assigning her pay to Pay Grade F, Step 2; and

WHEREAS, subsequent Personnel Actions affecting Ms. Cruz's pay assignment prolonged this inconsistency; and

WHEREAS, a reconstruction of Ms. Cruz's Personnel Files has been conducted by PDSC Personnel Specialist IV Bernadette L.P. Lizama, reflecting the proper pay assignments and the actions which must be taken to rectify the inconsistencies (a copy of which is attached hereto); and

WHEREAS, the above-mentioned analysis indicates that **$5,107.95** (inclusive of the government's share of contributions to the Retirement Fund, and Medicare taxes) is required to settle this matter; and

WHEREAS, because this is a "prior year obligation", since it was not budgeted for in this current fiscal year's obligations, it is necessary to request the use of lapsed funds for this purpose; now therefore be it

RESOLVED, the Board of Trustees of the Public Defender Service Corporation, in its duly-noticed meeting of October 08, 2013, hereby approves the use of lapsed funds in the amount of **$5,107.95** to provide for the proper compensation/pay assignment of JOLEEN M.G. CRUZ.

DULY AND REGULARLY ADOPTED this 8th day of October, 2013.

_____
Chief Justice F. PHILIP CARBULLIDO
Chairman

ATTEST:

_____
BERNADETTE S.N. CHARGUALAF
Secretary

10/4/2013					
1110	Joleen M.G. Cruz DC Plan	Gross	Retirement @ 30.03%	M/care	Total
		$ 3,884.96	1,166.65	56.33	$ 5,107.95

Position Title	Effective Date	Completed Action		Action Should Be	
Legal Clerk I	03/29/10	Probational Appointment	F-01 $17,635	Transfer-Promotion	F-02 $18,737
Legal Clerk I	10/01/10	Hay Study Suspension	F-01 $17,635	Amend-Hay Study Impl	F-02 $18,737
Legal Clerk I	03/29/11	Salary Increment	F-02 $18,737	Amend-Salary Incr	F-03 $19,840
Legal Secretary I	04/25/11	Promotion	H-01 $19,974	Amend-Promotion	H-02 $21,223
Legal Secretary I	04/25/12	Salary Increment	H-02 $21,223	Amend-Salary Incr	H-03 $22,471
Legal Secretary I	04/25/13	Salary Increment	H-03 $22,471	Amend-Salary Incr	H-04 $23,720

Title 4 Guam Code Annotated – Public Officers & Employees
Chapter 4 Personnel Policy and the Civil Service Commission

§4105. Department Rules.

(a) **Rules subject to criteria established by this Chapter governing the selection, promotion, performance, evaluation, demotion, suspension and other disciplinary action of classified employees shall be adopted** by the Board of Directors of the Antonio B. Won Pat International Airport Authority, Guam; the Board of Directors of the Guam Economic Development and Commerce Authority; the Board of Commissioners of the Guam Housing and Urban Renewal Authority; **the Guam Judicial Council**; the Board of Directors of the Jose D. Leon Guerrero Commercial Port; the Guam Education Policy Board; the Board of Regents of the University of Guam; the Guam Community College Board of Trustees; the Board of Trustees of the Guam Memorial Hospital Authority; the Board of Directors of the Guam Visitors Bureau; and the Consolidated Commission on Utilities on behalf of the Guam Waterworks Authority and the Guam Power Authority, with respect to personnel matters within their respective Branches, agencies, public corporations or departments, and by the Director of Administration to all other Executive Branch employment.

§4114. Inter-Branch Employee Transfers.

Any employee in the classified service may be appointed or transferred to a position in a different branch, department, agency, instrumentality, authority or corporation requiring equivalent qualifications for the one held or to a higher position. Qualification and standards as established by the Director of Administration in cooperation with any branch, department, agency or instrumentality authorized by law to administer the personnel laws and determine its own personnel rules shall be honored and accepted. **Any employee affected by this Section shall not have affected adversely his governmental service, retirement credits, sick or annual leave, and other fringe benefits normally granted to an employee of the Government.**

Ms. Cruz was initially hired at the AG's Office on 04/07/08 and became a permanent classified employee after completion of her six months probationary period. She then applied for the Legal Clerk I position at PDSC, was selected and hired on 03/29/10 on a Probational Appointment at Pay Grade F Step 1, as this was the practice of the Superior Court. However, based on the above §4114, 4 GCA, Ms. Cruz fulfilled the requirement of becoming a classified employee under the AG's Office and her appointment to PDSC should have been Transfer-Promotion at Pay Grade F Step 2. A reconstruction of her personnel actions has been completed to reflect the correct Nature of Action, steps and salaries to date (please see attached reconstruction worksheet). The amount owed to Ms. Cruz is $3,884.96

JOLEEN M.G. CRUZ

COMPLETED PERSONNEL ACTIONS											REQUIRED ACTIONS (AMENDMENTS)								
					FROM			TO					FROM			TO			
POSITION TITLE	EFF DATE	PA #	NATURE OF ACTION	PAY PLAN	PAY GRADE	STEP	SALARY	PAY GRADE	STEP	SALARY	EFF DATE	NATURE OF ACTION	PAY GRADE	STEP	SALARY	PAY GRADE	STEP	SALARY	COMMENTS
Messenger Clerk	04/07/08	A-48230	Probational Appt	Unified				D	01	$15,840.00									
Messenger Clerk	04/07/09	A-54443	Salary Increment	Unified	D	01	$15,840.00	D	02	$16,830.00									
Messenger Clerk	03/26/10	A-59720	Resignation	Unified	D	02	$16,830.00												
Legal Clerk I	03/29/10	PD-24-10	Probational Appt	Unified				F	01	$17,635.00	03/29/10	Amendment - PA PD-24-10	F	01	$17,635.00	F	02	$18,737.00	Amend PD-24-10 NOA to read Transfer-Promotion and to reflect correct Step/Salary
Legal Clerk I		PD-01-11	Permanent Appt	Unified				F	01	$17,635.00		Cancel PA PD-01-11							Cancel this PA in its entirety
Legal Clerk I	10/01/10	PD-103-11	Hay Study Implementation	Hay 2010	F	01	$17,635.00	F	1	$23,171.00	10/01/10	Amendment - PA PD-103-11	F	02	$18,737.00	F	1	$23,171.00	Amend PD-103-11 to reflect correct Step/Salary
Legal Clerk I	01/31/11	PD-104-11	Hay Study Suspension	Unified	F	1	$23,171.00	F	01	$17,635.00	01/31/11	Amendment - PA PD-104-11	F	1	$23,171.00	F	02	$18,737.00	Amend PD-104-11 to reflect correct Step/Salary
Legal Clerk I	03/29/11	PD-30-11	Salary Increment	Unified	F	01	$17,635.00	F	02	$18,737.00	03/29/11	Amendment - PA PD-30-11	F	02	$18,737.00	F	03	$19,840.00	Amend PD-30-11 to reflect correct Step/Salary
Legal Secretary I	04/25/11	PD-31-11	Promotion	Unified	F	02	$18,737.00	H	01	$19,974.00	04/25/11	Amendment - PA PD-31-11	F	03	$19,840.00	H	02	$21,223.00	Amend PD-31-11 to reflect correct Step/Salary
Legal Secretary I	04/25/12	PD-68-12	Salary Increment	Unified	H	01	$19,974.00	H	02	$21,223.00	04/25/12	Amendment - PA PD-68-12	H	02	$21,223.00	H	03	$22,471.00	Amend PD-68-12 to reflect correct Step/Salary
Legal Secretary I	07/17/12	PD-73-12	Change of Name	Unified	H	02	$21,223.00	H	02	$21,223.00	07/17/12	Amendment - PA PD-73-12	H	03	$22,471.00	H	03	$22,417.00	Amend PD-73-12 to reflect correct Step/Salary
Legal Secretary I	07/17/12	PD-77-12	Amendment PA # PD-73-12	Unified	H	02	$21,223.00	H	02	$21,223.00	07/17/12	Amendment - PA PD-77-12	H	03	$22,417.00	H	03	$22,417.00	Amend PD-77-12 to reflect correct Step/Salary
Legal Secretary I	04/25/13	PD-41-13	Salary Increment	Unified	H	02	$21,223.00	H	03	$22,471.00	04/25/13	Amendment - PA PD-41-13	H	03	$22,471.00	H	04	$23,720.00	Amend PD-41-13 to reflect correct Step/Salary

JOLEEN M.G. CRUZ

POSITION TITLE	NATURE OF ACTION	DATES		NO. OF DAYS	NO. OF DAYS - PROPER	Work Hours - Proper	FROM				TO				RATE DIFF	AMOUNT OWE	COMMENTS
		FROM	TO				PAY GRADE	STEP	SALARY	HOURLY RATE	PAY GRADE	STEP	SALARY	HOURLY RATE			
Legal Clerk I	Transfer-Promotion	03/29/10	09/30/10	134	134	1072	F	01	$17,635.00	$8.48	F	02	$18,737.00	$9.01	$0.53	$568.16	Amend to read Transfer-Promotion and correct Step/Salary
Legal Clerk I	Hay Suspension	01/31/11	03/28/11	41	41	328	F	01	$17,635.00	$8.48	F	02	$18,737.00	$9.01	$0.53	$173.84	Amend to correct Step/Salary
Legal Clerk I	S/I	03/29/11	04/24/11	19	19	152	F	02	$18,737.00	$9.01	F	03	$19,840.00	$9.54	$0.53	$80.56	Amend to correct Step/Salary
Legal Secretary I	Promotion	04/25/11	04/24/12	262	262	2096	H	01	$19,974.00	$9.60	H	02	$21,223.00	$10.20	$0.60	$1,257.60	Amend to correct Step/Salary
Legal Secretary I	S/I	04/25/12	04/24/13	261	261	2088	H	02	$21,223.00	$10.20	H	03	$22,471.00	$10.80	$0.60	$1,252.80	Amend to correct Step/Salary
Legal Secretary I	S/I	04/25/13	10/02/13	115	115	920	H	03	$22,471.00	$10.80	H	04	$23,720.00	$11.40	$0.60	$552.00	Amend to correct Step/Salary
				0	0	0									$0.00	$0.00	
																$3,884.96	