



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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August 18, 1999

Ms. Mathilda A. Rosario
Director, Office of Personnel Management
P.O. Box 5153 CHRB
Saipan, MP 96950

Dear Ms. Rosario:

Subject: Final Letter Report on the Audit of the Department of Public Health's Granting of Unequal Salaries to Social Worker Employees (Report No. LT-99-06)

This report presents the results of our audit of the Department of Public Health's (DPH) granting of unequal salaries to social worker employees under the Division of Mental Health and Social Services (DMHSS). The objective of the audit was to determine whether the four DPH-DMHSS social worker employees were compensated equitably in accordance with CNMI personnel laws and regulations.

Our audit showed that three social worker employees were granted salaries in excess of the rates applicable to their qualifications without justification. Specifically, the salaries received by each of the three employees exceeded the rates provided in the regulations by about \$3,600 to \$5,600 annually. We also noted at least three instances when employees were hired or reallocated to a higher class although the minimum work experience required to perform the job were not met. Salaries higher than justified by the employee's education and work experience should not be allowed unless unique circumstances fully documented and available for review are in the employee's personnel file.

We recommended that the Director of Personnel Management (1) enforce compliance with CNMI personnel laws and regulations. The Director should ensure proper classification of each employee's employment status and the granting of appropriate pay rates. The Director should also ensure that the minimum education and work experience qualifications required to perform the job are met upon appointment of an employee; and (2) direct the Secretary of Public Health to prepare the necessary adjustments to correct the salaries of the three social worker employees whose salaries exceed the rates provided by the regulations. We also recommended that the Secretary of Public Health (3) ensure that DPH employees are compensated equitably. The salaries of the three social worker employees should be adjusted to reflect the appropriate salaries based on their qualifications and responsibilities.

In her letter response dated June 15, 1999 (Appendix A), the Director of Personnel Management agreed with Recommendation 1 and disagreed with Recommendation 2. The Director provided comments to Recommendation 3 although we did not seek official comments. For Recommendation 1, the Director provided evidence that OPM enforced proper classification of the employment status of employees. Although she explained that higher pay rates were deemed necessary to recruit and appropriate to employees' qualifications, and that waiver or alteration of some of the minimum qualification requirements was in the best interest of the government, no document was provided showing that a determination had been performed prior to granting higher pay rates and waiving some of the minimum qualification requirements. For Recommendation 2, the Director stated that salaries of the three social worker employees were not excessive and that even if she were to agree that an error by management had occurred, she would not agree with the recommendation because it would cause the employees to suffer a loss. For Recommendation 3, the Director commented that in coordination with DPH, employees' salaries would be reviewed and adjusted when necessary.

In his letter response dated June 18, 1999 (Appendix B), the Secretary of Public Health did not address the recommendation to adjust the salaries of the three social worker employees. He agreed, though, that its employees should be compensated equitably with the Director of Personnel Management as the one responsible.

Based on the responses we received from OPM and DPH, we consider Recommendations 1, 2, and 3 open. The additional information or action required to close the recommendations is presented in Appendix C.

BACKGROUND

On February 11, 1999, the Office of the Public Auditor (OPA) received a complaint that DPH may have violated the CNMI personnel laws and regulations. The complaint alleged that DPH granted unequal salaries to social worker employees occupying the same class title and performing the same job at the DPH's Division of Mental Health and Social Services. After a preliminary investigation, OPA determined that misuse of government funds may have occurred and that a formal audit should be conducted.

DPH-DMHSS has three employees occupying "Social Worker II" positions and one employee occupying a "Social Worker I" position. One of the three Social Worker II employees received a much lower salary than the other two, and even lower than the Social Worker I employee. The details are as follows:

| Employee Number | Position | Pay Level/Step | Salary |
|-----------------|------------------|----------------|-------------|
| 102966 | Social Worker II | 26/01 | \$18,584.42 |
| 102667 | Social Worker II | 26/08 | 26,131.39 |
| 102668 | Social Worker II | 26/08 | 26,131.39 |
| 208472 | Social Worker I | 24/05 | 20,484.60 |

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of the audit was to determine whether the four social worker employees were compensated equitably in accordance with CNMI personnel laws and regulations. To accomplish our objectives, we (1) reviewed and analyzed personnel actions to determine compliance with applicable laws and regulations; (2) examined personnel files such as Request for Personnel Action, Notice of Personnel Action, Employment Contract, Position Description, and Application for Employment; (3) analyzed actual duties and responsibilities; and (4) interviewed knowledgeable officials and personnel from the Civil Service Commission (CSC), Office of Personnel Management (OPM), and DPH-DMHSS.

We conducted our audit at OPM and DPH's offices in Saipan between February and March 1999. This performance 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. Because of the limited scope of our audit, we did not evaluate any other internal controls.

FINDING AND RECOMMENDATIONS

Three Social Worker Employees were Granted Salaries in Excess of those Provided under the CNMI Personnel Regulations without Justification

The CNMI personnel regulations were established to ensure that government employees are compensated equitably in accordance with the approved compensation plan appropriate to their qualifications and responsibilities. Our audit showed, however, that three social worker employees were granted salaries in excess of the rates applicable to their qualifications without justification. Specifically, the salaries received by each of the three employees exceeded the rates provided in the regulations by about \$3,600 to \$5,600 annually. No documentation was available showing that a justification had been made prior to granting higher pay rates. This occurred because top government officials disregarded applicable CNMI laws and regulations and failed to adequately perform their duties and responsibilities. As a result, (1) public funds totaling \$31,794 were spent inappropriately, and the amount could become even greater if salaries are not adjusted promptly; and (2) the protection provided by the personnel laws and regulations against possible inequity in compensation was overridden.

Position Classification and Compensation

The CNMI Personnel Service System Rules and Regulations (PSSRR) established rules for ensuring that salaries of employees under the civil service system be in proportion to differences in difficulty, responsibility, and qualification requirements of the work. All positions were classified in accordance with the approved position classification plan and all employees

were compensated in accordance with the basic compensation plan and certain requirements (e.g., setting salary at the first step of the appropriate pay level upon initial appointment).

The position classification plan grouped positions into “classes” on the basis of the employees’ similarities in duties, responsibilities, and other significant factors. The basic compensation plan assigned the classes to appropriate pay levels of the Base Salary Schedule as established. Each class requires specific minimum education and experience qualifications to perform the work.

The personnel regulations also include these rules in establishing salary upon appointment. Under the regulations, salary shall be fixed at the first step of the appropriate pay level upon initial appointment. If a higher rate is deemed necessary to recruit and is appropriate to the qualifications of the applicant, the salary may be fixed at any succeeding step. Payment of salary above Step 1 of a pay level must be approved by the Director of Personnel Management. The regulations also include this rule for workshops. An employee who successfully completes 120 hours of training workshops that are supervised, sponsored and/or sanctioned by the Director of Personnel Management may be given a salary increase equivalent to one step. No employee may receive more than one step increase in any one calendar year regardless of the number of training workshops that are successfully completed.

1 CMC §8215 additionally provides that an employee shall be granted a one-step, within-grade increase upon completion of 52 consecutive calendar weeks of sustained satisfactory work performance. An employee shall be awarded, in addition, a merit increase (not exceeding one step increase in the base salary) by achieving an overall performance appraisal average score equivalent to “outstanding/exceptional” upon completion of 52 consecutive calendar weeks of sustained superior work performance.

Exemptions from the Civil Service System

1 CMC §8131 requires that the civil service system shall apply to all employees of and positions in the Commonwealth government. The law also sets forth 13 specific persons or positions which are exempt from the civil service system, such as the following.

- Persons or organizations retained by contract where the Personnel Officer has certified that the service to be performed is special or unique and nonpermanent, is essential to the public interest, and that, because of the degree of expertise or special knowledge required and the nature of the services to be performed, it would not be practical to obtain personnel to perform such service through normal public service recruitment procedures.
- Positions of a temporary nature which involve special projects having specific completion dates which shall not exceed one year.

Executive Order 94-3, Section 509(c) also set forth three positions which are to be in the excepted service, as follows.

- (1) Any position in the Office of the Governor (including the Office of the Lieutenant Governor), except the administrative staff of the Office of Personnel Management.
- (2) Any position the duties of which include direct involvement in the making of government policy.
- (3) Any position which requires a confidential relationship with an official appointed by the Governor or with a person appointed to a position described in no. (2).

Positions excepted from the Civil Service System are governed by the Excepted Service Personnel Regulations (ESPR). The Director of Personnel Management, in his memorandum to all department and agency heads dated September 29, 1995, provided guidelines for submission of excepted service contracts which include that the Appointing Authority state what statutory provision applies in the first paragraph of the Excepted Service Contract and in the “Remarks” section of the Request for Personnel Action. If the exception is not self-explanatory, there should be an explanation in the “Remarks” section of how the position fits the criteria. With regards to compensation, Part 1.7 A of the ESPR provides that “salary shall be negotiated based on the qualifications of the individual, ... and other pertinent factor used in the selection processes....”

Salaries in Excess of the Rates Provided by the Regulations

Our audit showed that three social worker employees were granted salaries in excess of the rates applicable to their qualifications without justification. The salaries received by each of the three employees exceeded the rates provided in the regulations by about \$3,600 to \$5,600 annually. A comparison of the employees’ appropriate salaries, as determined based on the employees’ education and work experience, and their current salaries follows:

| Employee Number | Qualification as of 4/99 | | Appropriate | | | Current | | | Excess Salary |
|-----------------|--------------------------------------|-----------------------------------|-------------------|-----------------|-------------|------------------|-----------------|-------------|---------------|
| | Education | Months of Work-related Experience | Class Title | Pay Level/ Step | Salary | Class Title | Pay Level/ Step | Salary | |
| 102667 | Bachelor of Arts Major in Psychology | 34 | Social Worker II | 26/03* | \$20,484.60 | Social Worker II | 26/08 | \$26,131.39 | \$5,646.79 |
| 102668 | same | 34 | Social Worker II | 26/03* | 20,484.60 | Social Worker II | 26/08 | 26,131.39 | 5,646.79 |
| 208472 | same | 6 | Social Worker I** | 24/01 | 16,858.38 | Social Worker I | 24/05 | 20,484.60 | 3,626.22 |

* Fixed at step 3; additional 2 steps were given: one step for the 10 months additional work-related experience and another step for the training that the employees had attended. The minimum work-related experience required for this class is 24 months. Although the employees had only 10 months of additional work-related experience (not one year), OPA added one step (equivalent to within-grade increase) to be conservative in computing the excess salaries. The employees’ personnel files showed that both employees received an overall “satisfactory” performance ratings.

** Considered as Social Worker I although the minimum work-related experience of one year was not met (further discussed on page 8 on topic of Personnel Action of Employee no. 208472).

Note: The degree and nature of responsibilities assigned to the employees were also considered in determining the appropriate salaries above, based on our discussions with the employees’ supervisors.

Personnel Actions of Employee Nos. 102667 and 102668

Two social worker employees, Employee Nos. 102667 and 102668, have the same personnel actions (with changes in salary), as follows:

| Personnel Action | Effective Date | From | | | To | | |
|---|----------------|--------------------|-----------------|-------------|--------------------|-----------------|-------------|
| | | Class Title | Pay Level/ Step | Salary | Class Title | Pay Level/ Step | Salary |
| Excepted Service Appointment | 01/01/97 | | | | Clinical Associate | Ungraded | \$24,000.00 |
| Excepted Service Contract - Renewal | 01/01/98 | Clinical Associate | Ungraded | \$24,000.00 | Clinical Associate | Ungraded | 25,200.00 |
| Excepted Service Contract to Civil Service System | 01/01/99 | Clinical Associate | Ungraded | 25,200.00 | Social Worker II | 26/08 | 26,131.39* |

* Also on January 1, 1999, a personnel action for Employee No. 102667 was processed to reflect education leave with pay. The salary was reduced to \$13,085.70 (½ of the salary for the pay level).

Our audit showed that the position of the two employees when initially hired was improperly excepted from the civil service system; the employees were granted high pay rates (more than \$7,000 per year higher than the equivalent salary under civil service); and when converted to civil service as Social Worker II, they continued to receive the same level of compensation which was equivalent to five steps higher than the appropriate pay level for the position upon initial appointment (equivalent to about \$5,600 annually). The details are as follows:

1. *Improper Exception of the Position from the Civil Service System*

The employees were hired as clinical associates under excepted service appointments although the position “Clinical Associate” was not included among those persons or positions which were exempted by law from the civil service system. The former Director of DPH-DMHSS and the former Secretary of Public Health did not state in the first paragraph of the Excepted Service contract and in the “Remarks” section of the Request for Personnel Action (RFPA)¹ the statutory provision that applies for excepting the position from the civil service system as required by the OPM memorandum dated 9/29/95. The former Director of Personnel Management certified in the contract that the service contracted for qualified the employee for excepted service under 1 CMC §8131 of the Commonwealth Code and Executive Order 94-3, Section 509 (c).² OPA believes, however, that the position excepted did not fit the criteria in the laws cited to qualify as an exception. Also, based on the budget appropriation law passed for fiscal year 1997, no position of clinical associate had been budgeted. It appeared that the position was created

¹ The basis was only for Employee No. 102667 RFPA because Employee No. 102668's RFPA was not on file.

² For Employee No. 102668 contract, the former Director of Personnel Management cited only 1 CMC §8131 of the Commonwealth Code as the basis for exception from the civil service system.

only to grant the two employees higher salaries (see the discussion under 2, next page). The fact that the employees were subsequently converted to the civil service system as Social Workers II (see the discussion under 3, page 8) further supports our opinion that the classification of the position under excepted service was improper.

Based on our discussion with the Chief of the OPM Job Classification Section, the two employees should have been hired under the Civil Service System, based on his evaluation. He added that he does not know the reasons why the former OPM officials approved the two employees' appointment under excepted service.

2. *Granting of High Pay Rates Under Excepted Service*

When the two employees were hired as clinical associates under excepted service appointments, they were granted annual salary rates which were \$7,000 higher than the equivalent salary under civil service. The position of Clinical Associate was not included among the positions established in the Civil Service System. Salaries under excepted service must commensurate with those paid by the civil service requiring comparable education, training and experience. Based on the employees' educational attainment (Bachelor of Arts (BA), Major in Psychology graduate) and work experience (six months experience in a clinical setting),³ the highest position they could occupy under the civil service system was Social Worker I which was set at pay level 24. At step 1, the salary should have been \$16,858.38. The employees, however, were granted salaries of \$24,000 (equivalent to step 8 for the position) resulting in higher salaries of more than \$7,000 each. The employees' personnel files did not include any supporting documents or explanation that higher pay rates were deemed necessary to recruit the employees and were appropriate to their qualifications.

It should be noted that for Social Worker I position, the minimum work-related experience was one year. The employees did not even meet this minimum requirement but OPA considered them under the Social Worker I position to be conservative in computing the excess salaries. Our audit also showed that prior to the initial hiring of the two employees, both of them were given questionable sole source professional service contracts by DPH. The contracts, which were titled "Substance Abuse and Mental Health Program Expansion," were for a six-month period ending December 31, 1996 and amounted to \$12,000 each. The written justifications by the former Secretary of Public Health did not contain explanations of the contractors' unique capabilities and/or consideration given to alternative sources as required by the CNMI Procurement Regulations. These contracts provided the two employees six months experience in a clinical setting, which was the work experience required for the position of clinical associate.

³ Employee No. 102667 had other work experience totaling about 2 years which was not social work-related (e.g., stock clerk and management information system trainee at a private company).

3. *Granting of High Pay Rates Under Civil Service*

When the two employees were converted from excepted service as Clinical Associates to civil service as Social Worker II, they continued to receive the same level of compensation, which was equivalent to five steps higher than the appropriate pay level for the position upon initial appointment (equivalent to about \$5,600 annually). The employees were given salaries of \$26,131.39 (at pay level 26, step 8). The employees' personnel files did not include any supporting documents or explanation that higher pay rates were deemed necessary to recruit the employees and were appropriate to their qualifications. The employees were in effect given a 3.7% increase from their previous salaries under their excepted service contracts.

Based on our discussion with the CSC Chairman, there is no specific provision in the PSSRR and ESPR regarding the conversion of an employee under excepted service to civil service. He believes that the PSSRR's provision regarding establishing salary upon appointment would also apply in determining an employee's compensation.

Based on the employees' education (BA, Major in Psychology graduate) and work experience at that time (2½ years work-related experience), the highest step that should have been given for the pay level was step 3 (*i.e.*, two additional steps: one step for the six months additional work-related experience⁴ and another step for training that the employees had attended). The salary granted of \$26,131.39 resulted in a salary more than \$5,600 higher than the proper salary of \$20,484.60.

Personnel Action of Employee No. 208472

The third employee, Employee No. 208472, was hired as Social Worker I and granted a salary which was equivalent to four steps higher than the appropriate pay level for the position upon initial appointment (equivalent to about \$3,600 annually). The employee was given a salary of \$20,484.60 (equivalent to pay level 24, step 5). There was no justification on file, however, to explain why the salary was not fixed at the first step of pay level 24 and a higher rate deemed necessary for the employee, as required. Also, the minimum work-related requirement for the position was one year and the employee did not even have any work-related experience (see discussion under Other Matters, next page). Assuming the employee was qualified as Social Worker I, the highest step that should have been given was step 1 with a salary of \$16,858.38. Thus, the salary granted of \$20,484.60 resulted in a salary more than \$3,600 higher than the proper salary.

⁴The minimum work-related experience required for this class was 24 months. Although the employees had only six months of additional work-related experience (not one year), OPA added one step (equivalent to within-grade increase) to be conservative in computing the excess salaries. The employees' personnel files showed that both employees received an overall "satisfactory" performance ratings.

Other Matters

Aside from Employee No. 208472, we also noted at least two other instances where an employee was appointed to a class or reallocated to a higher class although the specific minimum work experience qualifications required to perform the job were not met. The employees' files did not include written documentation to justify that waiver or alteration of some of the minimum requirements was in the best interest of the government. The details are as follows:

| Employee Number | Personnel Action | Effective Date | Class Title | Pay Level/ Step | Salary | Months of Work-related Experience | |
|-----------------|------------------------------|----------------|---------------------|-----------------|-------------|-----------------------------------|--------|
| | | | | | | Minimum | Actual |
| 102966 | Limited Term Appointment | 6/21/95 | Social Worker Asst. | 18/01 | \$13,052.98 | 36 | 0* |
| | Reallocation to Higher Class | 12/6/98 | Social Worker II | 26/01 | 18,584.42 | 24 | 17** |
| 208472 | Limited term Appointment | 11/9/98 | Social Worker I | 24/05 | 20,484.60 | 12 | 0*** |

* The employee's experiences were not social work-related (e.g., waitress/ cashier and sales clerk from private companies) and totaled only 19 months.

** As DPH Social Worker Assistant (from 6/21/95 to 8/8/96, and from 8/19/98 to 12/6/98). The employee was on education leave from 8/96 to 8/98.

*** The employee's experiences were also not social work-related (e.g., tutor and clerical assistant at a university or college) and totaled only 11 months (per application form), although her resume showed additional non social work-related experience in 1995 and 1998 (as Management and Teaching Assistant, respectively; did not state inclusive period of work).

CNMI Personnel Laws and Regulations Were Violated

The violations of CNMI personnel laws and regulations occurred because top government officials disregarded applicable CNMI laws and regulations and failed to adequately perform their duties and responsibilities. The Director of DMHSS, Secretary of Public Health, and Director of Personnel Management allowed the three employees to receive salaries in excess of the rates provided by the regulations without documentation of the determination that they qualified for higher rates. Subsequent justification provided by the Director of Personnel Management in her response to the draft audit report was still insufficient to warrant such higher rates. As a result, (1) public funds totaling \$31,794 were spent inappropriately, and the amount could become even greater if salaries are not adjusted promptly;⁵ and (2) the protection provided by the personnel laws and regulations against possible inequity in compensation was overridden. A summary of the overpayments received by the three employees is presented in the following table (see next page):

⁵ OPA does not recommend recovery of the overpayments because these were received in good faith by the employees. We recommend, however, that salaries be adjusted accordingly (see Conclusion and Recommendations section).

| Personnel Action | Effective Date | Granted | | | Should Be | | Overpayment |
|--|----------------|--------------------|-----------------|-------------|-----------------|-------------|-------------|
| | | Class Title | Pay Level/ Step | Salary | Pay Level/ Step | Salary | |
| 1. Employee No. 102667 | | | | | | | |
| Excepted Service Appointment | 01/01/97 | Clinical Associate | Ungraded | \$24,000.00 | 24/01 | \$16,858.38 | \$7,141.62 |
| Excepted Service Contract - Renewal | 01/01/98 | Clinical Associate | Ungraded | 25,200.00 | 26/01 | 18,584.42 | 6,615.58 |
| Excepted Service Contract to Civil Service | 01/01/99 | Social Worker II | 26/08 | 26,131.39 | 26/03 | 20,484.60 | 0.00 |
| Education Leave with pay (ELWP) | 01/01/99 | ELWP | 26/08 | 13,085.70 | 26/03 | 10,242.30 | 868.76* |
| Sub-total | | | | | | | 14,625.96 |
| 2. Employee No. 102668 | | | | | | | |
| Excepted Service Appointment | 01/01/97 | Clinical Associate | Ungraded | \$24,000.00 | 24/01 | \$16,858.38 | 7,141.62 |
| Excepted Service Contract - Renewal | 01/01/98 | Clinical Associate | Ungraded | 25,200.00 | 26/01 | 18,584.42 | 6,615.58 |
| Excepted Service Contract to Civil Service | 01/01/99 | Social Worker II | 26/08 | 26,131.39 | 26/03 | 20,484.60 | 1,737.44* |
| Sub-total | | | | | | | 15,494.64 |
| 3. Employee No.208472 | | | | | | | |
| Limited Term Appointment | 11/09/98 | Social Worker I | 24/05 | \$20,484.60 | 24/01 | \$16,858.38 | 1,673.64* |
| Overall Total | | | | | | | \$31,794.24 |

* Computed from effective date to 4/24/99 (latest pay period ending to date).

Conclusion and Recommendations

The employment status of social worker employees was improperly classified and salaries granted were in excess of rates applicable to employees' qualifications without documentation that they qualified for higher pay rates. Accordingly, we recommend that the:

Director of Personnel Management

1. Enforce compliance with CNMI personnel laws and regulations. The Director should ensure proper classification of each employees' employment status and the granting of appropriate pay rates. The Director should also ensure that the minimum education and work experience qualifications required to perform the job are met upon appointment of an employee, and
2. Direct the Secretary of Public Health to prepare the necessary adjustments to correct the salaries of the three social worker employees whose salaries exceed the rates provided by the regulations.

Secretary of Public Health

3. Ensure that DPH employees are compensated equitably. The salaries of the three social worker employees should be adjusted to reflect the appropriate salaries based on their qualifications and responsibilities.

Office of Personnel Management Response

In her letter response dated June 15, 1999 (Appendix A), the Director of Personnel Management agreed with Recommendation 1 and disagreed with Recommendation 2. The Director provided comments to Recommendation 3 although we did not seek official comments. The details are as follows:

Recommendation 1 - The Director agreed with the recommendation and provided evidence that OPM enforced proper classification of the employment status of employees (*i.e.*, by converting those improperly excepted to civil service status). She explained, however, as follows: (1) the personnel regulations do not limit the Director of Personnel's authority to determine initial salary levels. The guidance provided for higher initial salary rates requires subjective judgment and decisions by the Appointing Authority and the Director of Personnel regarding both the need for the service and the value of the applicant's qualifications; and (2) there are occasions when it is in the best interest of the government to waive or alter some of the minimum qualification requirements. The Director must make decisions with due consideration of the needs of the government service versus the potential problems that any exception may cause.

Recommendation 2 - disagreed with the recommendation and stated that salaries of the three social worker employees were not excessive and were reasonable for college graduates in a healthcare-related field. The Director acknowledged, however, the perceived unfairness to Employee no. 102966 whose salary was lower. She explained, though, that this was in accordance with personnel regulations because the employee was a civil servant before obtaining her degree and her salary was restricted by regulations to only a two-step increase after graduation and upon return to work. The Director also stated that even if she were to agree that an error by management had occurred, she would not agree with the recommendation because it would cause the employees to suffer a loss.

Recommendation 3 - agreed with the recommendation and stated that OPM has been working with DPH to review salaries and adjust them when necessary. These efforts will continue and appropriate adjustments will be made as determined possible within the limits of statutes, regulations, and the present situation of austerity. A program of Personnel Management Evaluations is being conducted and this will include DPH and the social worker class series.

Department of Public Health Response

In his letter response dated June 18, 1999 (Appendix B), the Secretary of Public Health agreed with Recommendation 3 and stated that he believes that the Director of Personnel Management, as the one responsible for ensuring that the public funds utilized for payment of personnel salaries are expended in a cost-effective fashion that benefits the public interest, also should ensure equitable compensation for all requests for personnel action from DPH. He stated that his office continues to work with OPM regularly to evaluate salaries, and make

recommendations and proposals when appropriate. OPM will soon conduct evaluations of all current positions at DPH, and this will include the social worker class series.

OPA Comments

Based on the responses we received from the Director of Personnel Management and the Secretary of Public Health, we consider Recommendations 1, 2, and 3 as open because of the following:

Recommendation 1 - OPA's audit report acknowledged that the personnel regulations do not limit the Director of Personnel's authority to determine initial salary levels by stating (in the initial part of the finding and recommendations section) that "If a higher rate is deemed necessary to recruit and is appropriate to the qualifications of the applicant, the salary may be fixed at any succeeding step." The employees' personnel files did not include, however, any supporting documents or explanation that higher pay rates were deemed necessary to recruit the employees. Also, the employees' files did not include written documentation to justify that waiver or alteration of some of the minimum requirements was in the best interest of the government. Salaries higher than justified by the employee's education and work experience should not be allowed unless unique circumstances fully documented and available for review are in the employee's personnel file.

Recommendation 2 - OPM should reconsider and implement the recommendation. OPA did not state that the salaries granted were excessive, only that the salaries granted exceeded the rates provided in the regulations without justification. The subsequent justification provided in the response was not acceptable because an employee in this class requires a minimum education of Bachelor of Arts degree graduate. Since the employees met only that minimum requirement (graduation in a healthcare-related field) without additional education, they were not entitled to higher rates or steps. OPA also does not agree that the employees will "suffer a loss." The employees actually gained an unfair advantage or were overpaid in the past, and therefore appropriate adjustments should be made to comply with the personnel regulations and ensure equity in compensation.

Recommendation 3 - DPH did not address the recommendation to adjust the salaries of the three social worker employees. We also noted inconsistencies in the OPM Director's comments to Recommendation 3 and response to Recommendation 2. Her comment that salaries would be reviewed and adjusted when necessary does not agree with her response to Recommendation 2 that adjustments would not be made even if an error by management had occurred because it would cause the employees to suffer a loss.

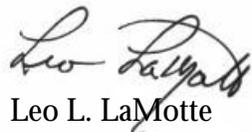
The additional information or action required to close Recommendations 1, 2, and 3 is presented in Appendix C.

* * *

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 the auditors are 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 implementation within 30 days along with documentation showing the specific actions that were taken. If corrective actions will take longer than 30 days, please provide us additional information every 60 days until we notify you that the recommendation has been closed.

Sincerely,



Leo L. LaMotte
Public Auditor, CNMI

xc: Governor
Lt. Governor
Eleventh CNMI Legislature (27 copies)
Secretary of Public Health
Acting Attorney General
Secretary of Finance
Acting Special Assistant for Management and Budget
Public Information Officer
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JUN 15 1999

Mr. Leo LaMotte
Public Auditor
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Saipan, M.P. 96950



Subject: Response to the *Draft Report on the Audit of the Department of Public Health's Granting of Unequal Salaries to Social Worker Employees*

Dear Mr. LaMotte

I have reviewed the subject draft report and appreciate the effort that went into the investigation and the preparation of the report. However, I find that the audit provides an incorrectly stated conclusion that does not reflect the argument of the facts provided. Furthermore, the logic of the audit's argument does not take into consideration the mutual agreement factor of recruitment and salary establishment. It also inserts presumptive guidance and restriction into the initial salary determination process that does not exist in the personnel regulation or any statute. Based upon the unsupported limitation of this formula, it concludes that the salaries established exceeded regulations. While the salaries did exceed the auditor's constructed salary, based upon the civil service step 1 entry level plus steps for experience, the regulation does not include this formula or limit the Director of Personnel's authority to determine initial salary levels. The guidance provided for higher initial salary rates requires subjective judgements and decisions by the Appointing Authority and the Director of Personnel regarding both the need of the service and the value of the applicant's qualifications.

"Should a higher rate be deemed necessary to recruit, and is appropriate to the qualifications of the applicant, the salary may be fixed at any succeeding step

The report's argument then went on to prescribe corrective action at the expense of the employee that, even if a violation of law or regulation did exist, was due to management decision or error, and not the fault of the employee.

The subject audit report drew one conclusion and listed three recommendation. I will address them separately and in turn.

Conclusion

High-level officials disregarded existing laws and regulations in classifying positions and compensating employees

Comment: This statement is written incorrectly and does not correctly express the argument and allegations of the report. The violation that did occur, and was properly supported in the report, was in the determination of the employment status of the employees (excepted service rather than civil service), and not in the classifying of positions. Further, the allegation of disregarding existing laws and regulations in compensating employees is not adequately supported by either regulation or law. Part IV.B4.A of the *Personnel Service System Rules and Regulations* allows the fixing of a salary at a higher rate at any succeeding step in the grade, with the Director of Personnel's approval, if it is deemed necessary to recruit and is appropriate to the qualifications of the applicant. The fulfillment of the conditions in this statement and the selection of the appropriate step in the grade for the higher rate of pay are at the discretion of the Director of Personnel. No additional guidance or formula are provided by law or regulation.

Recommendations

1. Enforce compliance with CNMI personnel laws and regulations without exception. The Director should ensure that the minimum education and work experience qualifications required to perform the job are met upon appointment of an employee.

Comment: Upon inspection of the appointment histories of the subject employees, I would agree that the appointment of Yamada and Boddy to excepted service status was improper. These appointments were made during the last administration. You will note that the correction to properly classify them as civil service employees was made under my direction. They were then placed at the closest salary that did not involve a loss to the employee. This is the normal practice in such conversions.

The report gives direction to the Director of Personnel to ensure that the minimum education and work experience qualification are met. I do not require guidance to perform my duties. One of the Director of Personnel's responsibilities, inherent in the statutory duty to administer the system of personnel management for the executive branch of the Commonwealth government [1 CMC §8124(b)], is to ensure that the public funds utilized for payment of personnel salaries are expended in a cost effective fashion that benefits the public interest. I am also charged with fostering and developing programs to promote the public service and to improve employee efficiency [1 CMC §8124(f)]. Thirdly, I am responsible for developing and maintaining adequate position classification plans and compensation plans [1 CMC §8124(g)]. I am further charged and entrusted to perform only lawful acts in the conduct of my duties [1 CMC §8124(k)].

Every effort is made to recruit and hire the employees needed to staff the government functions, activities and programs that provide and promote public services. Every effort is made to do so in a cost effective fashion. There are occasions when it is in the best interest of the government and the public services provided to waive or alter some of the minimum requirements. The Director of Personnel must make these decisions with due consideration of the needs of the government service versus the potential problems that any exception made. I must point out to the auditor who composed this letter that no process works "without exception."

2. Direct the Secretary of Public Health to prepare the necessary adjustments to correct the salaries of the three social worker employees whose salaries exceed the rates provided by the regulation.

Comment: I must state my opposition to the recommendation to reduce those salaries perceived as improper by the audit report and comment on the "non-exact science" of the management of human resources. I do not agree that the salaries were excessive. They are reasonable salaries for college graduates in a healthcare-related field. Additionally, in a job class that has been traditionally filled with non-college graduates, or with graduates recruited at a higher cost from the mainland, recruiting local graduates was, in fact, a cost saving. The salary for Ms. Hofschneider, upon review of salaries paid to other Social Workers I, appears to be consistent. The problem lies with Ms. Barrineau who, out of all four of the social workers involved, was a civil servant before obtaining her degree, and who attended school on a program where she received a government salary. Her placement after graduation and upon return to work is restricted by regulation to only a two step increase. No provision for negotiation exists for the reallocation of a civil service employee that allows for a higher increase.

I acknowledge the perceived unfairness to Ms. Barrineau, but must assert that her salary is in accordance with regulation. However, neither good personnel management or recommended legal action supports correcting what you view as a management error. Even if I were to agree that an error by Management had occurred, I would not agree with this recommendation that would cause the employee to suffer a loss.

3. Ensure that DPH employees are compensated equitably. The salaries of social worker employees should be adjusted to reflect the appropriate salaries based on their qualifications and responsibilities.

Comment: This is the appropriate recommendation that should be the result of this report, rather than comments 1 and 2. This Office has been working with the Department of Public Health to review salaries and adjust them where possible. These efforts will continue and appropriate adjustments will be made as determined possible within the limits of statutes, regulations and the present situation of austerity. A program of Personnel Management Evaluations are being conducted. This will include the Department of Public Health and the social worker series of positions. The Office of Personnel Management also anticipates reviewing all job classes and standards this next fiscal year with a classification consultant, provided by the U S D A Graduate School, in an effort to evaluate the current salary scale and classification system.

Again, I appreciate the hard work that went into this investigation. Do not hesitate to call me if there are any questions regarding this response. The Office of Personnel Management supports the efforts of the Public Auditor.


MATHILDA A. ROSARIO
Director of Personnel

cc Governor
Lieutenant Governor
Secretary of Public Health
Acting Chief, Classification and Compensation, OPM

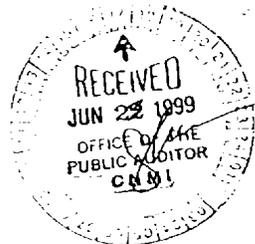


**Commonwealthil Falúw Kka Efáng Mellól Marianas
Bwulasiyool Limilimal Toulap**

Bwulasiyool Secretary

June 18, 1999

Mr. Leo LaMotte
Public Auditor
Office of the Public Auditor
Commonwealth of the Northern Mariana Islands
P.O. Box 1399
Saipan, MP 96950



Re: Response to "Draft Report on the Audit of the Department of Public Health's Granting of Unequal Salaries to Social Worker Employees"

Dear Mr. LaMotte

Thank you for providing me a copy of your draft audit letter report of April 20, 1999. In addition, I thank you for the opportunity to make comments to the audit letter report. I appreciate the work of the auditors that drafted the report. However, I believe that every effort was made to comply with CNMI Laws and Personnel Service System Rules and Regulations.

I did, however, note an area where I believe should be clarified or expanded:

Recommendation 3. Ensure that DPH employees are compensated equitably. The salaries of Social Worker employees should be adjusted to reflect the appropriate salaries based on their qualifications and responsibilities.

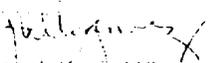
Response: All requests for personnel actions for both Civil Service and Excepted Service must be approved by the Director of the Office Personnel Management (OPM). I believe one of the statutory responsibilities of the Director of OPM is to administer the Personnel Service System Rules and Regulations for Civil Service and Excepted Service employees for the Executive Branch of the CNMI Government [1CMC §8124(B)], is to ensure that the public funds utilized for payment of personnel salaries are expended in a cost-effective fashion that benefits the public interest. I believe that the Director of OPM ensures equitable compensation for all requests for personnel action from the Department of Public Health. My office continues to work with the Office of Personnel Management regularly to evaluate salaries and make recommendations and proposals when appropriate. OPM will soon

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conduct evaluations of all current positions at DPH, and this will include the Social Worker class series

If you need any additional information to close this audit, please contact my office at 234-8950, Ext 2002.

Sincerely,


Joseph Kevin Villagomez
Secretary of Health

xc: Governor
Lt Governor
Director, OPM
Acting Chief, Classification & Compensation, OPM

AUDIT OF THE DEPARTMENT OF PUBLIC HEALTH'S
GRANTING OF UNEQUAL SALARIES TO SOCIAL WORKER EMPLOYEES

STATUS OF RECOMMENDATIONS

| Recommendations | Agency to Act | Status | Agency Response/ Action Required |
|--|---------------|--------|---|
| <p>1. Enforce compliance with CNMI personnel laws and regulations. The Director should ensure proper classification of employees' employment status and granting of appropriate pay rates. The Director should also ensure the minimum education and work experience qualifications required to perform the job are met upon appointment of an employee.</p> | OPM | Open | <p>The Director of Personnel Management agreed with Recommendation 1 and disagreed with Recommendation 2. For Recommendation 1, the Director provided evidence that OPM enforced proper classification of the employment status of employees. Although she explained that higher pay rates were deemed necessary to recruit and appropriate to employees' qualifications, and that waiver or alteration of some of the minimum qualification requirements was in the best interest of the government, no document was provided showing that a determination had been performed prior to granting higher pay rates and waiving some of the minimum qualification requirements. For Recommendation 2, the Director stated that salaries of the three social worker employees were not excessive and that even if she were to agree that an error by management had occurred, she would not agree with the recommendation because it would cause the employees to suffer a loss.</p> |
| <p>2. Direct the Secretary of Public Health to prepare the necessary adjustments to correct the salaries of the three social worker employees whose salaries exceed the rates provided by the regulations.</p> | OPM | Open | <p>Further Actions Needed</p> <p>Recommendation 1 - Provide OPA evidence that OPM ensures granting of appropriate pay rates and compliance with minimum education and work experience qualification requirements (e.g., copy of a directive requiring Appointing Authorities that salaries higher than justified by the employee's education and work experience should not be allowed unless unique circumstances fully documented and available for review are in the employee's personnel file).</p> <p>Recommendation 2 - The Director of Personnel should reconsider and implement the recommendation.</p> |
| <p>3. Ensure that DPH employees are compensated equitably. The salaries of the three social worker employees should be adjusted to reflect the appropriate salaries based on their qualifications and responsibilities.</p> | DPH | Open | <p>The Secretary of Public Health did not address the recommendation to adjust the salaries of the three social worker employees. He agreed, though, that its employees should be compensated equitably with the Director of Personnel Management as the one responsible. The Director of Personnel Management provided comments to the recommendation although we did not seek official comments. She commented that in coordination with DPH, employees' salaries would be reviewed and adjusted when necessary.</p> <p>Further Action Needed</p> <p>The Secretary of Public Health should implement the recommendation. Provide OPA copies of documents showing adjustments in the salaries of the three social worker employees.</p> |