



# Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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July 8, 1996

Mr. Luis S. Camacho  
Director, Office of Personnel Management  
Saipan, MP 96950

Dear Mr. Camacho:

**Subject: Final Letter Report on the Procurement of Computers, Printers and Accessories by the Office of Personnel Management (Report No. LT-96-03)**

At your request, we reviewed the recent procurement of computers and printers by the Office of Personnel Management (OPM). In a meeting on May 13, 1996, you requested that we review the purchase and accountability of OPM's computers. Although you did not specify the scope of your request, we reviewed the latest purchase of computers, printers, and accessories which were requisitioned under Purchase Requisition No. 96-045. The objectives of our review were to determine whether (1) the computers and printers were delivered to and installed at OPM, and (2) the procurement was made in compliance with CNMI's Procurement Regulations.

Our review showed, however, that computers, printers and accessories amounting to \$14,165 were purchased by and delivered to OPM without competitive bidding, and without the required documentation and government officials' signatures. As a result, OPM violated CNMI's Procurement Regulations. We recommended that the OPM Director (1) return the computers, printers, and accessories to the vendor, (2) advertise and award the procurement by competitive sealed bidding if funding for the equipment is available and if the procurement cost is \$10,000 or more, and (3) instruct the Supply Officer to comply with CNMI's Procurement Regulations for future OPM purchases. We added recommendation no. 4 which requires OPM to obtain documentation that funds were made available through reprogramming or other valid means.

In his letter response dated June 21, 1996 (**Appendix A**), the Director of OPM agreed with our findings. Based on the letter response, two of our four recommendations were considered closed and two were resolved. OPM requested that we withdraw recommendation nos. 1 and 2 because, according to the OPM Director, returning the computers to the vendor would not be in the best interest of the CNMI Government. Instead of returning the computers, the OPM Director requested that the purchase be ratified and affirmed under the Expedited Procurement Method. We find that OPM's request to withdraw recommendation nos. 1 and 2 is reasonable and, accordingly, we have withdrawn the two recommendations. We therefore consider recommendation nos. 1 and 2 closed. For recommendation no. 3, the Director stated that the

OPM Supply Officer was instructed in writing to comply with the CNMI Procurement Regulations for future purchases by OPM, and the actions of employees involved in the purchase are being reviewed by their immediate supervisor and adverse action is being considered. We consider recommendation no. 3 resolved pending receipt of documents showing whether any adverse action was taken against employees responsible for violations of CNMI's Procurement Regulations. For recommendation no. 4, the Director stated that OMB has indicated that the funds have been made available by reprogramming unused amounts from OPM's staffing budget. We consider recommendation no. 4 resolved; however, in order to close this recommendation we need a copy of a document from OMB stating the availability of funds to pay for the computers and authorizing the expenditure of such funds.

## **BACKGROUND**

On August 24, 1994, Executive Order No. 94-3 dissolved the Personnel Office and transferred its functions to OPM, which is headed by a Director of Personnel. At present, OPM is under the Office of the Governor. As a government agency, OPM's procurement of supplies, goods, and services is governed by CNMI's Procurement Regulations. The Regulations require all procurement to go through certain government officials to ensure the availability of funds and proper documentation, among other purposes.

Procurement is initiated by a government agency through a purchase requisition signed by the official with expenditure authority. Each agency monitors its own requisitions by assigning a control number to each one. One of the recent requisitions prepared by OPM was numbered 96-045. Purchase Requisition (PR) No. 96-045 consisted mainly of the more recent versions of desktop computers, laser printers, and color ink jet printers which were delivered by Saipan Computer Services (vendor) on April 4 and 11, 1996. We focused our review on this purchase after learning from a staff member of OPM that the Director's main concern was the accountability of computers and printers purchased under PR 96-045.

We learned that PR No. 96-045 should have been assigned as PR No. 96-046 because PR No. 96-045 had been used for another requisition. For the purpose of this report, however, we will refer to the subject purchase requisition as PR 96-045.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

The objectives of our review were to determine whether (1) the computers and printers were delivered to and installed at OPM, and (2) the procurement was made in compliance with CNMI's Procurement Regulations.

The scope of our review was limited to the evaluation of the purchase of computers and printers under PR 96-045. As part of our review, we inspected the computers and printers purchased under PR 96-045 and obtained additional information through discussions with employees of the vendor, OPM, and the Division of Procurement and Supply (P & S). Also, we obtained relevant documents and reports from OPM and the vendor.

## **RESULTS OF REVIEW**

CNMI's Procurement Regulations require that purchases amounting to \$10,000 and above be awarded by competitive sealed bidding, and that the procurement be routed through certain government officials to ensure the availability of funds and proper documentation, among other purposes. Our review showed, however, that computers, printers and accessories amounting to \$14,165 were purchased by and delivered to OPM without competitive bidding, and without the required documentation and government officials' signatures. This occurred because the OPM Supply Officer did not comply with the required procurement procedures. As a result, OPM violated CNMI's Procurement Regulations.

### **Discussion**

CNMI's Procurement Regulations require purchases amounting to \$10,000 and above to undergo competitive sealed bidding, except when the purchase qualifies as a sole source, emergency, or expedited procurement. Section 3-102(9)(b) of the Procurement Regulations states that no acceptance of an offer shall occur nor shall any contract be formed until a government contract is written and has been approved by all government officials required by law or regulation. The government officials required to sign a contract include the Secretary of the Department of Finance (DOF) who shall certify the availability of funds, the Attorney General who shall certify the contract as to form and legal capacity, the Director of P & S who shall review the contract documents for completeness, and the Governor for approval, among others. Furthermore, Section 1-108 states that any procurement action of an employee of the government in violation of the procurement regulations is an action outside the scope of his employment.

Our review showed, however, that computers, printers and accessories amounting to \$14,165 were purchased by and delivered to OPM without competitive bidding. These items, which were covered by PR 96-045, were approved for purchase by the OPM Director on April 2, 1996. Our inquiry at P & S and at OPM indicate that PR 96-045 was not submitted for the signature of the P & S Director and was not certified for funds availability by the DOF Secretary. The OPM Supply Officer confirmed that there was no bidding on PR 96-045 and that the order was placed directly with the vendor. Additionally, no Purchase Order (PO) or contract was prepared for this purchase.

Items requested under PR 96-045 showed a total cost of \$25,623, consisting mainly of two desktop computers with Pentium 100 MHz microprocessor (P5-100), five desktop computers with Pentium 75 MHz microprocessor (P5-75), two LaserJet printers (version 5L), two color printers (version 660C), and a color scanner. In an interview, an employee of the vendor firm said that the OPM Supply Officer ordered the delivery of these items to OPM, using PR No. 96-045 as the purchase document. The employee added that they agreed to deliver the equipment to OPM on April 4 and 11, 1996 because the Supply Officer promised that a PO would be provided after one week. Based on delivery documents, the vendor delivered all the items in PR 96-045 except for four P5-75 desk top computers. The amount of those items delivered to OPM totaled \$14,165.

Our inspection showed that the computers and printers delivered by the vendor were installed and are now being used by OPM; however, the vendor has yet to be paid because OPM does not have a budget for the purchase of computer equipment. OPM's fiscal year 1996 expenditures were to be maintained at the fiscal year 1995 budget level as a result of the Governor's line-item veto. Although we were told that OPM requested the Office of Management and Budget (OMB) to reprogram funds to pay for these computers, it was apparent that OPM did not ensure the availability of funds before the computers were purchased.

This occurred because the OPM Supply Officer did not comply with the required procurement procedures. An employee of OPM told us that the Supply Officer knew that no OPM funds were available to pay for the computers and in case funds were made available, the purchase should be bid out. The OPM Supply Officer acknowledged that he made the purchase without the necessary government signatures and documentation, such as a purchase order, because OPM needed the computers.

As a result, OPM has violated CNMI's Procurement Regulations. Because the purchase did not have the necessary government signatures, the CNMI Government is not liable to the vendor for the payment of the computers, printers, and accessories delivered to OPM. As a matter of fairness, however, the vendor may be paid just compensation by the CNMI Government for the use of the equipment since they have been used for official government business. In addition, the OPM employees who made the purchase may be liable to the vendor because the purchase is considered an action outside the scope of their employment as provided in CNMI's Procurement Regulations.

## **Conclusion and Recommendations**

Our review showed that the purchase of computers, printers, and accessories under PR 96-045 was made without the necessary government signatures and was made in violation of CNMI's Procurement Regulations. Accordingly, we recommend that the OPM Director:

1. Return the computers, printers, and accessories to the vendor. The vendor may be paid by the CNMI Government for the use of the equipment at a reasonable rate, or if it refuses such compensation, the vendor may have recourse against the OPM employees who made the purchase.
2. Advertise and award the procurement by competitive sealed bidding if funding for the equipment is available and if the procurement cost is \$10,000 or more.
3. Instruct the Supply Officer to comply with CNMI's Procurement Regulations for future purchases, particularly the requirement for competitive bidding, signatures of government officials, and required documentation such as contracts or POs.
4. Obtain documentation from OMB that funds were made available for the transactions through reprogramming or other valid means.

## **OPM'S RESPONSE**

The Director agreed with our findings in his letter response dated June 21, 1996. In addition, the Director stated that our findings confirmed that the subject purchase was conducted without his knowledge, and in violation of the CNMI Procurement Regulations. Also, the Director stated that the OPM Supply Officer misinformed him through actions and statements.

Regarding our recommendations, the Director agreed with recommendation nos. 3 and 4 but disagreed with recommendation nos. 1 and 2. For recommendation no. 3, the Director stated compliance with the recommendation by issuing oral and written instruction to the OPM Supply Officer to comply with CNMI's Procurement Regulations for future purchases of OPM. In addition, according to the Director, the actions of the employees involved in the purchase are presently being reviewed by their immediate supervisor and adverse action against these employees is also being considered. For recommendation no. 4, the Director stated that OMB has indicated that the funds have been made available by reprogramming unused amounts from OPM's staffing budget. In his letter response, the Director enclosed a letter requesting OMB to reprogram OPM's lapsed funds, which was concurred in by the Special Assistant for Management and Budget (**Appendix B**).

OPM requested that we withdraw **recommendation nos. 1 and 2** because, according to the Director, returning the computers to the vendor would not be in the best interest of the CNMI Government. Instead of returning the computers, the OPM Director requested that the purchase be ratified and affirmed as an expedited procurement. The OPM Director provided the following justification (1) OPM needs the computers and returning them will immobilize the operations of OPM for several months, (2) the price charged by the vendor was lower than two other companies based on quotations solicited from them, and (3) returning the computers could adversely affect the credibility of the CNMI Government with local vendors.

The same justification was cited by OPM in requesting the approval of the Director of Procurement and Supply for using the Expedited Procurement Method. In his letter response, the OPM Director enclosed a copy of the approval of OPM's request by the Director of Procurement and Supply (**Appendix C**).

## **OPA's COMMENTS TO THE RESPONSE**

Based on the letter response, two of our four recommendations were considered closed and two were resolved, as follows:

- (a) Regarding OPM's request that we withdraw recommendation nos. 1 and 2, we conclude that the request was reasonable based on the justification stated in the letter response. We are therefore withdrawing the two recommendations, and in its place OPM may continue its plan to use the Expedited Procurement Method. We agree that it is in the best interest of the CNMI Government to retain the computers instead of returning them to the vendor. Since we have withdrawn recommendation nos. 1 and 2, we consider them closed.

- (b) We conclude that the actions of the OPM Director are sufficient to meet the intent of recommendation no. 3. However, we consider recommendation no. 3 resolved pending receipt of documents showing whether any adverse action was taken against employees responsible for violations of CNMI's Procurement Regulations.
- (c) We added recommendation no. 4 to ensure that funds are actually made available to pay for the computers. We consider recommendation no. 4 resolved; however, in order to close this recommendation we need a copy of a document from OMB stating the availability of funds to pay for the computers and authorizing the expenditure of such funds.

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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 sufficient evidence to consider the recommendations as closed. An open recommendation is one where no action or plan of action has been made by the auditee. A resolved recommendation is one in which the auditors are satisfied that the auditee cannot take immediate action, but has established a reasonable plan and time frame for action. A closed recommendation is one in which the auditee has taken sufficient action to meet the intent of the recommendation or we have withdrawn it.

Sincerely,

/s/ Leo L. LaMotte  
Public Auditor, CNMI

cc: Governor  
Lt. Governor  
10th CNMI Legislature (27 copies)  
Attorney General  
Secretary of Finance  
Special Assistant for Management and Budget  
Public Information Officer  
Press