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Commonwealth of the Northern Mariana Islands

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June 3, 1997

Dr. Isamu J. Abraham
Secretary
Department of Public Health
Saipan, MP 96950

Dear Dr. Abraham:

Subject: Cover Letter - Final Report on the Audit and Investigation of Misuse of Funds and Resources of the Developmental Disabilities Council as of July 1996 (Report No. AR-97-07)

The enclosed audit report presents the results of our audit and investigation of misuse of funds and resources of the Developmental Disabilities Council (DDC) as of July 1996. The objectives of the audit were to determine whether (1) DDC's telephone and travel funds, vehicles, and office equipment were misused for the personal or private gain of DDC officials and employees, (2) the retroactive salary increase granted to the DDC Executive Director was in accordance with applicable laws and regulations, and (3) DDC complied with federal as well as Commonwealth personnel regulations on payroll, and time and attendance of officials and employees.

Our audit showed that the DDC Executive Director misused government telephone and travel funds amounting to almost \$5,000 for her personal gain by (1) not paying personal long distance calls charged against DDC's telephone account, and (2) repeatedly obtaining travel cash advances, canceling the trip, and not returning the travel cash advance. The travel advances remained outstanding for almost a year and were only recovered through a deduction from a retroactive salary increase that she received. Our review further showed that (3) the same retroactive salary increase which amounted to \$3,600, was previously rejected by DDC's federal grantor agency and was improperly paid from local funds in violation of CNMI laws and regulations. We also found that DDC (4) did not comply with federal laws and Commonwealth personnel regulations on payroll and employees' time and attendance. In addition, our audit showed that (5) the DDC Executive Director was improperly granted title and salary applicable to a head of a principal executive department or agency although DDC status is only that of a government-run federal program and not an autonomous agency.

We recommended that the Secretary of Public Health in carrying out his administrative responsibilities over DDC (1) take administrative action such as employment sanctions against the DDC Executive Director for misuse of government telephone and travel funds; (2) require

the DDC Executive Director to establish and implement written policies and procedures for controlling use of DDC's telephone charge card and for the timely billing of employees for personal long distance calls; (3) recover charges for personal calls made by the DDC Executive Director amounting to \$1,088; (4) issue a directive to the DDC Executive Director emphasizing the need to comply with vehicle laws and regulations; (5) require the DDC Executive Director to establish control procedures for documenting the removal and possession of government equipment outside of the office to ensure that DDC properties are used only for office-related purposes; (6) ensure that local funds are not used to supplement funds no longer available from the federal government; (7) take action to recover the retroactive salary increase of \$3,600 improperly paid from local funds to the DDC Executive Director; (8) require all DDC employees, including the DDC Executive Director, to punch the time clock and to strictly observe DDC's timekeeping procedures, which require daily time in and out and obtaining the DDC timekeeper's initials for manual time entries in the timecards. Employees who do not comply should be charged LWOP; (9) require the DDC Timekeeper to charge the appropriate type of leave to employees for any time-off that reduces a work day to less than eight hours; (10) charge appropriate leave for the 12 unworked hours of employee no. 75677; (11) reinstate the 15 hours LWOP of Employee no. 75677 because the reversal by the DDC Executive Director was not supported by written justification; (12) require the DDC Executive Director to establish a sign-in and out sheet which should include the date, name of employee, time of leaving the office, time returned, location, contact telephone number, and purpose. The DDC Executive Director should issue and enforce a memorandum requiring employees to personally log entries on the sign-in and out sheet when leaving the office during working hours. The Executive Director should also be required to comply with time cards and sign-in and out sheets because it is required by OMB Circular A-87; (13) coordinate the activities of DDC by performing a periodic review of DDC's program operations and administrative services; and (14) enforce compensation of the DDC Executive Director as a division director and not as a department or agency head.

Because of the resignation of the Executive Director¹ and the additional finding noted after the issuance of our draft report (another trip cancellation and the DDC Executive Director did not return the travel advances to the Department of Finance (DOF), the Office of the Public Auditor (OPA) sent a letter to DOF² on May 5, 1997 to recommend the following (Recommendation 3 was revised and redirected to DOF, and Recommendation 7 was also addressed to DOF): We recommended that DOF (3) deduct any unpaid balance of the \$1,088 charges for personal calls and \$1,086 travel advances from the final payroll check or any other funds due to her. Also, the Secretary of Finance should instruct the Travel Section to strictly comply with DOF Manual of Procedures and Policies relating to Travel and Transportation particularly on enforcing immediate return of travel advances if travel is canceled; and (7)

1 Attached to the response of the Secretary of Public Health was a copy of the Executive Director's letter to the Governor stating her resignation effective May 2, 1997.

2 The Secretary of Public Health was furnished with a copy of the letter.

deduct the improper retroactive salary increase of \$3,600 from the final payroll check or any other funds due to the Executive Director. The amount should be withheld until the issue is completely resolved.

In his letter response dated April 30, 1997, the Secretary of Public Health generally concurred with the recommendations. On issues regarding the improper payment of the retroactive salary increase to the Executive Director, and status of DDC and position title of the Executive Director, the Secretary of Public Health stated that intensive review of the issues are being made, thus actions to the recommendations addressing the issues are pending. On May 6, 1997, OPA was furnished with a copy of the Secretary of Public Health's memorandum to the Secretary of Finance stating his comments to OPA's May 5, 1997 letter to DOF. He stated that he is supporting OPA's recommendations of May 5, 1997 and that the Executive Director should pay all her obligations before she leaves the office. He said that he discussed the matter with the Executive Director who assured him that full payment will be made by the time she leaves her current post.

In his letter response dated May 15, 1997, the Secretary of Finance concurred with the recommendations addressed to him (Recommendations 3 and 7) and has taken corrective measures in areas under his control.

Based on the responses we received from the Department of Public Health, we consider 8 recommendations open, 4 recommendations resolved, and 2 recommendations closed. The two recommendations addressed to DOF were considered resolved. The additional information or action required to consider the recommendations closed is presented in **APPENDIX F**.

Sincerely,

ORIGINAL SIGNED

Leo L. LaMotte
Public Auditor, CNMI

cc: Governor
Lt. Governor
Tenth CNMI Legislature (27 copies)
Secretary of Finance
Attorney General
Special Assistant for Management and Budget
Public Information Officer
Press

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EXECUTIVE SUMMARY

Our audit showed that the Developmental Disabilities Council (DDC) Executive Director misused government telephone and travel funds amounting to almost \$5,000 for her personal gain by (1) not paying personal long distance calls charged against DDC's telephone account, and (2) repeatedly obtaining travel cash advances, canceling the trip, and not returning the travel cash advance. The travel advances remained outstanding for almost a year and were only recovered through a deduction from a retroactive salary increase that she received. Our review further showed that (3) the same retroactive salary increase which amounted to \$3,600, was previously rejected by DDC's federal grantor agency and was improperly paid from local funds in violation of CNMI laws and regulations. We also found that DDC (4) did not comply with federal laws and Commonwealth personnel regulations on payroll and employees' time and attendance. In addition, our audit showed that (5) the DDC Executive Director was improperly granted title and salary applicable to a head of a principal executive department or agency although DDC status is only that of a government-run federal program and not an autonomous agency.

Under the Commonwealth Auditing Act, the Office of the Public Auditor (OPA) has a special duty to detect and prevent fraud, waste, and abuse of public funds. To enhance performance of this duty, OPA established a 24-hour telephone Hotline which encourages the public to anonymously report instances of government fraud, theft, waste, and abuse. Information obtained from the Hotline is screened and investigated by OPA.

On May 22, 1996, OPA received information from the Hotline concerning several allegations of waste and abuse of public funds by the DDC Executive Director. After performing a preliminary investigation, OPA determined that an audit and more comprehensive investigation of the case should be conducted.

DDC was created under Section 122 (b)

(1) (A) of the U.S. Developmental Disabilities Assistance and Bill of Rights Act of 1990 which mandates the establishment of a state planning council. This Council serves as an advocate for all persons with developmental disabilities by carrying out priority area activities. DDC, as the state planning and advocacy body under the Office of Governor, is funded by grants from the U.S. Department of Health and Human Services and the Department of Education. The members are appointed by the Governor for two and three year terms. Its costs, to be allowable, should comply with the regulations in the U.S. Office of Management and Budget (OMB) Circular A-87 (cost principles applicable to grants and contracts with state and local governments). One of the provisions of OMB Circular A-87 is that costs under federal awards are allowable if they are authorized or not

prohibited under State or local laws or regulations. Thus, DDC should also be in compliance with CNMI laws and regulations.

On August 15, 1994, under Executive Order 94-3 (Second Reorganization Plan of 1994), DDC was transferred to the Department of Public Health (DPH) for administration and coordination purposes. Under the reorganization, DDC should regularly communicate with DPH in order to be aware of DPH's policies and actions. As of June 24, 1996, DDC had a total of five personnel headed by the Executive Director, who was appointed by the Governor.

The objectives of our audit and investigation were to determine whether (1) DDC's telephone and travel funds, vehicles, and office equipment were misused for the personal or private gain of DDC officials and employees, (2) the retroactive salary increase granted to the DDC Executive Director was in accordance with applicable laws and regulations, and (3) DDC complied with federal as well as Commonwealth personnel regulations on payroll, and time and attendance of officials and employees.

To accomplish our objectives, we verified DDC's long distance telephone charges for the period between May 25, 1995 and July 12, 1996 to determine whether these were office-related; reviewed Department of Finance's (DOF) outstanding travel advance report for the Executive Director as of July 1996; visited the DDC office on June 24, 1996 (8:45 a.m.) to determine which employees did not report for

work and the type of leave they requested; reviewed time and attendance records of DDC employees for five pay periods in January, February, May, June, and July 1996; examined personnel actions and payroll documents relating to the Executive Director's salary increase in March 1996; and interviewed DDC and DOF personnel responsible for these matters.

DDC Executive Director Misused Government Telephone and Travel Funds for Personal Benefit

CNMI laws prohibit the use of public funds, time, and equipment for private gain or personal benefit of public officials and employees. Our audit and investigation showed, however, that the Executive Director misused government telephone and travel funds for her personal gain by (1) not paying personal long distance calls charged against DDC's telephone account, and (2) repeatedly obtaining travel cash advances, canceling the trip, and not returning the travel cash advance. The travel advances were outstanding for almost a year and were only recovered through a deduction from the retroactive salary increase that she received. We also investigated allegations that the Executive Director used the DDC government vehicle as personal transportation for herself and her relatives, and used several items of DDC office equipment at her home for personal business. The Executive Director admitted use of the vehicle outside office hours and office equipment at her home; however, she claimed that such usage was for official DDC business. This occurred because the DDC Executive Director, as the top

official of the office, took advantage of her position and failed to establish and implement procedures for controlling the use of government property and services susceptible to abuse. As a result, government telephone funds amounting to \$1,088 were used by the Executive Director for personal gain and travel funds totaling \$3,871 served as additional benefits to the Executive Director in the form of an interest-free loans. There was also evidence that the DDC vehicle and equipment were misused for personal gain because she ignored her responsibilities to properly manage Government resources.

Accordingly, we recommend that the Secretary of Public Health in carrying out his administrative responsibilities over DDC:

1. Take administrative action such as employment sanctions against the DDC Executive Director for misuse of government telephone and travel funds.
2. Require the DDC Executive Director to establish and implement written policies and procedures for controlling use of DDC's telephone charge card and for the timely billing of employees for personal long distance calls.
3. Recover charges for personal calls made by the DDC Executive Director amounting to \$1,088.
4. Issue a directive to the DDC Executive Director emphasizing the need to comply with vehicle laws and regulations.

5. Require the DDC Executive Director to establish control procedures for documenting the removal and possession of government equipment outside of the office to ensure that DDC properties are used only for office-related purposes.

Retroactive Salary Increase Rejected by Federal Grantor Improperly Paid from Local Funds

CNMI laws and regulations provide that local funds should not be reprogrammed to operate or supplement programs funded by the federal government, and that no expenditure of public funds shall be made for any purpose other than the public purpose for which the funds are appropriated, unless authorized by certain provisions of the Planning and Budgeting Act of 1983. Our review showed, however, that the Executive Director's retroactive salary increase for fiscal year (FY) 1995 of \$3,600, which had been rejected by DDC's federal grantor agency, was paid from the CHC Radiology account which was locally funded. This occurred because the Secretary of Public Health and the Special Assistant for Management and Budget improperly approved and authorized the payment of the retroactive salary increase from local funds. As a result, CNMI laws and regulations were violated and the Executive Director was inappropriately granted a retroactive salary increase amounting to \$3,600. In addition, the salary of a CHC radiology staff member was frozen because local funds designated for salary increase were instead used to cover the unbudgeted retroactive salary

increase of the DDC Executive Director.

Accordingly, we recommend that the Secretary of Public Health:

6. Ensure that local funds are not used to supplement funds no longer available from the federal government.
7. Take action to recover the retroactive salary increase of \$3,600 improperly paid from local funds to the DDC Executive Director.

NonCompliance with Federal Requirements and Commonwealth Personnel Regulations on Payroll and Employees' Time and Attendance

Federal requirements provide that compensation for salaries and wages is allowable to the extent it is determined and supported, and payroll records must be supported by time and attendance or equivalent records for individual employees. Any time-off that reduces a work day to less than eight hours should be charged to appropriate leave as required by the Commonwealth personnel regulations. Our review showed, however, that (1) the DDC Executive Director did not use timecards or other records to document her daily time in and out, (2) DDC employees who did not complete eight hours of work or consistently time in and out were paid in full, and (3) a DDC employee's 15 hours of Leave Without Pay (LWOP) were converted to regular hours without any supporting written justification. These irregularities occurred because DDC did not enforce established timekeeping procedures.

As a result, DDC employees were overpaid for hours not actually worked and a portion of their salaries can be disallowed by the federal grantor agency.

Accordingly, we recommend that the Secretary of Public Health in his administrative capacity:

8. Require all DDC employees, including the DDC Executive Director, to punch the time clock and to strictly observe DDC's timekeeping procedures, which require daily time in and out and obtaining the DDC timekeeper's initials for manual time entries in the timecards. Employees who do not comply should be charged LWOP.
9. Require the DDC Timekeeper to charge the appropriate type of leave to employees for any time-off that reduces a work day to less than eight hours.
10. Charge appropriate leave for the 12 unworked hours of employee no. 75677.
11. Reinstate the 15 hours LWOP of Employee no. 75677 because the reversal by the DDC Executive Director was not supported by written justification.
12. Require the DDC Executive Director to establish a sign-in and out sheet which should include the date, name of employee, time of leaving the office, time returned, location, contact telephone number, and purpose. The DDC Executive Director should issue

and enforce a memorandum requiring employees to personally log entries on the sign-in and out sheet when leaving the office during working hours. The Executive Director should also be required to comply with time cards and sign-in and out sheets because it is required by OMB Circular A-87.

Status of DDC and Position Title of the DDC Executive Director Should be Evaluated

DDC is not a principal department under the Executive Branch nor an autonomous agency established by CNMI public laws. There was also no directive from the Governor establishing its autonomy. Other than those functions required by its grantor federal agency, DDC's administrative operating procedures are similar to a program division of an executive branch department whose travel, payroll, and procurement are processed by DOF. Our audit showed, however, that DDC was assigned to DPH for administration and coordination purposes, and its head was given the title "Executive Director" and salary applicable to a department or agency head. This occurred because DDC members and other government officials believed that the existence of a governing council and the expenditure authority granted to its head signified the autonomy of DDC. As a result, the DDC head was erroneously given the title of Executive Director, and was compensated in excess of the \$40,800 salary limit for a Division Director.

Accordingly, we recommend that the

Secretary of Public Health as part of DPH's administrative responsibilities:

13. Coordinate the activities of DDC by performing a periodic review of DDC's program operations and administrative services.
14. Enforce compensation of the DDC Executive Director as a division director and not as a department or agency head.

After the issuance of our draft report, OPA received information of another trip cancellation and again, the DDC Executive Director did not return the travel advances to DOF. Instead, she requested for salary deduction of \$200 per pay period, which was approved by DOF. Furthermore, in the trip cancellation document, the Executive Director stated that her daughter was in the emergency room the same day she was to depart. Our investigation showed, however, that there was no record of the Executive Director's daughter being seen or treated in the Commonwealth Health Center's Emergency Room from January 10 to 28, 1997¹.

Because of the resignation of the Executive Director² and the additional finding noted after the issuance of our draft report (another trip cancellation

1 The airline ticket for the canceled trip showed that the Executive Director's scheduled departure date was January 13, 1997.

2 Attached to the response of the Secretary of Public Health was a copy of the Executive Director's letter to the Governor stating her resignation effective May 2, 1997.

and the DDC Executive Director did not return the travel advances to DOF), OPA sent a letter to DOF³ on May 5, 1997 to recommend the following (Recommendation 3 was revised and redirected to DOF, and Recommendation 7 was also addressed to DOF):

3. Deduct any unpaid balance of the \$1,088 charges for personal calls and \$1,086 travel advances from the final payroll check or any other funds due to her. Also, the Secretary of Finance should instruct the Travel Section to strictly comply with DOF Manual of Procedures and Policies relating to Travel and Transportation particularly on enforcing immediate return of travel advances if travel is canceled.
7. DOF deduct the improper retroactive salary increase of \$3,600 from the final payroll check or any other funds due to the Executive Director. The amount should be withheld until the issue is completely resolved.

Department of Public Health Response

The Secretary of Public Health generally concurred with the recommendations. On issues regarding the improper payment of the retroactive salary increase to the Executive Director, and status of DDC and position title of the Executive Director,

the Secretary of Public Health stated that intensive review of the issues are being made, thus actions to the recommendations addressing the issues are pending.

On May 6, 1997, OPA was furnished with a copy of the Secretary of Public Health's memorandum to the Secretary of Finance stating his comments to OPA's May 5, 1997 letter to DOF. He stated that he is supporting OPA's recommendations of May 5, 1997 and that the Executive Director should pay all her obligations before she leaves the office. He said that he discussed the matter with the Executive Director who assured him that full payment will be made by the time she leaves her current post.

Department of Finance Response

The Secretary of Finance concurred with the recommendations addressed to him (Recommendations 3 and 7) and has taken corrective measures in areas under his control.

Office of the Public Auditor Comments

Based on the responses we received from DPH, we consider 8 recommendations open, 4 recommendations resolved, and 2 recommendations closed. The two recommendations addressed to DOF were considered resolved. The additional information or action required to consider the recommendations closed is presented in **APPENDIX F**.

3 The Secretary of Public Health was furnished with a copy of the letter.

Introduction

Background

Under the Commonwealth Auditing Act, the Office of the Public Auditor (OPA) has a special duty to detect and prevent fraud, waste, and abuse of public funds. To enhance performance of this duty, OPA established a 24-hour telephone Hotline which encourages the public to anonymously report instances of government fraud, theft, waste, and abuse. Information obtained from the Hotline is screened and investigated by OPA.

On May 22, 1996, OPA received information from the Hotline concerning several allegations of waste and abuse of public funds by the Executive Director of the Developmental Disabilities Council (DDC). The Hotline calls included allegations that the DDC Executive Director misused DDC property, misused travel advances received from the Department of Finance (DOF), was granted a retroactive salary increase not in accordance with laws and regulations, and did not report leave when she took time off. After performing a preliminary investigation, OPA determined that an audit and more comprehensive investigation of the case should be conducted.

Developmental Disabilities Council

The Developmental Disabilities Council was created under Section 122 (b) (1) (A) of the U.S. Developmental Disabilities Assistance and Bill of Rights Act of 1990 which mandates the establishment of a state planning council. This Council serves as an advocate for all persons with developmental disabilities by carrying out priority area activities. DDC, as the state planning and advocacy body under the Office of Governor, is funded by grants from the U.S. Department of Health and Human Services and the Department of Education. The members are appointed by the Governor for two and three year terms. Its costs, to be allowable, should comply with the regulations in the U.S. Office of Management and Budget (OMB) Circular A-87 (cost principles applicable to grants and contracts with state and local governments). One of the provisions of OMB Circular A-87 is that costs under federal awards are allowable if they are authorized or not prohibited under State or local laws or regulations. Thus, DDC should also be in compliance with CNMI laws and regulations.

On August 15, 1994, under Executive Order 94-3 (Second Reorganization Plan of 1994), DDC was transferred to the Department of Public Health (DPH) for administration and coordination purposes. Under the reorganization, DDC should regularly communicate with DPH in order to be aware of DPH's policies and actions. As of June 24, 1996, DDC had a total of five personnel headed by the Executive Director, who was appointed by the Governor.

**Objectives,
Scope, and
Methodology**

The objectives of our audit and investigation were to determine whether (1) DDC's telephone and travel funds, vehicles, and office equipment were misused for the personal or private gain of DDC officials and employees, (2) the retroactive salary increase granted to the DDC Executive Director was in accordance with applicable laws and regulations, and (3) DDC complied with federal as well as Commonwealth personnel regulations on payroll, and time and attendance of officials and employees.

To accomplish our objectives, we verified DDC's long distance telephone charges for the period between May 25, 1995 and July 12, 1996 to determine whether these were office-related; reviewed DOF's outstanding travel advance report for the Executive Director as of July 1996; visited the DDC office on June 24, 1996 (8:45 a.m.) to determine which employees did not report for work and the type of leave they requested; reviewed time and attendance records of DDC employees for five pay periods in January, February, May, June, and July 1996; examined personnel actions and payroll documents relating to the Executive Director's salary increase in March 1996; and interviewed DDC and DOF personnel responsible for these matters.

The audit was made, where applicable, in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures as were considered necessary under the circumstances.

**Prior Audit
Coverage**

This is OPA's initial audit of DDC.

Findings and Recommendations

A. DDC Executive Director Misused Government Telephone and Travel Funds For Personal Benefit

Personal Long Distance Calls of \$1,088 were not Paid and Travel Advances of \$3,871 for Canceled Trips were not Immediately Returned to DOF

C NMI laws prohibit the use of public funds, time, and equipment for private gain or personal benefit of public officials and employees. Our audit and investigation showed, however, that the Executive Director misused government telephone and travel funds for her personal gain by (1) not paying personal long distance calls charged against DDC's telephone account, and (2) repeatedly obtaining travel cash advances, canceling the trip, and not returning the travel cash advance. The travel advances were outstanding for almost a year and were only recovered through a deduction from the retroactive salary increase that she received. We also investigated allegations that the Executive Director used the DDC government vehicle as personal transportation for herself and her relatives, and used several items of DDC office equipment at her home for personal business. The Executive Director admitted use of the vehicle outside office hours and office equipment at her home; however, she claimed that such usage was for official DDC business. This occurred because the DDC Executive Director, as the top official of the office, took advantage of her position and failed to establish and implement procedures for controlling the use of government property and services susceptible to abuse. As a result, government telephone funds amounting to \$1,088 were used by the Executive Director for personal gain and travel funds totaling \$3,871 served as additional benefits to the Executive Director in the form of an interest-free loans. There was also evidence that the DDC vehicle and equipment were misused for personal gain because she ignored her responsibilities to properly manage Government resources.

Discussion

1 CMC §8534 (a) provides that a public official or public employee shall not use public funds, time, or equipment for the public official or public employee's private gain or that of another unless the use is authorized by law.

Personal Long Distance Telephone Charges

DDC has a telephone charge card with a restricted code which is used for making long distance calls. To monitor and control employees' long distance phone calls, DDC requires employees to obtain approval from the Executive Director prior to making the call by filling out an approval form, and to record completed calls in the log sheets.

Our audit and investigation showed that the Executive Director misused government telephone funds for her personal gain by not paying for personal long distance calls charged against DDC's telephone account totaling \$1,088. We matched telephone billing charges with approval forms and entries in DDC's long distance log sheets, and found that not all long distance calls were preapproved and recorded in the log sheets as required. We called some of the unmatched telephone numbers and found that the majority were personal calls made by the Executive Director. In an interview, the Executive Director admitted that she used DDC's telephone charge card for personal calls, and said that no payment was made because DDC did not have a procedure for billing employees' personal calls. Subsequently, the Executive Director sent a letter to OPA identifying the telephone numbers she used for personal purposes and stated that beginning pay period no. 17 (pay period ending August 16, 1996), \$100.00 would be deducted from her paycheck to pay for personal long distance calls. Our subsequent inquiry to the DOF-Payroll Supervisor revealed, however, that no such advice had been given by the Executive Director for any payroll deduction.

Travel Advances For Canceled Trips Not Immediately Refunded

The DOF Manual of Procedures and Policies relating to Travel and Transportation provides that if travel is canceled for any reason after the travel advance was issued, the traveler is required to return the travel advance that she/he received. If a traveler failed to return the travel advance, an automatic payroll deduction to recover the travel advance will be initiated. A series of automatic payroll deductions will be made only if the total amount of the travel advance exceeds the net check of one pay period.

Our audit and investigation showed that the Executive Director misused government travel funds for her personal gain by repeatedly obtaining travel cash advances, canceling the trip, and not returning the travel cash advance. The travel advances were outstanding for almost a year and were only recovered through a deduction from the retroactive salary increase that she received.

Our examination of DOF's Travel Advances Transaction Report as of July 11, 1996 showed that the DDC Executive Director has an outstanding travel advance balance of \$3,760, consisting of five advances totaling \$3,871 less an underadvance in one travel amounting to \$111. The details of the five outstanding travel advances are as follows.

Travel Authorization (TA) No.	Travel Period	Travel Advance Amount
A#51294	March 25 - April 3, 1995	\$1,170
A#52399	July 10 - July 12, 1995	115
A#60545	December 03-06, 1995	690
A#61340	March 17 - 26, 1996	1,389
A#61817	April 21 - 29, 1996	507
Total		\$3,871

These advances were issued to the Executive Director for official travel which was canceled at the last minute. Travel advances, however, were cashed and not immediately returned to DOF. The Executive Director said that the trips were canceled due to illness.

The advances took almost a year before they were completely liquidated. To partially liquidate the advance, \$115 was deducted from the Executive Director's net pay for pay period no. 14 (ending July 20, 1996). On August 6, 1996, the remaining outstanding balance of \$3,645 was settled by offsetting a retroactive salary increase, part of which was improperly granted to the Executive Director (See Finding B on page 12).

Additional Instance of Abuse of Travel Benefits

After the issuance of our draft report, OPA received information of another trip cancellation and again, the DDC Executive Director did not return the travel advances to DOF. On February 14, 1997, the Executive Director informed DOF that the trip was canceled. She cashed the travel advance of \$1,086 and did not return the money to DOF as required. Instead, she requested for salary deduction of \$200 per pay period. By a memorandum dated April 4, 1997, the DOF - Travel Section requested the Payroll Section to begin the \$200 salary deduction. DOF should not have allowed the DDC Executive Director a series of salary deductions and instead required to return the total travel advance she received. The use of travel funds served as additional benefit to the Executive Director in the form of an interest-free loan. According to DOF officials, DOF did not enforce immediate return of the travel advance because they misinterpreted that outstanding travel advances, whether for *canceled*, or for *completed* travel can be paid through a series of salary deductions.

Furthermore, in the trip cancellation document, the Executive Director stated that her daughter was in the emergency room the same day she was to depart. Our investigation showed, however, that there was no record of the Executive

Director's daughter being seen or treated in the Commonwealth Health Center's Emergency Room from January 10 to 28, 1997¹.

Alleged Misuse of Government Vehicle and Office Equipment

1 CMC § 7406 (b) and (c) provide that no government vehicle shall be used for personal business and operated by a person who is not a government employee, except official guests and visitors of the Commonwealth, for purposes other than official business. Section 6 of Government Vehicle Regulation No. 1101 further provides that government vehicles be equipped with continuous vehicle trip log records at all times when in use by employees.

6 CMC §3401 provides that it is unlawful for any person, without proper authority, to remove from its location any property of any kind, wherever situated, of the government of the United States or of the Commonwealth or its political subdivisions. As such, procedures should be established to ensure that properties removed from government premises are controlled.

Allegations on Misuse of Government Vehicle

DDC leased a vehicle which may be used by any DDC personnel for the purpose of carrying out the program's activities and needs. In our interview with several DDC employees, however, we learned that the Executive Director used the DDC vehicle for personal business, and allowed the DDC vehicle to be operated by and to transport nongovernment employees. One employee said that the vehicle was seen being driven by a relative of the Executive Director during the period January 1 to 20, 1996. Another employee corroborated this allegation and said that, sometime in January 1996, she saw a relative of the Executive Director driving the DDC vehicle in San Roque with a nongovernment individual as the passenger. On another occasion, the employee also saw the Executive Director's daughter driving the DDC vehicle in Tanapag. According to the employees, the vehicle was also often seen parked at different restaurants throughout Saipan after office hours. One employee further stated that the Executive Director was a member of a dart association in Saipan and she usually used DDC's leased vehicle to attend different tournaments held around Saipan.

In an interview, DDC's Executive Director admitted use of the vehicle outside office hours; however, she claimed that such usage was for official DDC business. According to her, she had been driving the DDC vehicle after office hours because she had to attend meetings with consultants after working hours which were held at various restaurants in Saipan. She acknowledged, however, that

1 The airline ticket for the canceled trip showed that the Executive Director's scheduled departure date was January 13, 1997.

DDC did not maintain a vehicle trip log for monitoring official use of the DDC vehicle.

OPA provided the DDC Executive Director a sample copy of a vehicle trip log and a copy of government vehicle laws and regulations, and advised the DDC Executive Director to implement the use of a vehicle log immediately. Subsequently, we were informed that DDC started to use a vehicle trip log in its new vehicle, and we were provided with a copy. We noted, however, that the log did not provide for the vehicle's beginning and ending mileage readings and total miles driven. Later, we learned that DDC was again not using a vehicle trip log.

Allegations on Misuse of Office Equipment

In our interview with several DDC employees, we learned that DDC equipment such as a laptop computer, a TV, a VCR and a vacuum cleaner were seen at the house of the DDC Executive Director. We also learned that the DDC VCR was lent to a DDC member who is also from the Northern Marianas Protection and Advocacy Systems, Inc., a sister agency of DDC. The VCR was put in a repair shop in June 1996 under the name of the DDC member's former husband and still with the repair shop to date.

In an interview, the DDC's Executive Director admitted use of office equipment at her home; however, she claimed that such usage was for official DDC business. According to her, she occasionally took home DDC's TV and VCR to review new educational tapes for the DDC lending library, and DDC's office vacuum cleaner to clean the DDC vehicle. The equipment was immediately returned to the office after use. No logsheets or hand receipts were maintained, however, to monitor government property removed from government premises.

At the time of our investigation, all the equipment allegedly seen at the Executive Director's house had been returned to the DDC office except for the VCR which had not been picked up from the repair shop although ready for pick up since July 1996.

Causes and Effects

This misuse of government property occurred because the DDC Executive Director, as the top official of the office, took advantage of her position and failed to establish and implement procedures for controlling the use of government property and services susceptible to abuse. Although she was aware that personal long distance calls were charged against DDC's telephone account, no written policies and procedures were established to ensure that personal long distance calls were billed to employees. Also, no log sheets were established to ensure that the DDC vehicle and DDC equipment brought out of the office were used for official purposes only.

As a result, government telephone funds amounting to \$1,088 were used by the Executive Director for personal gain and travel funds totaling \$3,871 served as additional benefits to the Executive Director in the form of interest-free loans. There was also evidence that the DDC vehicle and equipment were misused for personal gain because she ignored her responsibilities to properly manage Government resources.

Conclusion and Recommendations

The Executive Director took advantage of her position and misused government telephone and travel funds for personal gain. In addition, she failed to establish control procedures to ensure that DDC property was being used only for official business. Accordingly, we recommend that the Secretary of Public Health in carrying out his administrative responsibilities over DDC:

1. Take administrative action such as employment sanctions against the DDC Executive Director for misuse of government telephone and travel funds.
2. Require the DDC Executive Director to establish and implement written policies and procedures for controlling use of DDC's telephone charge card and for the timely billing of employees for personal long distance calls.²
3. Recover charges for personal calls made by the DDC Executive Director amounting to \$1,088.
4. Issue a directive to the DDC Executive Director emphasizing the need to comply with vehicle laws and regulations.
5. Require the DDC Executive Director to establish control procedures for documenting the removal and possession of government equipment outside of the office to ensure that DDC properties are used only for office-related purposes.

2 The policy should include (a) indicating the circumstances when use of DDC's telephone charge card for personal purposes may be authorized such as for emergency only; (b) requiring all employees, including the Executive Director, to record each long distance call on the log sheet for either official or personal purposes (the present log sheet should be revised to include "purpose" in order to clearly identify whether the call is official or personal); (c) assignment of a person responsible for identifying personal long distance calls of employees by comparing telephone billing charges against the log sheet; and (d) collecting personal call charges from employees.

Because of the resignation of the Executive Director³ and the additional finding noted after the issuance of our draft report (another trip cancellation and the DDC Executive Director did not return the travel advances to DOF), OPA sent a letter to DOF⁴ on May 5, 1997 to recommend the following (Recommendation 3 was revised and redirected to DOF):

3. Deduct any unpaid balance of the \$1,088 charges for personal calls and \$1,086 travel advances from the final payroll check or any other funds due to her. Also, the Secretary of Finance should instruct the Travel Section to strictly comply with DOF Manual of Procedures and Policies relating to Travel and Transportation particularly on enforcing immediate return of travel advances if travel is canceled.

Department of Public Health Response

The Secretary of Public Health concurred with Recommendations 1 to 5, and stated the following:

Recommendation 1 - The Executive Director has been instructed to adhere to all laws, policies, rules, and regulations governing the use of government telephone and travel funds. He stated that travel advances have been cleared and payroll deductions of \$200 per pay period have been initiated to fully reimburse the government within 90 days for the telephone charges.

Recommendation 2 - The Executive Director will establish and implement a written policy before April 15, 1997.

Recommendation 3 - To recover charges for personal calls, a deduction from the salary of the DDC Executive Director of \$200 per pay period begun period ending March 29, 1997.

Recommendation 4 - The Executive Director was advised and reminded of Governor's Directive No. 163 on government vehicles.

Recommendation 5 - The Executive Director will establish control procedures by April 15, 1997.

On May 6, 1997, OPA was copy furnished with the Secretary of Public Health's memorandum to the Secretary of Finance stating his comments to OPA's May 5, 1997 letter to DOF. He stated that he is supporting OPA's recommendations of

3 Attached to the response of the Secretary of Public Health was a copy of the Executive Director's letter to the Governor stating her resignation effective May 2, 1997.

4 The Secretary of Public Health was copy furnished with the letter.

May 5, 1997 and that the Executive Director should pay all her obligations before she leaves the office. He said that he discussed the matter with the Executive Director who assured him that full payment will be made by the time she leaves her current post.

Department of Finance Response

The Secretary of Finance concurred with Recommendation 3, and provided documents which showed deduction of unpaid balance of charges for personal calls and travel advances totaling \$488 and \$486, respectively, from the Executive Director's final net pay check. Also, he stated that the Travel Section will be instructed to recover advances for canceled trips in one automatic payroll deduction unless the advance amount exceeds the employee's net pay. In this case, a series of deductions will be used to recover the full amount of the advance.

Office of the Public Auditor Comments

With regard to the recommendations addressed to the Secretary of Public Health, we consider Recommendations 1 and 3 closed, and Recommendations 2, 4, and 5 resolved. Recommendation 3 addressed to the Secretary of Finance was considered resolved. The additional information or action required to close the recommendations is presented in **APPENDIX F**.

Other Matters Discussed By the Secretary of Public Health

In addition to his responses to the recommendations, the Secretary of Public Health discussed and commented on other matters contained in the draft audit report. He said that (1) the draft report failed to reflect the unique role that DDC play in our community which requires commitment and dedication backed by the determination to work long and hard far beyond the normal call of duty of a government employee. The Executive Director has other assigned responsibilities, including representing the Council in many boards, commissions, councils, task forces and advisory groups. While DPH acknowledges the need for accountability of time, efforts, and resources mentioned in the report, it also recognizes the need to do much more with little resources; (2) some of the issues mentioned in the report included several matters that have already been resolved. They can only conclude that the process was partly negative and will destroy the Council's many efforts to fulfill its mission, roles, and responsibilities mandated both by the Federal agencies and the CNMI Government; and (3) there was a question on the amount of personal call charges stated in the report because when the Public Auditor's investigator submitted a list of phone calls to the Executive Director, the amount reflected differed by approximately \$700. The Secretary of Public Health stated that they are researching these additional calls.

OPA Comments

Our comments are as follows: (1) No amount of responsibilities can entitle the Executive Director to misuse government funds for her personal gain and ignore responsibilities to properly manage Government resources. As the top official of the office, she is responsible to establish and implement procedures for controlling the use of government property and services susceptible to abuse. (2) Although the travel advances for the canceled trips were subsequently repaid prior to the issuance of the draft report, the matter was not considered resolved and was still included as a finding because it involved noncompliance with Travel Regulations (i.e. the advances should have been immediately refunded upon cancellation of the trips and should not have been cashed. Furthermore, it took almost a year before they were completely liquidated). Administrative actions should be taken against the DDC Executive Director for repeatedly canceling trips and cashing the travel advances. (3) The amount of unpaid personal calls stated in the report is accurate. To determine personal call charges, we verified DDC's long distance telephone charges for the period between May 25, 1995 and July 12, 1996, and found that the majority were personal calls made by the Executive Director. We were able to match these personal calls to the telephone numbers identified by the Executive Director as used for personal purposes.

B. Retroactive Salary Increase Rejected By Federal Grantor Improperly Paid From Local Funds

Executive Director's Retroactive Salary Increase of \$3,600 Improperly Paid from CHC Radiology Account

CNMI laws and regulations provide that local funds should not be reprogrammed to operate or supplement programs funded by the federal government, and that no expenditure of public funds shall be made for any purpose other than the public purpose for which the funds are appropriated, unless authorized by certain provisions of the Planning and Budgeting Act of 1983. Our review showed, however, that the Executive Director's retroactive salary increase for fiscal year (FY) 1995 of \$3,600, which had been rejected by DDC's federal grantor agency, was paid from the CHC Radiology account which was locally funded. This occurred because the Secretary of Public Health and the Special Assistant for Management and Budget improperly approved and authorized the payment of the retroactive salary increase from local funds. As a result, CNMI laws and regulations were violated and the Executive Director was inappropriately granted a retroactive salary increase amounting to \$3,600. In addition, the salary of a CHC radiology staff member was frozen because local funds designated for salary increase were instead used to cover the unbudgeted retroactive salary increase of the DDC Executive Director.

Discussion

1 CMC §7402 (a) (1) provides that except as provided in this section (*Reprogramming Authority*), and in Sections 7302 (*Capital Improvement Project Programming Authority*) and 7403 (*Emergency Powers*), no funds may be reprogrammed, and no obligation or contract for the expenditure of Commonwealth funds shall be made, for any purposes other than the public purposes for which the funds are appropriated. 1 CMC §7402 also prohibits reprogramming of funds to any account which has been zero-funded by the Legislature or to any account for which the Legislature has not made an appropriation. Further, 1 CMC §7504 prohibits reprogramming of local funds to finance federally funded programs if the local funds replace or supplement funds no longer available from the federal government.

Criminal Offenses and Penalties for Violations

1 CMC §7701 (b) provides that no officer or employee of the Commonwealth shall willfully and knowingly involve the Commonwealth in any contract or other obligation for the payment of money, or authorize any payment, in the absence of appropriation made for such purposes

1 CMC §7702 provides that every person who willfully and knowingly violates any provision of Section 7701 is guilty of a crime, and upon conviction thereof shall be fined not more than \$2,000 or imprisoned not more than two years, or

both. In addition, 1 CMC §7706 provides that in addition to any penalty and liability under the law, the officer or employee shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay, or removal from office.

Local Funds Used to Pay Unbudgeted Expenses Rejected by the Federal Government

Our review showed that the Executive Director's retroactive salary increase for FY 1995 of \$3,600, which had been rejected by DDC's federal grantor agency, was paid from of the CHC Radiology account which was locally funded.

In March 1996, a request was made by the DDC Chairperson and approved by the Governor to adjust the salary of the DDC Executive Director from \$40,800 to \$48,000 effective April 1, 1995. The increase was to be funded by the federal grants. The total retroactive salary increase was \$6,923⁵, and the amount applicable to FY 1995 of \$3,600 was rejected by DDC's federal grantor agency. Thereafter, on June 28, 1996, a request was made to charge the retroactive salary increase applicable to FY 1995 (from April 1 to September 30, 1995) to the local CHC Radiology account. This was requested and approved by the Secretary of Public Health, and funding was approved by the Office of Management and Budget. The "remarks" on the request were as follows "To freeze account for radiology technician at \$27,400 per annum (ungraded); new position to cover salary adjustment for period from April 1 to September 30, 1995" (see APPENDIX A).

According to the DOF Payroll Supervisor, although local funds were used to pay the DDC expense, no reprogramming action was taken. There was only an authorization from the Secretary of Public Health to charge the local CHC Radiology account. It is likely that no reprogramming was done because DDC has been zero-funded by the Legislature, and the law prohibits reprogramming of funds to any account which has been zero-funded. Also, this cost had been rejected by DDC's federal grantor agency, and the law prohibits reprogramming of local funds to finance federally funded programs if the local funds replace or supplement funds no longer available from the federal government. For these reasons, the use of the CHC Radiology account for any purpose other than the public purpose for which it was appropriated constitutes a violation of the CNMI Planning and Budgeting Act.

5 Part of the retroactive salary increase was used to offset the Executive Director's remaining outstanding travel advance balance of \$3,645.

Conclusion and Recommendations

The Secretary of Public Health and the Office of Management and Budget improperly authorized payment of the Executive Director's retroactive salary increase from local funds in violation of the CNMI Planning and Budgeting Act. Accordingly, we recommend that the Secretary of Public Health:

6. Ensure that local funds are not used to supplement funds no longer available from the federal government, and admonishing them for violating the CNMI Planning and Budgeting Act.
7. Take action to recover the retroactive salary increase of \$3,600⁶ improperly paid from local funds to the DDC Executive Director.

Because of the resignation of the Executive Director, Recommendation 7 was also addressed to DOF (included in the OPA's May 5, 1997 letter to DOF), as follows:

7. DOF deduct the improper retroactive salary increase of \$3,600 from the final payroll check or any other funds due to the Executive Director. The amount should be withheld until the issue is completely resolved.

Department of Public Health Response

The Secretary of Public Health concurred with Recommendation 6, and stated that memorandum will be issued to all Division Directors. With regard to Recommendation 7, he stated that action on this issue is pending intensive review by appropriate local officials and responses from grantor agencies are not completed yet.

In his May 6, 1997 memorandum to the Secretary of Finance, the Secretary of Public Health stated that he is supporting OPA's recommendations of May 5, 1997. He did not state exceptions to the recommendations, thus, it can be concluded that he agreed on the withholding of the inappropriate retroactive salary increase granted to the Executive Director of \$3,600.

Department of Finance Response

The Secretary of Finance concurred with Recommendation 7, and provided documents which showed that the improper retroactive salary increase was withheld from the final payroll check due to the Executive Director. The amount withheld was short, however, by \$764.40 because the final net pay check after

6 Represents gross amount.

deducting the amount unpaid for personal calls and travel advance was only \$2,835.60. DOF stated that if the salary increase is ultimately disapproved, a zero amount check will be processed and the deductions deposited with the CNMI Treasury. DOF will bill the Executive Director for the remaining balance owed of \$764.40. If the increase is approved, the \$2,835.60 withheld will be canceled and a check for this amount will be issued to the Executive Director.

Office of the Public Auditor Comments

The response of the Secretary of Public Health did not provide a reasonable time frame for action, thus, Recommendations 6 and 7 remain open. We consider Recommendation 7 addressed to the Department of Finance resolved. The additional information needed to close the recommendations is presented in APPENDIX F.

Comments by the Secretary of Public Health on the Finding

The Secretary of Public Health stated that the finding requires clarification because several times the report stated that the grantor agency rejected the salary of the Executive Director, however, there is nothing on record that corroborates this statement. The grantor agency was silent on this issue.

OPA Comments

We disagree with the comment made by the Secretary of Public Health on the issue on salary adjustment. The report did not state that the grantor agency rejected the salary of the Executive Director. What was stated in the report was that the Executive Director's retroactive salary increase for FY 1995 (from April 1 to September 30, 1995) of \$3,600 had been rejected by DDC's federal grantor agency. This was based on the documents provided by DOF Federal Grants Section which showed the response of the federal grantor to the letter of the DDC Executive Committee who was asking clarification on whether FY 1996 funds could be used for salary adjustment of the Executive Director because FY 1995 funds have been exhausted. The federal grantor's opinion was that the salary adjustment beginning April 1, 1995 cannot be claimed in FY 1996 because the grant does not start until October 1, 1995. To make the salary retroactive to April 1, 1995 will not be possible since all their funds have been exhausted for FY 1994 and 1995 grant.

C. Noncompliance With Federal Requirements and Commonwealth Personnel Regulations on Payroll and Employees Time and Attendance

Federal requirements provide that compensation for salaries and wages is allowable to the extent it is determined and supported, and payroll records must be supported by time and attendance or equivalent records for individual employees. Any time-off that reduces a work day to less than eight hours should be charged to appropriate leave as required by the Commonwealth personnel regulations. Our review showed, however, that (1) the DDC Executive Director did not use timecards or other records to document her daily time in and out, (2) DDC employees who did not complete eight hours of work or consistently time in and out were paid in full, and (3) a DDC employee's 15 hours of Leave Without Pay (LWOP) were converted to regular hours without any supporting written justification. These irregularities occurred because DDC did not enforce established timekeeping procedures. As a result, DDC employees were overpaid for hours not actually worked and a portion of their salaries can be disallowed by the federal grantor agency.

Discussion

OMB A-87 §B.10 (a) provides that compensation for salaries and wages is allowable to the extent that it is determined and supported, among other requirements. §B.10 (b) provides that payrolls must be supported by time and attendance or equivalent records for individual employees.

Any time-off that reduces a work day to less than eight hours should be charged to appropriate leave as required by the Personnel Service System Rules and Regulations (PSSRR) and the Excepted Service Personnel Regulations (ESPR). Employees who do not complete the eight-hour work day should request annual leave, sick leave, or LWOP depending on the circumstance.

DDC established timekeeping procedures designed to address both federal requirements and Commonwealth personnel regulations on payroll and employees' time and attendance. On March 7, 1995, the DDC Executive Director issued a memorandum to all employees stating that if time cards are not completed, hours will be deducted and LWOP will be enforced. It further provided that only the DDC timekeeper is authorized to initial timecards if and when the clock is in need of repair. On May 13, 1996, another memorandum on timekeeping was issued by the DDC Executive Director which provided that all employees are required to time in and out every time they report for work, leave for lunch or attend to any personal errands, and those who leave the office for

personal errands during the time period without applying for leave will not be compensated.

DDC Executive Director Did Not Use Timecards

Our review showed that the DDC Executive Director did not use timecards or other records to document her daily time in and out. Prior to the issuance of the March 13, 1996 memorandum on timekeeping by the DDC Executive Director, three of the six DDC employees did not use timecards to document daily time in and out. After its issuance, all DDC employees started to use timecards except for the Executive Director. Thus, no time and attendance or equivalent records supported the Executive Director's payroll which constitutes a violation of federal requirements. It should also be noted that no regulations in the PSSRR and ESPR exempt a division director, such as the DDC Executive Director, from using timecards or equivalent records.

DDC Employees Who Failed to Complete Eight Hours of Work or Time In and Out Were Paid In Full

Our review also showed that employees' timecards have incomplete time in and out notations, yet employees were still paid in full. During pay period May 26 to June 8, 1996, one employee's timecard showed that for most days, there was only time in and no time out. In another employee's timecard, there was no time in and out for four days. In the two other employees' timecards, there was incomplete time in and out. Also, one DDC employee who did not complete eight hours of work was paid in full. The time card of Employee no. 75677 for the pay period January 21 to February 3, 1996 showed that on three workdays (January 26, 30, and 31, 1996), the employee did not complete eight hours of work and was short by about four hours. The employee did not work in excess of eight hours on other days to make up for the unworked hours; however, she was credited with a full eight hours of work in the Summary Time Sheet (STS). We extended our review of the employee's timecards for three more pay periods. For two pay periods covering May 26 to June 22, 1996, we found that on eight work days, the employee left the office in the afternoon at around 2:30 to 3:00 p.m. and came back about 1 hour later. On three work days, the employee did not complete eight hours of work and was short by close to one hour each day, or a total of three hours. The employee was again credited with eight full hours of work in the STS. For the pay period covering June 23 to July 6, 1996, the employee did not complete eight hours of work and was short by about five hours. The employee did not work in excess of eight hours on other days to make up for the unworked hours; however, she was also credited with a full eight hours of work in the STS.

Employees also failed to time in and out for lunch. One employee, for instance, although timing in and out in the morning and afternoon, repeatedly failed to

time in and out for lunch break. Her hours worked on these days, based on her actual time in and out, totaled seven hours a day taking into account one hour for lunch break. However, she was paid for eight full hours.

Our review of timecards also showed manual time entries, and it appears that the time indicated was the employees' normal working hours and not the actual time employees were at work. Time in was reported at 7:30 a.m. while time out was at 4:30 p.m. Manual time entries did not bear initials of the DDC Timekeeper or a supervisor.

LWOP Subsequently Converted to Regular Hours

Our review also showed that 15 hours LWOP charged to one DDC employee were reversed and converted to regular hours without supporting written justification. During pay period December 24, 1995 to January 6, 1996, DDC employee no. 75677 was paid for only 65 hours, and 15 hours were charged to LWOP. The instruction to charge 15 hours LWOP was made by the DDC Executive Director to the timekeeper. The computation showed that the Executive Director accounted for the actual hours worked by the employee based on the employee's time in and out as reflected in the timecard. The computation did not show, however, how the 15 hours was arrived at. Our review of the employee's timecard showed incomplete time in and out during the payperiod. There were days when there was only one entry, either time in or time out; thus, the number of hours to be charged to LWOP (**APPENDIX B**) could not be determined.

According to the DDC timekeeper, the employee got angry when she learned that she was charged 15 hours LWOP and confronted the Executive Director to discuss the matter. After the discussion, the timekeeper received verbal instruction from the Executive Director to reverse the employee's 15 hours LWOP. Thus, an STS was prepared to make the reversal, was approved by the Executive Director on February 9, 1996, and was included in the payroll processing for pay period January 21 to February 3, 1996. No written justification for reversing the LWOP could be found in the file.

Need to Enforce Procedures

These improper entries and payments occurred because DDC did not enforce established timekeeping procedures. The timekeeper failed to compute the daily hours worked based on the time in and out in the time record. According to one staff member who failed to time in and out on several occasions, there were days when she was very busy and forgot to time in and out, or the time clock was not operable. The timekeeper, however, did not enforce the procedures.

As a result, employees were overpaid for hours not actually worked, and a portion of their salaries can be disallowed by DDC's federal grantor agency. Employee no. 75677 was overpaid by \$825⁷ and \$351⁷ by not being charged 12 hours LWOP for hours which she did not work, and for converting her 15 hours LWOP to regular hours, respectively. There was also no assurance that the DDC Executive Director applied for annual or sick leave for time-off taken, because she did not maintain timecards.

Other Matter - Whereabouts of Employees Out During Working Hours Not Maintained in a Permanent Record

DDC did not maintain a permanent record to document the whereabouts of employees who left the office during working hours. It had only a whiteboard on which employees could write their destination in case they left the office, and the information was erased daily.

Conclusion and Recommendations

Payroll records must be supported by accurate and complete timecards of individual employees to prevent disallowance of salaries from federal grants and overpayment for hours not actually worked by employees. Accordingly, we recommend that the Secretary of Public Health in his administrative capacity:

8. Require all DDC employees, including the DDC Executive Director, to punch the time clock and to strictly observe DDC's timekeeping procedures, which require daily time in and out and obtaining the DDC timekeeper's initials for manual time entries in the timecards. Employees who do not comply should be charged LWOP. Such manual entries should be justified in writing such as if the timeclock is not working. If manual entries are justified because the employee forgot, such justification should be accepted very seldom such as not more than five times in a six month period, at most and the timekeeper should keep track of how many times that excuse is used by the individual employee. An employee whose justifications are in excess of five times in a six month period should be deducted one or more hour depending on the circumstances. If the employee calls in from an out of office location at the start of the work day or the end of the work day for a manual entry, the timekeeper should verify the employee's location by obtaining the official business place and telephone number, and should call back immediately to verify employee's presence.

7 Amount of annual and sick leave hours improperly earned by the employee were included in the computation.

9. Require the DDC Timekeeper to charge the appropriate type of leave to employees for any time-off that reduces a work day to less than eight hours.
10. Charge appropriate leave for the 12 unworked hours of employee no. 75677.
11. Reinstate the 15 hours LWOP of Employee no. 75677 because the reversal by the DDC Executive Director was not supported by written justification.
12. Require the DDC Executive Director to establish a sign-in and out sheet which should include the date, name of employee, time of leaving the office, time returned, location, contact telephone number, and purpose. The DDC Executive Director should issue and enforce a memorandum requiring employees to personally log entries on the sign-in and out sheet when leaving the office during working hours. If the purpose of leaving the office is for official business, the timekeeper should spot check by calling the number left to verify the employees' whereabouts.

Department of Public Health Response

The responses of the Secretary of Public Health to Recommendations 8 to 12 are as follows:

Recommendation 8 - Concurred, with exception. The DDC Executive Director is considered an excepted service employee and thus is covered by the ESPR which have no references to daily time and attendance report. The Executive Director's time and attendance will be reported directly to the Daily Time Reports maintained and monitored by the Administrative Assistant, although, she will not be required to punch in and out. OMB Circular A-87 requires payroll to be supported by time and attendance or equivalent records for individual employees.

Recommendation 9 - Concurred. Memorandum will be issued to timekeeper by the Executive Director.

Recommendation 10 - Concurred.

Recommendation 11 - This was resolved when the employee agreed to make up lost hours during the following pay period.

Recommendation 12 - Concurred with exception. Sign-in and out sheet have been established for all employees. Memorandum will be issued by April 15, 1997.

Office of the Public Auditor Comments

The response did not provide a reasonable time frame for action except for Recommendation 12. Thus, we consider Recommendations 8 to 11 open and Recommendation 12 resolved. The additional information needed to close the recommendations is presented in **APPENDIX F**.

We disagree with the comment made by the Secretary of Public Health that the ESPR have no references to daily time and attendance report (Recommendation 8). The ESPR provides that the method of recording and certifying time, attendance, and leave shall be prescribed by the Director of Personnel Management and the Secretary of Finance. On July 28, 1988, a directive was issued by the two officials on timekeeping and payroll procedures which provided that the STS must be completed from information contained on the *time cards* or *itemized in time log sheets*. Thus, all employees, including excepted service employees, should have a record of time and attendance on the time cards or itemized in time log sheets so that daily time and attendance can be monitored and the timekeeper will have an accurate basis for preparation of the STS.

D. Status of DDC and Position Title of the DDC Executive Director Should be Evaluated

DDC Should Be Considered a Program or a Division of DPH And Not a Separate Department or Agency

DDC is not a principal department under the Executive Branch nor an autonomous agency established by CNMI public laws. There was also no directive from the Governor establishing its autonomy. Other than those functions required by its grantor federal agency, DDC's administrative operating procedures are similar to a program division of an executive branch department whose travel, payroll, and procurement are processed by DOF. Our audit showed, however, that DDC was assigned to DPH for administration and coordination purposes, and its head was given the title "Executive Director" and salary applicable to a department or agency head. This occurred because DDC members and other government officials believed that the existence of a governing council and the expenditure authority granted to its head signified the autonomy of DDC. As a result, the DDC head was erroneously given the title of Executive Director, and was compensated in excess of the \$40,800 salary limit for a Division Director.

Discussion

DDC should not be considered at the same level as a department or autonomous agency in the absence of a public law or executive order. Pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, specifically under 42 U.S.C. Section 6024, a State DDC needs to be established in order for a State to participate in federal programs for individuals with developmental disabilities. It falls under the Office of the Governor which has the authority to appoint its members. DDC is allowed to hire its own staff and a Director. In our opinion, the term Director was included in the law only as a guideline. The actual title should be guided by local laws, policies, and procedures in relation to the level of responsibility such as amount of funds involved and number of employees. In this case, the amount of funds (\$210,000) and the number of employees (5) seem to indicate that the head of DDC is a federal project or program manager with limited responsibility, and that the position should be classified by the Office of Personnel Management. The State also needs to designate the State agency which will provide support to the State DDC. The responsibilities of the designated State agency are to provide support services requested by DDC and to provide fund accounting and control of funds received by the State. In the CNMI, DPH is the designated State agency, with the Secretary of Public Health as the Designated State Agency Official. Fund accounting and control of funds, however, is provided by the Finance and Accounting Division of DOF.

Because the designated State agency has the responsibilities to provide fiscal accounting and control of funds, DDC cannot be deemed an autonomous agency

in the CNMI. DDC's existence depends only on the availability of federal grants. Therefore, unless there is a public law or executive order that mandates permanent status even when federal funds cease, DDC's status is only that of a government-run federal program and not an autonomous agency.

Additionally, to grant the council director the title and salary at the same level as the head of an executive department was improper. Even to make the position equal to a division director may not be correct, if we compare the responsibility and the size of staff other heads of department divisions have, e.g. Division of Revenue & Taxation of DOF has 48 personnel and the Division of Fish & Wildlife of the Department of Lands and Natural Resources has 29 personnel, while DDC has only 5 personnel.

DDC Was Considered an Agency Separate from DPH

Our audit showed that DDC was assigned to DPH for administration and coordination purposes, and its head was given the title and salary applicable to a department or agency head.

In October 1991, the position title of the DDC head was changed from DDC Director to DDC Executive Director and her salary was increased from \$34,200 to \$40,000. In August 1992, the contract of the DDC Executive Director was renewed for a two-year period and she was granted an annual salary of \$48,000, the maximum allowable salary for executive department heads as provided under 1 CMC §8245 (h) of the Compensation Adjustments Act. In October 1994, the Executive Director was again appointed to the position but her salary was reduced to \$40,800, the maximum allowable salary for unclassified division chiefs as provided under 1 CMC §8245 (d) of the Compensation Adjustments Act. Apparently, this occurred because DDC was considered a component unit of DPH as a result of its transfer from the Governor's Office pursuant to the Governor's Reorganization Plan of 1994.

In August 1995, a request for personnel action to increase the salary of the DDC Executive Director to \$48,000 was submitted to the Director of Personnel. The Personnel Director rejected the personnel action based on his opinion that the proposed salary of \$48,000 exceeded the salary allowed by law for the position. He stated that DDC is only a component of DPH and the Executive Director should be considered a division chief or director who is entitled to a salary of only \$40,800.

In June 1996, however, the Secretary of Public Health requested and approved a personnel action granting the DDC Executive Director a salary of \$48,000 effective April 1, 1995. This occurred because DDC members and other government officials believed that the existence of a governing council and the expenditure authority granted to its head signified the autonomy of DDC. The

increase of salary to \$48,000 was merely to restore the salary the Executive Director was earning prior to the misunderstanding of the position title. As a result, the DDC head was erroneously given the title Executive Director and was compensated in excess of the \$40,800 salary limit for a Division Director. The rationale may have included the fact that the salary is paid for with federal funds.

Conclusion and Recommendations

DDC should be considered a program or at most a division level of DPH because of the nature of its organization as well as its functions. The CNMI should ensure that DPH, as the designated State agency, provide support services to DDC and perform fiscal responsibilities as required under the federal law. Accordingly, we recommend that the Secretary of Public Health as part of DPH's administrative responsibilities:

13. Coordinate the activities of DDC by performing a periodic review of DDC's program operations and administrative services.
14. Enforce compensation of the DDC Executive Director as a division director and not as a department or agency head.

Department of Public Health Response

The responses of the Secretary of Public Health to Recommendations 13 and 14 are as follows:

Recommendation 13 - Concurred. P.L. 103-230 Sec. 124(c)(2) and 45 CFR 1386.30(e)(4) authorizes the Council to hire, supervise and evaluate the Executive Director. Periodic reports are prepared and received by Council members.

Recommendation 14 - This issue is pending review and evaluation of agency status, and the applicability of Executive Order 94-3.

Office of the Public Auditor Comments

We consider Recommendations 13 and 14 open because of the following:

Recommendation 13 - Although the Secretary of Public Health concurred with the recommendation, the response was inconsistent with the recommendation. The report provided that the Secretary of Public Health has the authority to receive periodic reports as the designated State agency. The response provided, however, that the Council has the authority to hire, supervise, and evaluate the

Executive Director, and to receive periodic reports. We agree that the Council has the authority to hire its own staff and a Director, however, DPH should be the one to provide support services to DDC and perform fiscal responsibilities as required under the federal law.

Recommendation 14 - The response did not provide a reasonable time frame for action, thus the recommendation remains open.

The additional information needed to close the recommendations is presented in **APPENDIX F**.

APPENDIX A

Note: APPENDIX A (page 26), which contains photocopy of the Request for Personnel Action to adjust salary of the DDC Executive Director, was intentionally omitted to reduce this publication's file size. This is available at OPA upon request.

APPENDIX B
Pages 1 to 2

Note: APPENDIX B (pages 27 to 28), which contains photocopies of the timecards of Employee No. 75677 from payperiod December 24, 1995 to January 6, 1996, was intentionally omitted to reduce this publication's file size. This is available at OPA upon request.

APPENDIX C
Pages 1 to 10

Note: APPENDIX C (pages 29 to 38), which contains the Secretary of Public Health's letter response dated April 30, 1997, was intentionally omitted to reduce this publication's file size. This is available at OPA upon request.

APPENDIX D

Note: APPENDIX D (page 39), which contains the Secretary of Public Health's memorandum to Secretary of Finance dated May 6, 1997, was intentionally omitted to reduce this publication's file size. The response is available at OPA upon request.

APPENDIX E
Pages 1 to 3

Note: APPENDIX E (pages 40 to 42), which contains the Secretary of Finance's letter response dated May 15, 1997, was intentionally omitted to reduce this publication's file size. This is available at OPA upon request.

APPENDIX F
Page 1 of 5

STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/ Additional Information or Action Required
1. Take administrative action such as employment sanctions against the DDC Executive Director for misuse of government telephone and travel funds.	DPH	Closed	The Secretary of Public Health concurred with the recommendation, and stated that the Executive Director has been instructed to adhere to all laws, policies, rules, and regulations governing the use of government telephone and travel funds. He stated that travel advances have been cleared and payroll deductions of \$200 per pay period have been initiated to fully reimburse the government within 90 days for the telephone charges. Also attached to the response was a copy of the Executive Director's letter stating her resignation effective May 2, 1997. OPA Comment No additional action required.
2. Require the DDC Executive Director to establish and implement written policies and procedures for controlling use of DDC's telephone charge card and for the timely billing of employees for personal long distance calls.	DPH	Resolved	The Secretary of Public Health concurred with the recommendation, and stated that the Executive Director is to establish and implement written policy before April 15, 1997. OPA Comment The Secretary of Public Health should provide OPA with a copy of these policies and procedures.
3. <i>Original:</i> Recover charges for personal calls made by the DDC Executive Director amounting to \$1,088.	DPH	Closed	The Secretary of Public Health concurred with the recommendation, and stated that to recover charges for personal calls, a deduction from the salary of the DDC Executive Director of \$200 per pay period begun period ending March 29, 1997.
<i>As Revised and Redirected to DOF:</i> Deduct any unpaid balance of the \$1,088 charges for personal calls and \$1,086 advance from the final payroll check or any other funds due to her. Also, the Secretary of Finance should instruct the Travel Section to strictly comply with DOF Manual of Procedures and Policies relating to Travel and Transportation particularly on enforcing immediate return of travel advances if travel is canceled.	DOF	Resolved	The Secretary of Finance concurred with the recommendation, and provided documents which showed deduction of unpaid balance of charges for personal calls and travel advances totaling \$488 and \$486, respectively, from the Executive Director's final net pay check. Also, he stated that the Travel Section will be instructed to recover advances for canceled trips in one automatic payroll deduction unless the advance amount exceeds the employee's net pay. In this case, a series of deductions will be used to recover the full amount of the advance. OPA Comment

APPENDIX F
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STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/ Additional Information or Action Required
			No additional action required from the Secretary of Public Health. The Secretary of Finance should provide OPA with a copy of this memorandum.
4. Issue a directive to the DDC Executive Director emphasizing the need to comply with vehicle laws and regulations.	DPH	Resolved	The Secretary of Public Health concurred with the recommendation, and stated that the Executive Director was advised and reminded of Governor's Directive No. 163 on government vehicles. OPA Comment The Secretary of Public Health should provide OPA with a copy of (1) memorandum emphasizing the need to comply with vehicle laws and regulations, and (2) vehicle trip log (latest available record).
5. Require the DDC Executive Director to establish control procedures for documenting the removal and possession of government equipment outside of the office to ensure that DDC properties are used only for office-related purposes.	DPH	Resolved	The Secretary of Public Health concurred with the recommendation, and stated that the Executive Director is to establish control procedures by April 15, 1997. OPA Comment The Secretary of Public Health should provide OPA with a copy of these policies and procedures.
6. Ensure that local funds are not used to supplement funds no longer available from the federal government, and admonishing them for violating the CNMI Planning and Budgeting Act.	DPH	Open	The Secretary of Public Health concurred with the recommendation, and stated that a memorandum will be issued to all Division Directors. OPA Comment The Secretary of Public Health should provide OPA with a copy of this memorandum.

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STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/ Additional Information or Action Required
7. <i>Original</i> - Take action to recover the retroactive salary increase of \$3,600 improperly paid from local funds to the DDC Executive Director.	DPH	Open	The Secretary of Public Health stated that action on this issue is pending intensive review by appropriate local officials and responses from grantor agencies are not completed yet.
<i>Addressed to DOF</i> - Deduct the improper retroactive salary increase of \$3,600 from the final payroll check or any other funds due to the Executive Director. The amount should be withheld until the issue is completely resolved.	DOF	Resolved	The Secretary of Finance concurred with Recommendation 7, and provided documents which showed that the improper retroactive salary increase was withheld from the final payroll check due to the Executive Director. The amount withheld was short, however, by \$764.40 because the final net pay check after deducting the amount unpaid for personal calls and travel advance was only \$2,835.60. DOF stated that if the salary increase is ultimately disapproved, a zero amount check will be processed and the deductions deposited with the CNMI Treasury. DOF will bill the Executive Director for the remaining balance owed of \$764.40. If the increase is approved, the \$2,835.60 withheld will be canceled and a check for this amount will be issued to the Executive Director.
			OPA Comment
			The Secretary of Public Health should provide OPA copy of the results of the review of the issue. Also, the Secretary of Finance should provide OPA with a copy of documents showing action taken after considering results of review.
8. Require all DDC employees, including the DDC Executive Director, to punch the time clock and to strictly observe DDC's timekeeping procedures, which require daily time in and out and obtaining the DDC timekeeper's initials for manual time entries in the timecards. Employees who do not comply should be charged LWOP. Such manual entries should be justified in writing such as if the timeclock is not working. If manual entries are justified because the employee forgot, such justification should be accepted very seldom such as not more than five times in a six month period, at most and the timekeeper should keep track of how many times that excuse is used by the individual employee. An employee whose justifications are in excess of five times in a six month period should be deducted one or more hour depending on the circumstances. If the employee calls in from an out of office location at the	DPH	Open	The Secretary of Public Health concurred with exception, and stated that the DDC Executive Director is considered an excepted service employee and thus is covered by the ESPR which have no references to daily time and attendance report.
			OPA Comment
			The Secretary of Public Health should provide OPA copy of the memorandum requiring all DDC employees, including the DDC Executive Director, to punch the time clock and to strictly observe DDC's timekeeping procedures, which require daily time in and out and obtaining the DDC timekeeper's initials for manual time entries in the timecards. Manual entries should be justified in writing and be controlled.

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STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/ Additional Information or Action Required
<p>start of the work day or the end of the work day for a manual entry, the timekeeper should verify the employee's location by obtaining the official business place and telephone number, and should call back immediately to verify employee's presence.</p>			
<p>9. Require the DDC Timekeeper to charge the appropriate type of leave to employees for any time-off that reduces a work day to less than eight hours.</p>	DPH	Open	<p>The Secretary of Public Health concurred with the recommendation, and stated that memorandum will be issued to timekeeper by the Executive Director.</p> <p>OPA Comment</p> <p>The Secretary of Public Health should provide OPA a copy of the memorandum requiring the DDC Timekeeper to charge the appropriate type of leave to employees for any time-off that reduces a work day to less than eight hours.</p>
<p>10. Charge appropriate leave for the 12 unworked hours of employee no. 75677.</p>	DPH	Open	<p>The Secretary of Public Health concurred with the recommendation.</p> <p>OPA Comment</p> <p>The Secretary of Public Health should provide OPA a copy of the document evidencing charging of appropriate leave for the 12 unworked hours of employee no. 75677.</p>
<p>11. Reinstate the 15 hours LWOP of Employee no. 75677 because the reversal by the DDC Executive Director was not supported by written justification.</p>	DPH	Open	<p>The Secretary of Public Health stated that this was resolved when the employee agreed to make up lost hours during the following pay period.</p> <p>OPA Comment</p> <p>The Secretary of Public Health should provide OPA a copy of documents evidencing approval of comptime prior to their performance and monitoring of the employee's number of comptime hours earned and used. Otherwise, OPA should be provided a copy of the document evidencing reinstatement of the 15 hours LWOP of Employee no. 75677.</p>

APPENDIX F
Page 5 of 5**STATUS OF RECOMMENDATIONS**

Recommendations	Agency to Act	Status	Agency Response/ Additional Information or Action Required
12. Require the DDC Executive Director to establish a sign-in and out sheet which should include the date, name of employee, time of leaving the office, time returned, location, contact telephone number, and purpose. The DDC Executive Director should issue and enforce a memorandum requiring employees to personally log entries on the sign-in and out sheet when leaving the office during working hours. If the purpose of leaving the office is for official business, the timekeeper should spot check by calling the number left to verify the employees' whereabouts.	DPH	Resolved	<p>The Secretary of Public Health concurred with exception, and stated that sign-in and out sheet have been established for all employees. Memorandum will be issued by April 15, 1997.</p> <p>OPA Comment</p> <p>The Secretary of Public Health should provide OPA copy of this memorandum.</p>
13. Coordinate the activities of DDC by performing a periodic review of DDC's program operations and administrative services.	DPH	Open	<p>The Secretary of Public Health concurred with the recommendation, and stated that P.L. 103-230 Sec. 124(c)(2) and 45 CFR 1386.30(e)(4) authorizes the Council to hire, supervise and evaluate the Executive Director. Periodic reports are prepared and received by Council members.</p> <p>OPA Comment</p> <p>The Secretary of Public Health should provide OPA documents on actions made to coordinate the activities of DDC, including performance of a periodic review of DDC's program operations and administrative services.</p>
14. Enforce compensation of the DDC Executive Director as a division director and not as a department or agency head.	DPH	Open	<p>The Secretary of Public Health stated that this issue is pending review and evaluation of agency status, and the applicability of Executive Order 94-3.</p> <p>OPA Comment</p> <p>The Secretary of Public Health should provide OPA copy of the results of the review of the issue.</p>