



## Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

World Wide Web Site: <http://opacnmi.com>

2nd Floor J. E. Tenorio Building, Chalan Pale Arnold

Gualo Rai, Saipan, MP 96950

Mailing Address:  
P.O. Box 501399  
Saipan, MP 96950

E-mail Address:  
[mail@opacnmi.com](mailto:mail@opacnmi.com)

Phone: (670) 234-6481  
Fax: (670) 234-7812

May 3, 2001

The Honorable Pedro P. Tenorio, Governor  
Office of the Governor  
Caller Box 10007  
Saipan, MP 96950

**Subject: Final Letter Report on the Audit of the Maintenance and Use of the Challenger Since its Purchase in 1995 (Report No. LT-01-02)**

This letter report represents the results of our review of the maintenance and use of the Challenger, a 68 foot multi-purpose boat used by the CNMI Government for various official public purposes. Immediately after its purchase by the CNMI in September 1995, the vessel was under the control of the Department of Lands and Natural Resources (DLNR), and more recently it has been under the control of the Emergency Management Office (EMO). Our objectives were to determine whether the CNMI adequately maintained the vessel and used it properly.

Our audit indicates a lack of responsibility by CNMI officials who failed to always adhere to Commonwealth law or to put in place a sound maintenance and utilization plan. The CNMI purchased the Challenger in 1995 without authorized funding because \$350,000 was improperly reprogrammed to finance the purchase. The purchase proved to be an unwise investment because a sound plan for maintenance and use was not put into place. Although such a vessel can legally be used only for official government business, it was improperly used on several occasions in 1997 to ferry passengers to and from political fund raising events, in violation of Commonwealth law. After 1997, use of the Challenger declined to the point where it made its last voyage in September 1999. The vessel has been allowed to deteriorate since its purchase in 1995, and in its current state of repair is no longer seaworthy. It has recently been put up for sale locally, but no qualifying bids have been received.

Seafaring vessels require maintenance or they rapidly deteriorate and lose their asset value; yet the Challenger has not undergone routine drydocking, where a vessel is taken out of the water, examined, and needed repairs made. For the boat to be used commercially, it would require annual inspections, and drydock examinations every two years. Neither DLNR nor EMO used a maintenance log to document whether adequate preventive maintenance was performed, and neither agency budgeted funds for maintenance of the Challenger. Since early 1998, the vessel has lacked the needed services of a mechanic/engineer to conduct preventive maintenance and to accompany it on long trips. Also, the Challenger lacked a usage plan needed to ensure that adequate funds were provided for its operation and maintenance.

When purchased by the CNMI in 1995, the Challenger had a value (for insurance purposes) of about \$1.4 million. As a likely result of inadequate maintenance, its market value had decreased by about \$1.1 million as of March 1999, when it was last appraised, to a value of \$325,000. About \$600,000 of this \$1.1 million decline in value can be attributed to other than normal depreciation, with poor maintenance and use the most likely causes.

Accordingly, we recommend that: (1) the Governor issue a memo emphasizing that when government departments and agencies procure vehicles (including vessels), they must also provide a plan which includes budgetary provisions for maintenance and upkeep of those vehicles; (2) the Governor issue a memo advising heads of government departments and agencies that, according to 1 CMC § 7406(a)(5) of the Commonwealth Code, boats are to be treated as vehicles and may not, therefore, be used for other than official government business; (3) the Director of the Division of Procurement and Supply re-advertise the Challenger for sale worldwide, rather than just locally, so as to maximize the return on the sale of the vessel; (4) the Attorney General issue appropriate administrative sanctions against a former official of the Office of Management and Budget for violating the Planning and Budgeting Act; (5) the Secretary of Finance should reexamine implementation of DOF's Property Management and Accountability Policy to ensure that: (a) the Division of Procurement and Supply maintains a master inventory control over personal property and conducts an annual inventory of all such property, (b) agencies and departments properly affix a control number to all property they maintain, or (c) the Division of Procurement & Supply revise its policy to accommodate property considered integral to the primary equipment; and (6) the CNMI Legislature enact legislation, to amend 1 CMC § 7402(a)(2) of the Planning and Budgeting Act, by adding a provision to the Act that any CNMI Government employee who improperly re-programs government funds or receives illegally re-programmed funds shall be held personally liable for the amount of the re-programming action.

In his letter dated March 21, 2001 (**Appendix A**), the Governor initiated needed action to Recommendations 1 and 2 when he urged agencies and departments to review their current budgets and find ways to allocate funding to adhere to preventive maintenance schedules and timely repair of assets. He urged them to include funds for the repair and maintenance of vehicles and assets when they submit their budget requests. He also advised them that the use of government boats is restricted by CNMI law, and advised them that such vessels can be used only for official government business. Also, he said that any unauthorized use would violate CNMI law and would be dealt with accordingly.

In his letter dated February 7, 2001 (**Appendix B**), the Director of the Office of Procurement and Supply initiated needed action to Recommendation 3 when he advised us that they had reconsidered their decision to sell the vessel, and that they now planned to turn it over to the Division of Fish and Wildlife. He stated that he would ensure that the Division of Fish and Wildlife develop a plan for the use and maintenance of the vessel.

In a letter dated April 2, 2001 (**Appendix C**), the Attorney General advised us that while this re-programming action did indeed violate the Planning and Budgeting Act, the Act provides no

sanction or remedy for this violation, and that the Attorney General's Office is therefore unable to take appropriate action because the evidence presented did not show this re-programming action to be a clear case of waste and abuse of government funds. He, however, stated that this illegal action and our report clearly identified a defect in the Act, and he agreed to support legislative action to amend the law. We agree with the Attorney General's view that legislation should be introduced to amend the Act. Finally, the Attorney General stated that he intended to take civil action, to recover vessel operating costs, against individuals who improperly allowed this vessel to be used for political purposes.

In her letter dated February 14, 2001 (**Appendix D**), the Secretary of Finance responded to Recommendation 5 stating that P&S would conduct an annual inventory and maintain a master inventory control record. The Secretary, however, believes that P&S, rather than agencies and departments, should affix control numbers to property items. We agree as long as it gets done. The Secretary also sees no need to revise its policy, and we agree that such action is unnecessary since it plans to have P&S affix control numbers to property items.

Based on the responses received from the Governor's Office, the Director for Procurement and Supply, the Attorney General, and the Secretary of Finance, we consider Recommendations 1 through 5 to be closed. However, we have added Recommendation No. 6 for the CNMI Legislature to address. The additional information or action required to close Recommendation 6 is presented in **Appendix E**.

## **BACKGROUND**

In September 1995, DLNR bought the 68-foot multi-purpose boat named the Challenger, from Daiwa Ocean Cruise, Inc., a company that liquidated its assets and has since ceased business in the CNMI. The boat was purchased for \$350,000, but was appraised to have a market value of about \$1.4 million at the time. According to DLNR's sole source justification for the acquisition of the Challenger, the CNMI had no vessel suitable for conducting research work in the Northern Islands, and it normally had to charter boat(s) or helicopters for such work, which was a more expensive option. Consequently, the Commonwealth had conducted little such research in the Northern Islands, and was unable to carry out its fish and wildlife law enforcement responsibilities. The Challenger not only helped meet that need, but also provided it with an open water vessel for year-round operation, as well as a vessel for conducting search and rescue missions and inter-island supply and travel.

Early on, there were reservations about the need for the vessel and about its financing. The former Speaker of the House of Representatives requested information about the method of procurement and the source of funding for the purchase. See pages 16 and 17 of this report for a discussion of the source of funding.

Consequently, OPA interviewed various officials to obtain their views about the need for the vessel. In addition to the former DLNR Secretary, we interviewed Directors of DLNR's

Divisions (Fish & Wildlife, Agriculture, Lands & Survey, Public Lands), heads/officials of other government agencies (CRM, Mayor of the Northern Islands, DPS Boating Safety Unit, EMO), and even a charter boat captain to obtain their opinions on whether the CNMI needed a boat like the Challenger. We found a general consensus that the vessel was needed, and the reasons given generally validated the sole source justification provided. However, several of those interviewed raised the concern that the Challenger must be operated by qualified personnel, and it would be costly to maintain.



**Challenger moored at Charlie Dock in March 1999.**

Authority over the use and management of the Challenger was under the Secretary of DLNR from the date of purchase until January 10, 1997 when the former Governor transferred authority over the Challenger to the head of EMO. A survey of the vessel in March 1999 found that it was no longer seaworthy, and in July 2000, EMO relinquished the vessel to the Division of Procurement and Supply (P&S) for public sale.

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

This audit was conducted to determine whether the vessel was adequately maintained and properly used under the management of DLNR and EMO. To determine whether it had been adequately maintained, we compared a surveyor's reports on the Challenger's condition at three points in time: when DLNR purchased it, when the vessel was transferred to EMO, and when the P&S put it up for public sale. Allied Marine Surveyor, Limited was the company hired to assess the condition of the vessel. We also ascertained whether a maintenance plan was in place, whether a log was used to document maintenance performed, and whether funds were provided for maintenance. To determine whether the vessel was properly used, we ascertained whether a vehicle usage plan had been developed, reviewed the Challenger's deck log to determine

frequency and purpose of voyages, questioned the boat Captain on the vessel's use, and reviewed previous investigation reports on its use. We also reviewed the financing of the Challenger to determine whether the CNMI had adhered to reprogramming requirements. Finally, we attempted to determine whether the CNMI had accounted for property items purchased with the Challenger, and if it had followed related CNMI property management policy.

We conducted our audit at the Emergency Management Office in September and October 2000, and also attempted to obtain and review any related records while the Challenger was under DLNR control. This 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 in the circumstances. Because of the limited scope of our audit, we did not evaluate any other internal controls.

## **PRIOR AUDIT COVERAGE**

While the Office of the Public Auditor has conducted audits of the Emergency Management Office and the Department of Lands and Natural Resources during the past five years, these audits did not address the Challenger.

## **FINDINGS AND RECOMMENDATIONS**

### **Inadequate Maintenance and Declining Use of the Challenger**

Seafaring vessels require maintenance or they will rapidly deteriorate and lose their asset value. Our review, however, indicated that the Challenger was not adequately maintained, and has been allowed to deteriorate since its purchase in 1995. That was because the heads of both DLNR and EMO failed to ensure that a proper maintenance schedule was followed, and to budget sufficient funds for the vessel's maintenance. Also, the head of EMO failed to continuously employ a qualified mechanic or engineer. Consequently, the Challenger rapidly deteriorated and is no longer seaworthy. Therefore, what was initially justified as a favorable \$350,000 purchase for the CNMI resulted in a loss of most of the vessel's value in about 3½ years.

#### ***High Standards of Maintenance Required***

High standards of maintenance must be in place and followed for seafaring vessels because they can rapidly deteriorate without such maintenance. When the Challenger was purchased in September 1995, DLNR was forewarned about the need to maintain the vessel lest it would deteriorate rapidly. The vessel's surveyor stated that:

“The Vessel is a complex and highly sophisticated piece of equipment. The systems are mostly computer controlled with electronic over hydraulic controls. It is an expensive

and time intensive Vessel to maintain, and thus requires good commercial utilization to cover the cost of operation. The piping systems are similarly complex and must be handled with care; lack of which may result in serious consequences (the Vessel reportedly suffered a serious engine room flooding incident some 12 months ago as a result of crew error with piping - this may have resulted in replacement of the main generator which is new as of 12 months ago). The buyers would be well advised to retain experienced and well qualified crew and maintenance contractor/s to keep it running otherwise it will rapidly deteriorate.”

### ***Inadequate Repair and Maintenance***

While the Challenger was seaworthy when purchased by DLNR in 1995, its condition subsequently deteriorated to such an extent that by March 1999, 3½ years later, it was no longer seaworthy. Analysis of the Challenger’s condition when purchased, when transferred to EMO, and when put up for disposition, as noted in surveyor reports, indicates that many of the noted defects were not repaired, and that as time elapsed more and more defects of significance appeared. Maintenance and repair problems began to emerge in February 1997, and their extent worsened over the next two years as noted in the following examples:

- In February 1997, a month after the vessel was transferred from DLNR to EMO, a surveyor reported water and exhaust leaks as well as problems with lifesaving and firefighting equipment.
- In May 1998, the U.S. Coast Guard conducted a courtesy inspection<sup>1</sup> and identified numerous defects.
- In the summer of 1998, EMO conducted emergency repairs on the vessel to enable it to make a trip to the Northern Islands.
- In March 1999, a surveyor determined that extensive repairs were needed on the vessel, and recommended that the Challenger’s hull, engine room, life-saving equipment, fire fighting appliances, and navigation equipment be repaired, and the vessel drydocked. He identified the following problems as most indicative of the dilapidated status of the Challenger:
  - Rat infestation is a danger to wiring in the flybridge console,
  - Water is leaking into the bridge and bridge console,
  - Underwater areas of the hull are heavily encrusted with marine shell growth,
  - Passenger emergency escape hatch is leaking moderately,
  - Water leak where the auxiliary exhaust penetrates the hull on the port side,
  - Exhaust leaks on both main engines,

---

<sup>1</sup> According to a U.S. Coast Guard official, U.S. Coast Guard requirements do not apply to this vessel as used by the CNMI Government.

- Air filters on port main engine were very dirty and clogged,
- Heavy oil leaks on the outboard side of main engine,
- Both main engines are heavy with exhaust smoke,
- Lubricating oil is heavily contaminated, with both engines needing overhaul,
- Oil in both gear boxes was contaminated with dirt and possible metal incursions, and
- Lack of dry dock exam<sup>2</sup>.

The overall deterioration of the vessel was also reflected in equipment items on board the vessel. When we made our onboard observation of 51 equipment items that originally accompanied the vessel when purchased, we found that many items were either missing or inoperable. See discussion on pages 14 and 15.

Our review also showed that despite requests from the Challenger's Captain, insufficient attention was paid to ensuring that the Challenger would be adequately maintained. While the manufacturer's maintenance plan was in place, there was no indication that the plan was followed. We found no maintenance log normally used by the vessel's mechanic/engineer to record preventive maintenance. There were no funds budgeted for maintenance of the Challenger, and since May 1998, the vessel lacked the services of a mechanic/engineer needed to conduct preventive maintenance and to accompany the vessel on long trips.

#### ***Out-of-Water-Examination Not Conducted***

The Challenger has not been subject to a drydock exam in which a vessel is taken out of the water and thoroughly examined. Were it used commercially, it would need to be inspected annually by the U.S. Coast Guard and required to undergo a drydock examination every two years. According to the Code of Federal Regulations being followed by the U.S. Coast Guard:

“A drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings, sea chests, sea valves, sea strainers, and valves for the emergency bilge suction.”

As indicated above, good maintenance practice dictates that a vessel be drydocked at two year intervals. The U.S. Coast Guard told us that the Challenger was last drydocked in August 1995 (shortly before it was purchased by the CNMI from Daiwa Ocean Cruise, Inc.), and would normally have been due for drydock in August 1997. But even though emergency repairs were made in 1998, the vessel never underwent drydocking, possibly because of the cost involved. In May 1998, an individual contractor estimated that drydocking costs would be about \$97,000. In March 1999, a surveyor estimated that drydocking and related repairs would be about \$150,000.

---

<sup>2</sup> A drydock exam involves a review of the internal and external structure of a vessel as well as its watertight integrity. A surveying company official advised OPA that the lack of drydock is serious because barnacles left on the surface of the hull will eat into the hull fiber's reinforced plastic gel coat, allowing water to get in between the layers of fiber glass and travel by osmosis between the layers, effectively destroying the structure.

### ***No Maintenance Log Used***

Most vessels such as the Challenger utilize a maintenance log for recording dates and types of preventive maintenance and repairs made. Without such a log there is no accountability to determine whether preventive maintenance has in fact been conducted. Both the Challenger's Captain and the EMO Director indicated that a maintenance log had not been maintained. Instead, the Captain said that only the notation, "maintenance," was recorded in the deck log to show when maintenance was conducted. This notation, however, provides no indication of the specific nature of preventive maintenance performed, and no basis for determining whether the preventive maintenance plan was being followed. The EMO Director acknowledged that their failure to use a maintenance log was a big mistake, but he had just assumed that preventive maintenance was getting done. He attributed his failure to keep a maintenance log on the Challenger to his inexperience with vessels.

### ***Mechanic/Engineer Not Available Since early 1998***

For the last two years, the Challenger has been without the services of a mechanic/engineer who could have been relied upon to manage the needed maintenance and repair work. When DLNR purchased the vessel from Daiwa Ocean Cruise, Inc. in September 1995, it also obtained the services of a mechanic/engineer who reportedly was qualified to service diesel engines similar to the Challenger's. DLNR and EMO used this mechanic/engineer until EMO, faced with lack of funding and a financial crisis in 1998, did not to renew his contract in early 1998. The immediate impact was that the vessel no longer made extended visits to the Northern Islands with a mechanic/engineer onboard as needed. Further, it exacerbated the problem of adequately maintaining the vessel.

However, even when the services of a mechanic/engineer were available, all the needed repairs were not made. To illustrate, we found that defects identified in the surveyor's report dated February 1997 were still unrepaired two years later when the next survey was conducted. Also, a courtesy inspection by the US Coast Guard in the summer of 1998 identified numerous deficiencies as needing repair.

The Challenger's Captain advised us that he had repeatedly alerted management about the vessel's problems. In a report sent to management in November 1998, he stressed the Challenger's dire need for the services of a mechanic/engineer:

- "The Emergency Management Office has an urgent need for a Mechanic/Engineer required maintaining (sic) the CNMI Challenger in seaworthy condition ready for any emergency at sea."
- "The CNMI challenger has been without a mechanic since the early part of the year, which has adversely affected the vessel performance in providing continuous and sound service of operation. The absent (sic) of a mechanic, which is required by its

certificate, to properly identify and carry out necessary maintenance and do needed repairs when needed significantly reduces readiness and result (sic) in general deterioration and jeopardize (sic) the mission effectiveness of the EMO.”

### ***Lack of Funding***

The CNMI’s failure to provide a ready and continuing source of funding for the Challenger resulted in many of the Challenger’s problems. Without such funds, EMO was unable to have the vessel drydocked, and was left without the services of a mechanic/engineer after May 1998. Neither DLNR nor EMO budgeted funds for repair and maintenance of the Challenger. Instead, needed funding was left to be obtained on an ad hoc basis, such as when emergency repairs became necessary in April 1998. At that time, EMO justified raising \$45,000 in contributions from various agencies for repairs needed before a trip could be made to the Northern Islands. It was only in 1999 after damage to the Challenger had occurred that EMO requested funds for maintenance of the Challenger as part of its Fiscal Year 2000 budget submission. Such funds were not approved, however.

We were unable to obtain any records addressing maintenance or repairs performed while the vessel was under DLNR’s control. EMO records, however, indicate that since the Challenger was assigned to EMO in early 1997, it spent about \$198,000 to operate the vessel and about \$63,000 to maintain and repair it. Of this \$63,000, roughly half was for emergency services and about \$20,000 was for the services of a mechanic/engineer for the 8 months ending May 1998.

During the time that source of funding for purchase of the Challenger was being discussed, DLNR also mentioned that the cost of the vessel might be reimbursed by Federal grant funds. In November 1995, OPA was even provided with a copy of DLNR’s “*Amended Grant Proposal For the CNMI Fisheries Program*,” which included a \$350,000 budget for a new or used boat. However, according to the Natural Resource Planner at the time, the revised grant proposal was never submitted to the grantor. There was also nothing to show that DLNR management allocated cost of the vessel to any of the other Federal grants subsequently obtained by the department. Further, a usage plan or schedule that could have provided a basis for generating funds to cover costs was not developed. Had a usage plan been adopted, it would then have been possible to properly allocate the maintenance cost of the vessel to all its users.

In acknowledging maintenance problems with the Challenger, the EMO Director advised us that lack of funding for maintenance was the single biggest factor contributing to its deterioration.

### ***Decline in Market Value***

Because of its deteriorated condition, the Challenger’s market value has declined. During the 3½ years after the CNMI purchased the vessel, its value, as assigned for insurance purposes, decreased by about \$1.1 million dollars. When purchased from Daiwa Ocean Cruise Inc. in September 1995, the Challenger was two years old and a surveying company had just assigned it a “present

value” of \$1,420,000 after finding it seaworthy and a sound insurance risk. Then in March 1999, after 3½ years of use by the CNMI, this same survey company again assessed its value, assigning it a “present value” of \$325,000, or about \$1.1 million less than when DLNR had purchased it, and stating that the vessel was no longer considered seaworthy. However, the surveyor agreed to resurvey the vessel after needed repairs had been completed.

We believe that about \$600,000 of the \$1.1 million decrease in the Challenger’s value can be attributed to other-than-normal depreciation, with the most likely reason being the poor maintenance and use of the Challenger. If the Challenger’s assessed value of \$1,420,000 at purchase reflected its true worth in September 1995, its value should have diminished by about 35 percent since the CNMI held it about 3½ years, or about 35 percent of its ten-year expected life. Therefore, its normal depreciated value in 1999 should be roughly \$923,000, or about 65 percent of its assessed value when purchased. Using this method, we determined that the vessel had unnecessarily lost an additional \$600,000 of its present value since purchase. The schedule below shows our computation of decline in value which we attribute to causes other than normal depreciation.

Decline in Challenger’s Value Attributable to Other than Normal Depreciation

Assessed value per surveyor’s report in September 1995 . . . . .	\$1,420,000
Less: Normal depreciation of 35 percent (using straight-line depreciation basis over 10 years) which reflects decrease in value over 3½ years (35 percent x \$1,420,000) until March 1999 survey . . . . .	497,000
Normal depreciated value . . . . .	<u>\$923,000</u>
Less: Assessed value per survey report in March 1999 . . . . .	<u>325,000</u>
Decline in Challenger’s value attributable to other than normal depreciation . . . . .	<u><u>\$598,000</u></u>

The CNMI may have also lost the opportunity to recover anything from the \$350,000 it invested in the Challenger. A surveyor assessed the vessel in March 1999 and found it no longer seaworthy until needed repairs were made. During the last year, the vessel has remained virtually idle, and in May 2000, the EMO Director requested that P&S dispose of it because the costs of personnel, equipment, parts, fuel, as well as needed drydock, rendered it too expensive to operate and maintain. Subsequently, P&S put the Challenger up for public sale locally with sealed bids to begin at \$325,000, the value the surveyor company had assigned in 1999. No bids have been received to date. We discussed this matter with the surveyor who had previously assessed its value. He advised us that the CNMI was likely to get a much better price if the Challenger was advertised for sale on a world-wide basis, instead of just locally.

***The Challenger was Not Fully or Always Legally Utilized***

The Challenger was improperly used several times, as in 1997 when it was twice used for political purposes, and was not fully utilized after 1997. When the Challenger was acquired in 1995, the justification for the purchase set forth a plan for the vessel to be used for trips to the Northern Islands to help conduct fish and wildlife studies, research missions, and fish and wildlife law enforcement, and that it could also be used for search and rescue operations and civil defense

needs. However, we found that in 1997 at least some of the Challenger's trips were for improper political purposes, namely, the transportation of political supporters to and from political fundraising events, which violated CNMI law regarding the use of government vessels. The Challenger was used infrequently after 1997. We also found that neither DLNR nor EMO adopted a usage plan for the Challenger. As a result, the CNMI had no basis to recover either the one-time cost of procuring the Challenger or the annual cost to operate and maintain it. The experience may also have served to illustrate the government's lack of management and technical knowledge concerning highly sophisticated sea vessels and equipment.

### ***Illegal Use of the Challenger***

1 CMC § 7406(a)(5) of the Commonwealth Code defines "vehicle" to include water craft. As a government vehicle, the Challenger is restricted to official government use, and may not be used for political fund-raising. 1 CMC § 7406(d) states that CNMI government vehicles may be used only for government business:

"Government vehicles are only to be used for official government business, and no person may operate or use any government vehicle for any purpose other than official government business. Violation of this subsection shall be an infraction, punishable by a fine of up to \$500, and/or three days imprisonment."

We found that EMO used the Challenger in 1997 to transport passengers on trips which did not involve government business, the only authorized use of the vessel. One involved a trip between Saipan and Rota in July 1997 to attend a political fund-raising event in Saipan, and the other involved a trip between Saipan and Tinian in September 1997, also to attend political fund-raising events in Saipan.

- The EMO ordered the Challenger to ferry passengers to Saipan on the evening of July 16, 1997. The Challenger was ordered to leave Saipan for Rota on an immigration patrol, and then to falsely report an engine problem that would require the boat to dock at the Rota harbor. Accordingly, the Challenger proceeded into the Rota harbor under the pretense of engine problems. It was met by an Rota EMO official, who asked if a group of passengers could ride along and be brought to Saipan. As planned, the passengers were taken onboard and delivered to Saipan to attend the former Governor's "kick-off rally." During the "kick-off rally" another former EMO official then advised Challenger personnel to "get ready, we're gonna have another trip to Rota." Subsequently, the Challenger made the return trip to Rota with the passengers who attended the rally. It was apparent that such trip was not an immigration patrol. According to a Department of Labor and Immigration (DOLI) official, an immigration officer must be on board any immigration patrol, but he recalls no DOLI officer accompanying that particular trip. Further, several passengers interviewed indicated that the trip had been planned in advance.

We contacted re-election committee members allegedly aboard the Challenger concerning the trips. A re-election committee member who had initially planned to accompany the group to Saipan advised us that she recalled 11 committee members leaving on the Challenger. Another Committee official also confirmed that the group had taken the Challenger from Rota to Saipan on the evening of July 16, 1997.

- During the period September 5-6, 1997, the Challenger transported a group of passengers between Saipan and Tinian for other-than-official government business. Challenger personnel told us that a former EMO official then gave instructions to wait until the group of passengers on Tinian requested transportation. The group was kept inside the cabin to avoid being seen. Upon approaching Saipan he called another EMO official, who advised him to return with the group the next day when the vessel was to go for its next ordnance removal. He was also advised to leave early so as not to be seen. When questioned about the trip, the former Tinian Affairs official advised us that when the Challenger came to Tinian for ordnance removal, he thought it was a good idea if his employees could shop on Saipan. He requested and received permission from the Captain for his employees to board, and he and his group then made the trip to Saipan. Several of the passengers listed on the passenger manifest also confirmed that they had likewise been aboard the Challenger. A passenger, whose transportation had reportedly been arranged by an official in the Tinian EMO, said he was among the group traveling to attend the Governor's fund-raising, and another passenger said she returned from the fund-raising event after being informed by her boss that the Challenger was available for the return trip to Tinian.

The EMO official, responsible for the Challenger, advised us that he had not been aware that the Challenger was transporting political supporters on the Tinian trip until he learned about it in the local newspapers, and denied knowing that political supporters had been transported on the Rota trips. He advised us that he normally allowed Challenger personnel to use discretion in determining whether or not to grant requests to use the vessel. Also, he said he considered the transporting of passengers to be acceptable provided it did not interfere with the Challenger's regularly scheduled duties, and provided it was not a special trip just to transport passengers. He denied ordering the Challenger to pick up passengers on either occasion. However, a Challenger official stated that an EMO official had ordered him to bring political supporters from Tinian on the one occasion, and to Rota on the other occasion.

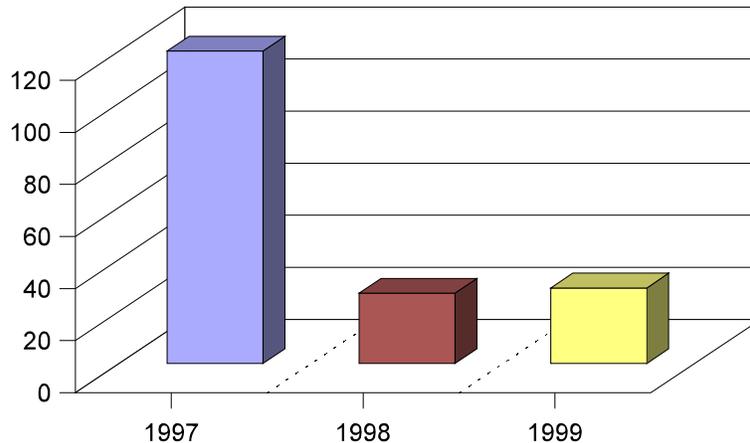
Accordingly, we believe EMO violated Commonwealth law when it used the vessel to transport passengers on other-than-official government business. These matters accordingly have been referred to the Attorney General for action.

### ***Declining Use Since 1997***

Use of the Challenger declined rapidly after 1997. To illustrate, EMO reported that the Challenger was used on 128 voyages in 1997, but that its use dropped significantly thereafter, with

use in 1998 and 1999 being only a fraction of the 1997 level. In 2000, the Challenger made no voyages, as it was out of service.

## Use of Challenger Since 1997



Beginning in June 1998 for a period of about 4 months, the Challenger was restricted to port while funds were raised from various agencies and emergency repairs made. After the repairs and a trip to Pagan in August 1998, the Challenger was not used again until February 1999, according to EMO records. The Challenger's Captain attributed this non-use to the vessel having a problem, while the EMO Director stated that the vessel was operable, but that they tried to curtail unnecessary trips in order to reduce stress on the engines. The Challenger then made its last trip in September 1999, and has remained idle since.

### Use of the Challenger from 1997 through 2000

Year	Search & Rescue Missions	Missions Beyond Saipan/Tinian	Other	Total
1997	61	29	38	128
1998	5	8	14	27
1999	4	6	19 <sup>3</sup>	29
2000	0	0	0	0

The Fish and Wildlife Division (DFW) of DLNR was unable to make full use of the vessel to conduct research in the Northern Islands. It reported making only 3 voyages to the Northern Islands with the Challenger during 1998 and 1999. To accomplish its necessary missions to the

<sup>3</sup> This included 13 voyages to and from Tinian to provide logistics support to the Department of Labor and Immigration, which was holding illegal entry Chinese on Tinian.

Northern Islands, DFW has now reverted to chartering vessels similar to its practice before the Challenger was purchased. During the first 8 months of 2000, DFW spent about \$49,000 to charter two vessels and several helicopters while making five trips to the Northern Islands.

When interviewed in March 1996, the former Mayor of the Northern Islands said that DLNR never responded to his January 1996 memorandum requesting use of the Challenger to ferry constituents' necessities to the Northern Islands.

Although the Challenger's purchase was justified, in part, on the basis that it would provide the CNMI with an open water vessel capable of reaching and serving the Northern Islands, a plan to enable it to serve multiple users on a paying basis was never established. In our opinion, such a plan establishing user fees could have enabled both DLNR and EMO to recover operation and maintenance costs needed to keep the vessel operational and seaworthy. The EMO Director, however, stated that a usage plan was not feasible because demands of search and rescue, which is one of EMO's primary missions, prevented it from following such a schedule.

#### ***Inadequate Control of Personal Property Purchased With the Challenger***

Fifty one equipment items, subject to inventory control, were purchased along with the Challenger. In accounting for those personal property<sup>4</sup> items, we found that CNMI officials had not adhered to CNMI's policy on property management and accountability. As a result, the CNMI was unable to account for all property items that had originally accompanied the Challenger when it was purchased.

To account for personal property items purchased with the Challenger, we inventoried items shown on the original list of property equipment as accompanying the Challenger. We found that many items were now either missing or inoperable. Of 51 different line items of equipment, parts of 14 are now missing in whole or part, and another 8 equipment items shown below are considered inoperable. To illustrate, 3 radios, a small outboard engine, and a gasoline generator were missing. Also, the following equipment items were no longer operational.

---

<sup>4</sup>The Department of Finance's Property Management and Accountability Policy, dated January 4, 1985, defines personal property as "property of any kind of (sic) any interest therein, except real property".

### Eight Equipment Items No Longer Operational

Description	Original Quantity	Quantity Inoperable
Interphone system -Toshiba BTF -12	6	5
Navigation running lights	4	4
TOKIMEC auto pilot system PR-1500	1	1
Infra-red security system	1	1
Clear view screens LB-400-7D	3	3
Search lights	2	1
Toshiba freezer RGC-621TML-V1	1	1
Rubber boat inflatable type	1	1

CNMI policy for the management and accountability of property was established on January 4, 1985. At that time the Director of Finance sent an updated policy to all departments and agencies for their compliance and guidance. This policy stated that:

- all personal property will be properly identified by a control number permanently affixed to each piece of property, and inventoried,
- the Chief of Procurement and Supply will maintain a master inventory control over such property,
- the Chief of Procurement and Supply will annually inventory all personal property.

CNMI officials have not properly implemented such policy, as the Chief of Procurement and Supply has neither maintained a master inventory control over such property items nor annually inventoried them. To illustrate, only 3 of the 51 items (TV set, VCR, and cooler) were identified by a CNMI inventory control number and included on a master inventory control. A P&S official advised us that P&S had not conducted an inventory or maintained a master inventory control over the entire list of 51 equipment items because such items were considered integral parts of the vessel. We note, however, that when the vessel was transferred to the CNMI, these 51 items were identified on the “Challenger Inventory List,” thereby indicating they were separate items of personal property. We pointed out to this official that P&S policy makes no allowance for items considered integral parts of the vessel. Further, our onboard inventory of such items showed that most could be readily removed from the vessel.

As a result, the CNMI can no longer account for all personal property items that were part of its purchase in 1995, some of which are now missing or inoperable. The lack of such parts limits the operability of the Challenger.

### **Re-programming of Funds to Finance the Challenger Violated the Planning and Budgeting Act**

The CNMI purchased the Challenger without authorized funding when the Office of Management and Budget (OMB) reprogrammed \$350,000 for the Challenger without adhering to the statutory requirement that prohibits reprogramming of funds into an account for which the Legislature has made no appropriation. Consequently, the reprogramming of \$350,000 in CNMI funding was illegal.

Our review of the Allotment Advice dated September 15, 1995 shows that \$420,800 was originally budgeted in fiscal year 1995 to account #1400--the DLNR Secretary's Office. The appropriation, however, contained no provision for financing a boat. Late in fiscal year 1995 when the CNMI recognized an opportunity to purchase the Challenger at about 25 percent of its market value, the former DLNR Secretary requested re-programming of \$350,000 from 17 government accounts, including DLNR's, into the DLNR Secretary's Account.

Our review shows that the Secretary of DLNR, on September 5, 1995, requested that the OMB:

- re-program \$69,111 of DLNR Secretary Office's unspent allotment,
- re-program additional amounts totaling \$280,889 from 16 other agency accounts.

<b>Reprogrammed From</b>	<b>Acct. No.</b>	<b>Amount</b>
Rota Municipal Council	1066	\$ 30,000
DOF - Revenue and Taxation Rota	1132	3,000
DOF - Customs Services Tinian	1151	8,500
DOLI - Immigration Tinian	1291	11,000
DOLI - Immigration Rota	1292	5,000
DPS - Police Rota	1352	2,500
DLNR - Secretary's Office	1400	69,111
DLNR - Plant Industry Tinian	1411	10,000
DLNR - Plant Industry Rota	1412	5,000
DLNR - Fish and Wildlife Saipan	1420	4,160
DLNR - Fish and Wildlife Rota	1422	2,500
DLNR - Lands and Survey Saipan	1430	35,380
DLNR - Parks and Recreation	1440	21,720
DLNR - Animal Health Industry	1450	24,629
DLNR - Land Registration	1468	5,000
DLNR - Zoning Board	1469	2,500
Judiciary - Supreme Court Saipan	1691	110,000
Total		\$ 350,000

The Allotment Advice further shows that the total of these two amounts, \$350,000, was reallocated to DLNR account #6408--Machinery, Tools, and Equipment. However, account #6408--Machinery, Tools, and Equipment to which the \$350,000 was being re-programmed, had a zero balance for the fiscal year. Consequently, funds were being reprogrammed to an account for which the Legislature had not appropriated funds. The Planning and Budgeting Act makes no provision for reprogramming funds into an account to which the Legislature has made no appropriation. 1 CMC §7402(a)(2) of the Commonwealth Code states:

“No funds may be reprogrammed to any account which has been zero-funded by the legislature or to any account for which the legislature has not made an appropriation.”

After preparation and concurrence by two other individuals in his office, this re-programming action was approved by the head of the OMB on September 15, 1995.

### **Conclusions and Recommendations**

The purchase of the Challenger also proved not to be a sound investment, because an effective plan for maintaining and using it was never put into place. In fact, the CNMI never had a realistic plan for maintaining and using the Challenger. Instead, preventive maintenance and repairs were addressed on an ad hoc basis when needed. Sound planning would have ensured that a maintenance log was used to help monitor whether preventive maintenance was being performed, and that funds were provided for periodic drydocking, routine maintenance, and needed repairs to the vessel. It would also have provided funding for the continuing services of a mechanic/engineer so that the vessel would not be put at risk during long voyages. Further, the CNMI never developed a schedule for planned use of the vessel, instead relying on, for its continuing use, the justifications given for its use when purchased. Had such a schedule been developed, both DLNR and EMO might have had a basis for budgeting the funds necessary to operate and maintain the vessel.

With the Challenger now up for sale, the above issues are of little additional consequence. However, since the CNMI continues to procure and maintain other vehicles and equipment, we believe that the lessons learned in this case be carefully considered and appropriate action taken to prevent more waste of public funds.

We also found that CNMI officials were very lax in implementing the CNMI's policy on property management and accountability, as the Division of Procurement and Supply failed to inventory and account for personal property on the Challenger. In addition, the Division of Procurement and Supply did not exercise all alternatives available to it to ensure that it obtain the highest possible price when putting the Challenger up for sale. Further, the CNMI may not have adequately considered the feasibility of its decision to sell the Challenger in view of its continuing need for transportation to the Northern Islands.

Accordingly, we recommend that:

1. the Governor issue a memo emphasizing that when government departments and agencies procure vehicles (including vessels) and other capital equipment, they must also provide a plan which includes budgetary provisions for maintenance and upkeep throughout the expected useful life of the assets;
2. the Governor issue a memo advising heads of government departments and agencies that, according to 1 CMC § 7406(a)(5) of the Commonwealth Code, boats are to be treated as vehicles and may not, therefore, be used for other than official government business;
3. the Director of the Office of Procurement and Supply re-advertise this vessel for sale worldwide, rather than just locally, so as to maximize the return on the sale of the vessel;
4. the Attorney General issue appropriate administrative sanctions against a former official of the Office of Management and Budget for violating the Planning and Budgeting Act;
5. the Secretary of Finance reexamine the implementation of its Property Management and Accountability Policy to ensure that:
  - the Division of Procurement and Supply maintains a master inventory control over personal property, and conducts an annual inventory of all such personal property,
  - agencies and departments properly affix a control number to all property they maintain, or
  - revise its policy to accommodate property considered integral to the primary equipment; and
6. the CNMI Legislature enact legislation to amend 1 CMC § 7402(a)(2) of the Planning and Budgeting Act by adding a provision to the Act that any CNMI Government employee who improperly re-programs government funds or receives improperly re-programmed funds will be held personally liable for the amount of the re-programming action.

### **Governor's Response**

On March 21, 2001, the Governor issued a memo to departments and agencies advising them to review their current budgets and find ways to allocate funding to preventive maintenance schedules and timely repair of assets. He urged them to include funds for the repair and maintenance of vehicles and assets when they submit their budget requests. He also advised them that the use of government boats is restricted by public law, and advised them that such vessels can be used only for official government business. Finally, he said that any unauthorized use would violate CNMI law and would be dealt with accordingly.

## **Response from the Director, Procurement and Supply**

On February 7, 2001, the Director of the Office of Procurement and Supply advised us that they had reconsidered their decision to sell the vessel, and that they now planned to instead turn it over to the Department of Fish and Wildlife. He stated that he would ensure that the Department of Fish and Wildlife developed a plan for the use and maintenance of the vessel.

## **Attorney General's Response**

In a letter dated April 2, 2001, the Attorney General advised us that while the re-programming action did indeed violate the Planning and Budgeting Act, the Act provides no sanction or remedy for this violation. Further, the Attorney General's Office is consequently unable to take appropriate action as the evidence presented did not show this to be a clear case of waste and abuse of government funds. He, however, stated that this illegal action as well, as our report, clearly identified a defect in the Act, and he agreed to support legislative action to amend the law. We agree with the Attorney General's view that legislation should be introduced to amend the Act. Finally, the Attorney General also stated that he intended to take civil action, to recover vessel operating costs, against individuals who improperly allowed this vessel to be used for political purposes.

## **Response from Secretary of Finance**

On February 14, 2001, the Secretary of Finance agreed that P&S would conduct an annual inventory and maintain a master inventory control record. The Secretary, however, believes that P&S, rather than agencies and departments, should affix control numbers to property items. We agree as long as it gets done. The Secretary also sees no need to revise its policy, and we agree such action is unnecessary as long as P&S affixes control numbers to property items.

## **OPA Comments**

Based on the responses received from the Governor's Office, the Director for Procurement and Supply, the Attorney General, and the Secretary of Finance, we consider Recommendations 1 through 5 to be closed. We have, however, added another recommendation, Recommendation No. 6 for the CNMI Legislature to address. The additional information or action required to close Recommendation 6 is presented in **Appendix E**.

★ ★ ★ ★ ★

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 6 within 30 days, along with documentation showing the specific actions that were 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  
Public Auditor

xc: Governor  
Lt. Governor  
Twelfth CNMI Legislature (27 copies)  
Attorney General  
Special Assistant for Management and Budget  
Secretary, Department of Finance  
Director, EMO  
Director, Division of Procurement and Supply  
Press Officer  
Press



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Pedro P. Tenorio  
Governor  
Jesus R. Sablan  
Lt. Governor

21 MAR 2001

Caller Box 1000  
Saipan, MP 96950  
Telephone: (670) 664-2200  
Fax: (670) 664-2211

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



Dear Mr. Sablan:

Re: Response to Draft Report - Audit of the Maintenance and Use of the Challenger Since Its Purchase in 1995

This is in response to the findings and recommendation in the above-referenced draft audit report. As recommended in your report (items 1 and 2), I have issued the attached memorandum to all department and activity heads.

Over the last three years, resources available to the CNMI Government have been on a downward trend and the government has been operating under strict austerity measures. Needless to say, the issue of allocating funds for repair and maintenance of government property has always been considered necessary. However, meager resources have always dictated that the use of resources be based on very competitive priorities. Nevertheless, we will make every effort to address this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Pedro P. Tenorio".  
PEDRO P. TENORIO

**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**  
**OFFICE OF THE GOVERNOR**

Caller Box 1007  
Saipan, MP 96950  
Tel. (670) 664-2280  
Fax. (670) 664-2211

**MEMORANDUM**

**Date: 21 MAR 2001**

**TO:** All Department and Activity Heads  
**FROM:** Governor  
**SUBJ:** Use and Maintenance of Government Property

Please be reminded that the cost to repair government property, such as vehicles and equipment, becomes too expensive and cost prohibitive if the vehicles and equipment are not maintained properly. This happens if there is no plan in place for preventive maintenance or if needed, repairs are not being done on a timely and regularly scheduled basis. There are instances where vehicles and equipment have deteriorated to a point where they have lost usefulness and/or value prematurely due to neglect.

Although funding is always an issue, I urge you to review your current departmental budget and find ways to allocate funding to adhere to the recommended preventive maintenance schedule and timely repair of these assets. When submitting your annual budget request, you should anticipate these necessary costs and include them in your budget request funding for the repair and maintenance of your vehicles and equipment.

On a related matter, I would also like to stress that, in addition to the restriction on the use of government vehicles, equipment and other property of the CNMI Government, the use of government boats is also restricted. Pursuant to 1 CMC §7406(a)(4), water craft are considered "vehicles" for purposes of restricted use. As such, the use of government owned boats shall only be for official government business. Any unauthorized use of government equipment and other government property is a violation of CNMI laws and will be dealt with accordingly.

Also, you should not have to be reminded that the care and responsibility for the proper use of these vehicles and equipment is inherent in every individual having custody and use of them.

  
PEDRO P. TENORIO



Procurement and Supply  
Department of Finance

P.O. Box 510008 CK SAIPAN, MP 96950 TEL. (670) 664-1500 FAX (670) 664-1515



February 7, 2001

Michael S. Sablan  
CNMI Public Auditor  
Office of the Public Auditor  
P.O. Box 1399  
Saipan, MP 96950

RE: **Draft Report - Audit of the Maintenance and Use of the Challenger Since its Purchase in 1995 - RESPONSE TO RECOMMENDATION No. 3**

Dear Mr. Sablan:

This letter contains our response to Recommendation No.3 in your Draft Report on the Challenger which recommended that "the Director of the Office of Procurement and Supply re-advertise this vessel for sale world-wide, rather than just locally, so as to maximize the return on the sale of the vessel;".

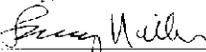
Last year we put the Challenger up for sale locally with the minimum bid price set at \$325,000. After no responses were received, we talked with Allied Marine Surveyors about the possibility of advertising it for sale world-wide. About this time we also began reconsidering our decision to sell due to the CNMI's continuing need for transportation to the Northern Islands as well as DLNR's specific need for an open water vessel to conduct research and carry out its fish and wildlife law enforcement responsibilities. On January 17, 2001, we decided that the better choice at this time was to explore ways for the CNMI to benefit from the continued ownership of the Challenger and transferred it to the Division of Fish and Wildlife, DLNR. We understand that DLNR intends to vigorously pursue the possibility that the Challenger's renovation and subsequent operating costs can be funded by the federal Fisheries Program or other federal grants programs.

Consequently, we have not concurred in Recommendation No. 3, but have taken the alternative course of action described above. Consistent with my responsibilities under CNMI-PR Section 2-103(7), I will be the official responsible for overseeing that the Division of Fish and Wildlife, DLNR, has developed a plan for the use and maintenance of the Challenger, and has obtained necessary funding therefor, not later than August 17, 2001.

Sincerely,

  
Herman S. Sablan  
Director

CC Secretary, DLNR

Concur:   
Lucy DLG Nielsen  
Secretary of Finance



Commonwealth of the Northern Mariana Islands  
**Office of the Attorney General**

2nd Floor-Administration Building Capitol Hill  
Caller Box 10007, Saipan, MP 96950

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

April 2, 2001

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

Michael S. Sablan  
Office of Public Auditor  
J.E.T. Building  
Gualo Rai, Saipan, MP 96950

4/02/01  
[Handwritten signature and stamp]

**Re: Draft Report on MV Challenger**

Dear Mr. Sablan:

This is in response to your recent draft report on issues relating to the MV Challenger. Your report makes one recommendation that is applicable to the Office of the Attorney General.

Specifically you recommend that "the Attorney General issue appropriate administrative sanctions against the former Special Assistant for Management and Budget for violating the planning and budgeting act." Your report correctly identifies that the re-programming that occurred in this case violated that act. By re-programming into a zero funded account, the Special Assistant was in effect violating the separation of powers which requires the legislature to appropriate funding for government operations.

The concern we have is that nowhere in 1 CMC §7402(a)(2)<sup>1</sup> does it declare what the remedy or penalty should be for violating this section. Your report presents no evidence that the acquisition of this boat was a clear waste and abuse of public funds, although subsequently the boat was mismanaged due to lack of sufficient funding for any maintenance or repair operations.

If you know of any authority that would allow us to hold the Special Assistant responsible then we would ask that you include such in your final report. As it currently stands we would not be able to take any action on this recommendation, but are always willing to re-consider our position. Clearly your report has identified a major defect in this law, and we would support legislative action in amending this law to include a penalty provision for violating restrictions on re-programming. If responsible government officials were subjected to personal liability for their official acts, then they might think twice about violating these restrictions.

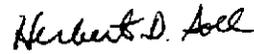
---

<sup>1</sup>Your report contains a typographical error and identifies this section as 1 CMC § 7404(a)(2), however the proper section that prohibits re-programming into a zero-funded account is actually 1 CMC § 7402(a)(2).

Although this report does not make a recommendation to do so, we had already responded in our annual report to your office that we do intend to take action against those individuals who improperly allowed this boat to be used for political purposes. That will be in the form of a civil action seeking reimbursement for the cost of operating the boat.

We will appreciate any further questions or comments.

Sincerely yours,



Herbert D. Soll  
Attorney General



Office of the Secretary  
Department of Finance

P.O. Box 5234 CHRBSAIPAN, MP 96950

TEL: (670) 664-1100 FAX: (670) 664-1115



February 14, 2001

SFL 2001-146

Michael S. Sablan  
CNMI Public Auditor  
Office of the Public Auditor  
P.O. Box 1399  
Saipan, MP 96950

**RE: Draft Report on the Maintenance and Use of the Challenger Since its Purchase in 1995 - RESPONSE TO RECOMMENDATION No. (5)**

Dear Mr. Sablan:

This letter contains our response to Recommendation No.(5) which recommended that: "the Secretary of Finance should reexamine implementation of DOP's Property Management and Accountability Policy to insure that: (a) the Division of Procurement and Supply maintains a master inventory control over personal property and conducts an annual inventory of all such property, (b) agencies and departments affix a control number to all property they maintain, or (c) the Division of Procurement and Supply revise its policy to accommodate property considered integral to the primary equipment.". Our responses are as follows:

**Recommendation (5)(a):**

We concur with the recommendation and agree that P&S conduct an annual inventory and maintain the master inventory control record. On January 18, 2001, the Director of Procurement and Supply notified all Departments and Activities that we will conduct the annual inventory of personal property beginning March 2, 2001, following the submission of property listings from those individuals with physical control over, and use of, such property (Accountable Person). We will use the results of the inventory to maintain the master inventory control record.

We acknowledge that Procurement and Supply has not conducted the annual inventory as required each year due to limited resources and outdated systems; the inventory cycle has been running 2-3 years. We are now finalizing updated property management policies and procedures which will be integrated with a state of the art master inventory control system. These improvements should permit the completion of an inventory annually.

**Recommendation (5)(b):**

We disagree with the recommendation that the agencies with physical control over, and use of, government property should be responsible for tagging such property. The existing Property Management and Accountability Procedures require, under Section VI. Policy, that a permanently affixed property control number identify all government properties but does not specify who does the tagging. The Director of P&S receives all property purchased by the government before releasing it to using agencies at which point we affix a property control tag for entry into the master inventory control record. This has been a longstanding practice which makes good functional sense because it establishes the tagging responsibility at the single (entry) point where the government, through P&S, takes ownership and inventory control over the property. Transferring the responsibility for tagging to the accountable agencies would result in total loss of control over the accountability process because at the time of release of property to the accountable agency there would be no government ownership tag affixed and consequently no master inventory control record created.

While we acknowledge that P&S failed to tag some items of property aboard the Challenger we do not agree that transferring the responsibility for tagging to using agencies will result in any greater likelihood that all items of property will be tagged as required. On the contrary, we consider the loss of control and accountability which would result to be unacceptable. The alternate course of action we choose is to continue the practice of having P&S affix property tags.

**Recommendation (5)(c):**

We disagree with the recommendation that P&S revise its policy to accommodate property considered integral to the primary equipment. Policy requires that "each individual piece of personal property" be tagged. We understand the word "integral" to mean, "formed as a unit with another part"; "composed of integral parts," and "lacking nothing essential." Your recommendation would appear to require us to tag items of property which are the essential components of an individual piece of property, for example the seats or air-conditioning unit in a car or the public address system on a boat. We think this is not only unreasonable because these items have lost individual identity upon installation in the car or boat, but also impossible from a practical standpoint because to tag essential components integrated into cars or boats, for example, would require many man hours and even some disassembly of the car or boat.

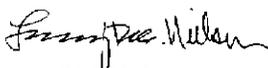
While we acknowledge that P&S failed to tag some "individual" pieces of property on the Challenger, we believe that the phrase "pieces of property" should be understood to refer to "items which could readily be removed from the vessel" rather than items which integrated into the vessel and which could only be removed with significant effort resulting in the Challenger having less functionality as a vessel. We further acknowledge that some of the items transferred and listed as "Inventory" on "Exhibit D" of the sales contract which were not tagged by P&S, are not "integral parts of the vessel" and should have been tagged, but do not agree that simply because various items were on the inventory list that they all automatically became "separate items of personal property" subject to tagging.

You refer to 51 items on the Challenger "Inventory List" as of the date of purchase and say only 3 of the 51 items were tagged, a TV set, a VCR, and a cooler. Actually, the inventory list consists of 51 line items identifying 178 pieces of property. For example, one line item lists 8 fire extinguishers, another lists 4 navigation running lights, and yet another lists 1 Tokimec auto pilot system. We regard the fire extinguishers as separate items of property and believe they should have been tagged, but regard the navigational running lights and auto pilot system as integral parts installed as required for the functionality of an open water vessel and believe that they should not be regarded as individual pieces of property but as integral parts of the Challenger and therefore not subject for tagged simply because they were on the inventory list.

The alternate course we choose is to continue to require P&S to tag "each individual piece of personal property" rather than each integral or essential component which makes up an individual piece of property.

Thank you for your attention. We hope that you find our position satisfactory in addressing the finding and a resolution reached to close the recommendation.

Sincerely,



Lucy DLG Nielsen  
Secretary of Finance

CC: Director, Procurement and Supply

**AUDIT OF THE MAINTENANCE AND USE OF THE CHALLENGER  
SINCE ITS PURCHASE IN 1995**

**STATUS OF RECOMMENDATIONS**

Recommendations	Agency to Act	Status	Agency Response/ Action Required
<p>1. The Governor issue a memo emphasizing that when government departments and agencies procure vehicles (including vessels) and other capital equipment, they must also provide a plan which includes budgetary provisions for maintenance and upkeep throughout the expected useful life of the assets.</p>	<p>Governor</p>	<p>Closed</p>	<p>On March 21, 2001, the Governor issued a memo to departments and agencies advising them to review their current budgets and find ways to allocate funding so that they can adhere to preventive maintenance schedules and timely repair of assets. He also urged them to include funds for the repair and maintenance of vehicles and assets when they submit their budget requests.</p> <p>No further action is required.</p>
<p>2. The Governor issue a memo advising heads of government departments and agencies that, according to 1 CMC § 7406(a)(5) of the Commonwealth Code, boats are to be treated as vehicles and may not, therefore, be used for other than official government business.</p>	<p>Governor</p>	<p>Closed</p>	<p>In the Governor’s March 21, 2001 memo, he advised departments and agencies that the use of government boats is also restricted by public law. He advised that such vessels could be used only for official government business, and that any unauthorized use would violate CNMI law and would be dealt with accordingly.</p> <p>No further action is required.</p>
<p>3. The Director of the Division of Procurement and Supply re-advertise this vessel for sale worldwide, rather than just locally, so as to maximize the return on the sale of the vessel.</p>	<p>Procurement &amp; Supply</p>	<p>Closed</p>	<p>On February 7, 2001, the Director of the Division of Procurement and Supply advised us that they had reconsidered their decision to sell the vessel, and that they now planned to instead turn it over to the Department of Fish and Wildlife. He stated that he would ensure that the Department of Fish and Wildlife developed a plan for the use and maintenance of the vessel.</p> <p>This recommendation will be dropped.</p>

**AUDIT OF THE MAINTENANCE AND USE OF THE CHALLENGER  
SINCE ITS PURCHASE IN 1995**

**STATUS OF RECOMMENDATIONS**

Recommendations	Agency to Act	Status	Agency Response/ Action Required
4. The Attorney General issue appropriate administrative sanctions against a former official of the Office of Management and Budget for violating the Planning and Budgeting Act.	Attorney General	Closed	<p>In a letter dated April 2, 2001, the Attorney General advised that while this reprogramming action did indeed violate the Planning and Budgeting Act, the Act provides no sanction or remedy for this violation. Consequently, the Attorney General's Office is unable to take appropriate action because evidence was not presented showing that the reprogramming action itself involved a clear waste and abuse of government funds. He, however, stated that this illegal action and our report clearly identified a defect in the Act, and agreed to support legislative action to amend the law. We agree with his position that legislation should be introduced to amend the Act.</p> <p>This recommendation will be dropped. However, Recommendation No. 6 has been added for the Legislature to adopt.</p>
<p>5. The Secretary of Finance should reexamine the implementation of its Property Management and Accountability Policy to ensure that:</p> <p>a) the Division of Procurement and Supply maintains a master inventory control over personal property, and conducts an annual inventory of all such personal property,</p> <p>b) agencies and departments properly affix a control number to all property they maintain, or</p> <p>c) revise its policy to accommodate property considered integral to the primary equipment.</p>	DOF	Closed	<p>On February 14, 2001, the Secretary of Finance agreed that P&amp;S would conduct an annual inventory and maintain a master inventory control record. The Secretary, however, believes that P&amp;S, rather than agencies and departments, should affix control numbers to property items, and we agree as long as it gets done. The Secretary also sees no need to revise its policy, and we agree such action is unnecessary as long as P&amp;S affixes control numbers to property items.</p> <p>No further action is required.</p>

**AUDIT OF THE MAINTENANCE AND USE OF THE CHALLENGER  
SINCE ITS PURCHASE IN 1995**

**STATUS OF RECOMMENDATIONS**

Recommendations	Agency to Act	Status	Agency Response/ Action Required
<p>6. The CNMI Legislature should amend 1 CMC § 7402(a)(2) of the Planning and Budgeting Act by adding a provision to the Act that any CNMI Government employee who illegally re-programs government funds or receives illegally reprogrammed funds will be held personally liable for the amount of the reprogramming action.</p>	<p>CNMI Legislature</p>	<p>Open</p>	