



# Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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September 21, 1999

Mr. Gregorio A. Deleon Guerrero  
Acting Director  
Emergency Management Office  
P.O. Box 10007, Capitol Hill  
Saipan, MP 96950

Dear Mr. Deleon Guerrero:

Subject: Final Letter Report on the Audit and Investigation of Whether an  
Emergency Management Office Technician Conducted Private Business  
While on Official Duty (Report No. LT-99-07)

This report presents the results of our audit and investigation of a government contract with a former Emergency Management Office (EMO) technician and on the allegation of his conducting private business while on official duty at the EMO. The objectives of our audit and investigation were to determine if: (1) the technician was being paid for work not performed; (2) his private contract with EMO was in violation of CNMI laws; (3) the CNMI government has a critical need for the Smartnet Communication System; and (4) there is a less expensive way of obtaining a maintenance contract for the System.

Based on our audit and investigation: (1) there was no evidence to show that the technician conducted private business while on official duty; (2) the former EMO technician's service contract with the government, after his resignation, was not in violation of CNMI laws; (3) the radio network system is vital to the CNMI government's operation, especially for emergency response units such as EMO, Commonwealth Health Center (CHC) and Department of Public Safety (DPS); and (4) EMO's contracting with Marvin P. Leon Guerrero dba MLG Consulting (sole proprietorship) is the most practical alternative at present. The former EMO technician, MLG, offers the lowest price and is the only licensed technician on island authorized to maintain the System.

Our audit and investigation showed, however, that EMO has not adopted a definite course of action for hiring and training skilled technician(s) for backup especially in case of communication system breakdowns during times of emergencies. At present, the maintenance of EMO's Smartnet Communication System depends on the former technician's services. On November 1, 1997, the

government entered into a sole source contract, with MLG Consulting, a sole-proprietorship owned by the technician who resigned from EMO on October 31, 1997. The initial contract price for the 11-month period November 1, 1997 to September 30, 1998 was \$50,000 (\$4,545.45 x 11). The government has been renewing his contract every quarter starting October 1, 1998 at \$13,636.35, the equivalent of a \$54,545.40 (\$4,545.45 x 12) annual contract price.

In May 1999 EMO issued an Invitation to Bid (ITB 99-0037) in an effort to obtain alternatives to sole source contracting for the preventive and technical maintenance of the government-owned Smartnet Communication System. Two companies submitted bid proposals: Motorola Company Guam and Communication Specialists, Inc. (CSI).<sup>1</sup> The two bid proposals were compared with the contract price and the services provided by the current contractor, MLG Consulting. Since MLG Consulting offered the lowest price and the former EMO technician (MLG) is the only licensed technician on island authorized to repair and maintain the System, as well as the lead technician when the system was being installed, EMO chose to retain MLG Consulting.

Knowing that there is only one technician on island authorized to repair and maintain the System, EMO needs to further explore other alternatives. For instance, EMO can advertise outside Saipan before continuing to rely on the current sole source. EMO may hire an employee who is a qualified technician with the skills and expertise to repair and maintain the Smartnet Communication System. Also, EMO needs to consider training for currently employed technicians to maintain the System. In addition, EMO needs to integrate reliable alternatives as soon as possible into contingency plans in case of an emergency.

In his written response on June 1, 1998 (Appendix A), the Acting EMO Director agreed with our findings and recommendation that EMO needs a backup maintenance capability to ensure against disruption of the Communication System. He said that EMO considered training the present EMO technicians to further improve their skills on the System. However, this training has not yet been carried out as this requires additional funding and scheduling. EMO has yet to look into the availability of backup companies or technicians who are familiar with the configuration of the System during the training period.

## BACKGROUND

On February 10, 1997, the Office of the Public Auditor received information about a government technician's private business that was allegedly in conflict with his duty as an EMO employee. The technician was reported to be spending most of his time working at his privately owned radio shop while on official duty as a full-time employee.

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<sup>1</sup> Based on the 1998 Annual Corporation Report of Communication Specialists, Inc.(CSI), the former EMO Technician owns 50% of the total shares of CSI and is the company's General Manager. Aside from being with CSI, a company engaged in communication equipment sales, rental and service, he formed MLG Consulting, a sole proprietorship engaged in communication equipment installation, services and consulting after his resignation on October 31, 1997.

Executive Order 94-3, the "Second Reorganization Plan of 1994" (effective August 23, 1994), reorganized the Commonwealth government executive branch, changed agency names and official titles and made numerous other revisions. Section 216 of that order states that the Disaster Control Office and the Office of Civil Defense are consolidated in a Division of Emergency Operations within the Office of the Governor, which shall have at its head a Director of Emergency Operations.

One of the functions of the Disaster Control Office stated in the Commonwealth Code, 1 CMC §5133, is to ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The office is to consider the desirability of supplementing these communications resources or of integrating them into comprehensive Commonwealth or federal telecommunications systems or networks. In studying the character and feasibility of multipurpose use for general Commonwealth governmental purposes, the office is to make recommendations to the Governor as appropriate.

## **OBJECTIVES, SCOPE AND METHODOLOGY**

The objectives of the audit and investigation were to determine if: (1) the technician was being paid for work not performed; (2) his service contract with EMO was in violation of CNMI laws; (3) the CNMI government has a critical need for EMO's Smartnet System; and (4) there is a less expensive way of obtaining a maintenance contract for the Smartnet Communication System. To accomplish our objectives, we examined the technician's professional service contract, business licenses, written statements and related documents, and interviewed appropriate personnel.

We performed our audit and investigation at the EMO Office, the Department of Finance, the Office of Personnel Management and the office of Communication Specialists, Inc. on Saipan from February 10, 1998 to February 17, 1998. Follow-up procedures were conducted from July 30, 1999 to August 20, 1999. The audit was made, where applicable, in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures as we considered necessary under the circumstances.

## **FINDINGS AND RECOMMENDATIONS**

### **A. Former EMO Technician Did Not Violate CNMI Laws**

There was no evidence to show that the technician conducted private business while on official duty as a full-time employee of EMO. Additionally, his service contract with the government, after his resignation, was not in violation of CNMI laws.

### *The EMO Lead Technician for the Smartnet System*

On January 30, 1995, EMO hired an electronic technician from Guam to repair and maintain the Smartnet Communication System, under an excepted service contract. Previously, he was Motorola's lead technician when the system was being installed for the government. The technician was first given an annual salary of \$40,000 for a two-year contract. When EMO renewed his contract on January 30, 1997 for another 2 years, his salary was increased to \$42,000. During his employment, he was the only licensed technician in Saipan authorized to maintain and repair the System.

On September 29, 1997, the technician submitted a 30-day notice of his resignation, effective October 31, 1997. Without a backup technician, the Emergency Management Office contracted with him as an independent contractor doing business as MLG Consulting.

## 2. The Smartnet Communication System is Vital to Government Operations

Pursuant to 1 CMC §5133, the EMO should develop and maintain a means of rapid and efficient communications in times of disaster emergencies. Through the Smartnet Communication System, there is an instant link of communication between agencies and especially the emergency response units. To be a totally effective communication system, it is necessary to have a reliable maintenance capability including backup in terms of equipment and personnel to ensure that the System is not disrupted. EMO, however, does not have a backup technician for repair of the System. EMO also lacks contingency plans for hiring and training qualified technician(s) in case of an emergency resulting in communication breakdown. Therefore, there is risk of the System being disrupted in case of an emergency.

### *The Smartnet Communication System*

The EMO Smartnet Communication System is a radio network system which serves as an instant link of communication between agencies such as Customs, Department of Public Works, the Federal Bureau of Investigation, and especially the emergency response units of EMO, CHC and DPS. These agencies depend on communication when saving lives and protecting property. The EMO Smartnet Communication System was designed, engineered and installed by Motorola to meet the needs of the CNMI government. It is a 15-channel 800 MHz Trunked Radio System.<sup>2</sup>

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<sup>2</sup> The introduction of trunked systems was directed by the Federal Communications Commission (FCC). Trunking permits a large number of users to share a relatively small number of communication paths - or trunks. This sharing of communication paths is managed automatically by a computer. Channel selections and other decisions normally made by the radio user are made by the central controller, a computerized switch. Channel assignment is automatic and completely transparent to the individual users.

Trunking also allows faster system access, better channel efficiency, more user privacy and the flexibility to expand. A trunked system can expand along with operations, to accommodate a growing number of users. It can also be continuously updated with software. Because of its efficient channel usage, this system affords users reliable, immediate access to a channel during emergencies and features to help ensure that these calls will get through. The dynamic regrouping feature allows the system to quickly reassign units so users can talk to each other during an emergency. Lost or stolen radios can be disabled remotely by the central controller. And the Unit identification (Unit ID) feature can identify a radio that has been keyed by the user, even if he is unable to speak. The telephone interconnect feature enables users to receive and make telephone calls directly from the radio.

For organizations where instant, effective and private communications are a vital part of everyday operation, a trunked two-way radio system provides the coverage, channel efficiency, security and flexibility needed. The design concept of the Smartnet Communication System(FCC Docket No. 18262) includes a transmitter, receivers, antenna system, microwave, and an advanced system controller with computer hardware and software to control the system. The System consists of four (4) basic hardware subsystems: repeaters, system central controller, radios and Console.(Appendix B)The Smartnet is a multi-channel mobile communications system. It employs digital addressing techniques and frequency switching systems to maximize user flexibility and channel access. This System gives a new approach to Public Safety communications systems and is instrumental in making a single agency system grow into one capable of supporting all of the mobile and portable radio requirements for the CNMI. The necessary operational rights and privacy of individual departments are also maintained.

In order to serve the public better, the present configuration of the communication main backbone system needs periodic repairs and maintenance. It is then necessary and prudent for EMO to have both primary and secondary sources for the repair and maintenance of the Smartnet Communication System. If the primary source should fail to perform for any reason and there is no secondary or backup source, the CNMI could be without communications when urgently needed. According to the EMO Acting Director, the Smartnet Communication System is vital to the operation of the entire CNMI government, not only to EMO.

#### C. MLG Consulting is the Most Practical Alternative

Procurement for professional services should be as competitive as possible so that the best price and quality of service are obtained. However, since the former technician is the only certified technician on island and is well versed on the system, EMO entered into a sole source contract with Marvin P. Leon Guerrero dba MLG Consulting on November 1, 1997. In May 1999, EMO issued an Invitation to Bid (ITB) in an effort to obtain alternatives to sole source contracting. Two companies submitted bid proposals: Motorola Guam and Communication Specialists, Inc. (CSI). Motorola Guam quoted an annual price of \$148,500 while CSI quoted \$110,095. MLG Consulting is paid an equivalent annual contract price of \$54,545.40. At present, contracting with the former EMO technician appears to be the most practical alternative. However, EMO should explore all possible means to choose the best alternative for the CNMI government.

#### *Sole Source Contract with MLG Consulting*

EMO contracted with MLG Consulting which is a sole proprietorship formed by the EMO technician after he resigned from government employment on October 31, 1997. This sole source contract (#305307-OC) was executed on November 21, 1997. Initially, the contract price for the 11-month period November 1, 1997 to September 30, 1998 was \$50,000 (\$4,545.45 x 11). Since October 1, 1998, the government has been extending his contract every quarter for \$13,636.35, the equivalent of a \$54,545.40 (\$4,545.45 x 12) annual contract price. His contract requires him to provide 24-hour standby technical assistance and perform bi-annual preventive maintenance

on the present configuration of the Smartnet Communication main backbone system. (Please refer to page 8 for related information on the processing of this contract.)

Seeing the need to consider alternative sources for preventive and technical maintenance of the government-owned Smartnet Communication System, EMO issued an invitation to bid, ITB 99-0037 in May 1999, eighteen months after EMO first contracted with MLG Consulting on a sole source basis. Two companies submitted bids: Motorola Guam and Communication Specialists, Inc.(CSI). Motorola Guam quoted an annual price of \$148,500 while CSI quoted \$110,095.

After considering these alternatives, the government chose to retain the services of the former EMO lead technician rather than contract with one of these bidders. The Acting Director gave these reasons: (1) MLG remains the only contractor on island authorized to repair and maintain the System, since its owner is a licensed and Federal Communications Commission (FCC) certified technician; (2) While at present, EMO has employees who can troubleshoot the system, on the technical side it needs a technician who is familiar with and has extensive training on the Smartnet Communication System equipment, modification and configuration; and (3) MLG Consulting offers the lowest contract price when compared with the two bidders. Contracting a technician from Motorola Guam to fly to Saipan would require additional cost since the government would be spending for his lodging, meal, transportation and System parts and labor. MLG Consulting does not charge additional fees for labor.

According to the EMO Acting Director, MLG planned to consolidate its assets with CSI and dissolve MLG Consulting, since its owner is also the majority shareholder of CSI. MLG, however, reconsidered this plan because EMO contracted with MLG Consulting and not with CSI and MLG's contract with the government may consequently not be extended.

In our opinion, EMO should continue to look for alternatives. For example advertising outside Saipan (e.g., Guam or the US Mainland), EMO should consider hiring a qualified technician who is also well-versed with the Motorola Smartnet Communication System. Having a full-time EMO lead technician would enable the government to manage its emergency operations more efficiently. EMO should explore all possible means to choose the best alternative (in terms of cost-efficiency and service quality) for the CNMI government.

#### Conclusion and Recommendations

Our audit and investigation showed that: (1) there was no evidence to show that the technician conducted private business while on official duty; (2)the government's contracting with the former EMO technician did not violate CNMI laws; (3) this radio network system is vital to the entire government's operation, especially for emergency response units such as EMO, CHC and DPS; and (4)EMO's contracting with MLG Consulting (sole proprietorship) is the most practical alternative at present because its owner is the only licensed technician on island who is authorized to maintain the system.

We noted, however, that EMO lacks contingency plans for hiring and training qualified technician(s) in case of emergency and communication breakdown. Viewing the Smartnet Communication System as a necessary means for rapid and efficient communications in times of disaster emergencies, EMO should have a backup maintenance capability to ensure that this System does not get disrupted. We recommend that:

1. the EMO Acting Director establish and implement training for employees who have the skill and expertise to maintain and repair the Smartnet Communication System or any equipment or system which is vital to the protection of the CNMI government. EMO should have backup technician(s) and contingency plans in case the present technician is not available; and
2. EMO advertise outside Saipan before resorting to sole source contracting to look for qualified technicians to fill the position vacated by the former EMO lead technician. EMO would be better able to manage the government's emergency operations and control its expenses by having a full-time EMO lead technician.

#### *EMO Response*

In his written response on June 1, 1998 (Appendix A), the Acting EMO Director agreed with the recommendation that EMO needs to have a backup maintenance capability to ensure that the communication system is not disrupted. EMO has considered the idea of training its technicians to further improve their skills on the System, but this training requires additional funding and proper scheduling. EMO has yet to look into the availability of backup companies or technicians who are familiar with the configuration of the System during the training period.

#### *OPA Comments*

Based on the response, we consider recommendation # 1 open. Although the Acting EMO Director concurred with the findings and recommendation, and stated that a backup maintenance capability is needed to insure that the communication system is not disrupted, a more definite plan of action is needed. The EMO Acting Director needs to establish a reasonable plan and time frame for implementation.

#### D. Other Matter - Automatic Extension Before Processing is Completed

Section 2-104 (on Contract Review, Processing and Oversight) of the Procurement Regulations provides that: (1) it is the responsibility of the official with expenditure authority to ensure that the contractor does not incur any expenses under it until all necessary government signatures have been obtained; and (2) no contract is effective against the Commonwealth until all of the parties whose signatures are required on the contract form have signed the contract. Our audit showed that since October 1, 1998, EMO has been automatically extending its contract with MLG Consulting every quarter. We noted, however, that the effective dates of contract 305307-OC and its change orders were prior to the completion dates of processing.

Ref.	Processing Completion Date	Period Covered From - To	Expenditure Authority	DOF Sec.	Procurement and Supply	AG's Office	Governor's Office	Contractor
305307-C	11/21/97	11/01/97 - 09/30/98	Not indicated	11/20/97	11/20/97	11/21/97	11/21/97	11/21/97
Change order 1	11/10/98	10/01/98 - 12/31/98	10/06/98	10/26/98	10/19/98	10/26/98	10/29/98	11/04/98
2	02/22/99	01/01/99 - 03/30/99	Not indicated	01/25/99	01/19/99	02/02/99	02/08/99	02/16/99
3	05/27/99	04/01/99 - 06/30/99	Not indicated	05/10/99	04/15/99	05/20/99	05/21/99	05/26/99

**Table 1 Processing Dates for EMO's Contract with MLG Consulting**

This is attributed to the lack of implementing established procedures to ensure that contracts are signed and processed as set forth in the CNMI Procurement Regulations. In effect, this practice of allowing contractors to be paid and to start work prior to the completion of contract processing: (1) puts the CNMI at risk in case the contract is discontinued due to disapproval of some officials; and (2) decreases public confidence in the procedures followed in public procurement.

### Conclusion and Recommendation

The contract period for EMO's sole source contract with MLG Consulting was not actually on a quarterly basis but for an unlimited period. This does not give the government assurance that other alternatives are considered before EMO resorts to contracting on a sole source basis.

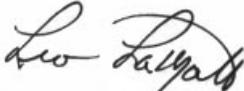
Accordingly, we recommend that the Secretary of Finance issue a memorandum to the Procurement and Supply Director requiring him to implement written procedures to regulate specified contract periods so that contracts do not become effective before processing is completed.

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Our office has implemented an audit recommendation tracking system. All audit recommendations will be included in the tracking system as open or resolved until we have received evidence that the recommendations have been implemented. An open recommendation is one where no action or plan of action has been made by the client (department or agency). A resolved recommendation is one in which 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 the recommendation implementation along with the documentation showing the specific actions taken.

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)  
Attorney General  
Secretary of Finance  
Special Assistant for Management and Budget  
Public Information Officer  
Press



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
*Emergency Management Office*  
*Office of the Director*



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

Gregorio A. DL.Guerrero  
Acting Director of  
Emergency Management

June 1, 1998

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

Dear Mr. LaMotte:

Subject: Investigative Report # 98-010

In response to your letter dated May 23, 1998 on your investigation of alleged misconduct of a former employee of the Emergency Management Office. Based on a copy of your draft report that you have provided to this office and based on the findings and recommendations I do concur with three (3) items which are:

- (1) That the responsibility of this office is to maintain and repair the Smartnet Communications System, this is correct.
- (2) That a backup maintenance capability is needed to insure that the communication system does not get disrupted.
- (3) That EMO should have more than just one technician able to perform the duties of each other so that this office is not placed into the same situation it is now.

Presently, this office does have personnel that can trouble shoot the system but on the technical side of this system, this office will need a specific type of technician, one that has been trained extensively and is familiar with this type of equipment and its modifications and configurations. But, should the main component or the main trunk of the system fail, then this office would have to contract a technician from Motorola to fly to Saipan and correct the malfunction of the communication system. This would be costly and would delay the repair of the system, which is essential for the emergency communications of the CNMI.

Granted that the contract entered with this particular individual may seem excessive and a waste of funds and should not have been entered in the first place and negotiations for the cost of the contract should be re-negotiated and reduced. But, to itemize the cost for this office to continuously expending funds to fly

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June 1, 1998  
LaMotte continue

a technician to Saipan and repair the system, pay for lodging, meals, labor, parts and transportation. On the other hand, paying for services that is readily available on island and that will provide the service needed on a short or no notice should the system fail unexpectedly at any time day or night.

Training for the technicians to further improve their skills on the Smartnet System here at EMO is being considered and is being looked into. The cost of sending these technicians off-island for an extended period of time will be crucial should the system fail while the training is being conducted, then we will still have to consider the services of the technician or companies that are familiar with the configuration of this system. Presently, there is no other individual on this island that is familiar with this system, technicians from the various communications companies still have to get the training on this type of equipment before they can actually repair or correct what the failure is.

With the recent delivery of programming equipment for EMO, this office is now able to program and re-program the governments' radios and mobile radios without going to other private companies for such service. Prior to receiving the needed equipment, all the equipment used within this office belonged to the former employee. This is because when the technician was hired and this office had lacked the tools or equipment to operate the system or to program any type of radio, he had brought all his equipment from Guam. Prior to the resignation of the former employee, this office failed to procure the needed equipment as a precautionary measure.

As for the allegations of the former employee performing other services while still employed with this office, no evidence has been found from any records or information that has led me to concur with your investigation. Your investigative report stated that no evidence has been found to support the allegations in regards to misconduct or the relationship of the technician and the Communications Specialist prior to his resignation with this office.

Should there be any additional questions or other concerns that may need further discussion, please do not hesitate to contact this office.

Sincerely,



Gregorio A. Deleon Guerrero  
Acting Director, Emergency Management

## THE SMARTNET COMMUNICATION SYSTEM BASIC PARTS AND FEATURES

Hardware	Features
Repeater	The System has a total of 15 to 20 repeaters- 2 of which are used for control channel. This is the data link between the System Central Controller, radios and console. These repeaters are operating at 800 MHz (Ultra High Frequency) spectrum with full rate solid state 75 watts; continued Radio Frequency power for optimum coverage.
System Central Controller	This microprocessor-based control unit, directs and provides organization for the system. It is responsible for arranging the flow of communications between system users. This includes processing call requests, gathering statistics, status and alarm reporting.
Radios	These are users' equipment consisting of mobile and a variety of portables. User option depicts the type of radio to be used. All CNMI radios can be programmed to operate on their own department talk group.
Console	<p>System Watch can be located at any dispatch site and is a tool in providing real time activity, error messages and control channel diagnostic. It consists of a Trunk Control Channel Radio, software and a computer with enhanced color monitor and keyboard. There is no waste of time decoding information such as activity by user, type of call and channel. System Watch is a desktop diagnostics and system-monitoring unit that monitors the control channels and downloads system information such as:</p> <ul style="list-style-type: none"> <li>• Talkgroup Affiliation</li> <li>• Caller's Unit ID</li> <li>• Call type (General, Priority/Emergency)</li> <li>• Federal Communications Commission (FCC) Channel Designation</li> <li>• Time Channel was Granted</li> <li>• Duration of Busy Channel</li> <li>• Individuals Who Misuse the System</li> <li>• Detects undesirable occurrences in the System</li> <li>• Alert with audio/visual alarm for a specified caller or call type</li> <li>• Information storage by automatically storing system activity to the hard disk for later off-line system analysis.</li> </ul>

AUDIT AND INVESTIGATION OF WHETHER AN  
EMERGENCY MANAGEMENT OFFICE TECHNICIAN  
CONDUCTED PRIVATE BUSINESS WHILE ON OFFICIAL DUTY

STATUS OF RECOMMENDATIONS

Recommendations	Agency	Status	Action Required
Establish and implement training for employees who have the skill and expertise to maintain and repair the Smartnet Communication System or any equipment or system which is vital to the protection of the CNMI government. EMO should have backup technician(s) and contingency plans in case the present technician is not available.	EMO	Open	The Acting EMO Director agrees with the recommendation that EMO needs a backup maintenance capability to ensure against disruption of the Communication System. He said that EMO considered training the present EMO technicians to further improve their skills on the System. However, this training has not yet been carried out as this requires additional funding and scheduling. EMO has yet to look into the availability of backup companies or technicians who are familiar with the configuration of the System during the training period.  Further Action Needed
Advertise outside Saipan before resorting to sole source contracting to look for qualified technicians to fill the position vacated by the former EMO lead technician. EMO would be better able to manage the government's emergency operations and control its expenses by having a full-time EMO lead technician.	EMO	Open	Further Action Needed
The Secretary of Finance should issue a memorandum to the Procurement and Supply Director requiring him to implement written procedures to regulate specified contract periods such that contracts do not become effective before processing is completed.	DOF	Open	Action Needed