



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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March 29, 1999

The Honorable Dino M. Jones
Minority Leader, House of Representatives
Eleventh Northern Marianas Commonwealth Legislature
P.O. Box 586, Capitol Hill
Saipan, MP 96950

Dear Representative Jones:

Subject: Final Letter Report on the Audit of the Former Commissioner of Education's Salary Increase (Report No. LT-99-03)

On January 13, 1998, you requested the Public Auditor to determine whether federal funds can be used to pay a salary increase of the former Commissioner of Education (Commissioner) of the Commonwealth of the Northern Mariana Islands (CNMI) Public School System (PSS) from 1993 to 1994. During this period PSS operated under a continuing appropriation level and no local funds were appropriated to cover his salary increase. In accordance with the request, we conducted an audit to determine how PSS was able to use federal funds to pay the former Commissioner's salary increase.

Our audit showed that using funds from federal indirect cost reimbursements to pay for the salary increase of the former Commissioner did not violate any Office of Management and Budget (OMB) Circulars. It also showed that the use of indirect cost funds was consistent with the annual Indirect Cost Negotiation Agreement with the Office of the Inspector General, United States (U.S.) Department of Interior.

BACKGROUND

Public Law 6-10, otherwise known as the "Education Act of 1988," established the Public School System as a non-profit corporation to function as the state education agency for pre-school, elementary and secondary programs. The Public School System is headed by an elected Board of Education. The Board appoints a commissioner to serve as the chief executive officer for PSS and the Board of Education. The Board is also empowered to act in its own name with respect to obtaining and using funds from federal programs.

PSS is a recipient of funds received from a number of federal agencies: Department of Interior, Department of Education, Department of Health and Human Services, Department of

Agriculture and Department of Transportation, through various federal grants. The Office of the Inspector General of the U.S. Department of Interior is the designated cognizant agency for these federal agencies.

On October 26, 1992, the CNMI Legislature passed Public Law 8-6, the Salary Act Amendment of 1992, that increased the salary cap of top administrative officers of government corporations from \$48,000 to \$70,000, as determined by applicable boards based on duties and responsibilities. On December 10, 1992, the Board of Education approved the salary increase of the former Commissioner from \$48,000 to \$70,000 annually, effective October 26, 1992.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of the audit was to determine whether federal funds could be used to finance the increase in salary of the former Commissioner during the period that PSS operated under a continuing appropriation level and no local funds were appropriated to cover his salary increase. To accomplish our objective, we examined relevant CNMI and PSS financial records, applicable CNMI laws, and federal regulations and agreements. We also interviewed officials of government agencies concerned. Our audit covered the period from the effective date of the increase to the date PSS ceased to use indirect cost collections from federal government grants for the salary increase of the former Commissioner.

As part of our audit, we evaluated the controls for documenting receipts of collection. We found no internal control weaknesses in this area.

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

RESULT OF AUDIT

Indirect Cost Funds Can Be Used To Pay the Salary Increase of the Former Commissioner

OMB Circulars and the Indirect Cost Negotiation Agreement with the Office of the Inspector General, U.S. Department of Interior, provide the principles for the proper use of indirect cost. Our audit showed that PSS used funds from federal indirect cost reimbursements to pay for the salary increase of the former Commissioner after Public Law 8-6 increased the former Commissioner's salary, inasmuch as PSS had no money from local appropriations to fund the increase. The Commissioner's salary was a part of PSS administrative expenditures that can be allocated to all federal programs pursuant to OMB Circulars and the PSS indirect cost

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OMB Circular No. A-87 defines cognizant agency as the federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this Circular on behalf of all federal agencies.

negotiation agreement. As a result, payment of the increase from indirect cost funds, totaling about \$59,000, was allowable.

OMB Circular A-87 on Cost Principles for State, Local, and Indian Tribal Governments established principles and standards for determining costs for federal awards carried out through grants and cost reimbursements to state and local governments. It provides that indirect cost includes costs of a state (local) government not readily identifiable with a particular grant, contract, project, function, or activity but necessary to the general operation of the state (local) government and the conduct of the activities it performs. The cost of operating and maintaining buildings and equipment, depreciation, administrative salaries, general telephone expense, general travel and supplies usually are considered to be indirect costs.”

Another circular, OMB Circular No. A-21, on Cost Principles for Educational Institutions, provides that the determination of whether specific costs are directly allocable to sponsored agreements shall be based upon the educational institution’s cost accounting practices used at the time of the sponsored agreement proposal. In the PSS financial statements, the salary of the Commissioner was classified as an administration expenditure. The Commissioner’s salary, therefore, forms part of the total PSS administrative expenditures that can be allocated to all federal programs in computing the percentage of the indirect cost payable to PSS.

1 CMC Section 7204 (d) provides that the funds for operations of the Commonwealth shall be appropriated pursuant to annual appropriation acts. If an annual appropriation act is not enacted into law prior to the beginning of the budget year, the appropriation levels and administrative provisions for government operations and obligations are to remain the same as in the previous year. These continuing appropriations are to be expended in quarterly or less allotments for the same purposes and items as before. Continuing appropriations are automatically made until an appropriation act concerning the operations of a particular branch, department, agency, or program becomes law.

During the period from October 1, 1992 to September 30, 1994, CNMI government agencies operated under a continuing appropriation level because no budget appropriation act had been passed by the CNMI Legislature for those years. When Public Law 8-6 increased the Commissioner’s salary, PSS had no money available to fund the increase because it was operating under a continuing appropriation level and PSS had not included the increase in its 1992 budget in which the continuing appropriation level was based.

Prior to the effective date of Public Law 8-6 on October 26, 1992, PSS had already asked the Office of the Inspector General, U.S. Department of Interior in Agana, Guam about the proper use of indirect cost funds. On January 17, 1992, the Office of the Inspector General responded in a letter to PSS that the spending of indirect cost revenues is strictly a matter of local policy, and that PSS need not obtain approval from their office for use of those funds. Accordingly, the Board of Education then tapped its indirect cost collection from the federal government to finance the former Commissioner’s salary increase of \$22,000 per annum from October 26, 1992 to July 4, 1995, totaling about \$59,000. PSS only started paying the \$22,000 increment from local

funding on July 5, 1995 upon advice from the PSS Federal Coordinating Officer. PSS now shows the current allocation of indirect cost funds in its annual budget submissions.

Our audit showed that the use of indirect cost funds for the salary increase of the former Commissioner was in compliance with OMB Circulars. It also showed that the use of indirect cost reimbursements from federal government grants was consistent with the Indirect Cost Negotiation Agreement with the Office of the Inspector General, U.S. Department of Interior.

Conclusion

The use of indirect cost reimbursements from federal government grants by PSS for the salary increase of the former Commissioner in the amount of \$59,000 was in compliance with the provisions of OMB Circulars. It was also consistent with the Indirect Cost Negotiation Agreement with, and approved by, the Office of the Inspector General, U.S. Department of Interior. Furthermore, the payment of \$59,000 was not from unappropriated local funds, and therefore there was no violation of any Commonwealth law or regulation.

Should there be any questions or matters that need further discussion, please let us know when it is convenient for you to meet and discuss the report.

Sincerely,


Leo L. LaMotte
Public Auditor, CNMI

xc: Governor
Lt. Governor
Eleventh CNMI Legislature (27 copies)
Public School System
Acting Attorney General
Secretary of Finance
Special Assistant for Management and Budget
Public Information Officer
Press