




PORT OF GUAM
ATURIDAT / PUETTON GUAHAN
Jose D. Leon Guerrero Commercial Port
1026 Cabras Highway, Suite 201, Piti, Guam 96915
Telephone: 671-477-5931/5 | Facsimile: 671-477-2689
Website: www.portofguam.com



Lourdes A. Leon Guerrero
Governor of Guam
Joshua F. Tenorio
Lieutenant Governor

POLICY MEMORANDUM NO. 2024-GM08

To: All Port Employees	Subject: Temporary Out-of-Position Assignments Policy
Effective Date: December 10, 2024	Revision Date:
Approved by:  RORY J. RESPICIO, General Manager	

I. AUTHORITY

- A. The Port Authority of Guam Personnel Rules and Regulations were adopted through Public Law 30-43 and codified as Section 10114, Chapter 10, Title 12, Guam Code Annotated.
- B. Chapter 2 Administration, Section 2.000, Responsibility of the General Manager, states that the General Manager shall develop and promulgate policies, rules, regulations and standards to promote the efficiency of the Port services and maintain the position classification and compensation plan.

II. GENERAL PROVISIONS

- A. Applicability:
This policy applies to all divisions within the Port Authority of Guam. All employees, regardless of division, are subject to the same standards for out-of-position assignments, qualifications, and compensation.
- B. Retroactive Pay Prohibition:
Retroactive pay for out-of-position assignments is strictly prohibited. All pay adjustments and differentials must be approved prior to the start of the assignment. Any work performed without proper authorization will not be eligible for retroactive compensation.
- C. Non-Discrimination Clause:
Out-of-position assignments must be made without discrimination based on race, color, religion, gender, national origin, age, disability, or any other protected category. All employees must be considered equally based on qualifications and operational needs.
- D. Policy Enforcement and Employee Rights:
Employees have the right to refuse an out-of-position assignment without retaliation. Employees may also appeal decisions related to out-of-position assignments through the established grievance process.

Failure to adhere to the provisions outlined in this policy may result in disciplinary action. The Human Resources Division, in consultation with the General Manager, will monitor compliance with this policy to ensure that employee rights are respected and that violations of the policy are addressed appropriately.

E. Review and Amendment:

This policy may be reviewed and amended as necessary by the General Manager, with the Personnel Services Administrator taking the lead, in collaboration with all division heads and legal counsel, to reflect organizational needs and ensure compliance with applicable laws and the Port's Personnel Rules and Regulations.

III. PURPOSE

Temporary assignments are voluntary, offering employees the choice to accept or decline without consequence. These assignments are medium-term missions designed to provide support to divisions facing gaps in capacity due to unfilled vacancies or extended leave. Assignments may be made to address critical operational needs, whether or not the position is vacant, as long as the employee is fully qualified. These assignments provide opportunities for on-the-job learning, professional growth, sharing of experiences, and foster team-building within the Port.

The purpose of this policy is to outline the conditions, procedures, and responsibilities for arranging, approving and acquiring out-of-position pay.

IV. PROCEDURES

A. Request and Approval Process:

1. Initial Assessment:

Before an employee is assigned to perform duties of an out-of-position classification, the division head should confer with the Personnel Services Administrator of Human Resources Division to determine whether the employee identified meets the minimum qualification requirement for the out-of-position assignment. Assignments are not limited to vacant positions, but may be made based on operational demands, provided the employee is fully qualified.

2. Voluntary Participation:

Participation in out-of-position assignments is voluntary, and the employee must confirm in writing whether they accept or decline the assignment before the process begins.

3. Daily Assignments:

Out-of-position assignments are typically made on a daily basis, meaning the assignment applies for the full duration of a regular work shift. Arrangements must be confirmed at least 24 hours in advance of the employee's shift to ensure proper planning and documentation.

- In documented emergency situations certified by the respective Division Head, where prior arrangements cannot be made, the employee may be compensated on an hourly basis for the time spent in the out-of-position role. Emergency approval applies only for the day of the emergency and must be re-approved for each subsequent day if the emergency persists. The division head must notify HR immediately and provide documentation justifying the emergency.

4. Qualified Assignments:

Employees may be assigned to any out-of-position role for which they are fully qualified, regardless of whether it is directly above their current position, to address operational needs and fill critical voids.

5. Pay Differential Calculation:

If qualification requirements are found to be met by the Human Resources Division, the division head shall complete the attached Request for Assignment to an Out-of-Position Classification. Such request shall include the justification for the assignment of a higher out-of-position classification or lower-level assignment, and the time period of such assignment, not to exceed 180 calendar days. However, if the employee is to be assigned to a position that is below their pay grade allocation, such assignment shall not exceed 29 days. If an extension is needed, the division head must submit the request at least 30 calendar days prior to the expiration of the current 180-day assignment.

The Personnel Services Administrator shall indicate on the request the pay differential the employee would receive for performing the higher out-of-pay position duties and responsibilities.

- **Temporary Higher-Level Assignments:**

For higher out-of-position assignments, the employee will receive a pay differential of either a flat 5% of the employee's current base pay or the difference between the employee's current base pay and the out-of-position classification, whichever is higher. This pay differential becomes effective from the start of the assignment and will be used as the basis for calculating any applicable overtime, night differential, and premium pay.

- **Temporary Lower-Level Assignments:**

Employees temporarily assigned to a lower out-of-position classification will retain their current rate of pay, and such assignments will not impact their job classification, career progression, or eligibility for promotions. These temporary assignments are not to exceed 29 days unless extended with approval.

Performing lower-level duties as part of an out-of-position assignment is voluntary. Employees have the right to decline such assignments without consequence.

In emergency or critical operational situations, employees may be temporarily assigned to lower-level duties to address immediate needs. Such assignments must be justified by the division head and approved by the Deputy General Manager with oversight responsibility for the division.

6. Mid-Day Role Changes:

If an employee's role changes mid-day, the pay differential will only apply to the hours worked in the out-of-position role. The division head must provide specific documentation and notify HR immediately upon the role change, showing the exact hours worked in each role. If no documentation is provided, the assignment will be treated as regular hours worked in the employee's primary role, and no pay differential will be applied.

7. Request Submission:

The request is then transmitted to the Chief Financial Officer for certification of funds. If funds are available, the request will be forwarded to the General Manager for disposition. Approval is at the discretion of the General Manager and is not guaranteed.

8. Submission of Approved Request:

Copies of the approved request shall be transmitted to the Finance Division and Human Resources Division.

9. **Continuation of Assignments:**

Should the 180 calendar days expire and the division head wishes to continue assigning the identified employee to the higher out-of-position classification, a new request must be submitted for approval following the processes outlined above. In exceptional cases where operational needs extend beyond 180 days, the General Manager may approve an extension of the assignment without a full re-approval process. If approval is not obtained, the employee will revert to his or her original position at the end of the 180-day period. Justification for the extension must also be provided by the division head and additional funds certified by Chief Financial Officer.

- If the division head is requesting to continue the employee to be assigned to a lower out-of-position classification, justification would need to be provided as to why such duties and responsibilities cannot be given to another employee occupying the same out-of-position classification.

B. **Provision for Daily Assignments:**

Out-of-position assignments may be made on a daily basis to address short-term operational needs. This provision is intended for one-time, daily occurrences and should not substitute for the regular approval process required for ongoing assignments. No employee may be assigned to a daily out-of-position role for more than 3 consecutive days without triggering the regular approval process. In such cases, the same qualification and pay differential rules will apply. Approval from both the division head and the respective Deputy General Manager with oversight responsibility is required prior to the assignment. Written documentation of the assignment must be completed and submitted at the end of each assignment day.

1. **Procedural Steps:**

- **Initiation:** A division head identifies a one-time operational gap for the day and contacts HR to confirm the employee's qualifications.
- **Approval:** The division head and the respective Deputy General Manager approve the daily assignment via a simplified form or email.
- **Documentation:** At the end of the day, the division head documents hours worked and pay differential.
- **Payroll:** HR ensures that pay differentials are applied.
- **Review:** A daily log of out-of-position assignments is maintained by the affected division head. **At the end of each week, the respective Deputy General Manager must review and sign the log** to ensure compliance with the policy. The signed log is then submitted to HR for auditing and verification. Any discrepancies or misuse must be flagged immediately for review by the General Manager and HR.

C. **Roles and Responsibilities:**

1. **Division Heads shall:**

- Confer with the Personnel Services Administrator prior to any assignment to ensure the employee meets the minimum qualification requirements for the position.
- Once confirmation is received from the Human Resources Division, a request for assignment to a higher out-of-position classification should be submitted to:

- (1) Human Resources Division to indicate the pay differential the employee would receive for performing such duties and responsibilities of the higher out-of-position classification.
 - (2) Finance Division to provide the pay code to be used for input into the employee's timesheet and for certification of funds.
 - (3) General Manager for final approval.
- Indicate on the timesheet the pay code of differential pays for the employee and total hours the employee worked in the higher out-of-position classification duties and responsibilities on the timesheet per pay period.
- Notify Human Resources Division if identified employee is no longer being assigned to the out-of-position classification before the 180 calendar days is to expire.
2. **Finance Division:** Shall provide the division head with the pay code for the timekeeper to input differential pay into the employee's timesheet.
3. **Human Resources Division:** If there are any changes to the employee's base salary, the Personnel Services Administrator shall provide the division head with an updated pay differential.

D. Audit and Compliance Checks:

1. **Routine Audit:**
Human Resources, in coordination with the Finance Division, shall conduct regular audits of all out-of-position assignments at least once per quarter to ensure compliance with this policy. These audits will verify that all assignments, whether higher or lower-level, have the necessary approvals, justification, and proper pay differentials applied. Complete and accurate documentation must be maintained for every assignment. Any discrepancies identified during these audits must be reported immediately to the General Manager, with corrective action initiated within 10 business days of the discovery of discrepancies.
2. **Random Spot Checks:**
HR may conduct random spot checks on assignments, including emergency and daily assignments, at any time, to ensure proper justification and documentation. If any discrepancies are identified during these checks, they must be addressed immediately, with corrective action taken within 5 business days.
3. **Corrective Actions:**
Any discrepancies found during audits or spot checks will lead to appropriate corrective actions, including payroll adjustments, documentation correction, or disciplinary measures. Corrective actions must be initiated within 10 business days of identifying the discrepancy. Repeated failures to adhere to this policy will be subject to further investigation and personnel action.
4. **Triggers for Spot Checks:**
 - **Random Audits:**
 - Periodic random spot checks may be conducted as part of routine compliance procedures, regardless of any specific issues. This ensures that the policy is being followed consistently across the organization.

- **High Frequency of Daily Assignments:**
 - If certain divisions or employees are frequently assigned to out-of-position roles, especially on a daily basis, this could trigger a spot check to ensure that the assignments are justified and within the policy limits (e.g., not exceeding three consecutive days).
- **Inconsistent Documentation:**
 - If HR or the Finance Division notices gaps, inconsistencies, or delays in the submission of required documentation (e.g., timesheets, justification forms), this could trigger a spot check to investigate potential issues.
- **Complaints or Grievances:**
 - If employees raise concerns or file complaints regarding how out-of-position assignments are being handled (e.g., unfair assignments, lack of proper approvals), a spot check may be triggered to investigate the validity of these claims.
- **Non-Compliance in Regular Audits:**
 - If discrepancies are found during routine audits, targeted spot checks may be triggered on specific divisions or employees to ensure the issues are not recurring or widespread.
- **Unusual Pay Differentials:**
 - Unexplained or unusually high pay differentials (especially for emergency or daily assignments) may prompt a spot check to ensure the differential is appropriate and justified according to the policy.

Introduction

Unexpected emergencies can arise at any time, requiring swift and decisive action to protect the safety, security, and ongoing operations of the Port Authority of Guam. A prompt and efficient response is essential to minimize disruptions and safeguard both personnel and infrastructure. The following guidelines provide clear direction on emergency assignments, including instances where employees may be asked to perform duties outside their usual responsibilities. These procedures ensure the Port's preparedness, fairness, and commitment to the well-being of all staff during emergency situations.

V. EMERGENCY ASSIGNMENTS

Emergency assignments are required when unforeseen circumstances threaten to disrupt port operations, jeopardize safety, or necessitate immediate action to prevent significant loss or damage. The following are predefined emergencies where out-of-position assignments may be necessary:

- **Natural Disasters:** Such as typhoons, earthquakes, or floods that critically impact port operations.
- **Security Incidents:** Immediate threats requiring additional security measures or operational oversight.
- **Health and Safety Crises:** Situations like hazardous material spills, fires, or significant workplace accidents.
- **Critical Equipment Failure:** Breakdowns of essential machinery or technology systems critical to ongoing operations.

- **Unexpected Staff Shortages:** Sudden illnesses or other factors causing significant reductions in essential staff.
- **Compliance or Regulatory Deadlines:** Urgent actions required to meet unexpected or newly enforced legal or regulatory standards.
- **Cargo or Supply Chain Emergencies:** Issues with shipments that may affect broader supply chains or cause substantial economic impacts.

General Manager's Certification of Emergencies:

In addition to the predefined emergencies, the General Manager retains the authority to certify other situations as emergencies if they pose an immediate risk to operations, safety, or compliance. All emergency certifications must be documented, specifying the nature of the emergency and the justification for the certification.

Procedure for Handling Emergency Assignments:

- The respective Division Head must promptly notify the General Manager and the Human Resources Division of the emergency.
- Employees may be temporarily assigned to out-of-position roles as necessary to effectively manage the emergency.
- Assignments should be reviewed daily or as the situation evolves to assess whether continuation or adjustment is needed.
- All emergency assignments must be documented with clear justifications and specific responsibilities assigned.

Employee Rights in Emergencies:

- Employees have the right to understand the nature of the emergency and the expectations of their temporary roles.
- While participation in emergency assignments is highly encouraged, employees have the right to refuse an assignment if they believe it poses a risk to their safety or well-being, without fear of retaliation.

VI. VOLUNTARY PARTICIPATION AND EXCEPTIONS

General Voluntary Participation:

Temporary assignments are typically voluntary, allowing employees to accept or decline without consequences. This approach promotes professional growth and ensures employees feel comfortable and prepared for the responsibilities they undertake.

Exceptions in Emergency Situations:

In certain emergencies certified by the General Manager, participation may become mandatory. These include:

1. **Immediate Threats to Safety or Operations:** When an immediate response is essential to prevent loss of life, property damage, or severe operational disruption.
2. **Legal or Regulatory Compliance:** Where failure to act could result in significant penalties or legal consequences for the Port.
3. **Critical Staff Shortages:** When unexpected absences critically impair the Port's ability to function safely and efficiently.

Implementation of Mandatory Assignments:

- The General Manager must provide clear justification for mandatory assignments.
- Employees will be informed of the critical nature of their roles, the expected duration of the assignment, and any additional support or compensation.
- All mandatory assignments must be documented and comply with labor laws and Port policies.

Employee Rights and Support:

- Even in mandatory situations, the Port remains committed to addressing employee concerns and ensuring fair treatment.
- Employees may discuss their assignments with HR to seek clarification or express concerns, and reasonable accommodations will be considered without compromising emergency response efforts.

VII. DURATION OF EMERGENCY ASSIGNMENTS

To ensure fairness and transparency, the duration of mandatory emergency assignments will be limited and clearly defined as follows:

- 1. Initial Assignment Period:**
 - Emergency assignments should initially be limited to 10 working days to provide adequate coverage while allowing for reassessment.
- 2. Review and Extension:**
 - At the end of the initial period, or sooner if needed, the Division Head, General Manager, and HR will review the situation.
 - If the emergency persists, an extension of up to 10 more working days may be granted. Any extension must be justified, documented, and communicated to the affected employees.
- 3. Maximum Duration:**
 - No mandatory emergency assignment should exceed 30 days without a comprehensive review by the General Manager, HR, and, if necessary, the legal department.
 - Extensions beyond 30 days should be rare and only apply to prolonged emergencies, such as major natural disasters or extensive recovery operations.
- 4. Transparency and Communication:**
 - Throughout the emergency assignment, open communication will be maintained with the affected employees. Regular updates regarding the status of the emergency and changes to operational needs will be provided.
- 5. Employee Feedback and Support:**
 - Employees will be encouraged to provide feedback on their assignments and express any concerns. Adequate support, such as counseling services or additional training, will be offered to employees working under these exceptional circumstances.

PORT AUTHORITY OF GUAM
REQUEST FOR ASSIGNMENT TO AN OUT-OF-POSITION CLASSIFICATION

This form must be: <ul style="list-style-type: none">Completed by the Division HeadReviewed by the Human Resources DivisionCertified by the Chief Financial OfficerApproved by the General Manager <p>Such authorization must be approved prior to the assignment of the identified employee to the out-of-position classification.</p>		
EMPLOYEE INFORMATION		
Employee's Name:		Employee's Payroll Number:
Employee's Current Job Title:		Current Hourly Rate:
Temporary Working Out-of-Position Classification Job Information & Justification		
Higher Out-of-Position Classification Title:		
Pay Differential Hourly Rate:	Pay Code:	Start Date: <i>(not to exceed 180 days)</i>
List specific duties employee is to perform:		
Lower Out-of-Position Classification Title: (Incumbent's salary shall remain status quo. Assignment to a lower out-of-position classification shall not exceed 29 days.)		
Division Head's Certification		
I certify that the employee will perform the duties listed above.		
Signature: _____		Date: _____
Personnel Services Administrator's Certification:		
I certify that the employee meets the qualification requirements listed above.		
Signature: _____		Date: _____
Chief Financial Officer's Certification:		
/___/ I certify that funds are available and pay code has been provided.		
/___/ I acknowledge that incumbent's salary remains status quo.		
Signature: _____		Date: _____
Approval by General Manager		
/___/ Approved /___/ Disapproved		
Signature of General Manager: _____		Date: _____