

GUAM POWER AUTHORITY



WORK PLANNING AND PERFORMANCE EVALUATION FORM

SUMMARY RESULTS

MANAGERS

<b>NAME OF EMPLOYEE</b>	D Graham Botha
<b>POSITION TITLE</b>	General Counsel
<b>DIVISION</b>	Board
<b>DEPARTMENT</b>	Executive
<b>EVALUATION PERIOD</b>	FY 2022

<b>NAME OF DIRECT SUPERVISOR</b>	CCU
<b>POSITION TITLE</b>	General Counsel
<b>DIVISION</b>	Legal

<b>DEPARTMENT</b>	Legal
<b>EVALUATION PERIOD</b>	FY 2022 Summary

## INTRODUCTION

Whilst this form provides a structured framework for documenting and assessing work performance its success as a management / supervisory tool is to facilitate an open and honest discussion on performance. Whilst ongoing performance feedback, particularly against the key performance indicators (KPI's) outlined in Section A should be occurring on a regular basis (throughout the review period) the benefits of positive and constructive feedback are well documented, and with this in mind, it is important to ensure that the agreed ratings are an accurate reflection of the employees' performance over the review period. Inaccurate assessments are counter-productive (for both the company and the employee) as both the link to training and development and compensation becomes distorted and the implications far reaching, not only internally but externally in terms of the company's ability to consistently meet the expectations of customers.

## Rating Scale

<b>5</b>	<b>Significantly Exceeds Expectations / Outstanding</b>
	Performance significantly exceeds expectations in all essential areas of responsibility. An outstanding result qualified by an exceptional or unique contribution in support of the section, department or division or the successful completion of a major goal or project. This rating is achievable by any employee although given infrequently. Note: a rating of 5 requires qualification.
<b>4</b>	<b>Exceeds Expectations / Above Satisfactory</b>
	Above standard performance with results exceeding expectations in all essential areas of responsibility.
<b>3</b>	<b>Meets Expectations / Satisfactory</b>
	Performance consistently meets expectations in all essential areas of responsibility.

2	<b>Inconsistently Meets Expectations / Marginal</b>
	Performance inconsistently meets expectations in one or more essential areas of responsibility. A less than satisfactory result requiring improvement(s) to come up to standard.
1	<b>Fails To Meet Expectations / Unsatisfactory</b>
	Performance consistently below expectations. Significant improvement is needed in one or more essential areas. Results may also reflect / demonstrate counter-productive behaviors that have negative outcomes or consequences. A plan to correct performance, including timelines, must be developed and monitored to improve and measure progress. Note: a rating of 1 requires qualification.
<b>SECTION A</b>	<b>KEY PERFORMANCE INDICATORS (KPI's)</b>

### Overview

Research has shown that the functions managers undertake can be grouped into four key generic roles: Managing Operations, Managing Finance, Managing People and Managing Information. Within each role a small number of agreed KPI's should be identified (where possible) as a basis for assessing and improving the performance of managers on an annual basis. Please note that the identification of KPI's may be difficult with some positions resulting in broader job statements or job standards being documented. This however should not detract from the primary goal of quantifying the work required wherever possible. In brief, the KPI's refer to personal targets for managers to focus their performance (i.e. over the review period) in order to fulfill their responsibilities and to maximize their contribution to the organization.

### Performance Allocation

Performance against the key roles (see below) accounts for 70% of the total performance score:

<b>1.0</b>	<b>Managing Operations</b>	<b>60% of total performance score</b>
<b>2.0</b>	<b>Managing Finance</b>	<b>10% of total performance score</b>

**Rating**

Please use the rating scale provided to rate the employee and mark the rating in the box provided.

**Key Performance Indicators (KPI's)**

<b>1.0</b>	<b>Managing Operations (Legal) – Internal and External</b>	<b>60% of total performance score</b>
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**Annual Rating**

<b>1.1</b>	<b>Managing Operations: Represent/Protect the interest of the CCU/GPA</b>
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<b>1.1.1</b>	Assists the CCU and General Manager in determining the policies, procedures, rules, and regulations of GPA.
<b>1.1.2</b>	Effective counsel provided to the GM and CCU on legal issues, negotiations, claims, disputes, investigations, litigation
<b>1.1.3</b>	Effective coordination and preparation of local and federal filings, pleadings, petitions, and other required legal documents
<b>1.1.4</b>	Effectively coordinates, confers and works with other legal officers, including the Attorney General, Governor’s counsel, in matters relating to the CCU, GPA, and other parties
<b>1.1.5</b>	Represents the CCU/GPA in negotiations, hearings, depositions and other legal proceedings in local and federal courts as required


**Annual Rating**

<b>1.2</b>	<b>Managing Operations: Confers with the CCU and GPA personnel on various administrative legal matters concerning GPA.</b>
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<b>1.2.1</b>	Review for legal soundness and accuracy, program materials originating from different GPA divisions.
<b>1.2.2</b>	Effectively counsels, coordinates and works with GM to represent GPA in personnel disciplinary actions, Civil Service Commission proceedings and other personnel dispute proceedings as required
<b>1.2.3</b>	Effectively counsels, coordinates and works with GM to represent GPA in any personnel-related civil actions, criminal investigations or proceedings
<b>1.2.4</b>	
<b>1.2.5</b>	


**Annual Rating**

<b>1.3</b>	<b>Managing Operations: Representation on Regulatory Matters</b>
1.3.1	Represent GPA in connection with legal matters before the Guam Legislature, boards and other agencies of Guam.
1.3.2	Review, draft, or present testimony to the Legislature concerning the CCU and GPA.
1.3.3	Effectively supports/defends GPA's position with regulatory consultants, administrative law judges (ALJs), enforcement attorneys, in applicable proceedings
1.3.4	Effectively develops and presents cases before deliberative regulatory entities
1.3.5	Efficiently drafts and files motions, pleadings and orders required


**Annual Rating**

<b>1.4</b>	<b>Managing Operations: Management of Procurements and Contractual Matters</b>
1.4.1	Effectively consults, coordinates and works with GM, procurement and end users to execute timely procurements in accordance with GPA needs
1.4.2	Effectively counsel, coordinates and works with the GM to manage and resolve procurement protests and contract disputes
1.4.3	Effectively manages alternative dispute resolution proceedings, such as mediation or arbitration, when required
1.4.4	Effectively consults, coordinates and works with GM in representing GPA in procurement appeals with the Office of Public Accountability
	Average Score
	Weighted Average

3.5
2.09

<b>2.0</b>	<b>Managing Finance</b>	<b>10% of total performance score</b>
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**Annual Rating**

2.1	Plan, develop and establish reasonable budget for legal division administration
2.2	Track actual expenditures and monitor budget to access and guide legal administrative activities


2.3	Properly plan, monitor and control procurements and administrative activities to prevent shortfalls and overages in materials, services and resources needed for legal operations	
	Average Score Weighted Average	3.0 .30

<b>SECTION B</b>	<b>PERSONAL COMPETENCIES</b>
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### Overview

The personal competencies listed below are those used by effective managers to make decisions and achieve results and can be observed through the key behaviors outlined. The competencies work together to achieve results. One competency may be dominant in a particular situation or event, but it will usually be supported by other competencies. As the event unfolds, another competency will become dominant. Some competencies are about independent action, others are about working closely with colleagues, some call for analytical and logical thinking, whilst others are about creativity.

It is important to remember that the behaviors and competencies outlined are not valuable on their own. They are valuable only insofar as they help managers achieve results. Effective managers use their judgment to apply the right competency at the right time although they tend not to be strong in every competency but display a variety of different profiles with regards strengths, styles and preferences. Across management teams it is valuable to understand the profiles of individual team members and exploit those skills accordingly.

### Performance Allocation

Performance against the key personal competencies (see below) accounts for 30% of the total performance score:

1.0	<b>Strategic Perspective</b>	<b>5% of total performance score</b>
2.0	<b>Building Teams</b>	<b>5% of total performance score</b>
3.0	<b>Communication</b>	<b>5% of total performance score</b>
4.0	<b>Information Search</b>	<b>5% of total performance score</b>
5.0	<b>Achievement Focus</b>	<b>5% of total performance score</b>
6.0	<b>Judgment</b>	<b>5% of total performance score</b>

### Rating

Please use the rating scale provided to rate the employee and mark the rating in the box provided.

### Annual Rating

<b>1.0</b>	<b>Strategic Perspective</b>	<b>5% of total performance score</b>	
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This competence concerns the manager being able to place immediate goals and activities in a strategic context. This involves seeing how one area of activity is affected by, and affects, other parts of the organization or its environment. The competence involves taking a longer-term perspective, considering what will happen several years hence, and establishing a vision of the future. An important part of the competence lies in managers setting out their vision of the future to others in such a way as to gain acceptance and support.

#### *Behavior Indicators - An Effective Manager:*

- works towards a vision of the future based on a strategic perspective
- acts with good understanding of how different parts, needs or functions of the organization and its environment fit together
- clearly relates goals and actions to the strategic aims of the business
- takes opportunities when they arise to achieve longer term aims or needs
- demonstrates competence in goal setting, identifying possible courses of action, implementing and monitoring them
- can disseminate strategic goals into KPI's for subordinate staff
- has highly developed skills in analyzing and interpreting data and situations
- is very competent at diagnosing problems and identifying causal factors
- demonstrates foresight (predicting / forecasting)

### Annual Rating

<b>2.0</b>	<b>Building Teams</b>	<b>5% of total performance score</b>	
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This competence concerns working effectively with others at the same level or more junior level with the organization. The manager may use the key behavior in the context of a loose team or a coalition of peers from other parts of the organization and/or in the context of an immediate group of direct reports. The first two behaviors are about encouraging co-operative working. Depending on the circumstances, this can be achieved either formally or informally and the team may be well defined and established or a loose group of managers who do not necessarily see themselves as a "team". The third behavior is an aspect of empowerment, where the manager involves others in the process of making difficult decisions, and takes time to involve others in order to explore the problem and to contribute solutions. The final behavior is about evaluating the capabilities of the people who report to the manager.

#### *Behavior Indicators - An Effective Manager:*

- keeps others informed about plans and progress
- builds a desire to work together and builds co-operation within a team
- builds ownership of controversial decisions by involving others in the decision-making process
- evaluates people's capability to do the job and takes action
- is very capable of balancing self and team interests to meet collective goals

- contributes positively by sharing information and listening and accepting others' points of view
- respects the thoughts and opinions of other team members
- positively influences the way the team works together
- facilitates and influences positive outcomes that focus on organizational goals
- recognizes conflicts that arise within the team and acts to bring these out into the open

**Annual Rating**

<b>3.0</b>	<b>Communication</b>	<b>5% of total performance score</b>	
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This competence concerns communicating clearly with others. It may be used in a wide range of circumstances, from formal presentations to day-to-day meetings. A feature of managers with this competence is that they carefully consider what message they wish to communicate and then decide how best to do so. This may involve thorough planning of a presentation, the use of different media to reinforce a message, or even the establishment of systems to ensure good communication within the department or organization. Effective managers use this competence to achieve results. They communicate to inform, instruct, persuade and encourage others to communicate with them. Managers who are particularly competent in this area exhibit conviction and belief in what they have to say, which is closely linked to the self-confidence competency.

*Behavior Indicators - An Effective Manager:*

- conveys difficult ideas and problems in a way that aids understanding
- recognizes and responds to the needs and feelings of others
- demonstrates excellent verbal and written communication skills
- is very confident and competent in describing situations and actions
- effectively conveys and receives ideas, information and directions
- receives, interprets, understands and responds very well to verbal messages and other cues
- is assertive while being open minded and adaptable to difference of opinions
- has the ability to be very concise and clear when communicating
- confronts difficult issues openly

**Annual Rating**

<b>4.0</b>	<b>Information Search</b>	<b>5% of total performance score</b>	
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This competence concerns gathering information to inform decision making. Effective managers seek facts and informed opinion in order to understand new or complex situations. Sometimes the manager will remain open-minded and suspend judgment until all the relevant facts are known. In other cases, the manager reaches a conclusion on the basis of an insight or limited personal knowledge, and then seeks more factual data to confirm or refute this conclusion.

*Behavior Indicators - An Effective Manager:*

- pushes for concrete information in an ambiguous situation
- seeks information from multiple sources to clarify a situation
- checks validity of own thinking with others
- excellent at gathering and assessing information to determine the optimum way to perform



- is very competent with personal planning and organizational skills
- has highly developed skills at analyzing and interpreting data and situations
- is very competent at diagnosing problems and identifying causal factors

**Annual Rating**

<b>5.0</b>	<b>Achievement Focus</b>	<b>5% of total performance score</b>	
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Managers with this competence are geared towards achieving results and they will set ambitious goals and objectives for themselves and others. They will also deal with problems as they arise, and take advantage of any emerging opportunities. Recognizing and evaluating the risks that may lie ahead, and then taking firm action, is an aspect of this competence.

*Behavior Indicators - An Effective Manager:*

- sets high quality goals that are demanding of self and others
- sets key performance indicators and priorities in uncertain and complex situations
- tackles problems or takes advantage of opportunities as they arise
- calculates risks and takes decisive action
- focuses personal attention on specific details that are critical to the success of a key event
- is an energetic self-starter, highly motivated and results driven
- generates enthusiasm and energy by maintaining a positive attitude
- expresses confidence in the success of plans or initiatives (this includes showing commitment to a course of action)
- takes personal responsibility for making things happen
- is persistent in pursuing goals despite obstacles and setbacks
- is very competent with personal planning and organizational skills
- is very capable at gathering and assessing information to determine the optimum way to perform
- uses time and resources very effectively

**Annual Rating**

<b>6.0</b>	<b>Judgment</b>	<b>5% of total performance score</b>	
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This competence concerns using a range of skills to evaluate situations and people and to develop plans and approaches for actions. Effective managers use analytical and logical approaches to understand people and events and to establish priorities and connections. They also use creative and intuitive approaches to assessing situations and problems and to producing solutions. Effective managers may demonstrate different profiles within this competence, some being more creative and intuitive or they may be strong in all aspects.

*Behavior Indicators - An Effective Manager:*

- identifies the most important issues in a complex situation
- identifies implications, consequences or casual relationships in a situation
- uses a range of ideas to explain the actions, needs and motives of others
- focuses on facts, problems and solutions when handling an emotional situation

- approaches the decision-making process with a positive attitude and views the situation as an opportunity / challenge
- can explain decision(s) to those involved and affected and will follow up to ensure implementation
- uses instinct and intuition to assess situations and people
- identifies new patterns and interprets events in new ways
- has an excellent understanding of processes and quality improvement
- can prioritize problems and deal with them one at a time

	Average Score	4.0
	Weighted Average	1.21
	<b>Total Evaluated Score</b>	<b>3.6</b>
<b>SECTION C</b>	<b>PERFORMANCE COMMENTS</b>	

Note: In Sections A & B all performance ratings of 1 or 5 must be individually substantiated with comments. This section can also be used for general comments concerning the employee's performance.

**Section**

	GlidePath – prevailed in Superior Court appeal
	Negotiated water supply agreement for Ukudu project and revisions to contract for phosphate costs due to USEPA outfall requirements
	Revisions to Consent Decree – regarding water intake issues to allow for Cabras operations to continue until plant closure for 316(b) requirements
	PUC – filed for approval of property insurance
	OPA – prevailed in Graphic Center appeal and Track Me appeal
	PUC – approved Phase IV renewable for GPA procurement
	Worked with UOG and Siemens for approval of energy efficiency project
	PUC – obtained approval of Cabras 2 overhaul
	FOIA responses – coordinated responses to numerous GPA and CCU FOIA requests
	Expedited approval request for Machche CT repairs
	Civil Service – prevailed in several CSC cases, including Merit Hearings at CSC, involving termination and suspension cases
	HR – worked closely with HR on proposed disciplinary cases and CSC hearings with successful resolutions in the CSC Merit Hearings
	Filed with PUC for approval of ULSD Bulk Supply and additional repairs for Tank 1935
	Expedited PUC approval and Governor's approval for Refunding of Revenue bonds
	Obtained PUC approval for KECF ECA Amendment allowing for relocation of 41MW diesel plant
	Assisted with revisions to Navy Customer Service Agreement
	Worked with SPORD on EPCM contract for Owner Engineer Construction Management Services



With regard to recent litigation against GPA, the attorney representing North South Guam agreed to dismiss the case after several years of litigation. The attorney representing Fujita Guam has agreed to a proposed settlement that would dismiss the case in return for fiber swaps, which GPA has done with other companies, and assistance with pole attachments. I coordinated with the Deputy AG, Solicitors Division, and the Governor's counsel, to obtain the AG and Governor's approval of the land lease agreement between KEPCO and GPA. GPA has prevailed in the Civil Service cases filed by employees against GPA, as well as Post Audit findings filed by Civil Service that attempted to null and void actions taken by GPA that were legal, which would have resulted in the termination of a recent GPA hire. For the past 5 years, GPA has prevailed in all Civil Service cases, whether brought by employees, or as a result of investigations by Civil Service staff.

With the exception of LEAC filings and a few more complicated dockets, all PUC filings are generally filed at the beginning of the month, a week after the CCU meeting, and heard the same month at the PUC meeting at the end of the month. This involves responding to questions seeking additional information or justification from the different Administrative Law Judges (ALJ), holding conferences with the ALJ and GPA Division managers to justify GPA's request to obtain approval for those procurement or contracts exceeding \$1.5M. GPA filings are generally approved within 30 days of filing, and represent 50% or more of the filings made with the PUC.

With regard to procurement protests, a good of protests are resolved at the agency letter when the vendor does not elect to file with the OPA. In the past 5 years, GPA has prevailed in filed OPA cases at both the OPA level and at the Superior Court level, most recently in the Glide Path (Phase III solar procurement), and in the Graphic Center case (won at the OPA level), and currently being litigated in Superior Court. A comparison of the decisions at OPA of other agencies, makes it clear through the OPA's decisions (both current and previous OPA) that GPA procurement is handled properly.

With regard to the key personal competencies, set forth in Section B, I work with the different managers and employees to achieve the GPA visions and goals, as modified by the GM and CCU over time. I am able to work with other team members to diagnose problems, and analyze and interpret data to resolve outstanding issues. I am able to work with other managers and employees as part of a team to meet the long-term goals of GPA. I am able to gather information and facts to analyze data and diagnose problems, by working with managers and employees collaboratively. I am able tackle problems and resolve issues, after seeking guidance from the GM, and then taking action to solve outstanding issues.

<b>SECTION E</b>	<b>PERSONAL DEVELOPMENT</b>
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### Overview

Personal development focuses on initiatives taken by the employee or with the Authority's support that demonstrates a positive and proactive approach to personal growth and development. The intent here is to both recognize and reward

employees for relevant achievements in excess of the minimum educational requirements of the position e.g. this may be in the form of a higher educational qualification(s), professional qualification(s), certification(s), license(s) etc.

**Performance Allocation**

Having achieved higher educational qualification(s), professional qualification(s), certification(s), license(s) etc. (in excess of the minimum educational requirements of the position) the financial benefits (see table example below) will take the form of additional sub-steps being awarded in excess of those received from this appraisal process.

Please note that where the Authority’s compensation model is being adjusted to a higher market percentile(s) the additional sub-steps awarded in this section will be applied with each adjustment and will continue until such time the Authority has reached its targeted position in the market.

**Number of additional sub-steps awarded      EXAMPLE**

<b>3</b>	<b>The achievement of: Higher Educational Qualifications / Professional Qualification(s) / Certification(s) / License(s) etc. that take in excess of two (2) years to obtain</b>
<b>2</b>	<b>The achievement of: Higher Educational Qualifications / Professional Qualification(s) / Certification(s) / License(s) etc. that take one (1) to two (2) years to obtain</b>
<b>1</b>	<b>The achievement of: Higher Educational Qualifications / Professional Qualification(s) / Certification(s) / License(s) etc. that take two (2) to twelve (12) months to obtain</b>

**Notes:**

The awarding of sub-step(s) following the attainment of multiple achievements or individual achievements taking less than two (2) months to obtain or any decision to include a particular achievement will be at the discretion of the General Manager.

All achievements must be current and valid (where required) for the additional sub-step(s) to be awarded.

Where progression towards a higher qualification sees an employee firstly achieving an interim qualification e.g. Engineer In Training (EIT) and then goes on to pass the Professional Engineer (PE) qualification the employee will be awarded the appropriate sub-steps for achieving the EIT qualification and then the balance of the sub-steps for achieving the PE.

**Rating**

Human Resources will initially assess (and score in the space provided) the proposed number of sub-steps awarded for higher educational qualification(s), professional qualification(s), certification(s), license(s) etc. achieved in excess of the minimum required of the position. Endorsement of this score (or otherwise) will be made by the General Manager (subject to discretionary and budget constraints) in reviewing the results of this form.

**Personal Achievements**

Please indicate below all relevant educational qualification(s), professional qualification(s), certification(s), license(s) etc. achieved in excess of the minimum required of the position. Please note that these will be subject to verification if no record of their achievement is included in the employee’s personal file held with Human Resources.

	<b>Personal Achievements</b>	<b>Authorizing Institution</b>	<b>Pass Grade (where provided)</b>
<b>1.0</b>			
<b>2.0</b>			
<b>3.0</b>			
<b>4.0</b>			
<b>5.0</b>			
<b>6.0</b>			
<b>7.0</b>			
<b>8.0</b>			
<b>9.0</b>			
<b>10.0</b>			

Proposed Increase (number of sub-steps)

<b>SECTION F</b>	<b>CONFIRMATION / SIGNATURES</b>
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<b>GPA GENERAL COUNSEL</b>	<b>EVALUATION PERIOD:</b>	<b>RATING: 3.6</b>
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**Conclusion of Evaluation**

Employee Confirmation : I have reviewed this performance evaluation on the date indicated below and have had the opportunity to discuss it with the CCU Commissioners. My signature does not necessarily mean that I agree with the rating.

Employee Name : D. GRAHAM BOTHA

Signature : 

Date : 12/2/22

**CCU Acknowledgement**

CCU:  JOSEPH T. DUENAS

Date: \_\_\_\_\_

(authorization) CCU Chairperson

Comments :


**Employee Acknowledgment**

Signature : \_\_\_\_\_ Date : \_\_\_\_\_