

March 10, 2003

Ramona V. Manglona, Attorney General
Office of the Attorney General
Call Box 10007, Capitol Hill
Saipan, MP 96950

Dear Ms. Manglona:

**Subject: Final Report on Audit of the Attorney General's Investigative Unit
Confidential Informant/Cash Funds, October 1, 1994 to April 30, 2002
(AR-03-04)**

This report presents the results of the Office of the Public Auditor's (OPA) audit of the Attorney General's Investigation Unit (AGIU) Confidential Informant cash funds from October 1, 1994 through April 30, 2002. OPA performed this audit in response to a request made by the AGIU Chief Investigator on April 18, 2002 to conduct an audit of the AGIU confidential funds. The objectives of the audit were to determine whether: (1) monies issued to the funds were properly accounted for; and (2) disbursements from the funds were made in accordance with existing guidelines and control procedures.

Our audit showed that the AGIU did not have adequate internal control over the four funds maintained. More specifically, (1) the custodian of the funds handles incompatible functions; (2) complete and accurate records were not maintained; (3) monies from three of the four funds were commingled during the period September 20, 1999 to March 31, 2000; (4) no one was authorized to review or verify funds' transactions; and lastly, (5) there were no clear written guidelines on allowable disbursements from the funds.

Accordingly, we recommended that the AGIU:

1. Implement a more effective control over the funds by:
 - a. assigning a single staff member to be the custodian of the four funds; however, another person should approve disbursements from the funds; furthermore, the custodian should also not be allowed to disburse funds or be the beneficiary of money issued from the funds;

- b. having investigators submit original receipts, and not copies, to the fund request form. If there are no receipts, there should be a written explanation on how the funds were used. The Chief Investigator should then sign the fund disbursement report, verifying that the receipts match the amount on the request form. If there is a balance unexpended, the Chief Investigator should write it down and ensure that the money is returned to its respective fund;
 - c. authorizing a person to periodically check the funds' balances;
 - d. eliminating the use of a central control log because it duplicates work. Each account should have its own ledger; and
 - e. maintaining only one file of documents supporting disbursements from the funds to minimize cost. (Maintaining two files, original and duplicate, constitutes waste of resources.)
2. Establish clear written policies and guidelines on types of disbursements that may be paid from each fund.
 3. Recover the residual value of three unused return airline tickets totaling \$723 and the overpayment of per diem of \$1,605 from the three travelers involved.

In her letter response dated January 3, 2003, the Attorney General concurred with Recommendation 1. The Attorney General's Office established a written policy on the proper use and safeguard of confidential funds. In response to Recommendation 2, she stated that the types of disbursements that should be paid from each fund are still being evaluated. For Recommendation 3, she stated that the unused return tickets from Korea were used in an upgrade of seats to business class since there were no other seats available. Furthermore, she said that the related file for the case of the travel to Korea cannot be located. Subsequently, a month after submission of AGIU's response to the draft audit report, an AGIU investigator informed OPA that the disbursement file for the Korean trip which was previously missing has been located. (See discussion in **Other Matters** for updated findings.)

Based on the response we received from the Attorney General, we consider Recommendation 1 closed, and Recommendations 2 and 3 open. The additional information or actions required to close these recommendations are presented in **Appendix B**.

BACKGROUND

In a memorandum dated April 18, 2002, the AGIU requested OPA to conduct an audit of the AGIU Confidential Informant Funds. The four funds maintained by the AGIU are: (1) Fund 4834 - Witness Protection Fund; (2) Fund 4874 - Labor and Immigration Federal Grant Fund; (3) Fund 1187 - Witness/Informant Fund; and (4) Fund 1188 - Special Investigation Fund.

Under the Fiscal Year 1995 Federal Covenant Grant totaling \$1.5 million, the AGIU was allocated \$375,000 which included \$60,000 for the Witness Protection Fund. Fund allotment was made on May 2, 1995 and the initial grant drawdown of the \$60,000 was made on August 24, 1995, in the amount of \$3,000. As of April 30, 2002, grant drawdowns from the Witness Protection Fund from this grant totaled \$32,000.

Another federally funded grant totaling \$245,000 was made available to AGIU by the U.S. Department of Interior on May 14, 1999, to be used to resolve problems involving labor, immigration, and law enforcement as it pertains to labor and immigration. A total of \$40,000 was allocated to the Witness Protection/Informant Fund. As of April 30, 2002, the total grant drawdowns from this fund were \$5,000.

Funds 1187 and 1188 are funded through local appropriations of the CNMI Legislature. There are no restrictions on the use of these funds. They can be expended on white collar crime, immigration, labor cases, and law enforcement. Fund 1187 was established in 1996 and Fund 1188 was established on April 29, 1997. As of April 30, 2002, total drawdowns from funds 1187 and 1188 were \$26,000 and \$40,000, respectively. The total drawdowns under all funds were \$103,000.

Accounting of the Funds

The process for acquiring funds for these accounts is initiated by the Attorney General (AG) or the Acting AG with a written request to the Secretary of Finance. The Department of Finance (DOF) verifies the availability of funds and prepares a payment voucher charging the appropriate expense account. Next, a check is issued made payable to the AGIU Chief Investigator. The Chief Investigator cashes the check and gives the money, together with the check stub, to the fund custodian. To disburse funds, a request for advance form must be filled-out and signed by the requestor (investigator) and approved by the Chief Investigator. The form shows the justification and case number. Another form is also prepared for acknowledgment of receipt of money. This form should be signed by the recipient of the advance and approved by the Chief Investigator. Documents supporting the disbursements are submitted to the custodian along with any money not used. The fund balances are monitored through the use of a ledger. All receipts are credited or added to the fund balance and all disbursements are debited or deducted from the balance. Replenishment of funds does not require submission of receipts supporting the disbursements made from the fund.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objectives of the audit were to determine whether: (1) monies issued to the four funds were properly accounted for; and (2) disbursements from the funds were made in accordance with existing guidelines and control procedures.

The scope of our audit covered the period from October 1, 1994, when the first fund was established, through April 30, 2002. To accomplish our objectives, we conducted a surprise cash count on April 30, 2002. In addition, we checked the AG Detail Expenditure Reports maintained by the DOF to determine the total amount of drawdowns for each fund. Next, we reviewed documents supporting each check issued by DOF in which a drawdown of funds was made to any of the funds. We examined, on a test basis, the documents supporting disbursements from the funds. We interviewed concerned and knowledgeable AGIU officials and employees. We also reviewed terms and conditions of the Grant Award and applicable laws, regulations, and guidelines that are contained in relevant portions of Title 43, Part 12 of the Code of Federal Regulations.

In our draft report dated August 28, 2002, we cited a scope limitation stating that cash issued in the amount of \$15,000 to fund 1188 was not recorded in the appropriate ledger, and also, the ledger for fund 1187 containing transactions prior to October 6, 1997 could not be located. Thus, AGIU was unable to account for \$6,235.40 expended from the fund. The ledger, however, was subsequently found as were most of the documents supporting the previously unaccounted portion of the fund expenses. Based on this ledger, the cash issued to fund 1188 in the amount of \$15,000 was found to be credited to fund 1187. The additional procedures conducted for the subsequently located documents are incorporated in this final report.

We conducted our audit at the AGIU and DOF offices in Saipan between May 20, 2002, and June 14, 2002. Additional procedures on documents for fund 1187, which were produced after the issuance of the draft report and contained transactions prior to October 6, 1997, were conducted between January 1, 2003 and February 28, 2003. This audit was made 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.

Prior Audit Coverage

This is the first audit of the AGIU Confidential Informant funds. No prior audit has been performed.

FINDINGS AND RECOMMENDATIONS

Internal Control

Adequate internal control over cash must be in place to ensure that public funds are safeguarded against waste, loss, and misuse. Effective internal control assures that funds are used consistent with laws, regulations, and policies. Our audit showed that the AGIU did not have adequate internal control over the four funds maintained. More specifically, (1) the custodian of the funds

handles incompatible functions; (2) complete and accurate records were not maintained; (3) monies from three of the four funds were commingled during the period September 20, 1999 to March 31, 2000; (4) no one was authorized to review or verify funds' transactions; and lastly, (5) there were no clear written guidelines on allowable disbursements from the funds.

Lack of Separation of Duties

Our audit showed that the former custodians of the AGIU cash funds had performed incompatible functions¹ from the time they were first established in 1995 up until 1999. The custodian duties included:

- cashing the drawdown checks issued by the DOF to replenish the funds;
- maintaining custody of the general ledger and supporting documents for the four funds;
- approving disbursements from the funds;
- requesting disbursements from the funds; and
- recording receipts and disbursements in the ledger.

Our review also revealed that total disbursements of \$4,971 were actually made by the custodian to himself. Hence, to prevent improper use of the handling of cash, separation of duties is one of the most important measures to implement.

Incomplete and Inaccurate Records

Complete and accurate records of receipts and disbursements from the funds are essential to establish proper accountability by the custodian. Our audit shows that the records of the AGIU funds' transactions were not complete and accurate. For example, we found:

- missing documents supporting disbursements from fund 4834 amounting to \$2,421;
- the ledger of fund 4834 was not being properly calculated;
- the ledger of 1187 indicated the wrong year; and
- cash of \$130 and \$14 inserted among documents supporting disbursements made from 1187 and 4834, respectively.

Funds Commingled and Absence of Review Procedures

For effective control, funds should be reconciled periodically. This should be accomplished every quarter or every six months depending on time constraints. We noted that from September 20, 1999 up to March 31, 2000, the three funds in existence² were commingled by the custodian with only one ledger used to monitor or account for the three funds. In an interview, the responsible

¹Incompatible functions pertain to duties and responsibilities assigned to a single person that greatly increase the risk of irregularities or fraud existing without being detected.

² The fourth fund, 4874, was established only on May 14, 1999.

custodian said it was easier for him to monitor one fund than three different funds. During the period the funds were combined, we were unable to determine the correct balance of each fund. Furthermore, we found out that no one was assigned nor authorized to review or verify funds' transactions.

Disbursements Were Either Not Approved or Supported

Disbursements were made from the funds that were either not approved or properly supported. We noted the following exceptions for each fund:

- *Fund 1187* - Of the \$59,812 disbursements, we tested about 89% or \$53,115, noting 36 unapproved disbursements totaling \$20,376 and 37 disbursements totaling \$9,323 which were not adequately supported or not supported at all.
- *Account 1188* - Of the \$24,985 disbursements, we tested about 33% or \$8,206, noting three unapproved disbursements totaling \$1,900.
- *Fund 4834* - Of the \$32,324 disbursements, we tested about 77% or \$24,873, noting that two disbursements totaling \$400 had not been approved and ten disbursements totaling \$6,978 which were not adequately supported.
- *Fund 4874* - We tested all 29 disbursements totaling \$3,021 noting two disbursements of \$151 which were not properly supported.

No Clear Policies on Allowable Expenses

The AGIU does not have clear written policies on the types of expenses that may be paid from each fund. According to the current chief investigator, they charge an expense to a particular fund based on whether it appears to fall within the general definition implied by the name of the fund. Accordingly, we believe the following expenses may have been inappropriately charged or appear to be questionable:

- Childbirth expenses of a female witness of \$2,300 were paid under the Witness Protection Program Fund. According to the investigator responsible for the payment, he believed that they should shoulder all expenses of the witnesses including child birth expenses. One could argue that the spouse of the witness should have been held responsible for this expense.
- Disbursements charged to Witness/Informant Fund totaling \$1,725 were spent for baby clothes, cigarettes, wines, liquors, luxurious clothes and shoes, cat food, photo albums, beauty supplies, phone cards, entry permit, pregnancy ultra sound, candles for christening, electronic item, etc.
- Disbursements totaling \$1,091 relating to gambling and extortion cases were inappropriately charged to the Witness Protection Fund.

- Cash was borrowed from the four confidential funds to provide travel advances.

Other Matters

The following matters were also noted during our audit which we believe should be brought to your attention:

- *\$723 Residual Value of Three Unused Return Airline Tickets Not Redeemed* - The cost of three round trip tickets to Korea totaling \$2,148 was charged to fund 1187 on October 8, 1997. The travelers, however, did not use the return portion of the tickets. Related credit memo issued by the travel agency was found for the residual value of the unused portion of the original round trip tickets totaling \$723. This amount was, however, not credited back to the fund.
- *\$1,605 Overpayment of Per Diem* - Travel advances totaling \$4,700 were paid to three AGIU investigators for a four day trip to Korea from October 8, 1997 to October 12, 1997. Out of this amount, \$360 was returned upon completion of travel, leaving the difference of \$4,340 as the net amount paid to travelers. Our review showed, however, that valid travel expenses totaled only \$2,735, hence, there was an overpayment of \$1,605. Details follow:

Net amount received by 3 AGIU investigators		\$4,340
Less: Valid travel expenses		
Per Diem (\$200/day x 4 days x 3 travelers)	\$2,400	
Car rental (supported by affidavit of loss receipts)	300	
Airport fee	31	
Parking fee	4	
	<hr/>	
Total travel expenses		<u>2,735</u>
Overpayment		<u><u>\$1,605</u></u>

The disbursement file for this trip had been previously missing. However, after issuance of the draft audit report, an AGIU investigator has located the file. Examination of receipts found in the disbursement file showed that not all receipts are allowable travel expenses (i.e. receipts for meals [since it is already included in per diem], sightseeing tours entrance fees, drinks). Therefore, we believe that the overpayment should be recovered from the three travelers.

Conclusion and Recommendations

The AGIU did not implement adequate controls to ensure that the four funds were safeguarded against waste, loss, and misuse. Accordingly, we recommended that the AGIU:

1. Implement a more effective control over the funds by:

- a. assigning a single staff member to be the custodian of the four funds; however, another person should approve disbursements from the funds; furthermore, the custodian should not also be allowed to disburse funds or to be the beneficiary of money issued from the funds;
 - b. having investigators submit original receipts, and not copies, to the fund request form. If there are no receipts, there should be a written explanation on how the funds were used. The Chief Investigator should then sign the fund disbursement report, verifying that the receipts match the amount on the request form. If there is a balance unexpended, the Chief Investigator should write it down and ensure that the money is returned to its respective fund;
 - c. authorizing a person to periodically check the funds' balances;
 - d. eliminating the use of a central control log because it duplicates work. Each account should have its own ledger; and
 - e. maintaining only one file of documents supporting disbursements from the funds to minimize cost. Maintaining two files, original and duplicate, constitutes waste of resources.
2. Establishing clear written policies and guidelines on types of disbursements that may be paid from each fund.
 3. Recovering the residual value of three unused return airline tickets totaling \$723 and the overpayment of per diem of \$1,605 from the three travelers involved.

AGIU Response

In her letter response dated January 3, 2003 (**Appendix A**), the Attorney General concurred with Recommendation 1. The Attorney General's Office provided OPA with a copy of the written policy for the proper use and safeguard of confidential funds, specifically, covering all the areas discussed in OPA's recommendations. With regards to Recommendation 2, she stated that the types of disbursements that should be paid from each fund are still being evaluated.

For Recommendation 3, she stated that the unused return tickets from Korea were used in an upgrade of seats to business class since there were no other seats available. Furthermore, she said that the related file for the case of the travel to Korea could not be located. She further stated that the related per diem will be impacted (per diem provided was for five days versus actual travel days of four days), as the three travelers returned to Saipan one day early.

Subsequently, a month after submission of AGIU's response to the draft audit report, an AGIU investigator informed OPA that the disbursement file for the Korean trip which was previously missing has been located. (See discussion in **Other Matters** for updated findings.)

OPA Comments

Based on the response we received from AGIU, we consider Recommendation 1 closed, and Recommendations 2 and 3 open.

For Recommendation 3, OPA's review revealed that a reimbursement of \$832 was made to an investigator for the return business class tickets of the investigators who went to Korea per Request No. 98-06 for Fund#1187, hence, the \$723 residual value of the tickets initially issued remained unaccounted for. Furthermore, the disbursement file for this trip has also been located and the related finding was updated for the amount of overpayment which totaled to \$1,605. We still believe that this overpayment should be recovered from the three travelers.

The additional information or actions required to close these recommendations are presented in **Appendix B**.

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Our office has implemented an audit recommendation tracking system. All audit recommendations will be included in the tracking system as open or resolved until we have received evidence that the recommendations have been implemented. An *open* recommendation is one where no action or plan of action has been made by the client (department or agency). A *resolved* recommendation is one in which OPA is satisfied that the client cannot take immediate action, but has established a reasonable plan and time frame of action. A *closed* recommendation is one in which the client has taken sufficient action to meet the intent of the recommendation or we have withdrawn it.

Please provide to us the status of Recommendation 1 within 30 days, along with documentation showing the specific action taken. If corrective action takes longer than 30 days, please provide us additional information every 60 days until we notify you that the recommendation has been closed.

Sincerely,

Michael S. Sablan, CPA
Public Auditor, CNMI

cc: AGIU Chief Investigator
Governor
Lt. Governor

Thirteenth CNMI Legislature
Special Assistant for Management and Budget
Press Secretary
Press

for H. Sablan file



Commonwealth of the Northern Mariana Islands
Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.
Caller Box 10007, Capitol Hill
Saipan, MP 96950

Attorney General/Civil Division
Tel: (670) 664-2341
Fax: (670) 664-2349

Criminal Division
Tel: (670) 664-2366/2367/2368
Fax: (670) 234-7016

January 3, 2003



Michael S. Sablan, CPA
Office of the Public Auditor
P.O. Box 501399
Saipan, MP 96950

Dear Mr. Sablan:

Thank you for the information you provided in your letter of August 29, 2002, concerning the former Attorney General's request for an audit of the Attorney General Investigation Unit (AGIU) Confidential Informant (CI) /Cash Funds, FY 1995 to April 30, 2002. We found your letter and draft report most informative and helpful, and precisely what we had requested in regards to a professional accounting of CI funds.

Much of the recommended information provided in your letter has already been corrected, per discussions and suggestions from your visiting auditors and the AGIU Staff during the audit phase. For example, please find attached the AGO Policy Regarding the Use of Confidential Funds, which deals with internal controls, separation of duties, co-mingling of funds, definition of funds, timely reconciliation of funds, and a mandate to issue receipts. Also, a definition of AGIU Funds is attached.

Regarding specific issues mentioned in your letter:

1. Records concerning a missing \$15K check/cash of August 4, 1997 have been found. That check amount was erroneously entered into Account #1187, rather than #1188 (page 2). Also, the ledger and files for Fund #1187 containing transactions prior to October 6, 1997, have been found. Apparently these items were misplaced during the move of AGIU to the new quarters in Building # 1332. With the past records now available, we respectfully **request that your auditors return** to AGIU and re-evaluate the overall status of AGIU funds in #'s 1187 and 1188.
2. Allowable expenses such as childbirth expenses for a witness under the Witness Protection Program, plus the use of funds for staff expeditious travel (and return of funds) in Funds #1187 and 1188, are still being evaluated legally, and under the definition of the funds' intended use (page 4).

Michael S. Sablan, CPA
January 3, 2003
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3. The trip to Korea by two AGIU investigators and a Korean translator concerning the investigation of a bribery allegation is still in the investigative stage. The file for the case, AGU File # 97-094, cannot be located. Is there a chance that this case file is still with the OPA auditors? There is a possibility that the file went to DOLI archives when a former AGIU investigator left AGIU service, and then later left DOLI. A current AGIU investigator remembers that the three unused tickets from Korea were used in an upgrade to Business Class (no other seats available) and therefore, are without value; the per diem will be impacted, as the three travelers returned to Saipan one day early (page 6).
4. Co-mingling of accounts and a shortcoming of proper documentation in Funds 4834, 1187, and 1188 will be corrected in the future through the new policy process (page 4).

Once again, thank you for your professional and timely response to our request. It is our goal to account for all public funds in a thorough and proper manner in accordance with Government Auditing Standards, and to continue the integrity of the Attorney General's Office.

Please feel free to contact me at your convenience if you have further questions or additional suggestions.

Sincerely,


Ramona V. Mangiona
Attorney General

cc: Joe Race, AGIU Chief Investigator

STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/Additional Information or Action Required
<p>1. Implement a more effective control over the funds by:</p> <ul style="list-style-type: none"> a. assigning a single staff member to be the custodian of the four funds. He should not approve any disbursement from the funds nor be the beneficiary of money issued from the funds; b. having investigators submit original receipts and not copies to the fund request form. If there are no receipts, there should be a written explanation on how the funds were used. The Chief Investigator should then sign it, verifying that the receipts match the amount on the request form. If there is a balance unexpended, he should note it down and ensure that the money is returned to its respective fund. c. authorizing a person to periodically check the funds' balances. d. eliminating the use of a central control log because it duplicates work. Each account should have its own ledger. e. maintaining only one file of documents supporting disbursements from the funds to minimize cost. Maintaining two files, original and duplicate, constitutes waste of resources. 	<p>AGIU</p>	<p>Closed</p>	<p>In her letter response dated January 3, 2003), the Attorney General provided OPA with a copy of written policy establish for the proper use and safeguard of confidential funds, specifically covering the areas discussed in OPA recommendation.</p>

STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/Additional Information or Action Required
2. Establishing clear written policies and guidelines on types of disbursements that may be paid from each fund.	AGIU	Open	<p>The Attorney General stated that the types of disbursements that should be paid from each fund are still being evaluated.</p> <p><i>Further Action Required</i></p> <p>The AGIU should provide OPA with written policy that states the types of allowable disbursements that may be paid from each of the four confidential funds.</p>
3. Recovering the residual value of three unused return airline tickets totaling \$723 and the overpayment of per diem of \$1,605 from the three travelers involved.	AGIU	Open	<p>The Attorney General stated that the unused return tickets from Korea were used in an upgrade of seats to business class. Furthermore, she said that the related file for the case of the travel to Korea cannot be located. Subsequently, after issuance of draft report, an AGIU investigator located the disbursement file.</p> <p>OPA's review revealed that a reimbursement of \$832 was made to an investigator for the return business class tickets of the investigators who went to Korea., hence, the \$723 residual value of the tickets initially issued remained unaccounted for. Furthermore, based on the disbursement file found, the related amount of overpayment was updated to \$1,605. OPA still believed that this overpayment should be recovered from the three travelers.</p> <p><i>Further Action Required</i></p> <p>AGIU should inform OPA about the disposition of the lost unused tickets and also, provide documents evidencing collection of the \$1,605 overpayment.</p>