

Audit Report

CNMI Government Audit of Compliance with the Compensation Adjustments Act (Government Salary Ceiling)

As of October 30, 1996

(Report No. AR-97-02)



Office of the Public Auditor
Commonwealth of the Northern Mariana Islands

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Our audit showed that several government agencies compensated their high-level officials in excess of the government salary ceilings established in the Compensation Adjustments Act. At least 14 officials of 6 government agencies were paid salaries higher than those provided in the Act. The officials were not among those exempted under the Act. As a result, public funds were spent for excess salaries amounting to almost \$213,000 from December 1992 to October 1996, and continue to be expended in violation of the law.

In February 1996, the Office of the Public Auditor (OPA) initiated a government-wide audit of compliance with the Compensation Adjustments Act of 1984 (as amended), primarily for compliance with the government salary ceiling. On various dates, draft audit reports were issued to all government entities that were found to be in violation of the Compensation Adjustments Act. The results of all audits, including the entities' responses, are consolidated in this report.

Public Law 4-32, the Compensation Adjustments Act of 1984, (1 CMC §8241 et. seq.) took effect on April 1, 1985. The purpose of the Act was to increase the salary of the Governor, Lieutenant Governor, Resident Representative to the United States, Mayors, Legislators, Judges, and to establish by law the annual salaries of certain unclassified and appointed positions, directors, and division chiefs of principal executive departments, and executive directors and board members of government corporations. The Act also established a government salary ceiling of \$50,000 for all other government officials and employees whose positions were not covered by

specific salary ceilings or included in certain exempt categories.

The objective of the audit was to determine whether all government departments, offices, agencies, and public corporations, including those that are semi-autonomous and autonomous, complied with the provisions of the Compensation Adjustments Act relating to compensation of government officials and employees covered by government salary ceilings. The scope of our audit included all government officials and employees as of March 1996. However, additional information was obtained through October 1996.

High-Level Officials Compensated In Excess of Government Salary Ceilings

Under the Compensation Adjustments Act, specific salary ceilings and exemptions from the ceilings were established for certain government positions. The Act also established a government-wide salary ceiling of \$50,000 for all other government officials and employees

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 Were Spent
 For Excess
 Salaries
 Amounting
 To \$213,000**

whose positions were not covered by specific salary ceilings or included in exempt categories. Our audit showed, however, that several government agencies compensated their high-level officials in excess of the salary ceilings. At least 14 officials of 6 government agencies were paid salaries higher than those provided in the Act. The officials were not among those exempted under the Act. This occurred because the agency heads or boards authorized salaries beyond the ceiling. Also, several agencies argued that their autonomous status allowed them to compensate officials without any restriction as to the amount of their salaries. An autonomous agency, however, is not exempted from complying with Commonwealth laws and in particular, laws regulating compensation within the government. To conclude otherwise would grant autonomous agencies the authority to disregard any and all laws enacted by the Legislature or to establish policies which may be contrary to Commonwealth laws. As a result, public funds were spent for excess salaries amounting to almost \$213,000 from December 1992 to October 1996, and continue to be expended in violation of the law.

Accordingly, we recommended that the agency heads or boards (1) take steps to recover the excess salaries paid to the officials, (2) limit the salaries of the officials within the government salary ceiling, (3) stop granting salaries in violation of the Compensation Adjustments Act or face future actions to determine liability for excess salaries, and (4) revise the agencies' salary schedules to comply with the government salary ceiling.

Agencies' Responses

The NMI Retirement Fund and the Marianas Visitors Bureau (MVB) agreed with the recommendations and informed OPA that they will comply with the government salary ceiling. The other agencies disagreed with the recommendations. The Commonwealth Development Authority (CDA) explained that certain provisions of the law exempted it from the government salary ceiling. The Northern Marianas College (NMC) and Commonwealth Ports Authority (CPA) argued that their autonomous status allowed them to compensate certain officials without regards to the government salary ceiling. Further, CPA explained that the Legislature has never questioned the salaries of its officials which were included in the annual appropriations act. Likewise, the Governor's Office stated that the salaries of its officials were authorized in the budget worksheets accompanying the annual appropriations act, and that it can compensate more than one attorney as "Governor's Legal Counsel," each

<u>Agencies</u>	<u>Nos. Of Officials In Violation of Ceiling</u>
NMI Retirement Fund	1
Marianas Visitors Bureau	2
Com. Development Authority	1
Northern Marianas College	3
Commonwealth Ports Authority	5
Office of the Governor	<u>2</u>
	<u>14</u>

receiving the maximum salary of \$60,000 for the position.

OPA Comments

The only exceptions from the government salary ceiling are those positions specifically granted a higher salary or exempted under the provisions of the Compensation Adjustments Act. 1 CMC §8248 (a) states: "Except as provided by law, no employee of the Commonwealth Government shall receive an annual salary of more than \$50,000." The actual wording of the proviso "except as provided by law" was "except as provided by *this* law" in the original public law establishing the government salary ceiling and in all subsequent public laws amending the ceiling. The proviso thereby limits the exceptions to only those provided under the Compensation Adjustments Act and not by any other laws. It also does not make sense to assume that other officials may be compensated without salary limitations when the salaries of the top administrative officers (such as Executive Directors and NMC President), of the same agencies were specifically capped under the Compensation Adjustments Act. It is logical to assume that the other officials were meant to be covered by the government salary ceiling in order to preserve a rational compensation structure for the particular agency.

There has also been no express amendment of the existing government salary ceiling when the Legislature passed the annual appropriations acts. Amendments by implication, like

repeals by implication, are not favored and will not be upheld in doubtful cases such as this. Further, the annual appropriations acts provided that funds are to be expended "in accordance with the fiscal authority of the agencies have *pursuant to statutes*." The agencies have no fiscal authority to exceed the salary ceilings established in the Compensation Adjustments Act.

In the case of the Governor's Office, it may, indeed, employ any number of attorneys. However, granting a salary of \$60,000 to each of them is highly questionable. Although we agree that the word "counsel" may have a plural as well as a singular meaning, we are skeptical that the Legislature intended to authorize two (or more) individuals as "Governor's Legal Counsel," each earning \$60,000. The list of appointed positions whose salaries were capped under the Compensation Adjustments Act clearly involved one person for each position (*e.g.*, Secretary of Finance, Special Assistant for Management and Budget, etc.). It seems logical that the position of Governor's Legal Counsel which was included in the listing was also contemplated to have one person.

Physicians Compensated In Excess of Salary Ceiling Without Required Governor's Certification

Under the Compensation Adjustments Act, certain government employees such as physicians may be compensated beyond the \$50,000

salary ceiling upon certification by the Governor. Our audit showed, however, that the Department of Public Health's (DPH) physicians were given annual salaries ranging from \$63,000 to \$120,000 without the required certification from the Governor. OPA requested the Secretary of Public Health to provide copies of certification documents. No documents, however, were submitted to evidence proper certification by the Governor, leading to the conclusion that none of the physicians' salaries were properly certified. As a result, CNMI laws were violated and some physicians may have been granted excessively high salaries beyond the ceiling.

Accordingly, we recommended that the Secretary of Public Health (1) request the Governor to certify the salaries of physicians which exceeded the \$50,000 ceiling, and (2) establish written procedures to ensure that certification requirements are met before granting physicians (or other eligible employees) salaries in excess of the ceiling.

DPH Response

The Secretary of Public Health agreed with the recommendations. He responded that (1) the certifications were being processed and should be completed by January 3, 1997, and (2) written procedures will be prepared and implemented no later than January 2, 1997. DPH subsequently provided OPA with documents evidencing implementation of both recommendations. However, with

regard to the Governor's certification of salaries in excess of the \$50,000 ceiling, the accompanying list of physicians certified by the Governor did not show the physicians' salaries. Without the salaries, there was no basis for determining the reasonableness of salaries granted to the physicians.

Status of Audit Recommendations

We consider the recommendations to NMI Retirement Fund, and MVB as partially resolved. We consider the recommendations to NMC, CDA, CPA, and the Governor's Office as open. The additional information or actions required to close the recommendations is presented in **Appendix L**.

We consider one of the two recommendations to DPH as closed and implemented. The other recommendation (regarding certification of physicians' salaries by the Governor) was considered resolved. The additional information or actions required to close the recommendation is presented in **Appendix L**.

Conclusion

The results of our audit showed that several government agencies still believe that they are not subject to the Compensation Adjustments Act. Some agencies argued that their autonomous status allowed them to compensate officials without any

restriction as to the amount of their salaries. Some agencies claimed that the salaries of their officials were authorized under the budget worksheets accompanying the annual appropriations act passed by the Legislature. In addition, the Governor's Office argued that it can employ more than one person as "Governor's Legal Counsel," an appointed position with a salary ceiling of \$60,000.

To ensure full compliance with the Act, the Legislature should make it abundantly clear that the government salary ceiling is applicable to all government agencies, including those that are semi-autonomous and autonomous. Accordingly, the

Legislature may wish to consider introducing legislation that will clarify the (1) applicability of the government salary ceiling to semi-autonomous and autonomous agencies, and (2) effect of budget worksheets on existing laws regulating compensation within the government. The Legislature also needs to clarify whether (3) it intended the singular or the plural meaning of "counsel" when referring to the position of "Governor's Legal Counsel" in the Act, and whether (4) the lifting of the salary cap for government attorneys in P.L. 10-41 has permanent effect, and whether it also lifted the cap for the position of "Governor's Legal Counsel" whose salary was specifically capped at \$60,000.

INTRODUCTION

BACKGROUND

In February 1996, the Office of the Public Auditor (OPA) initiated a government-wide audit of compliance with the Compensation Adjustments Act of 1984 (as amended), primarily for compliance with the government salary ceiling. The Department of Finance, Office of Personnel Management, and all semi-autonomous and autonomous government entities were requested to cooperate and to provide OPA a list of all government officials and employees which included current annual salaries and employment dates.

On various dates, draft audit reports were issued to all government entities that were found to be in violation of the Compensation Adjustments Act. The results of all audits, including the entities' responses, are consolidated in this report.

Compensation Adjustments Act of 1984

Public Law 4-32, the Compensation Adjustments Act of 1984, (1 CMC §8241 et. seq.) took effect on April 1, 1985. The purpose of the Act was to increase the salary of the Governor, Lieutenant Governor, Resident Representative to the United States, Mayors, Legislators, Judges, and to establish by law the annual salaries of certain unclassified and appointed positions, directors, and division chiefs of principal executive departments, and executive directors and board members of government corporations.

The Act also established a government salary ceiling of \$50,000 (originally \$40,000) for all other government officials and employees whose positions were not covered by specific salary ceilings or included in certain exempt categories. The Act was subsequently amended and modified by Public Laws 6-23, 7-31, 8-6, and 9-25. Most of the amendments dealt with increasing specific salary ceilings, modification of exemptions, and inclusion of new government positions.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of the audit was to determine whether all government departments, offices, agencies, and public corporations, including those that are semi-autonomous and autonomous, complied with the provisions of the Compensation Adjustments Act relating to compensation of government officials and employees covered by government salary ceilings. The scope of our audit included all government officials and employees as of March 1996. However, additional information was obtained through October 1996. Our audit procedures included comparison of current salaries received by officials and

employees with the specific salary ceilings and exemptions provided in the Act, and examination of supporting documents.

**PRIOR AUDIT
COVERAGE**

This is an initial audit of compliance with the Compensation Adjustments Act.

FINDINGS AND RECOMMENDATIONS

High-Level Officials Compensated In Excess of Government Salary Ceilings

**At Least 14
Officials Were
Paid Excess
Salaries
Amounting To
Almost
\$213,000**

Under the Compensation Adjustments Act, specific salary ceilings and exemptions from the ceilings were established for certain government positions. The Act also established a government-wide salary ceiling of \$50,000 for all other government officials and employees whose positions were not covered by specific salary ceilings or included in exempt categories. Our audit showed, however, that several government agencies compensated their high-level officials in excess of the salary ceilings. At least 14 officials of 6 government agencies were paid salaries higher than those provided in the Act. The officials were not among those exempted under the Act. This occurred because the agency heads or boards authorized salaries beyond the ceiling. Also, several agencies argued that their autonomous status allowed them to compensate officials without any restriction as to the amount of their salaries. An autonomous agency, however, is not exempted from complying with Commonwealth laws and in particular, laws regulating compensation within the government. To conclude otherwise would grant autonomous agencies the authority to disregard any and all laws enacted by the Legislature or to establish policies which may be contrary to Commonwealth laws. As a result, public funds were spent for excess salaries amounting to almost \$213,000 from December 1992 to October 1996, and continue to be expended in violation of the law.

Discussion

1 CMC §8248 (a) [Compensation Adjustments Act: Government Salary Ceiling] states:

“Except as provided by law, no employee of the Commonwealth Government shall receive an annual salary of more than \$50,000.”

The exceptions referred to by the proviso “[e]xcept as provided by law” pertain to the other provisions of the Compensation Adjustments Act which exempt certain positions from the salary ceiling. The proviso was actually worded as “[e]xcept as provided by this law,” in the original public law that established the government salary ceiling and in all subsequent public laws amending the ceiling [*i.e.*, PL 7-31, §4(d), repealing PL 6-23, §4 which previously repealed PL 4-32, §9; amended by PL 8-6, §4]. The word “this” which was erroneously omitted in the codified version of the Act, when read together with “law”, meant the Compensation Adjustments Act itself.

It is clear, therefore, that the intent of the Legislature was to limit the exemptions from the salary ceiling to only those exceptions specifically provided under that Act and not by any other laws.

Under the Compensation Adjustments Act, positions exempted from the \$50,000 government salary ceiling can be classified as follows: (1) positions *whose salaries were set above the ceiling by law*, such as the salaries of certain elected officials (1 CMC §8244), appointed officials (1 CMC §8245), and executive directors or top administrative officers of autonomous and semi-autonomous agencies (1 CMC §8246), and (2) positions *which may be exempted from the ceiling upon certification or approval by the appropriate authority*, such as certain professional employees certified by the Governor or those employed by the Legislature (1 CMC §8248), appointed officials certified by the Governor, legislative positions certified by the presiding officers of the Legislature, and judicial positions certified by the Chief Justice of the Supreme Court or Presiding Judge of the Superior Court (1 CMC §8250).

Government Agencies Violated Salary Ceiling

Our audit showed the following 6 government agencies compensated 13 high-level officials in violation of the government salary ceilings. The officials were not among those exempted under the Act (See **Appendix A** for details).

Agencies	Nos. Of Officials In Violation of Ceiling	Excess Salaries Per Year	Total Excess Salaries Paid As Of 10/96
1. NMI Retirement Fund	1	\$ 2,000	\$ 3,167
2. Marianas Visitors Bureau	2	15,000	27,500
3. Commonwealth Development Authority	1	10,000	14,833
4. Northern Marianas College	3	20,400	16,766
5. Commonwealth Ports Authority	5	68,000	132,983
6. Office of the Governor	2	17,000	17,750
	14	\$ 132,400	\$ 212,999

I. Northern Marianas Islands Retirement Fund (NMIRF)

Our review of the salaries of NMIRF officials and employees showed that the Administrator and the Deputy Administrator were receiving salaries of \$70,000 and \$52,000, respectively.

Our analysis of applicable laws and regulations showed, however, that only the Administrator, as top administrative officer of the NMIRF, is entitled to an annual salary beyond the \$50,000 ceiling (*i.e.*, from \$48,000 to \$70,000 as provided under 1 CMC §8246). Consequently, granting of a \$52,000 salary to the Deputy Administrator violated Commonwealth laws.

The Administrator explained that the salary of the Deputy Administrator was authorized by the Board of Trustees of the NMIRF. We reviewed the board minutes and found that the Board set the salary of the Deputy Administrator at \$8,000 less than the salary of the Administrator. The board of an autonomous government agency, however, has no authority to pass resolutions contrary to Commonwealth laws such as the Compensation Adjustments Act. Otherwise, autonomous agencies could disregard any and all laws enacted by the Legislature.

As a result, NMIRF spent public funds for excess salaries. As of October 1996, the total amount of excess salaries paid to the Deputy Administrator starting from his employment date in February 1995, amounted to about \$3,167 (See **Appendix A**).

Recommendations

NMIRF granted excessive salary to the Deputy Administrator in violation of the Compensation Adjustments Act. Accordingly, we recommended that the NMIRF Board of Trustees and Administrator (1) take steps to recover the excess salaries paid to the official, (2) limit the salary of the official within the government salary ceiling, (3) stop granting salaries in violation of the Compensation Adjustments Act or face future actions to determine liability for excess salaries, and (4) revise the NMIRF salary schedule to comply with the government salary ceiling.

NMIRF Response

The NMIRF Administrator agreed with the recommendations. He responded that (1) a personnel action was issued reducing the salary of the Deputy Administrator to \$50,000 per annum, (2) the excess salaries will be recovered through payroll deductions, and (3) the salary level for the position will be revised to comply with the recommendations.

OPA Comments

We consider Recommendations 1 to 4 as resolved. Additional information, however, is required to close the recommendations (See **Appendix L**).

2. Marianas Visitor's Bureau (MVB)

Our review of the salaries of current MVB officials and employees showed that the Comptroller was being compensated at \$55,000 per year. In addition, further review of the salaries of former officials showed that the former Deputy Managing Director was compensated at \$60,000 per year. Both salaries exceeded the \$50,000 government ceiling.

The Comptroller explained that their salaries were approved by the MVB Board. We reviewed the board minutes and found that the Board approved the increase in salaries based on the recommendations of MVB's Personnel Committee. The justification given for the salary increases was good performance of the officials.

Our analysis of applicable laws and regulations showed, however, that neither position can be considered exempted from the government salary ceiling of \$50,000. Based on our analysis, only the Managing Director, as top administrative officer of MVB, is entitled to an annual salary above the ceiling (*i.e.*, from \$48,000 to \$70,000). Consequently, granting of salaries above \$50,000 to the other two officials violated Commonwealth laws.

As a result, MVB spent public funds for excess salaries. Computation of the total amount of salaries paid in excess of the ceiling showed that the Comptroller was paid at least \$12,500 more than what she should have received (from May 1994 to October 1996), while the former Deputy Managing Director was paid at least \$15,000 more (from May 1994 until her resignation in December 1995), for a total of \$27,500 in excess salaries paid as of October 1996 (See **Appendix A**).

Recommendations

MVB granted excessive salaries to two high-level officials in violation of the Compensation Adjustments Act. Accordingly, we recommended that the MVB Board and Managing Director (5) take steps to recover the excess salaries paid to the officials, (6) limit the salaries of officials within the government salary ceiling, (7) stop granting salaries in violation of the Compensation Adjustments Act or face future actions and be liable for excess salaries, and (8) revise the MVB salary schedule to comply with the government salary ceiling.

MVB Response

The MVB Managing Director partially agreed with the recommendations. She responded that (1) MVB has decided not to recover the excess salaries paid to officials because the (legal) costs may exceed the amounts to be recovered, and (2) MVB will fully comply with any and all laws applicable to salaries.

OPA Comments

We consider Recommendation 5 as open. MVB should provide evidence that legal costs would exceed amounts to be recovered. We consider recommendations 6 to 8 as resolved. Additional information, however, is required to close the recommendations (See **Appendix L**).

3. Commonwealth Development Authority (CDA)

Our review showed three CDA officials who were granted salaries in excess of the \$50,000 ceiling. One of the three officials, however, was not among those exempted by law. The official, who serves as Deputy Executive Director, was originally compensated at \$50,000. Her salary, however, was increased to \$56,000, and then subsequently raised to \$60,000. Each salary was \$6,000 and \$10,000, respectively, beyond the ceiling.

At the time of our audit, CDA provided us a copy of its legal counsel's opinion dated February 19, 1996 justifying the salary granted to the Deputy Executive Director. The CDA legal counsel argued that the proviso "except as provided by law" contained in the prefatory clause of 1 CMC §8248(a) allowed exemptions from the government salary ceiling. The legal counsel explained that, in hiring the Deputy Executive Director, the CDA Board was acting in accordance with the provisions of CDA's enabling legislation, 4 CMC §10409(c)(3), reprinted in its entirety below:

"When necessary to assure the recruitment of professional employees sufficiently knowledgeable and competent to effectively carry out the purpose of the Authority, professional employees may be hired by contract without regard to the general schedule of pay levels set by law."

The above provision, however, allowed only hiring of professional employees who may be paid without regard to the *general schedule* of pay levels approved by the Legislature. This means that CDA can set its own pay levels for professional employees which may be different from the standard government pay levels (*i.e.*, the civil service pay scale). The provision, however, does not exempt CDA from

the Compensation Adjustments Act which established a salary ceiling applicable to all government employees.

Further, the only exceptions from the ceiling are those positions specifically granted a higher salary or exempted under the provisions of the Compensation Adjustments Act. The proviso “except as provided by law” was actually stated as “except as provided by *this* law” in the original public law establishing the government salary ceiling and in all subsequent public laws amending the ceiling. As previously discussed, the proviso in fact limits the exceptions to only those provided under the Compensation Adjustments Act and not by any other laws. Hence, the legal counsel’s contention that the proviso exempted CDA from the salary ceiling based on the provision of CDA enabling legislation [4 CMC §10409(c)(3)] is not valid because such provision is not part of the Act. It is clear that “this law” refers to the Compensation Adjustments Act, and therefore only those positions exempted under the Act itself may receive salaries beyond the ceiling.

It also does not make sense not to put a cap on the salary of the Deputy Executive Director when the salary of the Executive Director, who has the ultimate responsibility for CDA’s operations, was specifically capped under the Compensation Adjustments Act (1 CMC §8246). It is logical to assume that the Deputy Executive Director’s position was meant to be covered by the government salary ceiling in order to preserve a rational compensation structure for the agency. Consequently, it is our opinion that the granting of salary above the ceiling to the Deputy Executive Director violated the Compensation Adjustments Act.

As a result, CDA improperly spent public funds for excess salaries. Computation of the total amount of salaries paid in excess of the ceiling showed that the Deputy Executive Director was paid about \$6,500 more than what she should have received (based on her \$56,000 salary from October 1994 to December 1995) and about \$8,333 more (based on her \$60,000 salary starting December 1995), for a total of \$14,833 in excess salaries paid as of October 1996 (See **Appendix A**).

Recommendations

CDA granted excessive salaries to the Deputy Executive Director in violation of the Compensation Adjustments Act. Accordingly, we recommended that the CDA Board and Executive Director (9) take steps to recover the excess salaries paid to the official, (10) limit the salary of the official within the government salary ceiling, (11) stop granting salaries in violation of the Compensation Adjustments Act or face future actions to determine liability for excess salaries,

and (12) revise the CDA salary schedule to comply with the government salary ceiling.

CDA Response

The CDA Executive Director disagreed with the recommendations. He provided OPA a copy of a letter prepared by the CDA legal counsel disagreeing with our findings. The main points of the letter explained that (1) CDA should not be penalized for relying on the codified version of the Compensation Adjustments Act which contained errors, and (2) CDA is not subject to the Compensation Adjustments Act because there was an implied repeal of the Act when Public Law 4-49 was enacted (law establishing CDA).

OPA Comments

We consider Recommendations 9 to 12 as open. CDA should reconsider and implement the recommendations. The CDA legal counsel's justifications were flawed and appears to be merely an attempt to avoid compliance with the Compensation Adjustments Act. Our comments are as follows (1) CNMI law clearly states that in case of conflict between a code provision and the corresponding section of the public law, the public law prevails. What is at stake is that the improper payment of excess salaries violated the law and should be corrected, and the practice of excess payments should not be allowed to continue. (2) Public Law 4-49 neither supersedes nor impliedly repeals the Compensation Adjustments Act. None of the provisions of P.L. 4-49 were inconsistent with the Act. In fact, the two laws are consistent with each other and the general common law presumption disfavoring repeals by implication stands (See **Appendix E** for details of OPA Comments to CDA).

4. Northern Marianas College (NMC)

Our review showed four NMC officials who were granted salaries in excess of the \$50,000 ceiling. Three of the four officials, however, were not among those exempted by law.

Position	Annual Salary
<u>Exempted From Ceiling</u>	
1. President	\$ 70,000
<u>Not Exempted</u>	
2. Administrative Vice President	60,000

	Position	Annual Salary
3.	Academic Vice President	60,000
4.	Director, NMI-OCC	50,400

Under the Compensation Adjustments Act (as amended), only the NMC President, as top administrative officer of an autonomous agency (1 CMC §8246), may receive salary above the ceiling. Consequently, granting of salaries above \$50,000 to the other three officials violated Commonwealth laws.

The NMC Comptroller contended that NMC is exempted from the salary ceiling because of its status as an autonomous agency. Based on the Constitution, however, NMC’s autonomy pertains to the administration of the affairs of the Board of Regents. This means that the Board shall be free from the Legislature’s influence with respect to policy and decision making affecting NMC. This, however, does not exempt NMC from complying with Commonwealth laws such as the Compensation Adjustments Act. To conclude otherwise would grant NMC the authority to disregard any and all laws enacted by the Legislature. It should be noted that even the Constitution requires that matters pertaining to the operations and duties of the Board shall be provided by law.

Further, 3 CMC, §1322 of the Commonwealth Code specifically provides that the NMC President shall receive an annual salary as determined by the Board *in accordance with 1 CMC §8246, the Compensation Adjustments Act*. This reference makes it clear that NMC is not exempt from the Compensation Adjustments Act and implies that the Board should comply with the Act in setting the salaries of other officials.

As a result, NMC spent public funds for excess salaries. As of October 1996, the total amount of salaries paid in excess of the ceiling amounted to at least \$16,766, as shown below (See also **Appendix A**):

Position	Annual Salary	Excess Salary	From	To	Total Excess Salaries Paid
1. Administrative Vice President	\$ 60,000	\$ 10,000	01/96	10/96	\$ 7,500
2. Academic Vice President	60,000	10,000	12/95	10/96	8,333
3. Director, NMI-OCC	50,400	400	6/94	10/96	933
		\$ 20,400			\$ 16,766

Recommendations

NMC granted excessive salaries to three high-level officials in violation of the Compensation Adjustments Act. Accordingly, we recommended that the Board of Regents and NMC President (13) take steps to recover the excess salaries paid to the officials, (14) limit the salaries of officials within the government salary ceiling, (15) stop granting salaries in violation of the Compensation Adjustments Act or face future actions to determine liability for excess salaries, and (16) revise the NMC salary schedule to comply with the government salary ceiling.

NMC Response

The NMC President disagreed with the recommendations. She explained that (1) based on the CNMI Constitution, NMC was granted autonomy with regard to administration of affairs by the Board of Regents, and one of the most important attributes of being autonomous is the process of choosing the President and Vice Presidents of the college and setting their salaries, (2) Public Law 9-53, Section 6, confirmed the Board of Regents' responsibilities for establishing NMC's own personnel policies, and (3) since P.L. 9-53 was passed long after the Compensation Adjustments Act, it can be legitimately argued that the latest intent of the Legislature was to exclude NMC from the Compensation Adjustments Act.

OPA Comments

We consider Recommendations 13 to 16 as open. NMC should reconsider and implement the recommendations. The NMC President's justifications were not adequate. Our comments are as follows (1) it is true that the NMI Constitution granted the NMC Board of Regents autonomy in the administration of its affairs. This means that the board shall be free from the Legislature's influence with respect to policy and decision making affecting NMC. This, however, does not exempt NMC from complying with Commonwealth laws and in particular, laws regulating compensation within the government. To conclude otherwise would grant NMC the authority to disregard any and all laws enacted by the Legislature or to establish policies which may be contrary to Commonwealth laws. It should also be noted that even the CNMI Constitution require that matters pertaining to the operations and duties of the board shall be provided by law. (2) P.L. 9-53 only authorized NMC to set its own classification and pay scale, which may be different from the standard government pay levels (*i.e.*, the civil service pay scale), *without legislative approval*. Nothing in this law, however, specifically exempts NMC from the Compensation Adjustments Act which established a salary ceiling applicable to all government employees. (3) the original wording in the Compensation Adjustments Act was as follows: "Except as provided by *this* law, no employee of the Commonwealth Government shall

receive an annual salary of more than \$50,000.” The exceptions referred to by the proviso “[e]xcept as provided by this law” pertain to the other provisions of the Act which exempt certain positions from the salary ceiling. The word “this” which was erroneously omitted in the codified version of the Act, when read together with “law”, meant the Compensation Adjustments Act itself. It is clear, therefore, that the intent of the Legislature was to limit the exemptions from the salary ceiling to those exceptions specifically provided under that Act and not by any other laws (See **Appendix G** for details of OPA Comments to NMC).

5. Commonwealth Ports Authority (CPA)

Our review showed seven current and former CPA officials who were granted salaries in excess of the \$50,000 ceiling. Five of those officials, however, were not among those exempted by law.

Position	Annual Salary
<u>Exempted From Ceiling</u>	
1. Executive Director	\$ 70,000
2. Staff Engineer	55,000
<u>Not Exempted</u>	
1. Deputy Director	65,000
2. Comptroller	61,000
3. Administrative Assistant	55,000
4. Former Deputy Director	69,000
5. Former Staff Attorney	68,000

The CPA Executive Director explained that, except for the Administrative Assistant’s position (occupied by the former CPA Comptroller who was reclassified), the salaries of officials occupying these positions were based on the salary levels approved by the past CPA administration. He stated that the current CPA management is only following the previous salary levels for these positions.

Under the Compensation Adjustments Act (as amended), however, only the CPA Executive Director, as top administrative officer of an autonomous agency (1 CMC §8246), and the Staff Engineer, as a Commonwealth-licensed engineer exempted under the law (1 CMC §8248), may receive salaries above the ceiling.

Consequently, granting of salaries above \$50,000 to the other five officials violated Commonwealth laws.

As a result, CPA needlessly spent public funds for excess salaries. As of October 1996, the total amount of salaries paid in excess of the ceiling amounted to at least \$132,983 as follows (See also **Appendix A**):

	Position	Annual Salary	Excess Salary	From	To	Total Excess Salaries Paid
1.	Deputy Director	\$ 65,000	\$ 15,000	11/94	10/96	\$ 28,750
2.	Comptroller	61,000	11,000	2/95	10/96	18,333
3.	Admin. Assistant	55,000	5,000	10/93	10/96	15,000
4.	Former Deputy Director	69,000	19,000	12/92	11/94	36,400
5.	Former Staff Attorney	68,000	18,000	12/92	11/94	34,500
			\$ 68,000			\$ 132,983

Recommendations

CPA granted excessive salaries to several former and current high-level officials in violation of the Compensation Adjustments Act. Accordingly, we recommended that the CPA Board and Executive Director (17) take steps to recover the excess salaries paid to the officials, (18) limit the salaries of officials within the government salary ceiling, (19) stop granting salaries in violation of the Compensation Adjustments Act or face future actions to determine liability for excess salaries, and (20) revise the CPA salary schedule to comply with the government salary ceiling.

CPA Response

The CPA Executive Director disagreed with the recommendations. He stated that (1) based on CPA's enabling statute, Public Law 2-48, it was the intention of the Legislature that CPA be autonomous and self-sustaining and that the statute set up CPA as a government corporation with broad and diverse power to run, operate, and manage its own affairs, efficiently and effectively, so that the Commonwealth economic lifelines - its airports and seaports - will not be impeded by restrictions and regulations that apply to regular line departments and agencies of the government, (2) provisions of the Commonwealth Code (2 CMC §2122(n), §2130(c), and §2128), confirmed CPA's exemption from the Commonwealth's civil service system and allowed CPA to set its own compensation, wage and salary scales for employees, (3) the proviso "except as

provided by law” contained in the prefatory clause of 1 CMC §8248 (a) allowed exemption from the government salary ceiling for those positions specified under 1 CMC §2130 (c) (*i.e.*, Executive Director, Secretary, Treasurer, etc.), and this opening clause would not have been inserted had the Compensation Adjustments Act been intended to completely eliminate CPA’s ability to hire and compensate certain employees beyond the ceiling, and (4) CPA has annually submitted its proposed budget to the Legislature for review and appropriation. These submissions have included budget worksheets showing the salaries of CPA officials and employees, and the Senate Fiscal Affairs Committee and the House Ways and Means Committee have never expressed to CPA that the salaries of certain CPA officials were in violation of the Compensation Adjustments Act.

OPA Comments

We consider recommendations 17 to 20 as open. CPA should reconsider and implement the recommendations. The CPA Executive Director’s justification was not adequate. Our comments are as follows (1) it is true that the CPA’s enabling legislation was intended to make CPA autonomous and self-sustaining. This means that CPA can establish its own policies and regulations with respect to operations and management of its affairs. This, however, does not exempt CPA from complying with Commonwealth laws and in particular, laws regulating compensation within the government. To conclude otherwise would grant CPA the authority to disregard any and all laws enacted by the Legislature or to establish policies which may be contrary to Commonwealth laws, (2) 2 CMC §2122 (n) simply exempts CPA employees from the civil service system and authorizes CPA to set its own classification and pay scale, which may be different from but comparable to the standard government pay levels (*i.e.*, the civil service pay scale). 2 CMC §2130 (c) and 2 CMC §2128 went further and named specific positions (*i.e.*, Executive Director, Secretary, Treasurer, Comptroller, and Attorney) which may be hired and compensated on the terms and conditions fixed by the CPA Board. Nothing in these provisions, however, specifically exempts CPA from the Compensation Adjustments Act which established a salary ceiling applicable to all government employees, (3) the original wording in the Act was as follows: “*Except as provided by this law*”, no employee of the Commonwealth Government shall receive an annual salary of more than \$50,000.” The exceptions referred to by the proviso “[*e*]xcept as provided by this law” pertain to the other provisions of the Act which exempt certain positions from the salary ceiling. The word “this” which was erroneously omitted in the codified version of the Act, when read together with “law” meant the Compensation Adjustments Act itself. It is clear, therefore, that the intent of the Legislature was to limit the exemptions from the salary ceiling to those exceptions specifically provided under that Act and not by any other laws, and (4) the Legislature’s failure to point out excessive salaries included in the budget

worksheets submitted by government agencies does not mean that they agreed that these salaries were not illegal. No such inference can be drawn. Budget worksheets are only guidelines in the appropriation acts and even where funds were appropriated according to the attached worksheets, there can be no implicit repeal of an existing substantive law such as the Compensation Adjustments Act. Implied repeals are not favored by law. (See **Appendix I** for details of OPA Comments to CPA).

6. Office of the Governor

Our audit showed that (1) the Director of Personnel Management, a new position established under the Governor's Executive Order 94-3, was granted a salary of \$55,000 which is in excess of the \$50,000 salary ceiling applicable to positions not listed or exempted under the Act, and (2) two lawyers at the Office of the Governor were both compensated at \$60,000 although only one of them was officially designated as Governor's Legal Counsel, an appointed position with a \$60,000 salary ceiling.

Director of Personnel Management

Our review showed that the Director of Personnel Management, who received the \$50,000 maximum annual salary (for positions not listed or included under exempt categories) upon appointment to his position, was granted a \$5,000 salary increase effective January 24, 1995.

The Director's position which was newly established under Section 214 of Executive Order (E.O.) 94-3 (Governor's Reorganization Plan effective August 24, 1994), is an appointed position with the rank of Special Assistant to the Governor. The Director's position, however, was not among those positions whose salaries were set under the Act. In such cases, the maximum annual compensation that may be granted for his position should be the "catchall" ceiling of \$50,000 provided under 1 CMC §8248(a) unless the Governor certifies that no qualified individual can be hired at that salary [in accordance with 1 CMC §8250 (c)]. No such certification, however, was made by the Governor. It should also be noted that the salaries of special assistants do not always exceed \$50,000 [see 1 CMC §8245(f)].

Based on our discussions with the Deputy Director of Personnel Management, the Office of Personnel Management (OPM) adjusted the salaries of its officials and employees according to the budget worksheets attached to the fiscal year 1995 appropriation act. The budget worksheets, which showed a \$55,000 salary budgeted for the Director's position, were part of the original budget submitted by the Office of the Governor to the Legislature.

The Legislature's failure to detect and remove excessive salaries included in the budget worksheets, however, does not mean that such salaries were legal, and no such inference can be drawn. Budget worksheets are only guidelines in the appropriations acts and even where funds were appropriated according to the attached worksheets, there can be no implicit repeal of an existing substantive law such as the Compensation Adjustments Act. As shown below, implied repeals are not favored by law.

A statute cannot be interpreted as abrogating existing law by implication alone...The legislature is presumed to intend to achieve a consistent body of law. In accord with this principle, subsequent legislation is not presumed to repeal the existing law in the absence of expressed intent.

1A Sutherland Stat. Const. §23.09 (5th Ed.), citing a whole array of cases.

The doctrine disfavoring repeals by implications is said to apply "with full vigor" when the subsequent law is an appropriation measure (Emphasis added.)

City of Los Angeles v Adams, 556 F.2d 40 (D.C. Cir. 1977)

General appropriation acts have the limited and specific purpose of providing funds for *authorized* programs and Congress is entitled to the presumption that the appropriated funds will be used only for *lawful* purposes. *An appropriation act should therefore not be used to imply repeal of an earlier statute.* (Emphasis added).

Mille Lacs Band of Chippewa Indians v. Minnesota, 861 F. Supp. 784 (D.C. Minn. 1994), *app. dismiss.* on procedural grounds. 48 F.3d 373 (1995)

As a result, an excess salary of \$5,000 per annum was granted to the Director in violation of the Compensation Adjustments Act. As of October 1996, excess salaries amounted to at least \$8,750 (See **Appendix A**)

Special Counsel For Legislation

Two lawyers employed by the Office of the Governor are currently receiving annual salaries of \$60,000. Under the Act, only the position of Governor's Legal Counsel is entitled to receive such salary within the Office of the Governor. Our

review showed, however, that only one of the lawyers was officially designated as Governor's Legal Counsel. The other lawyer, whose official position is Special Counsel for Legislation, should have been limited to the \$50,000 salary ceiling applicable to positions whose salaries were not specified or who were not exempted under the Compensation Adjustments Act.

This occurred because the Office of the Governor renewed the contract of the Special Counsel and increased his salary from \$48,000 to \$60,000 per annum effective January 9, 1996. The authorized budget for the annual salary of the Special Counsel, however, was only \$48,000. This was due to the fact that salaries for the Office of the Governor remained at the fiscal year 1995 level because of the Governor's line-item veto of the fiscal year 1996 budget. Under the Planning and Budgeting Act, payment of expenditures in excess of budgeted amounts maybe considered a criminal offense under 1 CMC §7701(a).

“No officer or employee of the Commonwealth shall willfully and knowingly make or authorize any expenditure from or create or authorize any obligation or allotment under any appropriation of funds *in excess of the amount available therein.*” (Emphasis added.)

As a result, the Special Counsel for Legislation is receiving excess salary of \$12,000 (per annum) in violation of the Compensation Adjustments Act and the Planning and Budgeting Act. As of October 1996, excess salaries paid amounted to at least \$9,000.

Recommendations

We recommended that the Office of the Governor (21) take steps to recover the excess salaries paid to the officials, and (22) limit the salaries of the Director of Personnel Management to \$50,000, and the Special Counsel for Legislation to \$48,000.

Governor's Response

The Governor disagreed with the recommendations. The following are the reasons behind his disagreement:

Director of Personnel Management

According to the Governor, the Director was authorized a salary of \$55,000 in the annual appropriation act. The Public Auditor's argument that the Legislature's action was meaningless because this will result in repealing the Salary Act (*i.e.*, Compensation Adjustments Act) “by implication” does not seem to be relevant. The Governor stated that (1) the Legislature did not “repeal” the

Salary Act. They passed a valid law that was inconsistent with a single provision of that Act. When two statutes are not consistent, the more recent of the two prevails and in the event of a conflict between two statutes, the specific shall prevail over the general. In this case, the Salary Act is a general law. The Legislative approval of a \$55,000 salary, on the other hand, is extremely specific; it applies to the Director alone. (2) any statutory analysis must take into account the fact that the Commonwealth is a small body, with most of its members having detailed and continuous exposure to the operations of the Commonwealth Government. It is a matter of public record that the Legislature habitually explores the smallest details of the Executive Branch's budget proposal, particularly with regard to the amount paid to individual employees. (3) the draft report appears to take a strange view of the powers and duties of the Legislature in the budget process. The report claims that "the Legislature's failure to detect and remove excessive salaries included in the budget worksheets...does not mean that such salaries were legal, and no such inference can be drawn." This is incorrect. The Legislature, as noted in 2 above, almost certainly did not "fail to detect" the Director's salary. (4) contrary to the position taken by the report, personnel worksheets are expressly incorporated into every year's budget legislation. It is not true that "budget worksheets are only guidelines in the appropriation acts." The budget worksheets have the force of law. See, for example, Section 301 of Public Law (PL). 10-41 or Section 502 of PL 9-25.

Special Counsel for Legislation

According to the Governor, he has two legal counsel. One carries the title of "Special Counsel for Legislation," and the other goes by the title of "Governor's Legal Counsel." The Draft Letter report is wrong in claiming that only the Governor's Legal Counsel is entitled to a \$60,000 salary. The Governor stated that (1) the report assumes that he can only have one legal counsel. Nothing in the Salary Act supports this assumption. The relevant statute, 1CMC §8245(f) refers to "Governor's Legal Counsel." The word "counsel" is one of the English words that is the same in the singular and plural. It can mean one lawyer or several of them. It is reasonable to interpret it as plural in this case. Most states and territorial governors have more than one legal counsel. (2) The report assumes that the Special Counsel for Legislation is not his legal counsel because the Special Counsel does not bear the title "Governor's Legal Counsel." As a practical matter, he does not call his lawyers by the same title because that could cause confusion, and (3) the entire issue appears to have been rendered moot by the enactment of P.L. 10-41 last December (1996). Section 517 of that law lifted the salary cap for government attorneys, allowing them to receive salaries as high as \$70,000.

OPA Comments

Director of Personnel Management

In the case of the Director, we consider Recommendations 21 and 22 as open. There was no express amendment of the existing salary cap provision of the Salary Act when the Legislature passed the annual appropriation act authorizing the \$55,000 salary of the Director.

“Amendment by implication is identical with repeal by implication when only part of the statute is repealed... To be effective, an amendment of a prior act ordinarily must be express. Amendments by implication, like repeals by implication, are not favored and will not be upheld in doubtful cases...”

1A Sutherland Stat. Const. §22.13 (5th Ed.)

Because implied amendment is equivalent to implied repeal, the reasoning in the *Mille Lacs* and *Adams* cases would apply. The budget act can be implemented but not to pay any salaries in excess of the Salary Act limitations.

Further, budget worksheets cannot be used in violation of a conflicting law that has not been properly amended. The Governor cited Section 502 of P.L. 9-25; however, he may not have noted that Section 502 states that the funds appropriated under the Act are to be expended “in accordance with the fiscal authority the listed agencies have *pursuant to statute*.” The Governor’s Office had no fiscal authority to exceed the salary cap in the Salary Act.

Special Counsel For Legislation

In the case of the Special Counsel, we consider Recommendations 21 and 22 as open. The Governor, indeed, may employ any number of attorneys. However, granting a salary of \$60,000 to each of them is highly questionable. Although we agree that the word “counsel” may have a plural as well as a singular meaning, we are skeptical that the Legislature intended to authorize two (or more) individuals as “Governor’s Legal Counsel,” each earning \$60,000. The list of positions whose salaries were capped under the Compensation Adjustments Act clearly involved one person for each position (*e.g.*, Secretary of Finance, Special Assistant for Management and Budget, etc.). It seems logical that the position of Governor’s Legal Counsel which was included in the listing was also contemplated to have one person.

We also disagree with the Governor’s position that the matter is now necessarily moot because P.L. 10-41 lifted the salary cap for government attorneys. It is

presently unclear whether the provision lifting the salary cap for attorneys has permanent effect or can be implemented only on a temporary basis through fiscal year 1997. In fact, there is legislation pending in the Legislature that attempts to clear up this uncertainty.

CONCLUSION

The results of our audit showed that several government agencies still believe that they are not subject to the Salary Act. Some agencies argued that their autonomous status allowed them to compensate officials without any restriction as to the amount of their salaries. Some agencies claimed that the salaries of their officials were authorized under the budget worksheets accompanying the annual appropriations act passed by the Legislature. In addition, the Governor's Office argued that it can employ more than one person as "Governor's Legal Counsel," an appointed position with a salary ceiling of \$60,000.

To ensure full compliance with the Salary Act, the Legislature should make it abundantly clear that the government salary ceiling is applicable to all government agencies, including those that are semi-autonomous and autonomous. Accordingly, the Legislature may wish to consider introducing legislation that will clarify the (1) applicability of the government salary ceiling to semi-autonomous and autonomous agencies, and (2) effect of budget worksheets on existing laws regulating compensation within the government. The Legislature also needs to clarify whether (3) it intended the singular or the plural meaning of "counsel" when referring to the position of "Governor's Legal Counsel" in the Act, and whether (4) the lifting of the salary cap for government attorneys in P.L. 10-41 has permanent effect, and whether it also lifted the cap for the position of "Governor's Legal Counsel" whose salary was specifically capped at \$60,000.

Physicians Compensated In Excess of Salary Ceiling Without Required Governor's Certification

Under the Compensation Adjustments Act, certain government employees such as physicians may be compensated beyond the \$50,000 salary ceiling upon certification by the Governor. Our audit showed, however, that the Department of Public Health's physicians were given annual salaries ranging from \$63,000 to \$120,000 without the required certification from the Governor. OPA requested the Secretary of Public Health to provide copies of certification documents. No documents, however, were submitted to evidence proper certification by the Governor, leading to the conclusion that none of the physicians' salaries were properly certified. As a result, CNMI laws were violated and some physicians may have been granted excessively high salaries beyond the ceiling.

Discussion

1 CMC §8248 (a) [Compensation Adjustments Act: Government Salary Ceiling] states:

“Except as provided by law, no employee of the Commonwealth Government shall receive an annual salary of more than \$50,000.”

The exceptions referred to by the proviso “[e]xcept as provided by law” pertain to the other provisions of the Compensation Adjustments Act which exempt certain positions from the salary ceiling.¹ These exempting provisions include 1 CMC §8248(b) which states:

“Medical doctors and dentists whose primary responsibilities include giving professional medical advice...may receive an annual salary in excess of \$50,000. For the executive branch, such salaries must be certified by the Governor to the presiding officers of the Legislature and the Civil Service Commission.” (Emphasis added.)

¹The proviso was originally worded as “[e]xcept as provided by this law,” in the original and amended legislation establishing the government salary ceiling [i.e., PL 7-31, §4(d), repealing PL 6-23, §4 which previously repealed PL 4-32, §9; amended by PL 8-6, §4]. The word this which was erroneously omitted in the codified version of the Act, when read together with “law,” meant the Compensation Adjustments Act itself. It is clear, therefore, that the intent of the Legislature was to limit the exemptions from the salary ceiling to those exceptions specifically provided under that Act and not by any other laws.

As clearly provided above, salaries in excess of \$50,000 received by physicians employed by the Department of Public Health, a government agency under the Executive Branch, must be certified by the Governor.

Non-Certification of Physicians' Salaries

Our review showed that Department of Public Health compensated thirty-six (36) physicians in excess of the \$50,000 maximum annual salary ceiling without the required certification by the Governor. The physicians' annual salaries ranged from \$63,000 to almost \$120,000.

On October 22, 1996, we requested the Secretary of Public Health to provide us copies of certification letters or any other document evidencing certification of the physician's salaries by the Governor. In spite of several follow-ups (by telephone), however, we have not received any response from the Secretary. In a separate inquiry to the Governor's Office, we were informed that the Governor has never received any certification requests for physicians.

Because of this lack of certification, CNMI laws were violated and some physicians may have been granted excessively high salaries beyond the ceiling.

Conclusions and Recommendations

The Department of Public Health violated CNMI laws by not complying with the certification requirements for physicians under the Compensation Adjustments Act. Accordingly, we recommended that the Secretary of Public Health (23) request the Governor to certify the salaries of physicians which exceeded the \$50,000 ceiling, and (24) establish written procedures to ensure that certification requirements are met before granting physicians (or other eligible employees) salaries in excess of the ceiling.

Department of Public Health Response

The Secretary of Public Health agreed with the recommendations. He responded that (1) the certifications were being processed and should be completed by January 3, 1997, and (2) written procedures will be prepared and implemented no later than January 2, 1997.

DPH subsequently provided OPA with documents evidencing implementation of both recommendations. However, with regard to the Governor's certification of salaries in excess of the \$50,000 ceiling, the accompanying list of physicians certified by the Governor did not show the physicians' salaries. Without the salaries, there was no basis for determining the reasonableness of salaries granted to the physicians.

Office of the Public Auditor Comments

We consider Recommendation 23 as resolved, and Recommendation 24 as closed and implemented. The additional information or action required to close Recommendation 23 is presented in **Appendix L**.

Appendix A

**High-Level Officials Compensated In Excess of the
 Government Salary Ceilings as of October 1996**

Positions	Annual Salary	Excess Per Year	Excess Salaries Paid As Of 10/30/96		
			From	To	Total
NMI Retirement Fund					
1. Deputy Administrator	\$ 52,000	\$ 2,000	2/95	9/96 ¹	\$ 3,167
Marianas Visitor's Bureau					
2. Comptroller	55,000	5,000	5/94	10/96	12,500
3. Former Deputy Managing Director	60,000	<u>10,000</u>	5/94	12/95	<u>15,000</u>
		15,000			27,500
Commonwealth Development Authority					
4. Deputy Executive Director	60,000	10,000	10/94	10/96	14,833 ²
Northern Marianas College					
5. Administrative Vice-President	60,000	10,000	1/96	10/96	7,500
6. Academic Vice-President	60,000	10,000	12/95	10/96	8,333
7. Director, NMI-OCC	50,400	<u>400</u>	6/94	10/96	<u>933</u>
		20,400			16,766
Commonwealth Ports Authority					
8. Deputy Director	65,000	15,000	11/94	10/96	28,750
9. Comptroller	61,000	11,000	2/95	10/96	18,333
10. Administrative Assistant	55,000	5,000	10/93	10/96	15,000
11. Former Deputy Director	69,000	19,000	12/92	11/94	36,400
12. Former Staff Attorney	68,000	<u>18,000</u>	12/92	11/94	<u>34,500</u>
		68,000			132,983
Office of the Governor					
13. Director of Personnel	55,000	5,000	1/95	10/96	8,750
14. Special Counsel For Legislation	48,000	<u>12,000</u>	1/96	10/96	<u>9,000</u>
		17,000			17,750
		\$ 132,400			\$ 212,999

¹Based on NMIRF Response to our findings, NMI Deputy Director's salary was corrected 9/96.

²CDA Deputy Executive Director was paid \$56,000 until 12/95.

Appendix B

Note: Appendix B (page 25) which contains the NMI Retirement Fund Administrator's Response dated September 24, 1996, was intentionally omitted to reduce this publication's file size. The response is available at OPA upon request.

Appendix C
I of 2

Note: Appendix C (pages 26 to 27) which contains the MVB Managing Director's Response dated August 27, 1996, was intentionally omitted to reduce this publication's file size. The response is available at OPA upon request.

Appendix D
I of 4

Note: Appendix D (pages 28 to 31) which contains the CDA Executive Director's Response dated October 31, 1996, was intentionally omitted to reduce this publication's file size. The response is available at OPA upon request.

Appendix E
I of 3

Note: Appendix E (pages 32 to 34) which contains OPA Comments to CDA's Response dated November 14, 1996, was intentionally omitted to reduce this publication's file size. The document is available at OPA upon request.

Appendix F
I of 3

Note: Appendix F (pages 35 to 37) which contains the NMC President's Response dated September 9, 1996, was intentionally omitted to reduce this publication's file size. The response is available at OPA upon request.

Appendix G
I of 4

Note: Appendix G (pages 38 to 41) which contains OPA Comments to NMC's Response dated September 30, 1996, was intentionally omitted to reduce this publication's file size. The document is available at OPA upon request.

Appendix H
I of 5

Note: Appendix H (pages 42 to 51) which contains the CPA Executive Director's Response dated September 16, 1996, was intentionally omitted to reduce this publication's file size. The response is available at OPA upon request.

Note: Appendix I (pages 47 to 51) which contains OPA Comments to CPA's Response dated October 17, 1996, was intentionally omitted to reduce this publication's file size. The document is available at OPA upon request.

Appendix J
I of 2

Note: Appendix J (pages 52 to 53) which contains the DPH Secretary's Response dated January 2, 1997, was intentionally omitted to reduce this publication's file size. The response is available at OPA upon request.

Appendix K
I of 4

Note: Appendix K (pages 54 to 57) which contains the Governor's Response dated February 3, 1997, was intentionally omitted to reduce this publication's file size. The response is available at OPA upon request.

Appendix L
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Status of Audit Recommendations

Recommendations	Status	Agency Response/Additional Information Required
NMI Retirement Fund		
1. Take steps to recover the excess salaries paid to the official.	Resolved	NMIRF Administrator should submit evidence of payroll deductions from salary of Deputy Administrator.
2. Limit the salary of the official within the government salary ceiling.	Resolved	NMIRF Administrator should submit copy of personnel action showing reduction in salary of Deputy Administrator.
3. Stop granting salaries in violation of the Compensation Adjustments Act or face future actions and be liable for excess salaries.	Resolved	NMIRF Board should submit copy of directive to NMIRF Administrator requiring enforcement of Compensation Adjustments Act.
4. Revise the NMIRF salary schedule to comply with the government salary ceilings.	Resolved	NMIRF Administrator should submit copy of revised schedule of salaries of officials and employees showing maximum allowable salaries for each position.
Marianas Visitors Bureau		
5. Take steps to recover the excess salaries paid to the officials.	Open	MVB Managing Director should provide evidence that legal costs would exceed the amounts to be recovered.
6. Limit the salaries of officials within the government salary ceiling.	Resolved	MVB Managing Director should submit copy of personnel action showing reduction in the salary of the Comptroller.
7. Stop granting salaries in violation of the Compensation Adjustments Act or face future actions and be liable for excess salaries.	Resolved	MVB Board should submit copy of directive to MVB Managing Director requiring enforcement of Compensation Adjustments Act.
8. Revise the MVB salary schedule to comply with the government salary ceilings.	Resolved	MVB Managing Director should submit copy of revised schedule of salaries of officials and employees showing maximum allowable salaries for each position.
Commonwealth Development Authority		
9. Take steps to recover the excess salaries paid to the official.	Open	CDA Executive Director should reconsider and implement recommendation.
10. Limit the salary of the official within the government salary ceiling.	Open	CDA Executive Director should reconsider and implement recommendation.

Appendix L
2 of 3

Recommendations	Status	Agency Response/Additional Information Required
11. Stop granting salaries in violation of the Compensation Adjustments Act or face future actions and be liable for excess salaries.	Open	CDA Executive Director should reconsider and implement recommendation.
12. Revise the CDA salary schedule to comply with the government salary ceilings.	Open	CDA Executive Director should reconsider and implement recommendation.
Northern Marianas College		
13. Take steps to recover the excess salaries paid to the officials.	Open	NMC President should reconsider and implement recommendation.
14. Limit the salaries of the officials within the government salary ceiling.	Open	NMC President should reconsider and implement recommendation.
15. Stop granting salaries in violation of the Compensation Adjustments Act or face future actions and be liable for excess salaries.	Open	NMC President should reconsider and implement recommendation.
16. Revised the NMC salary schedule to comply with the government salary ceilings.	Open	NMC President should reconsider and implement recommendation.
Commonwealth Ports Authority		
17. Take steps to recover the excess salaries paid to the officials.	Open	CPA Executive Director should reconsider and implement recommendation.
18. Limit the salaries of the officials within the government salary ceiling.	Open	CPA Executive Director should reconsider and implement recommendation.
19. Stop granting salaries in violation of the Compensation Adjustments Act or face future actions and be liable for excess salaries.	Open	CPA Executive Director should reconsider and implement recommendation.
20. Revised the CPA salary schedule to comply with the government salary ceilings.	Open	CPA Executive should reconsider and implement recommendation.
Office of the Governor		
21. Take steps to recover the excess salaries paid to the officials.	Open	Governor should reconsider and implement the recommendation.
22. Limit the salary of the Director of Personnel Management to \$50,000 and the Special Counsel for Legislation to \$48,000.	Open	Governor should reconsider and implement the recommendation.

Appendix L
3 of 3

Recommendations	Status	Agency Response/Additional Information Required
Department of Public Health		
23. Request the Governor to certify the salaries of physicians which exceeded the \$50,000 ceiling.	Resolved	<p>The Secretary of Health submitted documents evidencing certification by the Governor. However, the list of physicians certified by the Governor did not show the physicians' salaries. Without the salaries, there was no basis for determining the reasonableness of salaries granted to the physicians.</p> <p>The Secretary should request re-certification of physicians' salaries by the Governor. The list of physicians to be certified should include the amounts of the physicians' salaries.</p>
24. Establish written procedures to ensure that certification requirements are met before granting physicians (or other eligible employees) salaries in excess of the ceiling.	Closed	