



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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REPORT ON CNMI AGENCIES' IMPLEMENTATION OF AUDIT RECOMMENDATIONS AS OF JUNE 30, 2004 (with agency responses up to November 15, 2004 incorporated)

December 28, 2004

Interagency Audit Coordinating Advisory Group
Saipan, MP 96950

Enclosed is a copy of the report on CNMI agencies' implementation of audit recommendations included in audit reports issued by the Office of the Public Auditor (OPA) as of June 30, 2004. OPA tracked a total of 67 audit recommendations during the period from January 1 through June 30, 2004.

We have also included in this report recommendations issued by private Certified Public Accounting (CPA) firms. OPA is not responsible for tracking the implementation of these recommendations, however, they are included in the audit recommendations tracking report for information purposes. As of June 2004, there was a total of 83 recommendations in 8 recent audit reports issued by private CPA firms.

OPA issued one procurement report, *i.e.*, decision on appeal during the first six months of 2004. The appeal was denied.

Although the Coordinating Group members did not meet during the first six months of 2004, OPA again issued follow-up letters and/or called various government agencies with outstanding audit recommendations as of June 30, 2004. This report incorporates agency responses to follow-up letters which OPA received on or before November 15, 2004. The response letters received resulted in the closure of 9 audit recommendations. The number of delinquent recommendations, however, slightly increased by 12% as of June 30, 2004.

In accordance with statutory restrictions in the Auditing and Ethics Acts, the names of individuals and entities in the audits are not disclosed in this report.

Sincerely,

Michael S. Sablan, CPA
Public Auditor

cc: Governor Juan N. Babauta
Lt. Governor Diego T. Benavente
Members, Fourteenth CNMI Legislature (27 copies)
Local Media

Report on CNMI Agencies' Implementation of
Audit Recommendations
As of June 30, 2004

Office of the Public Auditor
Commonwealth of the Northern Mariana Islands



EXECUTIVE SUMMARY

Audit Recommendations Tracking Report as of June 30, 2004

Report No. TR-04-01, December 28, 2004

Summary

The Office of the Public Auditor (OPA) maintains an audit recommendations tracking system to monitor implementation and resolution of audit recommendations. On a semi-annual basis, OPA issues its Report on CNMI Agencies' Implementation of Audit Recommendations (Audit Recommendations Tracking Report) which presents the audited agencies' compliance with OPA's recommendations.

Open and resolved audit recommendations are included in OPA's tracking system report. In addition, we have also included recommendations which were closed during the past six months. An *open* recommendation is one where no action or plan of action has been made, or no time frame for the plan of action has been provided by the client (department or agency). A *resolved* recommendation is one in which OPA is satisfied that the client cannot take immediate action, but has established a reasonable plan and time frame for 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. Also, we have considered open or resolved recommendations as *delinquent* if the recommendation has been outstanding for at least 180 days and we have not been informed by the concerned agency or department of any action being taken to close the recommendations.

Audit recommendations tracked for the first six months of 2004 totaled 67. Of the 67 audit recommendations, 9 were closed and 58 remained either open or resolved. Of the 58 open or resolved recommendations, 36 were considered delinquent.

The table below presents the status of OPA's audit recommendations for the first six months of 2004.

Status of Audit Recommendations	Up to 6/30/04
Total Recommendations Tracked for the First Six Months of 2004	67
Less: Closed Recommendations	(9)
Outstanding Recommendations as of June 30, 2004 (Open or Resolved)	58
Number of Delinquent Recommendations	36

OPA's follow-up on outstanding audit recommendations and the response letters received from various government agencies resulted in the closure of 9 audit recommendations and encouraged agency action on delinquent recommendations. OPA closed 9 or 13% of the 67 recommendations it tracked in the first six months of 2004. The number of delinquent recommendations, however, slightly increased by 12% as of June 30, 2004.

An analysis of the 9 closed recommendations for the first six months of 2004 showed that most were closed because agencies acted by implementing OPA recommendations, establishing policies and procedures, and by issuing memoranda and directives to reemphasize the need to comply with existing laws and regulations. OPA also closed two recommendations due to jurisdictional, Statute of Limitations and other reasons and closed one recommendation due to full recovery of funds.



The table below shows a breakdown of actions taken by the agencies to close the 9 recommendations.

Actions Taken to Close Recommendations	No. of Closed Recommendations
Implementation of Recommendation; Drafting Policies and Procedures; and Issuance of Memoranda and Directives	6
Dropped - Jurisdictional/Statute of Limitations/Other Reasons	2
Recovery of Funds Improperly Paid	1
Total for the First Six Months of 2004	9

Recommendations issued by private CPA firms are also included in OPA's audit recommendations tracking report. OPA is not responsible for tracking the implementation of these recommendations, however, they are included in the audit tracking report for information purposes. Based on the classification followed by private CPA firms, a recommendation is described as either *resolved* or *unresolved*. OPA has included in the tracking report a total of 83 recommendations in 8 recent audit reports issued by private CPA firms under contract by OPA.

As of June 30, 2004, recommendations in 9 audit reports were referred to the Attorney General's Office for legal action to recover monies improperly expended. According to OPA's audit reports, approximately \$1,354,610 is potentially recoverable. In addition to this, potential recovery of another \$4.6 million also hinges on agencies' actions.

Recommendations in 12 audit reports identified potential recoveries due to unpaid rentals of land leases, overpayments in professional services contracts and retirement benefits and improper expenditure of public funds. As of June 30, 2004, initial actions by agencies resulted in partial recovery of \$997,243 and one claim of \$6,503 in accrued interest on public funds advanced for the Commonwealth Development Authority's parking lot improvements fully recovered (Report No. AR-00-02) leaving a balance of \$4,644,235 still to be recovered.

In accordance with statutory restrictions in the Auditing and Ethics Acts, the names of individuals and entities in the audits are not disclosed in this report.



A copy of the entire report is available at the Office of the Public Auditor, or through OPA's Website

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Introduction

Background

The provisions of 1 CMC §2307 established the Interagency Audit Coordinating Advisory Group (Coordinating Group) consisting of the presiding officer and minority leader of each house of the Legislature, the Secretary of Finance, and the Special Assistant for Management and Budget. According to the law, the Coordinating Group is to review all audit reports of the Public Auditor, and the Public Auditor will discuss the manner in which audit recommendations can be implemented with the assistance of the members of the Coordinating Group. The Coordinating Group shall also recommend to the Governor and to the Legislature any changes in laws or regulations which it finds necessary or desirable as a result of its work with the Public Auditor.

In early 1999, the former Governor appointed the former Secretary of the Department of Finance as the Chairperson of the Coordinating Group. The former Secretary of the Department of Commerce was also named a member of the Coordinating Group to help pursue closure of open and resolved recommendations. On March 10, 1999, the former Governor issued a memorandum advising all Department and Activity Heads to provide assistance to the Coordinating Group in resolving all outstanding recommendations.

In early 2000, the Coordinating Group met and decided to follow-up on the actions taken by various government agencies to address OPA's outstanding audit recommendations by scheduling meetings with each Department Head. Starting September 2000, meetings were held by the Coordinating Group to discuss actions which could be taken to close the outstanding recommendations pertaining to government agencies under the Executive Branch of the Government which include, among others, the Department of Public Safety, the Department of Community and Cultural Affairs, the Department of Lands and Natural Resources, the Attorney General's Office, the Department of Public Health, the Department of Finance and the Department of Public Works.

The Coordinating Group members did not meet with OPA and agency heads in 2001, 2002 and 2003. OPA, however, sent follow-up letters and/or called various government agencies asking them what actions were taken toward addressing the outstanding recommendations. Meetings on various dates were also held with various government agencies to discuss and clarify actions to be taken to close outstanding recommendations.

On March 13, 2002, the then-Acting Governor issued a letter to the Senate President, Speaker of the House, and the then-Acting Secretary of Finance to remind them of their membership on the Coordinating Group.

Although the Coordinating Group members did not meet during the first six months of 2004, OPA again issued follow-up letters and/or called various government agencies with outstanding audit recommendations as of June 30, 2004. This report

incorporates agency responses to follow-up letters which OPA received on or before November 15, 2004. The response letters received resulted in the closure of 9 audit recommendations. In accordance with statutory restrictions in the Auditing and Ethics Acts, the names of individuals and entities in the audits are not disclosed in this report.

Audit Recommendations Tracking System

OPA maintains an audit recommendations tracking system to monitor implementation and resolution of OPA audit recommendations. Recommendations issued by Independent Auditors are also included in the tracking system for information purposes.

OPA Recommendations - Open and resolved audit recommendations are included in OPA's tracking report. In addition, we have also included recommendations which were closed during the past six months. An *open* recommendation is one where no action or plan of action has been made, or no time frame for the plan of action has been provided by the client (department or agency). A *resolved* recommendation is one in which OPA is satisfied that the client cannot take immediate action, but has established a reasonable plan and time frame for 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. Also, we have considered open or resolved recommendations as *delinquent* if the recommendation has been outstanding for at least 180 days and we have not been informed by the concerned agency or department of any action being taken to close the recommendations.

Independent Auditors Recommendations - We have also included in this report recommendations issued by private Certified Public Accountant (CPA) firms. OPA is not responsible for tracking the implementation of these recommendations, however, they are included in the audit tracking report for information purposes. Because OPA is responsible for overseeing all audits of the CNMI government, follow-up procedures are also conducted for these recommendations to determine what actions have been taken by the individual agencies to implement the recommendations issued by private CPA firms. A copy of the agencies' responses is subsequently provided to the Independent Auditor who conducted the audit to determine whether the agencies' responses are sufficient to consider the recommendations resolved. Based on the classification followed by private CPA firms, a recommendation is described as either *resolved* or *unresolved*.

Status of Audit Recommendations

Audit recommendations tracked for the first six months of 2004 totaled 67. Of the 67 audit recommendations, 9 were closed and 58 remained either open or resolved. Of the 58 open or resolved recommendations, 36 were considered delinquent.

The following table presents a comparative schedule of the status of all our audit recommendations for calendar years 2002, 2003 and for the first six months of 2004.

Status of Audit Recommendations	2002	2003	up to 6/30/04
Total Recommendations Tracked for the Year	125	110	67
Less: Closed Recommendations	(44)	(43)	(9)
Outstanding Recommendations, End of Year (Open or Resolved)	81	67	58
Number of Delinquent Recommendations	56	32	36

The response letters received from various government agencies resulted in closure of recommendations and encouraged agency action on delinquent recommendations. OPA closed 9 or 13 percent of the 67 recommendations it tracked in the first six months of 2004. The number of delinquent recommendations, however, slightly increased by 12 percent as of June 30, 2004.

Independent Auditor's Report

OPA has included in the tracking report a total of 83 recommendations from 8 recent audit reports released by private CPA firms under contract by OPA.

OPA would like to recognize several government agencies, namely the Northern Mariana Islands Retirement Fund, Northern Mariana Islands Group Health Life Insurance Trust Fund, Workers' Compensation Commission and the Marianas Visitors Authority for having no reportable audit findings in their Annual Financial and Compliance audit report for fiscal year ended September 30, 2003 conducted by private CPA firms. This is a noteworthy accomplishment for these agencies and OPA appreciates the dedication and hard work carried out by these agencies in improving their operations and eliminating the repetition of prior year audit findings.

Other OPA Reports

OPA issued one procurement report, *i.e.* decision on appeal during the first six months of 2004 on the Commonwealth Utilities Corporation Executive Director's denial of Solid Builder's protest concerning the procurement of the As Matusi Subdivision Sewer System. Based on OPA's Protest Decision No. BP-A040, the appeal was denied.

Closed Recommendations

An analysis of the 9 closed recommendations for the first six months of 2004 showed that most were closed because agencies acted by implementing OPA recommendations, establishing policies and procedures and by issuing memoranda and directives in order to reemphasize the need to comply with existing laws and regulations. OPA also closed two recommendations due to jurisdictional, Statute of Limitations and other reasons and closed one recommendation due to full recovery of funds. The following table shows a breakdown of actions taken by the agencies to close the 9 recommendations.

Actions Taken to Close Recommendations	No. of Closed Recommendations
Implementation of Recommendation; Drafting Policies and Procedures; and Issuance of Memoranda and Directives	6
Dropped - Jurisdictional, Statute of Limitations and Other Reasons	2
Recovery of Monies Improperly Disbursed	1
Total for the first six months of 2004	9

Delinquent Recommendations

Delinquent recommendations slightly increased by 4 (12%) from 32 in 2003 to 36 for the first six months of 2004.

Year	2002	2003	up to 6/30/04
1994	3	0	0
1995	6	3	6
1996	2	1	2
1997	8	3	3
1998	6	1	1
1999	6	2	2
2000	17	6	10
2001	8	5	5
2002	0	2	0
2003	0	9	7
Total	56	32	36

Table 1 - Delinquent Recommendations

Below is an aging of the 36 delinquent recommendations issued in years 1995 to 2003:

Agency to Act	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
1. Department of Finance	1	1	3	1	2	2	1			11
2. Attorney General's Office	4	1				2	1			8
3. Northern Marianas College									7	7
4. Northern Mariana Islands Retirement Fund						2	3			5
5. Marianas Public Lands Authority	1					3				4
5. Office of the Governor						1				1
Number of Delinquent Recommendations	6	2	3	1	2	10	5	0	7	36

AGO Action Needed for Recovery of Approximately \$1,354,610

As of June 30, 2004, recommendations in 9 audit reports were referred to the Attorney General's Office (AGO) for legal action to recover monies improperly expended. OPA requested on September 21, 2004 an update of its referrals to the AGO. Based on the AGO's response dated October 25, 2004, a referral case involving recovery of funds related to OPA's Audit of Procurement of Professional Services by the Office of the Special Assistance for Drug and Substance Abuse is now considered closed [Report No. 97-11 issued on August 12, 1997]. The Acting Attorney General informed OPA that the AGO has closed this referral case since the potential defendant is an off-island company. The Statute of Limitations expired in February 2003 and the AGO believes a dispute as to the facts exists.

The following table presents an updated listing of AGO referral recommendations involving recovery of funds in which approximately \$1,354,610 is potentially recoverable.

	Report No. (Issue Date)	Particulars	Amount Recoverable	Status per AGO
1	AR-99-03 (4-7-99)	TCGCC - Legal action to recover overpayment of \$543,375 from the consultant on grounds of unjust enrichment, conversion, fraud and breach of fiduciary duty and recovery of \$195,971 from three other individuals for breach of fiduciary trust for total amount recoverable of \$739,346.	\$739,346	AGO is researching legal issues that have arisen in the pending suit and will follow-up on this matter with TCGCC's legal counsel.
2	AR-02-02 (9/11/02)	TCGCC - Audit of Travel Transactions for fiscal years 1996 - 2001. The potential recovery amount for outstanding advances of \$406,925 was reduced by \$14,672 and \$75 leaving a	392,178	AGO is currently researching standing issues related to the collection of the debt.

	Report No. (Issue Date)	Particulars	Amount Recoverable	Status per AGO
		balance of \$392,178 to be recovered.		
3	AR-00-01 (4-13-00)	DPW - Recovery of \$164,534 in improper payments made to a surveying contractor and adverse action against contractor for misrepresentation relating to the Tinian road resurfacing project in 1997. Pursuant to a decision issued by the United States District Court, amount recoverable from the contractor is reduced to \$100,000 in restitution.	100,000	AGO stated that enforcement of the federal court order of restitution should be the responsibility of the U.S. Attorney's Office. Accordingly, the AGO plans to request enforcement by that office.
4	AR-98-06 (12-14-98)	DOF - Funds misused by the former Secretary of Finance during fiscal years 1995 to 1997.	75,000	A civil case against the defendant is still pending for the recovery of funds.
5	AR-97-06 (4-23-97)	DPH - Rota Health Center (RHC) - Recovery from the former RHC Director of amount taken from RHC funds and reimbursement for cost of a washing machine for the period December 1993 to March 1996.	4,982	AGO informed OPA that although this referral case was previously closed on 9/5/02, the AGO plans to contact OPA for verification of records.
6	AR-96-05 (3-21-96)	MPLA - Recovery of rentals due from a restaurant and recovery from a lessor of all payments collected from a sublessee for the subleasing of the Saipan Fishing Center building as of October 31, 1995.	Unknown.	According to AGO, OPA agreed to do follow-up investigation as agreed in a meeting between AGO and OPA on 10/19/99. Upon further review, it was determined that additional investigative work by OPA will not result in any changes to the findings and conclusions stated in the report. On 8/16/04, OPA forwarded to the AGO a copy of the audit report for AGO's review and action.
7	AR-95-18 (10-10-95)	MPLA - Double payment of travel expenses and overpaid per diem allowances to the former Executive Director for the period September 1992 to September 1994.	Unknown.	AGO should provide documents on conveyance of property for debt settlement of former Executive Director.
8	AR-95-17 (10/2/95)	CPA - Legal action to recover the remaining balance of \$40,131 for improper reimbursement from the board members.	40,131	AGO has adopted a policy to pursue all collection cases involving money owed to the government "in the public

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per AGO
			interest" until the CNMI Supreme Court rules to the contrary.
9 LT-01-07 (11/23/01)	CUC - Recover travel overpayments and questionable payment from current and former Board Members.	2,973	This case has been assigned to an Assistant Attorney General for evaluation and collection if appropriate.
Total Amount Recoverable		\$1,354,610	

OPA also referred to the AGO two audit reports to (1) determine propriety of the Commonwealth Ports Authority's practice of making advance payments of unused annual leave and salary, instead of complying with the provision in the employment contracts that payments will be made upon contract expiration and review the opinion provided by OPA regarding granting six designated officials 14 annual leave hours per pay period [Report No. AR-00-03 issued on July 20, 2000] and (2) provide the status of the on-going negotiation between the CNMI government and the submerged land lessee [Report No. AR-01-02 issued on March 22, 2001].

Potential Recovery of \$4.6 Million Hinges on Agencies' Actions

Recommendations in twelve audit reports identified potential recoveries due to unpaid rentals of land leases, overpayments in professional services contracts and retirement benefits and improper expenditures of public funds.

As of June 30, 2004, initial actions by agencies resulted in partial recovery of \$997,243 and one claim of \$6,503 in accrued interest on public funds advanced for the Commonwealth Development Authority's parking lot improvements fully recovered (Report No. AR-00-02) leaving a balance of \$4,644,235 recoverable as shown in the following table.

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per Agency
1 AR-00-04 (11-22-00)	Board of Marianas Public Lands Authority - Collection of rentals from 8 quarry operators for six lease years from 1990 to 1995 totaling \$4,690,708, less \$946,968 write-off for one bankrupt quarry operator resulting in an amount recoverable of \$3,743,740.	\$3,743,740	\$892,859 was recovered from seven quarry operators.
2 AR-99-04 (10-28-99)	CNMI - Overpayments of \$87,096 on ten professional services contracts immediately recoverable of which \$11,000 was redirected to AGO (C70180 & C70149) and \$6,000 is not to be pursued (C60334), resulting in net amount recoverable of \$70,096; Various unsupported expenses for	1,471,052	Of the \$70,096 in net amount recoverable, partial recovery was \$61,794 (for C50305, C60114 and C60142), leaving a balance of \$8,302 (Contract Nos. C60196, C70156,

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per Agency
	\$1,400,956 recoverable unless adequately supported by the contractors; total net amount recoverable of \$1,471,052.		C50388 and C60355)
3 AR-00-03 (7-20-00)	CPA - NMIRF to recover improper payments to two former CPA officials for retirement benefits and compensatory time claimed.	126,730	The former Executive Director had appealed the Board's final decision to the Superior Court and the case is still on-going; written settlement plan required for the former CPA Security Chief.
4 AR-95-18 (10-10-95)	MPLA - Double payment of travel expenses and overpaid per diem allowances to the former Board Chairman, Tinian board member and Rota board member for the period September 1992 to September 1994. Amount recoverable from the former Rota Board member as of 3/26/04 is \$71,289.14 (principal plus interest); amount recoverable from the former Board Chairman as of 3/26/04 is \$27,743.74 (principal plus interest); and amount recoverable from the former Tinian Board member as of 6/7/04 is \$16,829.45 (principal only). Total amount recoverable from the three former board members as of 3/26/04 and 6/7/04 is \$115,862.33.	115,862	\$20,400 partially recovered from the former Rota Board member, \$5,825 partially recovered from the former Board Chairman, and \$10,250 partially recovered from the former Tinian Board member. Total amount partially recovered is \$36,475.
5 AR-97-05 (3-20-97)	CNMI - Promissory note for \$96,100 on overpayment of two professional services contracts (Contract nos. C40113 and C50108) covering the period October 1, 1991 to July 20, 1995.	96,100	Partial recovery of \$4,200 leaving a balance of \$91,900 still to be recovered.
6 AR-98-06 (12-14-98)	DOF - Funds misused by the former Secretary of Finance from fiscal years 1995 to 1997.	56,462	\$56,462 is the total restitution ordered by the Federal Court.
7 AR-97-05 (3-20-97)	CNMI - Overpayment to contractors of four professional services contracts (Contract nos. C40276, C50083, C50132 & C50208) audited covering the period October 1, 1991 to July 20, 1995. Overpayments for C40276 totaling \$10,000 was fully recovered by OMB. Therefore, recovery of \$25,079 is reduced to \$15,079.	15,079	Status pending from agency for C50083, C50132 & C50208.
8 AR-97-06 (4-23-97)	DPH - Deny claims for repairs and non-existent lease for the period December 1993 to March 1996.	9,000	Status pending from DOF.

	Report No. (Issue Date)	Particulars	Amount Recoverable	Status per Agency
9	AR-00-02 (7-10-00)	CDA - Recover accrued interest on public funds advanced for parking lot improvements from January 1998 to August 1999 The amount to be recovered was recalculated based on the 9% opportunity cost of CDA's DCD loans versus the 12% calculated by OPA based on the market rate, as petitioned by CDA. OPA considered CDA's petition reasonable. Thus, the amount to be recovered was reduced from \$9,278 to \$6,503.	6,503	CLOSED - On 11/15/04, OPA was provided documentation showing the offset of the remaining balance of \$2,601 against CDA's lease payment for November 2004. Based on the documentation provided by CDA, the amount recoverable of \$6,503 has been fully paid.
10	AR-99-02 (3-29-99)	WRO - Outstanding employee loans for Fiscal Years 1995 and 1996.	3,580	Partial recovery of \$1,380.
11	LT-01-05 (8/15/01)	NMIRF - Audit of Billings for a Professional Services Contract During the Period October 1, 1996 Through February 29, 2000	2,268	NMIRF Administrator will be bringing this matter to the Board of Trustees for resolution.
12	AR-03-04 (3/10/03)	AGIU - Recovery of overpayments of per diem from three travelers involved.	1,605	Partial recovery of \$535.
		Total Amount Recoverable	\$5,647,981	
		Less: Partial Recoveries	(\$997,243)	
		Less: Recovery of Accrued Interest (AR-00-02)	(\$6,503)	
		Balance of Amount Recoverable as of 6/30/04	\$4,644,235	

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Executive Branch Offices

Office of the Governor
Office of the Attorney General
Department of Finance
Department of Labor
Department of Lands and Natural Resources
Department of Public Health
Department of Public Safety
Department of Public Works

Office of the Governor

Report No. AR-97-II issued August 12, 1997 Audit of Procurement of Professional Services by the Office of the Special Assistant for Drug and Substance Abuse

Date(s) of followup letter(s) sent : 2/02/98, 9/17/98, 11/23/99, 7/13/00 (DOF), 1/17/01 (AGO), 8/21/01 (AGO), 2/14/02 (AGO), 8/12/02 (AGO), 10/3/02 (AGO), 2/14/03 (AGO), 8/4/03 (AGO), 4/13/04 (AGO), 9/21/04 (AGO)

Date(s) of response letter(s) received : 8/20/98 (AGO), 11/17/00 (DOF), 11/21/00 (meeting with Coordinating Group on DOF), 11/27/00 (DOF), 3/9/01 (AGO), 2/12/02 (meeting with AGO), 9/15/03 (AGO), 4/30/04 (AGO), 10/25/04 (AGO)

Recommendation 5 : *Original:* Reduce any future payments to the contractor by \$21,365, which was paid in excess of the firm fixed price. In particular, the \$21,365 should be offset against the \$10,584 (under PO P68172) and \$12,309 (supplemental contract C70199) which are valid unpaid billings by the Contractor.

As Revised and Redirected to AGO: Determine appropriate legal action to be taken to pursue collection of the \$21,365 which was paid in excess of the firm fixed price.

Agency to Act : Department of Finance - Redirected to the Attorney General's Office

Status : Closed

Agency Response : In his response dated 10/25/04, the Acting Attorney General informed OPA that the AGO has closed this referral case since the potential defendant is an off-island company. The Statute of Limitations expired in February 2003 and AGO believes a dispute as to the facts exists. Based on AGO's response, OPA will close this referral case.

Report No. LT-01-02 issued May 3, 2001 Audit of the Maintenance and Use of the Challenger Since its Purchase in 1995

Date(s) of followup letter(s) sent : 8/22/01, 3/4/02, 8/12/02, 2/12/03, 8/4/03, 4/13/04, 9/21/04

Date(s) of response letter(s) received : 3/13/03 (meeting with the Speaker of the House), 5/12/04, 9/29/04

Recommendation 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 reprograms government funds or receives illegally reprogrammed funds will be held personally liable for the amount of the reprogramming action.

Agency to Act : House of Representatives

Status : Resolved - Active

Agency Response : In a letter dated 4/2/01, the Attorney General advised that the reprogramming authorized by a former official of the Office of Management and Budget did indeed violate the Planning and Budgeting Act. However, 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 reprogramming action itself involved a clear waste and abuse of government funds. The Attorney General, however, stated that this illegal action and OPA's report clearly identified a defect in the Act, and agreed to support legislative action to amend the law. OPA agreed with the Attorney General's position that legislation should be introduced to amend the Act. OPA therefore added Recommendation No. 6 for the Legislature to act upon.

On 9/29/04, the Speaker of the House provided OPA a draft of a bill to amend the Planning and Budgeting Act. House Bill No. 14-249, which was introduced by the House on 10/1/04 to amend 1 CMC §7402 (a) (2), states that "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. Any person who reprograms government funds or knowingly receives reprogrammed funds contrary to this subsection shall each be held personally liable for the amount of the reprogrammed amount." This recommendation will remain resolved - active until such time that the bill is passed and signed into law.

Additional Information or Action Required : The House of Representatives should continue to update OPA on the status of House Bill 14-249 until passed and signed into law.

Office of the Attorney General

Report No. AR-03-04 issued March 10, 2003

Office of the Attorney General

Audit of the Attorney General's Investigative Unit Confidential

Informant/Cash Funds From October 1, 1994 to April 30, 2002

Date(s) of followup letter(s) sent : 8/4/03, 4/13/04, 9/21/04

Date(s) of response letter(s) received : 5/12/03, 9/15/03, 4/30/04, 10/25/04

Recommendation 3 : Recovering the residual value of three unused return airline tickets totaling \$723 and the overpayment of per diem of \$1,605 from the three travelers involved.

Agency to Act : Attorney General's Investigative Unit

Status : Resolved - Active

Agency Response : In her response dated 5/12/03, the former Attorney General informed OPA that a \$723 credit voucher had been issued by the involved travel agency to be depleted by offsetting with future airline tickets for investigation related to the local law enforcement funds purpose with no restrictions. Furthermore, the Attorney General outlined two steps to resolve the travelers' overpayment of per diem - (1) the current AGIU investigator will re-pay the fund in cash, and (2) the two other travelers, now both civilians and not attached to AGIU, will be contacted by an Assistant Attorney General for repayment through legal process.

In his response dated 9/15/03, the Acting Attorney General stated that this case was cleared by OPA. Upon further review, OPA determined that this case has not yet been cleared since OPA was not provided copies of documents evidencing re-payment made into the fund by the current AGIU investigator for the overpayment of per diem and the results of their collection effort for the other two travelers with overpayments of per diem who are no longer employed with the AGIU.

On 4/30/04, the Deputy Attorney General informed OPA that one AGIU investigator has repaid \$535 to the CI Fund. Supporting documents to evidence re-payment made by the AGIU investigator was subsequently provided to OPA on 7/20/04. Also, an attorney has been assigned to evaluate the case and to recover the uncollected balances due to the CNMI government. Based on AGO's response and supporting documents provided, \$535 has been collected, leaving a balance of \$1,070 still recoverable from the two remaining investigators who are no longer attached to AGIU.

In his response dated 10/25/04, the Acting Attorney General stated that OPA only allowed \$200 per diem rate, however, the AGO Administrative Officer determined that AGIU was allowed higher per diem rate. He further stated that OPA required receipts and disallowed some expenses, however, under current travel policies and memoranda, per diem does not have to be justified by receipts. The requirement imposed is that boarding passes must be supplied. The AGO also stated that there are no fiscal rules regarding paid travel, per diem, or hearing procedures in contested cases. AGO plans to meet with OPA and DOF to discuss this matter.

OPA Response to AGO: The CNMI Travel Regulations are clear as to what type of expenses can be covered by the travel advance and OPA agrees that per diem does not

have to be covered by receipts. However, per diem rates per locality are also established by the Regulations and we have not seen anything in writing allowing AGIU to exceed the \$200 per diem rate for the Korea trip. Pursuant to regulations, meals are covered by the per diem and should not form part of the additional expenses deductible from the advance. Sightseeing tour entrance fees are also not among those allowed as legitimate travel expenses. OPA still believes that the excess amount should be returned by the travelers unless the AGO can justify what it claims "a higher per diem rate for investigators". OPA would be ready to further discuss this issue with AGO.

Additional Information

or Action Required : AGO should inform OPA of the results of their collection effort for the other two travelers with overpayments of per diem who are no longer employed with the AGIU and provide copies of documents evidencing payments until fully recovered.

Department of Finance

Report No. AR-98-06 issued December 14, 1998

Department of Finance

Audit of Misuse of Funds by the Former Secretary of Finance

Fiscal Years 1995, 1996, and 1997

Date(s) of followup letter(s) sent : 11/23/99 (DOF), 1/26/99, 1/5/00 (AGO), 1/17/01 (AGO), 8/21/01 (AGO), 2/14/02 (AGO), 8/12/02 (DOF) (AGO), 10/3/02 (AGO), 2/14/03 (AGO), 2/18/03 (DOF), 8/4/03 (DOF) (AGO), 4/13/04 (AGO), 4/14/04 (DOF), 9/21/04 (AGO), 9/28/04 (DOF)

Date(s) of response letter(s) received : 1/20/00 (AGO), 3/9/01 (AGO), 2/12/02 (meeting with AGO), 3/17/03 (DOF request for extension), 9/15/03 (AGO), 4/30/04 (AGO), 10/25/04 (AGO)

Recommendation I : *As Revised:* DOF should provide OPA documents showing recovery of the \$56,461.98 in restitution on the federal case. In addition, AGO should take further legal action against the former Secretary for misappropriation and improper expenditure of public funds.

Agency to Act : Department of Finance / Attorney General's Office

Status : Resolved - Active

Agency Response : On 2/22/01, the Federal Court sentenced the former Finance Secretary to 33 months imprisonment and ordered payment of \$56,461.98 in restitution to the court for disbursement to the CNMI Department of Finance.

In his 3/9/01 response, the Acting Attorney General stated that the AGO waited until the federal crime case concluded since one count in the case was covered by AGO's case. The former Secretary was ordered to pay restitution in the federal case, thereby reducing the maximum potential judgment. AGO will make a Motion for Summary Judgment and will still seek a judgment of approximately \$75,000 against the former Secretary of Finance for misappropriation and improper expenditure of public funds.

During the 2/12/02 meeting, AGO informed OPA that it will file a Motion for Summary Judgment in the civil action filed against the former Secretary of Finance. In a follow-up letter to AGO dated 2/14/02, OPA compiled a list of its referrals for AGO to prioritize for action. The list included this recommendation.

In his response dated 9/15/03, the Acting Attorney General stated that this case has been forwarded to the AGO's collection team (an in house team assembled to collect debts owed the government that are over the statutory limit for small claims) and the matter is still pending.

In his 10/25/04 response, the Acting Attorney General stated that the civil case against the defendant is still pending for the recovery of funds.

Additional Information or Action Required :

DOF should provide OPA proof of collection of the \$56,461.98 restitution in the federal case. In addition, AGO should also provide OPA with copies of any judgement issued.

Report No. LT-00-02 issued March 14, 2000
Audit of the Department of Finance's
Double Payments of 1995 Corporate Tax Rebates to
Eleven Taxpayers in Fiscal Year 1997

Date(s) of followup letter(s) sent : 7/13/00, 1/19/01, 8/21/01, 3/12/02, 8/12/02, 2/18/03, 8/4/03, 4/14/04, 9/28/04

Date(s) of response letter(s) received : 12/7/00 (meeting with the Coordinating Group on DOF), 10/1/01, 3/27/02 (DOF request for extension), 4/12/02, 3/17/03 (DOF request for extension)

Recommendation 1 : Require the DOF-Accounts Payable Section of the Division of Finance and Accounting to strictly comply with its established control procedure for processing complaints of non-receipt of corporate tax rebate payments, in particular verifying if previous payments has been made before processing a new payment.

Agency to Act : Department of Finance

Status : Resolved - Delinquent

Agency Response : The former Secretary of Finance addressed the recommendation by stating that a new tax system is currently being developed to give DOF the capability to automate processing of the corporate rebate tax returns. Because the annual returns will be entered and processed through the tax system, the rebate computations and preparation of rebate checks will be part of the automated process. Since the payment data are stored, the system will automatically flag a warning if a rebate check has already been issued to a particular corporation for a specific tax year. This process will ensure the detection of duplicate processing of a return and potential double payment of a tax rebate. The new tax system is expected to be completed by the summer of year 2000. DOF anticipates processing the 1999 tax returns using the new system.

In his 4/12/02 response, the current Secretary of Finance stated that DOF will submit documentation of internal control procedures for the processing of corporate rebate taxes. He also stated that there are features in the new tax system that will prevent duplicate payments of taxpayer rebates or refunds.

**Additional Information
or Action Required** :

Provide OPA copies of the control procedures established to avoid double payments as agreed during the meeting. Specifications for internal control of the new tax system (once the development phase is completed) should include features that will prevent or easily allow the detection of double payments. The new tax system should be able to handle the processing of the following cases and the control procedures available: (1) an amendment to the original corporate tax return that was successfully processed in the system and a check processed and issued; (2) a request for manual rebate check because the corporate tax return is pending in the system (due to data entry error, reporting error, incomplete information or support on tax return, etc.); and (3) a replacement check because the original check issued was missing.

Recommendation 2 : Develop and implement control procedures in its financial management system which will recognize and flag potential duplicate processing of corporate tax rebate payments.

Agency to Act : Department of Finance

Status : Resolved - Delinquent

Agency Response : The former Secretary of Finance addressed the recommendation by stating that a new tax system is currently being developed to give DOF the capability to automate processing of the corporate rebate tax returns. Because the annual returns will be entered and processed through the tax system, the rebate computations and preparation of rebate checks will be part of the automated process. Since the payment data are stored, the system will automatically flag a warning if a rebate check has already been issued to a particular corporation for a specific tax year. This process will ensure the detection of duplicate processing of a return and potential double payment of a tax rebate. The new tax system is expected to be completed by the summer of year 2000. DOF anticipates processing the 1999 tax returns using the new system.

In his 4/12/02 response, the current Secretary of Finance stated that DOF will submit documentation of internal control procedures for the processing of corporate rebate taxes. He also stated that there are features in the new tax system that will prevent duplicate payments of taxpayer rebates or refunds.

Additional Information or Action Required : Provide OPA copies of the control procedures established to avoid double payments as agreed during the meeting. Specifications for internal control of the new tax system (once the development phase is completed) should include features that will prevent or easily allow the detection of double payments. The new tax system should be able to handle the processing of the following cases and the control procedures available: (1) an amendment to the original corporate tax return that was successfully processed in the system and a check processed and issued; (2) a request for manual rebate check because the corporate tax return is pending in the system (due to data entry error, reporting error, incomplete information or support on tax return, etc.); and (3) a replacement check because the original check issued was missing.

Report No. LT-01-06 issued August 15, 2001
Department of Finance
Audit of Government Revenues from the CNMI Lottery Operations
for the Fourth Quarter of Fiscal Year 1999

Date(s) of followup letter(s) sent : 3/12/02, 8/12/02, 2/18/03, 8/4/03, 4/14/04, 9/28/04

Date(s) of response letter(s) received : 3/27/02 (DOF request for extension), 4/12/02, 3/17/03 (DOF request for extension)

Recommendation 2 : The Secretary of Finance should instruct Operator B and the DOF Finance and Accounting Division to fully implement the amendments (Rules 24 and 25) relating to control procedures to help ensure that all government lottery revenues received from operators of the Jueteng "number game" are reported.

Agency to Act : Department of Finance

Status : Resolved - Delinquent

Agency Response : The Secretary of Finance concurred with the recommendation and stated that pursuant to the Lottery Regulations, DOF will initiate a review of Operator B's lottery documents beginning with the first quarter of Fiscal Year 2000.

In his 4/12/02 response, the Secretary of Finance informed OPA that he has to assign one of his staff to conduct on-site visits to ensure that the adopted rules and regulations for the operation of the Jueteng game are being followed by Operator B.

**Additional Information
or Action Required :**

OPA copies of documents evidencing that Operator B and DOF implements the adopted rules and regulations for the operation of the Jueteng game.

Department of Labor

Report No. AR-02-04 issued on November 5, 2002

Department of Labor and Immigration - (Currently Department of Labor / AGO - Division of Immigration)

Audit of the Department of Labor and Immigration

Tinian Long Distance Telephone Charges

January 1998 through June 2000

Date(s) of followup letter(s) sent : 2/18/03 (DOLI), 8/4/03 (AGO), 10/27/03 (AGO), 4/13/04 (AGO), 9/21/04 (AGO) (DOL)

Date(s) of response letter(s) received : 9/15/03 (AGO), 10/31/03 (AGO), 4/30/04 (AGO), 10/27/04 (DOL)

Recommendation 2 : Request the telephone company to reduce the number of agency telephone lines with long-distance access and limit long-distance access only to certain employees.

Agency to Act : Department of Labor - Tinian / AGO-Division of Immigration - Tinian

Note: This recommendation was previously addressed to the Department of Labor and Immigration (DOLI) - Tinian. Pursuant to Executive Order 03-01 dated 3/10/03, the Division of Immigration was transferred to the AGO. Implementation of this recommendation will now be required from both the Department of Labor - Tinian and the AGO-Division of Immigration - Tinian. Although the Division of Immigration is not under the Department of Labor, OPA included this section of the report under the DOL to avoid duplication.

Status : Resolved - Active

Agency Response : The Resident Director of DOLI Tinian appears to disagree with the recommendation. She stated that DOLI Tinian has four divisions which contains an average of two to three sections. She explained that the current ten telephone lines often results in hampered public services due to busy telephone signals. Hence, she maintained that her department will continue with the set up of ten telephone lines.

In a conference call between the DOLI Tinian Resident Director's Secretary and OPA on 2/18/03, the Secretary stated that there are only four DOLI personnel who have access to a pin number used to make long-distance calls. Also, the only telephone line with direct access to long-distance is in the Resident Director's office.

AGO - DIVISION OF IMMIGRATION - In a telephone conversation with the Deputy Attorney General in Mid-June, OPA was informed that the recommendation has been implemented. OPA will request the AGO to provide written documentation evidencing implementation of the recommendation in order to consider the recommendation closed.

DEPARTMENT OF LABOR - On 10/27/04, the Secretary of DOL provided OPA with a copy of the letter addressed to the Resident Department Head of DOL - Tinian instructing him to (1) submit a written request to the telephone company to block all long distance telephone access to every telephone line, including facsimile lines, (2) procure and utilize a long distance calling card to be in his possession or a designee, (3) maintain a log book to record long distance calls made by an authorized employee to be used to certify each month's long distance call billing, and (4) re-issue policy memoranda to all employees regarding the use of long distance telephone calls.

**Additional Information
or Action Required :**

AGO - DIVISION OF IMMIGRATION - AGO should provide written documentation evidencing that authorization of the long-distance pin number is limited to certain employees.

DEPARTMENT OF LABOR - DOL should provide OPA with a copy of the policy memoranda on the use of long distance telephone calls and a copy of the log sheet used to record and monitor all long distance calls made.

Department of Lands and Natural Resources

Report No. LT-00-04 issued June 7, 2000

Division of Fish and Wildlife (DFW)

Audit of Two DFW Employees' Time and Attendance and Whether their Arrangement with DFW was Consistent with the Pacific Islands Education Initiative

Date(s) of followup letter(s) sent : 7/6/00, 1/24/01, 8/20/01, 3/4/02, 8/9/02, 2/12/03, 8/4/03, 4/13/04, 9/21/04

Date(s) of response letter(s) received : 10/31/00 (meeting with Coordinating Group on DLNR), 9/6/02, 9/13/02 (meeting with DFW Director), 9/16/02 (DFW), 9/25/02 (DFW), 2/18/03 (DLNR), 5/27/04 (DFW)

Recommendation 3 : The DFW Director should develop a special educational leave program in accordance with the MOU to be approved by the grantor. Also, the Director must ensure that DFW is in compliance with the provisions of the various grants, in order to assure continued federal support.

Agency to Act : Department of Lands and Natural Resources

Status : Resolved - Active

Agency Response : On 9/25/02, DFW provided OPA with a copy of the proposed rules and regulations currently being developed with the assistance of the Northern Mariana Islands Scholarship Program that provides guidelines on how the Pacific Island Education Initiative (PIEI) should be administered as far as recruitment and selection process are concerned.

In his response dated 2/18/03, the Secretary of DLNR stated that the draft rules and regulations on the recruitment and selection process for the PIEI is anticipated to be finalized in the next sixty days with the U.S. Fish and Wildlife Service. The federal grantor agency will provide their written approval shortly thereafter.

In his 5/27/04 response, the DFW Director informed OPA that the pending matter in regards to the Pacific Education Initiative Program has already been completed and is presently being reviewed for approval by their Region 1 Chief Officer of the U.S. Fish and Wildlife.

Additional Information or Action Required : DLNR should provide OPA with evidence of concurrence by the grantor agency.

Report No. AR-01-02 issued March 22, 2001

Department of Lands and Natural Resources
Audit of Agreement with a Submerged Land Lease
to Operate the Outer Cove Marina From May 1993 to October 1998

Date(s) of followup letter(s) sent : 3/4/02, 8/9/02, 10/3/02 (AGO), 2/14/03 (AGO), 8/4/03 (AGO), 10/27/03 (AGO), 4/13/04 (AGO), 9/21/04 (AGO)

Date(s) of response letter(s) received : 9/6/02, 9/15/03 (AGO), 10/31/03 (AGO), 4/30/04 (AGO), 10/25/04 (AGO)

Recommendation I : *Original* - The Secretary of DLNR and the submerged land lessee should amend or completely change the lease agreement so that there will be a clearer understanding of each party's obligations and responsibilities, taking into account:

1. The components that will comprise the actual Outer Cove Marina project cost.

The Outer Cove Marina properties/facilities will be turned over to DLNR and to the National Park Service at the completion of the lease period. It is therefore necessary for the submerged land lessee to provide a detailed cost breakdown of all the properties/facilities comprising the Outer Cove Marina project. The detailed breakdown of project costs will also be very useful in establishing the level of fees and making relevant decisions for settling the Outer Cove Marina controversies.

In establishing the cost of each completed facility, the submerged land lessee must also show the reasonable allocation of development costs (*e.g.* architectural and engineering costs, permits, interest and other costs during construction that can be capitalized in accordance with accounting principles and auditing standards, etc.).

2. The allocation of the Outer Cove Marina project cost between the area covered by the lease agreement and the area covered by the concession contract.

How the Outer Cove Marina project properties/facilities will be disposed of depends upon (1) when the lease agreement or the concession contract ends, or (2) if the agreement or contract is terminated at an earlier period. It is therefore necessary that the submerged land lessee also segregate the costs of the Outer Cove Marina project properties/facilities based on the governing agreement/contract.

3. The provisions in the lease agreement that may no longer be practical to implement.

There are provisions in the lease agreement whose implementation may no longer be practical. For example, the CNMI may never collect any yearly rental where it is to be computed as 75 percent of net earnings. The Outer Cove Marina may never make any profit at all because its construction cost was greater than planned. DLNR should decide whether earning an annual rental is a priority, and if it is, then DLNR needs to introduce a new provision that will impose a guaranteed lease rental.

An alternative course of action that DLNR and the CNMI Government can take is:

DLNR and the CNMI Government could pay the submerged land lessee for the fair market value of the Outer Cove Marina project, with DLNR then taking over the marina operations, or could turn to other private developers who might take over the marina operations and pay the submerged land lessee for the project cost.

This alternative will require the joint effort of the Executive Branch and the Legislature. Funds needed to pay the submerged land lessee must be identified and appropriated. It will also require an analysis as to what part of the Outer Cove Marina project cost will be assumed by the Government. There are some parts of the Outer Cove Marina operations that could either be retained by the submerged land lessee or taken over by other concessionaires or contractors.

As Redirected to AGO - AGO should provide OPA with the status of the on-going negotiation between the CNMI government and the submerged land lessee.

Agency to Act : Department of Lands and Natural Resources Redirected to the Attorney General's Office

Status : Open - Active

Agency Response : In his 1/22/01 response, the DLNR Secretary concurred with OPA's recommendation (1) to amend or substantially revise the lease agreement or, alternatively, (2) to have either the CNMI Government or another entity take over operation of Outer Cove Marina, but stated that DLNR could not pursue either alternative until the Senate Oversight Committee has submitted its report and the currently proposed legislation (House Bill 12-250) is enacted.

In his response dated 9/6/02, the DLNR Secretary informed OPA that the Outer Cove Marina issues are now being handled by the Attorney General's Office.

In his response dated 9/15/03, the Acting Attorney General stated that a search of their files reveal that there are no records of this case in the AGO. OPA subsequently provided AGO with a copy of the audit report on this case referral on 10/27/03. On 10/31/03, the Acting Attorney General requested OPA the file on this referral case for further evaluation. Based on the 10/31/03 response, OPA will forward to the AGO the file on this referral case.

In his response dated 10/25/04, the Acting Attorney General stated that this case is presently in binding arbitration. The parties are attempting to settle this case prior to the arbitration hearing set for 11/29/04.

Additional Information or Action Required : AGO should provide OPA with the status of the ongoing negotiation between the CNMI government and the submerged land lessee.

Department of Public Health

Report No. AR-97-06 issued April 23, 1997

Rota Health Center (RHC) Director's Claims Against the RHC

Date(s) of followup letter(s) sent : 6/23/97, 7/16/97, 2/02/98, 9/17/98 (DOF), 9/21/98 (RMO), 11/23/99 (DOF), 11/29/99 (RMO), 7/6/00 (RMO), 7/13/00 (DOF), 1/17/01 (AGO), 1/19/01 (DOF), 8/21/01 (AGO) (DOF), 2/14/02 (AGO), 3/12/02 (DOF), 8/12/02 (DOF) (AGO), 10/3/02 (AGO), 2/14/03 (AGO), 2/18/03 (DOF), 8/4/03 (DOF) (AGO), 10/27/03 (AGO), 4/13/04 (AGO), 4/14/04 (DOF), 9/21/04 (AGO), 9/28/04 (DOF)

Date(s) of response letter(s) received : 6/16/97 (RMO), 2/24/98 (RMO), 7/19/00 (RMO), 11/17/00 (DOF), 11/21/00 (meeting with Coordinating Group on DOF), 11/27/00 (DOF), 3/9/01 (AGO), 9/18/01 (DOF), 2/12/02 (meeting with AGO), 3/27/02 (DOF request for extension), 4/12/02 (DOF), 3/17/03 (DOF request for extension), 9/15/03 (AGO), 10/31/03 (AGO), 4/30/04 (AGO), 10/25/04 (AGO)

Recommendation I : *Original:* The Secretary of Finance should require the current Director of RHC to return the amount of \$4,282.02 taken from the RHC funds.

As Revised and Redirected to AGO: Determine appropriate legal action to be taken to recover from the current Director of RHC the \$4,282.02 taken from RHC funds.

Agency to Act : Department of Finance - Redirected to the Attorney General's Office

Status : Resolved - Active

Agency Response : During the 11/21/00 meeting with the Coordinating Group, the DOF Secretary provided OPA a bill of collection dated 11/17/00 for \$4,982.02 sent to the current Director of RHC which consists of \$4,282.02 taken from RHC funds and \$700 reimbursement for the cost of the washing machine. On 11/27/00, DOF referred the matter to the AGO to possibly pursue collection through legal proceedings. In his 3/9/01 response, the Acting Attorney General requested a copy of the report for further review purposes.

During a meeting on 2/12/02, AGO informed OPA that the Statute of Limitations has passed regarding this recommendation. In a follow-up letter dated 2/14/02, OPA requested AGO to provide a letter documenting the applicability of the passing of statute of limitations to formally close this recommendation.

In his response dated 9/15/03, the Acting Attorney General stated that a search of their files reveal that there are no records of this case in the AGO. On 10/27/03, OPA provided AGO with a copy of the audit report on this case referral and requested the Acting Attorney General to review the matter on this case and determine (1) whether the statute of limitations bars an action, and (2) if it is a matter that the AGO will pursue. On 10/31/03, the Acting Attorney General informed OPA that the CNMI's claim in this matter is potentially in the public interest, thereby removing the statute of limitations as a defense in this case insofar as civil liability is concerned. He further stated that AGO will further evaluate whether a viable suit exists. Based on the 10/31/03 response, OPA will forward to the AGO the file on this referral case for further evaluation.

In his 4/30/04 response, the Deputy Attorney General stated that AGO has adopted a policy to pursue all such cases until the CNMI Supreme Court rules to the contrary.

In his 10/25/04 response, the Acting Attorney General informed OPA that although this referral case was previously closed on 9/5/02, the AGO plans to contact OPA for verification of records.

**Additional Information
or Action Required**

: AGO should follow-up with OPA regarding the file and advise OPA of the results of legal action taken on this referral recommendation.

Recommendation 2 : The Secretary of Finance should deny the \$5,000 claim for repairs, and the \$4,000 amount claimed for a non-existent lease extension.

Agency to Act : Department of Finance

Status : Resolved - Delinquent

Agency Response : The former Secretary of Finance provided OPA a copy of its 9/18/01 letter to the Acting Resident Director of DOF-Rota requesting assistance in verifying whether or not the \$5,000 claim for repairs and the \$4,000 claim for a non-existent lease extension were paid through the Rota Imprest Fund Account.

In his 4/12/02 response, the current Secretary of Finance informed OPA that his office has not received a response to its 9/18/01 letter to the Acting Resident Director of DOF-Rota. However, DOF has sent a follow-up letter to the Mayor requesting assistance on the matter.

**Additional Information
or Action Required**

: DOF should inform OPA as to the results of the verification requested from DOF-Rota. If the claims were in fact paid through the Rota Imprest Fund Account, DOF should take steps to reject the claims and recover the money by directing the Acting Resident Director to take the appropriate action.

Recommendation 4 : *Original:* The Secretary of Finance should deny the claim of the Director of RHC for reimbursement of the cost of the washing machine.

As Revised and Redirected to AGO: Determine appropriate legal action to be taken to recover the \$700 reimbursement for the cost of the washing machine.

Agency to Act : Department of Finance - Redirected to Attorney General's Office

Status : Resolved - Active

Agency Response : During the 11/21/00 meeting with the Coordinating Group, the DOF Secretary provided OPA a bill of collection dated 11/17/00 for \$4,982.02 sent to the current Director of RHC which consists of \$4,282.02 taken from RHC funds and \$700 reimbursement for the cost of the washing machine. On 11/27/00, DOF referred the matter to the AGO to possibly pursue collection through legal proceedings. In his 3/9/01 response, the Acting Attorney General requested a copy of the report for further review purposes.

During a meeting on 2/12/02, AGO informed OPA that the Statute of Limitations has passed on this recommendation. In a follow-up letter dated 2/14/02, OPA requested AGO to provide a letter documenting the applicability of the passing of statute of limitations to formally close this recommendation.

In his response dated 9/15/03, the Acting Attorney General stated that a search of their files reveal that there are no records of this case in the AGO. On 10/27/03, OPA provided AGO with a copy of the audit report on this case referral and requested the

Acting Attorney General to review the matter on this case and determine (1) whether the statute of limitations bars an action, and (2) if it is a matter that the AGO will pursue. On 10/31/03, the Acting Attorney General informed OPA that the CNMI's claim in this matter is potentially in the public interest, thereby removing the statute of limitations as a defense in this case insofar as civil liability is concerned. He further stated that AGO will further evaluate whether a viable suit exists. Based on the 10/31/03 response, OPA will forward to the AGO the file on this referral case for further evaluation.

In his 4/30/04 response, the Deputy Attorney General stated that AGO has adopted a policy to pursue all such cases until the CNMI Supreme Court rules to the contrary.

In his 10/25/04 response, the Acting Attorney General informed OPA that although this referral case was closed on 9/5/02, the AGO plans to contact OPA for verification of records.

**Additional Information
or Action Required :**

AGO should follow-up with OPA regarding the file and advise OPA of the results of legal action taken on this referral recommendation.

**Report No. LT-99-06 issued August 18, 1999
Audit of DPH's Granting of Unequal Salaries to
Social Worker Employees**

Date(s) of followup letter(s) sent : 11/23/99 (DPH), 11/26/99 (OPM), 2/28/00 (OPM), 7/6/00 (DPH) (OPM), 1/30/01, 8/22/01, 3/8/02 (DPH), 8/9/02 (DPH), 2/13/03 (DPH), 8/4/03 (DPH), 4/13/04 (DPH), 9/28/04 (DPH)

Date(s) of response letter(s) received : 12/20/99 (OPM), 12/22/99 (DPH), 11/14/00 (meeting with Coordinating Group on DPH), 10/22/01 (DPH), 6/8/04 (DPH)

Recommendation 3 : The Secretary of Public Health should ensure that DPH employees are compensated equitably. The salaries of the three social worker employees should be adjusted to reflect the appropriate salaries based on their qualifications and responsibilities.

As Revised: The Secretary of Public Health should review the salary structure of DPH and propose a revised salary structure for review by OPM and for approval by the Civil Service Commission (CSC).

Agency to Act : Department of Public Health

Status : Resolved - Active

Agency Response : During the 11/14/00 meeting with the Coordinating Group, the DPH Secretary presented an alternative action to address this recommendation which is to revise the salary structure of DPH to address the salary inequity and DPH's concerns about attracting upcoming college graduates to work for the department. DPH will present a proposed salary structure for review by OPM and for approval by CSC. OPA agreed to this alternative action suggested by the DPH Secretary.

In his 10/22/01 response, the DPH Secretary informed OPA that the Director of the Community and Guidance Center has completed the proposed salary structure of social workers and submitted it to the CHC Human Resources for review. DPH will submit the proposed salary structure to CSC no later than 10/31/01. When approved by CSC, DPH will provide OPA a copy.

On 6/8/04, the Secretary of Public Health informed OPA that the DPH Community Guidance Center will present an alternative action to address their concerns to OPM which is to propose a new class reassignment for all social worker classes in order to attract up-coming graduates to work for DPH. DPH is hoping that OPM and CSC will support their proposal for a new class reassignment for all social worker classes for DPH. (Upon verification with OPM, a new class reassignment is similar to a revised salary structure which OPA had previously agreed to as an alternative action).

**Additional Information
or Action Required :**

The Secretary of Public Health should provide OPA a copy of the class reassignment for all DPH social worker classes approved by OPM and CSC.

Department of Public Safety

Report No. LT-01-08 issued November 30, 2001
Audit of the Department of Public Safety's
Confidential Informant Fund and Prostitution Fund
for Fiscal Year Ended September 30, 1999

Date(s) of followup letter(s) sent : 3/5/02, 8/9/02, 2/12/03, 8/1/03, 4/13/04, 9/21/04

Date(s) of response letter(s) received : 3/7/02 (meeting with DPS Commissioner), 8/28/02, 3/28/03, 10/15/04

Recommendation 2 : The DPS Commissioner should enforce compliance with the 48-hour limit for liquidation of cash advances by reporting violations to DPS management.

Agency to Act : Department of Public Safety

Status : Closed

Agency Response : On 10/15/04, the Commissioner of Public Safety provided OPA with a copy of the directive addressed to the Criminal Investigation Bureau instructing them to enforce compliance with the 48-hour limit for liquidation of cash advances and to immediately report any discrepancies to the Office of the Commissioner. Based on the copy of directive provided, this recommendation is now considered closed.

Department of Public Works

Report No. AR-00-01 issued April 13, 2000 Audit of the Land Survey Contract for the Tinian Road Resurfacing Project Fiscal Year 1997

Date(s) of followup letter(s) sent : 7/3/00 (DPW), 7/12/00 (AGO), 7/13/00 (DOF), 1/17/01 (AGO), 8/21/01 (AGO), 2/14/02 (AGO), 8/12/02 (AGO), 10/3/02 (AGO), 2/14/03 (AGO), 8/4/03 (AGO), 4/13/04 (AGO), 9/21/04 (AGO)

Date(s) of response letter(s) received : 5/10/00 (DPW), 11/7/00 (meeting with Coordinating Group on AGO), 12/7/00 (meeting with Coordinating Group on DOF), 3/9/01 (AGO), 2/12/02 (meeting with AGO), 9/15/03 (AGO), 4/30/04 (AGO), 10/25/04 (AGO)

Recommendation 5 : *Original:* DOF should continue to take necessary steps to recover the \$164,534 improper payments made to the contractor, unless restitution to the CNMI Government is made in the Federal Court mail fraud case. Recovery efforts should be coordinated with the Attorney General's Office. In implementing this recommendation, recovery of the whole contract price of \$229,438 on the basis that the contract was invalid may be undertaken in lieu of the approach taken above where recovery would be based on the overpayments made to the contractor.

As Redirected to AGO: AGO should continue to take necessary steps to recover the \$164,534 improper payments made to the contractor, unless restitution to the CNMI Government is made in the Federal Court mail fraud case. Recovery efforts should be coordinated with the Attorney General's Office. In implementing this recommendation, recovery of the whole contract price of \$229,438 on the basis that the contract was invalid may be undertaken in lieu of the approach taken above where recovery would be based on the overpayments made to the contractor.

As revised: AGO should provide OPA documents showing recovery of the \$100,000 in restitution imposed by the United States District Court's sentence imposed on the contractor.

Agency to Act : Department of Finance - Redirected to the Attorney General's Office

Status : Resolved - Active

Agency Response : The DOF Secretary requested AGO's assistance in getting information on the Federal Court case involving the contract. The DOF Secretary stated that her office will proceed with the recommendation after the Federal Court's decision.

During the 12/7/00 meeting with the Coordinating Group, it was agreed that this recommendation should be redirected to the AGO. In its 3/9/01 response, the Acting Attorney General stated that no further action will be taken on this matter. Contact has been made with the United States Probation Department requesting that restitution from the contractor be ordered at sentencing.

During the 2/12/02 meeting, AGO informed OPA that it had already requested the United States Probation Department to recommend that restitution be required from the contractor and that it is awaiting sentencing decision.

On 4/2/02, the United States (US) District Court's sentence imposed on the contractor was 8 months imprisonment and restitution of \$100,000.

In his response dated 9/15/03, the Acting Attorney General stated that this case was assigned to an Assistant Attorney General on 5/21/03 and is pending further legal analysis.

In his response dated 10/25/04, the Acting Attorney General stated that the enforcement of the federal court order of restitution should be the responsibility of the U.S. Attorney's Office. Accordingly, the AGO plans to request enforcement by that office.

**Additional Information
or Action Required :**

AGO should inform OPA of the results of its request to enforce payment of the restitution ordered by the federal court.

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Municipalities

Offices of the Mayors

Municipality of Tinian

Report No. LT-95-06 issued November 1, 1995

Investigation of a Motor Vehicle Leased by the Tinian Mayor's Office

Date(s) of followup letter(s) sent : 7/16/96, 11/29/96, 12/3/96, 2/02/98, 9/17/98, 11/23/99, 7/13/00, 1/19/01, 8/21/01, 3/12/02, 8/12/02, 2/18/02, 8/4/03, 4/14/04, 9/28/04

Date(s) of response letter(s) received : 11/21/00 (meeting with Coordinating Group on DOF), 10/01/01, 3/27/02 (DOF request for extension), 4/12/02, 3/17/03 (DOF request for extension)

Recommendation 2 : The Secretary of Finance should designate responsibility to a specific DOF office for implementing government vehicle regulations, developing specific procedures for confiscating vehicles, and bringing disciplinary actions against offending officials or employees.

Agency to Act : Department of Finance

Status : Resolved - Delinquent

Agency Response : The provisions of Government Vehicle Regulations No. 1101 Section 11 (e) as adopted by the Department of Finance in the Commonwealth Register on 4/15/93 state that the Secretary of Finance shall have the authority to revoke the employee's CNMI government vehicle permit, immediately confiscate the vehicle in question, bring disciplinary action against the offending official or employee, or refer the matter to the Attorney General or Department of Public Safety for further investigation.

In his 4/12/02 response, the Secretary of Finance informed OPA that revisions to the amended Government Vehicle Regulations are near completion and a copy will be provided to OPA upon their adoption.

Additional Information or Action Required : DOF should provide OPA copies of the revised Government Vehicle Regulations upon its adoption.

Report No. AR-96-01 issued January 31, 1996
Office of the Mayor
Audit Operations
For Fiscal Years Ended September 30, 1990 to 1993

Date(s) of followup letter(s) sent : 3/28/96, 11/25/96, 2/02/98, 9/17/98, 11/23/99, 7/13/00, 1/19/01, 8/21/01, 3/12/02, 8/12/02, 2/18/03, 8/4/03, 4/14/04, 9/28/04

Date(s) of response letter(s) received : 6/11/97, 9/27/00, 9/22/99, 11/21/00 (meeting with Coordinating Group on DOF), 3/27/02 (DOF request for extension), 4/12/02 (DOF request for extension)

Recommendation 7 : The Secretary of Finance should direct the head of the Tinian Procurement Office to maintain an updated record of capital assets. On a regular basis, the Tinian Procurement Office should conduct an inventory to establish the physical existence, condition and location of fixed assets. It should also compare its record of assets with the inventory and take appropriate action with respect to any differences. Any missing item should be properly accounted for by the concerned agency.

Agency to Act : Department of Finance

Status : Resolved - Delinquent

Agency Response : During the 11/21/00 meeting with the Coordinating Group, the Procurement and Supply (P&S) Director agreed to issue a memorandum to the Tinian Procurement Office and even to the Rota Procurement Office directing them to conduct their own annual inventory. In the 10/1/01 response from DOF, there was no indication of any action taken on this recommendation.

On 4/12/02, the current Secretary of Finance responded that his office has requested copies of the inventory results from Rota and Tinian for DOF to provide to OPA.

Additional Information or Action Required : The P&S Director should provide OPA a copy of the memorandum directing the Tinian Procurement office to establish a schedule for conducting inventories of government capital assets on Tinian and a copy of the inventory results and actions taken.

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CNMI-Wide Audits

Compliance with Laws and Regulations

CNMI-Wide Audits

Report No. AR-97-05 issued March 20, 1997 Audit of the Executive Branch of the CNMI Government's Professional Services Contracts from October 1991 to July 1995

Date(s) of followup letter(s) sent : 7/09/97, 2/02/98, 9/17/98 (AGO) (DOF) (GOV), 9/22/98 (OMB), 11/23/99 (DOF) (GOV), 11/26/99 (OMB), 1/26/99 (AGO), 1/15/00 (AGO), 7/11/00 (OMB), 7/12/00 (AGO), 7/13/00 (DOF), 1/17/01 (AGO), 1/19/01 (DOF), 1/23/01 (OMB), 8/21/01 (DOF), 8/22/01 (OMB), 3/8/02 (OMB), 3/12/02 (DOF), 8/9/02 (OMB), 8/12/02 (DOF), 2/12/03 (OMB), 2/18/03 (DOF), 8/4/03 (DOF), 4/14/04 (DOF), 9/28/04 (DOF)

Date(s) of response letter(s) received : 2/6/98 (OMB), 1/20/00 (AGO), 11/9/00 (DOF), 11/21/00 (meeting with Coordinating Group on DOF), 3/9/01 (AGO), 9/13/01 (meeting with OMB), 9/20/01 (OMB), 5/01 (DOF), 10/01/01 (DOF), 10/19/01 (OMB), 2/12/02 (meeting with AGO), 3/27/02 (DOF request for extension), 4/12/02 (DOF), 2/26/03 (OMB), 3/17/03 (DOF request for extension), 6/3/03 (OMB)

Recommendation 3 : The Contracting Officers should recover payments (including interest) made to contractors whom we identified as having been paid without performing their work, and refer those who refuse to pay to the AGO for legal action.

Agency to Act : Department of Finance - Treasury for Contact C40113, C50108

Status : Resolved - Delinquent

Agency Response : On 1/14/00, AGO and the Director of Procurement and Supply met with the contractor which resulted in the contractor agreeing to repay the Commonwealth \$96,100. The contractor signed a promissory note with the AGO for monthly payments of \$300 to the CNMI Treasury beginning 2/15/00.

During the 2/12/02 meeting, AGO informed OPA that the contractor in this matter remains in compliance with the settlement promissory note and therefore AGO just needs to continue to monitor compliance.

Upon verification from DOF-Treasury, total payments made on the promissory note amounted to \$4,200, leaving a balance of \$91,900 still to be recovered.

**Additional Information
or Action Required** :

For Contract Nos. C40113 and C50108 - Until full amount has been paid, DOF-Treasury should continuously provide OPA evidence (i.e., official receipts) of collections from the contractors which pay directly to the CNMI Treasury. No further action is needed from AGO at this time.

Recommendation 8 : The Secretary of Finance should issue a memorandum instructing the DOF - Accounting Section to recover or offset from future payments the \$15,079 in overpayments to contractors.

Agency to Act : Department of Finance

Status : Resolved - Delinquent

Agency Response : In the 10/01/01 response from DOF, the Secretary of Finance stated that \$7,559 (for Contract no. C50083) of the \$15,079 in total overpayment has already been settled and that supporting documents regarding the settlement were provided to OPA. For the others in question which include \$1,020 (for Contract no. C50132) and \$6,500 (for Contract no. C50208), DOF requested that AGO initiate a recovery action, given the length of time involved and the improbability of a reply from both contractors.

In his 4/12/02 response, the Secretary of Finance provided OPA a copy of a memorandum requesting the Acting Director of Finance and Accounting to review the records pertaining to the payments in question and to issue a demand for payment immediately.

Additional Information or Action Required : The Secretary of Finance should provide OPA with the documents evidencing settlement of the \$7,559 (for Contract no. C50083). In addition, DOF should provide OPA documents such as bills of collection to recover the overpayment for \$1,020 (for Contract no. C50132) and \$6,500 (for Contract no. C50208). The bills of collection can be used for referring the matter to the AGO.

Report No. AR-99-04 issued October 28, 1999
Executive Branch of the CNMI Government
Audit of Professional Service Contracts
From October 1, 1995 to May 4, 1998

Date(s) of followup letter(s) sent : 11/23/99 (DOF), 11/26/99 (TMO), 1/5/00 (AGO), 7/12/00 (AGO), 7/13/00 (DOF), 1/17/01 (AGO), 1/19/01 (DOF), 8/21/01 (DOF) (AGO), 2/14/02 (AGO), 3/12/02 (DOF), 8/12/02 (DOF) (AGO), 10/3/02 (AGO), 2/14/03 (AGO), 2/18/03 (DOF), 8/4/03 (DOF) (AGO), 4/14/04 (DOF), 9/28/04 (DOF)

Date(s) of response letter(s) received : 1/12/00 (GOV), 1/20/00 (AGO), 2/18/00 (DOF), 11/7/00 (meeting with Coordinating Group on AGO), 11/9/00 (DOF), 11/19/00 (DOF), 11/21/00 (meeting with Coordinating Group on DOF), 1/14/01 (DOF), 3/9/01 (AGO), 5/01 (DOF), 10/01/01 (DOF), 2/12/02 (meeting with AGO), 3/27/02 (DOF request for extension), 4/12/02 (DOF), 3/17/03 (DOF request for extension), 9/15/03 (AGO), 10/21/03 (AGO), 10/22/03 (AGO)

Recommendation 7 : Issue a memorandum instructing the DOF - Accounting Section to recover the nearly \$1.49 million in overpayments by requesting contractors to return the amounts overpaid. Of these amounts, \$87,096.02 is immediately recoverable and \$1,400,955.91 is recoverable unless adequately supported by the contractors. If a contractor refuses to cooperate or repay the funds, the matter should be referred to the AGO for legal action.

(Note: No further action required for contract nos. C50305, C60114, C60142, C70180, C70149, C60334).

Agency to Act : Department of Finance for Contracts C60196, C70156, C50388, and C60355

Status : Resolved - Delinquent

Agency Response : On 1/4/01, bills of collection for the following contracts were provided to OPA: Contract No. C60196 for \$1,320.94; Contract No. C70156 for \$2,426.25; Contract No. C50388 for \$1,619.66 (additional billing for \$2,000 to be provided).

In the 10/01/01 response by DOF, the Secretary of Finance stated that the contractor for Contract no. C60355 has a claim against the CNMI for \$18,000. The CNMI refuses to pay the contractor's claim for lack of a change order. DOF is planning to charge the \$935 against the amount claimed by the contractor.

For Contract no. C50388, DOF claims that the additional billing of \$2,000 to be provided to OPA is already included in the \$1.4 million which is separately recoverable. OPA looked into DOF's claim and ascertained that the \$2,000 was not included in the \$1.4 million.

In addition, DOF is verifying all documents which were identified in the \$1.4 million as recoverable unless adequately supported. DOF provided OPA letters to three contractors requesting supporting documents for invoice under Contract nos. C50388, C31075, C60323, C60373, C70091, C70179, 300082-OC and C60196. DOF will inform OPA of any responses.

In his 4/12/02 response, the Secretary of Finance informed OPA that DOF has sent out notices to four contractors. One contractor responded. Two of the notices were returned undelivered and one contractor replied asking for a more reasonable request given the amount of information and length of time that has elapsed.

**Additional Information
or Action Required :**

We consider the part of the recommendation pertaining to recovery of the overpayments on Contract Nos. C50305 and C60114 for \$56,158.49, on Contract No. C60334 for \$6,000, and on Contract No. C60142 for \$5,635.58 closed.

Of the \$87,096.02 in overpayments which is immediately recoverable, \$61,794.07 has already been recovered, \$6,000 need not be collected and \$11,000 has been redirected to the AGO leaving a balance of \$8,301.95 (Contract Nos. C60196, C70156, C50388, and C60355). Of the \$8,301.95, billing statements were sent to collect \$5,366.94 (for C60196, C70156 and C50388) leaving a balance of \$2,935.01 (for C50388 and C60355). Of the \$2,935.01, \$935 (for Contract no. C60355) will be offset against an amount payable to the same contractor. A bill of collection still needs to be sent out for the remaining \$2,000 (for Contract no. C50388).

To completely close the recommendation pertaining to the remaining contractors, the Secretary of Finance should provide OPA copies of written documents showing actions taken to recover the overpayment (e.g., collection letter and CNMI treasury official receipts showing full recovery).

The DOF Secretary should also provide OPA the results of the verification done by the DOF - Finance and Accounting Division Director as to the \$1,400,955.91 which is also recoverable unless adequately supported by the contractors.

Report No. AR-98-02 issued May 26, 1998
Review of CNMI's Compliance with
Government Vehicle Act and Regulations
March 1995 to March 1997

Date(s) of followup letter(s) sent : 9/09/98 (DLNR) (CDA) (DPW) (PDO) (SMO), 9/17/98 (DOF) (GOV), 9/18/98 (DLI) (SAA) (DCCA) (DPS) (WRO) (SENATE) (HOUSEREP) (LEGBUREAU) (TMC) (BOE) (BOELEC) (CPA) (CUC) (NMIRF) (TCGCC) (LIBCOUNCIL), 9/21/98 (EMO) (DOC) (DPH) (SPMC) (SPRC) (TMO) (RMO) (NIMO) (SMC) (RMC) (CSC) (NMC) (MVB), 9/22/98 (OMB), 10/16/98 (TMO) (CSC), 10/28/98 (TMO) 4/22/99 (EMO), 7/19/99 (DPS), 11/22/99 (BOE) (BOELEC) (CUC) (DCCA) (DLI), 11/23/99 (CPA) (DOC) (DOF) (DPH) (DPS) (EMO) (GOV) (HOUSEREP) (LEGBUREAU) (LIBCOUNCIL), 11/24/99 (MVA) (NIMO) (NMC), 11/26/99 (OMB), (NMIRF), 11/29/99 (RMC), (RMO), (SPMC), (SPRC), (SMC), (SAA), (SENATE), (TCGCC), (TMC) (WRO), 1/17/00 (NMIRF), 7/3/00 (GOV), 7/6/00 (EMO) (LEG) (MVA) (RMO) (DCCA), 7/11/00 (BOE) (CPA) (CUC) (DLI) (LIBCOUNCIL) (NIMO) (RMC) (SENATE) (SPMC) (SPRC) (TMC) (WRO), 7/13/00 (DOF), 9/5/00 (NIMO), 7/00 (Verbal follow-ups made through the telephone), 9/6/00 (TMC) (LIBCOUNCIL) (SPMC), 1/16/01 (BOE), 1/17/01 (CPA), 1/18/01 (CUC) (DLI) (EMO) (RMC), 1/19/01 (DOF) (LEGBUREAU), 1/23/01 (SENATE), 1/24/01 (WRO), 1/30/01 (SPRC), 1/31/01 (RMO), 8/20/01 (CPA) (CUC), 8/21/01 (DOF) (RMC), 8/22/01 (LEGBUREAU) (WRO) (EMO) (SENATE) (BOE), 8/23/01 (DLI), 3/4/02 (EMO) (WRO), 3/5/02 (BOE) (SENATE), 3/12/02 (DOF), 8/9/02 (WRO), 8/12/02 (DOF), 2/18/03 (DOF), 8/4/03 (DOF), 4/14/04 (DOF), 9/28/04 (DOF)

Date(s) of response letter(s) received : 5/28/98 (DLI) 5/11/98 06/01/98 (DLNR), 6/04/98 (CDA), 6/29/98 (DPW), 7/01/98 (DCCA), 7/31/98 (PDO), 8/24/98 (SMO), 10/1/98 (TMO), 10/06/98 (CSC), 10/8/98 (DCCA), 10/13/98 (HOUSEREP), 10/15/98 (SAA), 10/21/98 (TMO), 11/6/98 (HOUSEREP), 2/25/99 (DPH), 4/7/99 (EMO), 4/8/99 (NIMO), 4/14/99 (TCGCC), 4/26/99 (DOC), 6/30/99 (DPS), 11/24/99 (BOE), 12/1/99 (NMIRF) (NMC), 12/3/99 (SPMC), 12/6/99 (OMB), 1/3/00 (SMC), 1/12/00 (GOV) 1/20/00 (NMIRF), 7/14/00 (SPMC), 7/16/00 (LIBCOUNCIL), 7/19/00 (NIMO) (RMO), 7/20/00 (TMC), 8/25/00 (MVA), 9/29/00 (DOF), 12/7/00 (meeting with Coordinating Group on DOF), 2/8/01 (RMO), 2/21/01 (SPRC), 8/29/01 (DLI), 8/30/01 (LEGBUREAU), 9/4/01 (meeting with EMO), 9/2/01 (RMC), 9/27/01 (CUC), 9/25/01 (WRO), 10/01/01 (DOF), 10/12/01 (CPA), 3/15/02 (SENATE), 3/20/02 (BOE) (EMO) (WRO), 3/27/02 (DOF request for extension), 4/12/02 (DOF), 8/21/02 (WRO), 8/23/02 (WRO), 8/26/02 (WRO), 8/30/02 (WRO), 3/17/03 (DOF request for extension)

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- Recommendation 2** : The Secretary of Finance should instruct the Director of Procurement and Supply to:
- a) Develop written procedures for marking of government vehicles (except law enforcement vehicles and vehicles used by elected officials). Among other things, the written procedures should specify 1) the period when markings should be made (e.g., within a specified time frame after vehicle has been delivered by vendor); 2) the information to be included in the markings, such as the agency name, and if the vehicle is government-owned, the property number as well; 3) the

exact size of the markings that will allow them to be visible and readable even when the vehicle is in motion; 4) the exact placement of the markings on the door; and 5) the material to be used for marking.

(**Note:** The marking should show the agency's full name and not just the acronym or the first letters of the agency's name. Use of full name instead of acronym readily identifies the agency accountable for the vehicle, and prevents mistaking one agency for another that has the same acronym.)

- b) Maintain updated government vehicle inventory listings and conduct periodic inventories of all government vehicles on Saipan, Rota, and Tinian.
- c) Revise the standard vehicle specifications and features guidelines issued by the Procurement and Supply Division to emphasize that procurement of vehicles with factory-tinted windows is prohibited by statute. Reject purchase requisitions made by any government agency to procure vehicles that do not conform to the standard vehicle specifications and features guidelines.

Agency to Act : Department of Finance - Procurement & Supply

Status : Resolved - Delinquent

Agency Response : In the 10/1/1 response from DOF, the Secretary of Finance stated that DOF is currently updating the vehicle regulations to include items (a) and (c) of Recommendation 2. OPA was provided the initial draft copy of the regulations. In addition, DOF provided OPA a government vehicle inventory listing as of January 2001 which addressed item (b) of the recommendation.

In his 4/12/02 response, the Secretary of Finance informed OPA that revisions to the amended Government Vehicle Regulations are near completion, and a copy will be provided to OPA upon their adoption.

Additional Information or Action Required : DOF should provide OPA copies of the revised Government Vehicle Regulations upon their adoption.

Report No. LT-00-01 issued February 16, 2000
Compilation of CNMI Government-Paid Travel
For Fiscal Year 1997

Date(s) of followup letter(s) sent : 2/16/00 (CDA), 7/3/00 (CDA), 7/6/00 (NMIRF) (HOUSEREP), 7/11/00 (CPA) (CUC) (GOV) (SENATE) (NMC), 1/17/01 (CPA), 1/18/01 (CUC) (NMC), 1/19/01 (NMIRF), 1/23/01 (HOUSEREP) (SENATE), 1/30/01 (GOV), 8/20/01 (CPA) (NMC) (CUC), 8/21/01 (NMIRF), 8/22/01 (Legislature) (GOV) (SENATE), 3/4/02 (CUC) (GOV) (HOUSEREP) (NMC), 3/5/02 (NMIRF) (SENATE), 8/9/02 (NMIRF), 8/12/02 (NMC) (CUC) (GOV), 2/12/03 (GOV), 2/18/03 (NMIRF), 8/4/03 (GOV) (NMIRF), 4/13/04 (GOV), 9/28/04 (GOV)

Date(s) of response letter(s) received : 2/16/00 (CDA), 2/17/00 (NMIRF), 9/27/01 (CUC), 10/4/01 (NMIRF letter of request for extension to respond until 11/3/01), 10/12/01 (CPA), 3/11/02 (HOUSEREP), 3/15/02 (SENATE), 8/13/02 (NMC), 9/5/02 (CUC), 7/22/03 (NMIRF)

Recommendation 2 : Strictly enforce the requirement of not granting requested new travel advances to travelers with unliquidated travel advances, and the required sanction of payroll deduction for travelers who failed to timely file TVs. Travelers such as board members who are not part of the government payroll should be required to immediately repay the advances when a complete TV is not timely filed.

Agency to Act : Office of the Governor

Status : Open - Delinquent

Agency Response : The former Governor's response upon completion of the audit did not reemphasize the requirement of not granting requested new travel advances to travelers with unliquidated travel advances.

Additional Information or Action Required : Provide OPA copies of the written instruction to the person in charge of issuing and liquidating travel advances regarding strict enforcement of the requirement of not granting requested new travel advances to travelers with unliquidated travel advances.

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Autonomous Agencies

Commonwealth Development Authority
Commonwealth Ports Authority
Commonwealth Utilities Corporation
Marianas Public Lands Authority
Northern Marianas College
Northern Mariana Islands Retirement Fund
Public School System
Tinian Casino Gaming Control Commission

Commonwealth Development Authority

Report No. AR-00-02 issued on July 10, 2000

Commonwealth Development Authority

Audit on Procurement and Costs of Renovating the CDA's Leased Building

January 1998 to August 1999

Date(s) of followup letter(s) sent : 1/19/01 (DOF), 1/22/01 (CDA), 1/23/01 (House of Rep.), 8/2/01 (DOF), 8/22/01 (House of Rep.) (CDA), 3/4/02 (House of Rep.), 3/5/02 (CDA), 3/12/02 (DOF), 8/12/02 (House of Rep.) (DOF) (AGO), 10/3/02 (AGO), 2/12/03 (House of Rep.), 2/14/03 (AGO), 2/18/03 (CDA) (DOF), 8/4/03 (DOF) (AGO) (House of Rep.), 8/14/03 (CDA), 4/13/04 (AGO) (House of Rep.), 4/14/04 (CDA) (DOF), 9/21/04 (House of Rep.), 9/27/04 (CDA), 9/28/04 (DOF)

Date(s) of response letter(s) received : 9/26/00 (DOF), 2/8/01 (CDA request for extension until 3/2/01), 3/1/01 (CDA), 10/01/01 (DOF), 2/12/02 (meeting with AGO), 3/11/02 (CDA), 3/27/02 (DOF request for extension), 4/12/02 (DOF), 5/31/02 (CDA), 3/13/03 (meeting with Speaker of the House), 3/17/03 (DOF request for extension), 8/21/03 (CDA), 9/15/03 (AGO), 4/30/04 (AGO), 5/11/04 (CDA), 5/12/04 (House of Rep.), 9/29/04 (House of Rep.), 10/12/04 (CDA), 10/18/04 (CDA), 11/15/04 (CDA)

Recommendation 1 : The CDA Board Chairman should immediately take steps to obtain reimbursement from the lessor of the amount of accrued interest on public funds advanced for the parking lot improvements amounting to \$9,278.31.

Agency to Act : Commonwealth Development Authority

Status : Closed

Agency Response : On 11/15/04, OPA was provided documentation showing the offset of the remaining balance of \$2,601.12 in accrued interest for the parking lot loan against CDA's lease payment for November 2004. Based on the documentation provided, this recommendation is now considered closed.

Recommendation 2 : The Legislature should amend 1 CMC §7402 of the Planning and Budgeting Act to specifically provide that unused budget authority may not be transferred to subsequent years, and to provide sanctions for violations.

Agency to Act : House of Representatives

Status : Closed

Agency Response : In a meeting with the Speaker of the House on 3/13/03, OPA was informed that the Legislature intends to introduce legislation to amend 1 CMC §7402 to comply with OPA's recommendation.

On 9/29/04, the Speaker of the House provided OPA a copy of the Bill to amend the Planning and Budgeting Act which was introduced by the House on 10/1/04. House Bill No. 14-249, as introduced, did not address the recommendation to provide that unused budget authority not be transferred to subsequent years and to provide sanctions for

violations. However, OPA has decided to close this recommendation as CDA's funds do not necessarily revert to the general fund at the close of the fiscal year.

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- Recommendation 4** : *Original:* The Secretary of Finance should require P&S to assess CDA's capability to administer its own procurement regulations. More specifically, P&S should determine whether CDA has adopted the CNMI's procurement regulations. If so, P&S should assess whether CDA has the staff capability to carry out the functions P&S would normally administer, and then make a decision as to whether CDA should be delegated procurement authority.
- As Redirected:* AGO should provide a legal opinion on whether or not CDA has the statutory authority to promulgate its own regulations, as requested by the Secretary of Finance.
- As Revised:* After receipt of the legal opinion from AGO, DOF should assess whether CDA has the staff capability to carry out the functions P&S would normally administer, and then make a decision as to whether CDA should be delegated procurement authority.
- As Revised:* DOF should assess whether CDA has the staff capability to administer its own procurement that P&S would normally administer and then make a decision as to whether CDA should be delegated procurement authority. If CDA is to be delegated procurement authority, DOF should require CDA to follow CNMI procurement regulations or approve CDA's regulations as being in conformance with the CNMI procurement regulations.
- Agency to Act** : Department of Finance
- Status** : Resolved - Active
- Agency Response** : In the 10/01/01 response from DOF, the Secretary of Finance stated that they cannot resolve the recommendation without a legal determination from AGO whether CDA has the statutory authority to promulgate its own procurement regulations. DOF provided OPA with a copy of their third request to AGO.
- In a meeting on 2/12/02, this recommendation was included in the list provided by OPA to AGO pertaining to outstanding matters requiring AGO's legal opinion.
- On 4/12/02, the Secretary of Finance provided OPA copies of DOF's memorandum to the AGO requesting a legal opinion on the matter.
- In his response dated 9/15/03, the Acting Attorney General stated that this case has been assigned to an Assistant Attorney General and is pending further investigation. He further stated that the AGO is currently preparing a legal opinion on autonomous agencies' ability to promulgate their own procurement rules.
- In its AGO legal opinion 03-13 dated 10/8/03, the Acting Attorney General has concluded that DOF has not complied with its constitutional duty to control and regulate expenditures as the Department's current regulations specifically exclude autonomous agencies and public corporations.
- In its AGO legal opinion 03-13 dated 10/8/03, AGO specifically addressed the ability of the "autonomous agencies" to maintain and use their own procurement rules. Based on the legal opinion, DOF has to establish regulations to ensure that public funds are expended for public purposes. The regulations do not require the establishment of "one set of regulations," rather the method chosen on how to accomplish this duty is left to

DOF. However, both the Constitution and intent of the framers clearly establish that the DOF is the sole agency granted broad authority to control and regulate expenditures and any statutes or regulations that are in conflict with this authority would be invalid. This authority extends to all agencies and instrumentalities of the Commonwealth, and was specifically intended to “prevent the legislature or any other agency from establishing its own separate finance department” and thus circumventing this centralized control. The DOF has not complied with this constitutional duty, however; as the DOF’s current regulations specifically exclude certain autonomous agencies and public corporations. Accordingly, the AGO recommends that “Finance modify its regulations to address the expenditure activity of [the autonomous agencies] in order to be in compliance with the duty imposed by the Constitution”.

**Additional Information
or Action Required :**

DOF should assess whether CDA has the staff capability to administer its own procurement that P&S would normally administer and then make a decision as to whether CDA should be delegated procurement authority. If CDA is to be delegated procurement authority, DOF should require CDA to follow CNMI procurement regulations or approve CDA’s regulations as being in conformance with the CNMI procurement regulations.

Commonwealth Ports Authority

Report No. AR-95-17 issued October 2, 1995

Audit of Board-Related Transactions and Purchase of Vehicles for the Department of Public Works

Date(s) of followup letter(s) sent : 11/20/95, 3/7/96, 12/5/96, 2/02/98, 9/18/98, 11/22/99, 7/11/00, 1/17/01, 8/20/01, 3/5/02, 8/9/02, 10/3/02 (AGO), 2/14/03 (AGO), 8/4/03 (AGO), 10/27/03 (AGO), 4/13/04 (AGO), 9/21/04 (AGO)

Date(s) of response letter(s) received : 3/27/96, 12/24/96, 3/27/99, 10/12/01, 1/29/02, 8/21/02 (CPA request for extension), 8/30/02, 9/15/03 (AGO), 10/31/03 (AGO), 4/30/04 (AGO)

Recommendation 2 : *Original:* The CPA Board Chairman should recover the \$42,191 in improper reimbursements from the board members unless they can specifically identify the expenses as CPA official business and/or present supporting documents.

As Revised and Redirected to AGO: Determine appropriate legal action to be taken to pursue collection from the board members of the remaining balance of \$40,131 which was improperly reimbursed.

Agency to Act : Commonwealth Ports Authority - Redirected to Attorney General's Office

Status : Resolved - Delinquent

Agency Response : In his letter response dated 3/27/96, the former Board Chairman stated that out of the \$42,191 improper reimbursements, \$2,060 has been repaid (\$808.60 was offset against travel receivables and \$1,251.60 was directly paid to CPA), leaving a balance of \$40,131 still collectible.

On 10/21/01, the CPA Executive Director informed OPA that this matter was referred to AGO for review and action. AGO has yet to issue a determination on whether the recommendation should be pursued in court. CPA suggested that OPA ask AGO for a response in this matter.

In his response dated 8/30/02, the CPA Executive Director provided OPA with a copy of its referral letter to AGO dated 12/24/96.

In his response dated 9/15/03, the Acting Attorney General stated that a search of their files reveal that there are no records of this case in the AGO. On 10/27/03, OPA provided AGO with a copy of the audit report on this case referral and requested the Acting Attorney General to review the matter on this case and determine (1) whether the statute of limitations bars an action, and (2) if it is a matter that the AGO will pursue. On 10/31/03, the Acting Attorney General informed OPA that the CNMI's claim in this matter is potentially in the public interest, thereby removing the statute of limitations as a defense in this case insofar as civil liability is concerned. He further stated that AGO will further evaluate whether a viable suit exists. Based on the 10/31/03 response, OPA will forward to the AGO the file on this referral case for further evaluation.

In his 4/30/04 response, the Deputy Attorney General stated that AGO has adopted a policy to pursue all collection cases involving money owed to the government "in the public interest" until the CNMI Supreme Court rules to the contrary.

Additional Information

or Action Required : AGO should inform OPA of the results of legal action taken to pursue collection from the board members for the remaining balance of \$40,131 which was improperly reimbursed.

Report No. AR-00-03 issued July 20, 2000**Commonwealth Ports Authority****Audit of the Compensatory Time Claimed and Retirement Benefits****Paid to Two Former Officials of the CPA**

Date(s) of followup letter(s) sent : 1/17/01 (CPA), 1/19/01 (NMIRF), 8/20/01 (CPA), 8/21/01 (NMIRF), 3/5/02 (CPA) (NMIRF), 8/9/02 (CPA) (NMIRF), 8/12/02 (AGO), 10/3/02 (AGO), 12/24/02 (AGO), 2/14/03 (AGO) (CPA), 2/18/03 (NMIRF), 8/4/03 (NMIRF) (AGO), 4/13/04 (AGO), 4/16/04 (NMIRF), 9/21/04 (AGO), 9/28/04 (NMIRF)

Date(s) of response letter(s) received : 8/31/01 (meeting with CPA), 10/4/01 (NMIRF letter of request for extension to respond until 11/3/01), 10/12/01 (CPA), 1/29/01, 2/12/02 (meeting with AGO), 8/12/02 (CPA request for extension), 8/30/02 (CPA), 9/25/02 (CPA), 4/2/03 (NMIRF), 7/22/03 (NMIRF), 9/15/03 (AGO), 4/30/04 (AGO), 10/25/04 (AGO)

Recommendation 1 : *Original:* The CPA Board of Directors should adopt personnel rules and regulations that are: (a) within the authority granted by the Commonwealth Ports Authority Act and other CNMI laws such as the Compensation Adjustment Act, (b) consistent with and governed by the same principals of fairness and equality as the CNMI Personnel Regulations, thereby eliminating authorization for FLSA-exempt (executive, administrative and professional) officials and employees to earn comptime, and the granting to six designated officials of 14 annual leave hours per pay period, or 360 hours per year.

As Redirected: The AGO should review the opinion provided by OPA regarding granting six designated officials 14 annual leave hours per pay period and take legal action if determined necessary.

Agency to Act : Commonwealth Ports Authority - Redirected to Attorney General's Office

Status : Open - Delinquent

Agency Response : In his letter response dated 5/12/00, the CPA Board Chairman disagreed with Recommendation 1. He believed that CPA is not required or obliged to adopt rules and regulations similar or identical to the CNMI Personnel Regulations. He also stated that CPA's system of compensation is generally commensurate with the rest of the Commonwealth government. He further said that the granting of 14 hours annual leave per pay period to designated officials is a matter of personnel policy.

In his 10/12/01 response, the CPA Executive Director also disagreed with OPA's conclusion that CPA required to adopt personnel rules and regulations that are similar, if not identical, to the CNMI's PSSRR. He stated that matters involving CPA personnel regulations, policies and benefits are strictly for the CPA board to decide. The Executive Director, suggest that the legislature could always review the matter and make recommendations to CPA to enact remedial legislation.

In the proposed CPA Personnel Rules and Regulations, the CPA Executive Director has proposed provisions enumerated under Sections 3.05 and 3.07 which addressed OPA's recommendation of eliminating the grant to FLSA-exempt officials and employees to earn overtime or comptime. Also, Section 5.02 of the proposed Personnel Rules and Regulations states that "Employees shall accumulate annual leave at the same rate as such leave time would be accumulated by employees of the Government of the Commonwealth of the Northern Mariana Islands." However, upon inquiry to the CPA Office Manager, OPA learned that CPA still granted the 14 annual leave hours for the last personnel contract executed. The proposed Personnel Rules and Regulations were published in the Commonwealth Register on January 29, 2002 for review and comments by interested parties until February 29, 2002.

In his response dated 8/30/02, the CPA Executive Director informed OPA that CPA's Personnel Rules and Regulations were adopted on August 8, 2002 and were published in the Commonwealth Register. He also stated that CPA's Personnel Rules and Regulations are similar to the PSSRR in terms of personnel regulations, benefits and policies', however, the CPA Board decided to continue the accrual of 14 hours annual leave bi-weekly for several of its key management employees. On 9/16/02, OPA requested CPA for additional information on the matter.

Based on additional information CPA provided to OPA on 9/25/02, OPA conducted an analysis of the various CPA positions that are currently receiving the 14 hours annual leave benefit per pay period. Based on the analysis, OPA concluded that the positions of the deputy director, deputy comptroller, and the staff engineer may not be entitled to 14 hours annual leave per pay period because they are not encompassed in the exception provided by 2 CMC §2122(n) and are not considered to be "specialists for which no comparable position exist in the Commonwealth". Thus, the compensation, wages, and salary scales of these positions "shall be commensurate with those paid by the Commonwealth requiring comparable education, training, or experience." Based on the analysis, OPA also concluded that while certain positions such as the executive director, comptroller and ports managers, are able to receive compensations non-commensurate "with those paid by the Commonwealth requiring comparable education", OPA maintains its concerns regarding the extension of such generous leave benefits and whether such compensation is truly "reasonable related to the operations of the government" as set forth in Article X, Section 1 of the NMI Constitution, Public Laws 12-2 and 11-84. On 12/24/02, OPA forwarded this information to the AGO for review of the legal issues identified and action if determined necessary.

On 4/30/04, the Deputy Attorney General informed OPA that the Chief of the Civil Division is currently evaluating this case and expects to have its analysis and review completed by June 30, 2004.

The Acting Attorney General's response dated 10/25/04 did not address this recommendation.

**Additional Information
or Action Required :**

The AGO should provide OPA the results of its review on the matter.

Recommendation 5 :

Original: The CPA Board of Directors should instruct the CPA Accounting Department to stop the practice of making advance payments of unused annual leave and salary, and comply with the provision in the employment contracts that payments will be made upon contract expiration. In the case of retiring employees not covered by employment contracts, payment should be made on the next payday following the termination of employment or on payroll due dates.

As Redirected: The AGO should provide its legal opinion on the propriety of CPA's practice of making advance payments of unused annual leave and salary, instead of complying with the provision in the employment contracts that payments will be made upon contract expiration. In the case of retiring employees not covered by employment contracts, payment should be made on the next payday following the termination of employment or on payroll due dates.

- Agency to Act** : Commonwealth Ports Authority - Redirected to the Attorney General's Office
- Status** : Resolved - Delinquent
- Agency Response** : In his 10/12/01 response, the CPA Executive Director disagreed with the recommendation and stated that there is nothing illegal about making advanced leave payments for annual leave that has already accrued or advancing a salary that an employee has already earned. He further stated that this is a matter that rests exclusively with the CPA Board.
- In a meeting on 2/12/02, this recommendation was included in the list provided by OPA to AGO pertaining to outstanding matters requiring AGO's legal opinion.
- On 4/30/04, the Deputy Attorney General informed OPA that the Chief of the Civil Division is currently evaluating this case and expects to have its analysis and review completed by June 30, 2004.
- The Acting Attorney General's response dated 10/25/04 did not address this recommendation.
- Additional Information or Action Required** : AGO should provide OPA a copy of its legal opinion on the matter.

- Recommendation 8** : The Fund Administrator should instruct his staff to recalculate and adjust the pension benefits of all other fund members by disregarding overtime and comp-time hours that were considered as additional credited service.
- Agency to Act** : Northern Mariana Islands Retirement Fund
- Status** : Resolved - Delinquent
- Agency Response** : NMIRF obtained the legal opinion of AGO on whether overtime and compensatory time can be used to determine the benefit amount of a retirement annuity.
- AGO in its legal opinion dated 6/9/00, stated that overtime and compensatory time may not be used to calculate the amount of benefit, but only for determining eligibility for retirement. AGO also stated that overtime and compensatory time cannot be used to determine the amount of the benefit paid to a retiree by the Retirement Fund.
- AGO recommended that re-calculation of benefits to affected members should be made, and the amount of overpayments should be determined. AGO further stated that members should be informed and advised of their right to appeal an adverse determination. If no appeal is filed, then the collection process must be undertaken by the NMIRF.
- The Fund is in the process of determining which beneficiaries have been overpaid. Further actions will be taken after this determination, i.e., informing affected beneficiaries, appeal and collection process, etc.
- In his response dated 7/22/03, the NMIRF Administrator stated that the pensions of two former CPA officials were recalculated "down" from the original calculations. OPA was

not informed, however, of the results for recalculating the pension benefits of all other fund members in determining which beneficiaries have been overpaid and what further actions were taken after their determination.

**Additional Information
or Action Required :**

NMIRF should inform OPA of the results of their recalculation of pension benefits for all other fund members in determining which beneficiaries have been overpaid and provide evidence that corrective action was taken to adjust the benefits of affected members.

Recommendation 9 :

The Fund Administrator should recover improper payments to the two former CPA officials totaling \$126,730.06, and also from all other fund members who have been overpaid by including overtime and comptime in the computation of their retirement annuity. If any problems exist in recovering overpayments, refer the matter to the Attorney General for legal action.

Agency to Act :

Northern Mariana Islands Retirement Fund

Status :

Resolved - Delinquent

Agency Response :

On 5/15/00, the Fund began withholding 50% of the former CPA Executive Director's semi-monthly pension. The Fund also conducted two separate agency hearings in connection with the retirement benefits improperly paid or being paid to the former Executive Director and former Security Chief. In its decision dated 2/15/01, the Fund's Board of Trustees affirmed the decision and actions of its Administrator in terminating the retirement benefit of the former Security Chief. Also, in a letter dated 7/27/00, AGO concurred with the findings of OPA and determined that the overpayment to the former Security Chief of CPA must be recovered. The Fund's Board of Trustees has not yet issued its decisions on the case of the former Executive Director.

On 4/2/03, OPA was provided with a copy of the Board of Trustees decision dated 6/21/01 in which it affirmed the decisions and actions of its Administrator in recalculating and adjusting the retirement benefits of the Former Executive Director. OPA was informed, however, that the Former Executive Director had appealed the Board's final decision to the Superior Court (Civil Action No. 00-0409E) and the case is still ongoing.

In his response dated 7/22/03, the NMIRF Administrator stated that they will update OPA on this issue when the CNMI Courts renders its decision on the Former Executive Director's appeal to the Superior Court.

**Additional Information
or Action Required :**

NMIRF should provide OPA (1) evidence of a written settlement plan with the former CPA Security Chief requiring repayment to the Retirement Fund and (2) the results of the Superior Courts decision in reference to the appeal made by the Former Executive Director to the Superior Court.

Commonwealth Utilities Corporation

Report No. AR-95-12 issued August 16, 1995

Audit of Advances to the Former Executive Director

Date(s) of followup letter(s) sent : 12/3/96, 2/20/97 (AGO), 2/02/98, 3/3/98 (AGO), 6/9/98 (AGO), 9/18/98, 11/22/99, 1/26/99, 1/15/00 (AGO), 7/11/00 (CUC), 7/12/00 (AGO), 1/17/01 (AGO), 1/18/01 (CUC), 8/20/01 (CUC), 3/4/02 (CUC), 8/12/02 (CUC), 2/14/03 (CUC), 9/2/03 (CUC), 4/13/04 (CUC), 9/27/04 (CUC)

Date(s) of response letter(s) received : 4/4/97 (AGO), 4/20/98 (AGO), 7/18/00 (CUC), 11/7/00 (meeting with Coordinating Group on AGO), 3/9/01 (AGO), 9/27/01 (CUC), 9/5/02 (CUC), 10/17/03 (CUC), 10/29/04 (CUC)

Recommendation 6 : The CUC Executive Director should establish and implement written policies and procedures regulating official representation, entertainments, and other expenses of similar nature. The policy should clearly indicate the officials authorized to incur such expenses, the circumstances when such expenses may be incurred, dollar limits on the amount that may be spent, and the places where such entertainment may be conducted. The procedures should include instructions on how to request advances and document official representation expenses.

Agency to Act : Commonwealth Utilities Corporation

Status : Closed

Agency Response : On 10/29/04, the CUC Executive Director provided OPA a copy of the Proposed Regulations Governing the Control & Expenditure of CUC's Funds Relating to Official Representation adopted by the Board on 3/10/04. Based on the adopted regulations provided, this recommendation is now considered closed.

Recommendation 8 : The CUC Executive Director should require the Comptroller to develop procedures on purchases requiring cash payment, wire transfers, and allowability of cash purchases for reimbursement.

Agency to Act : Commonwealth Utilities Corporation

Status : Closed

Agency Response : On 10/29/04, the CUC Executive Director provided OPA a copy of the Policy and Procedures for Wire Transfers adopted by the Board on 10/7/04. Based on the adopted policy and procedures provided, this recommendation is now considered closed.

Report No. LT-01-07 issued November 23, 2001
Commonwealth Utilities Corporation Audit of Travel of the Board of Directors,
Key Management and Other CNMI Government Officials from October 1999 through March 2001

Date(s) of followup letter(s) sent : 3/4/02, 8/12/02, 2/14/03, 4/21/03, 8/5/03, 11/10/03 (AGO),
4/13/04 (AGO), 9/21/04 (AGO)

Date(s) of response letter(s) received : 1/17/02, 9/5/02, 3/20/03, 7/7/03, 4/30/04 (AGO)

Recommendation 4 : *Original* - The Chairman of the Board and the Executive Director initiate recovery of any overpayments mentioned in this report.

As re-directed to the AGO: The AGO should determine whether recovery of the overpayments which have not been repaid will be pursued and inform OPA of what actions the AGO will be taking.

Agency to Act : Commonwealth Utilities Corporation - Redirected to the Attorney General's Office

Status : Resolved - Delinquent

Agency Response : On 9/5/02, CUC provided OPA with a schedule showing payment paid by Board Member 1 for TA no. 00-375 totaling \$471, and CUC Officer 1 and Board Member 7 for \$415 and \$525, respectively, for erroneous per diem payments.

In his response dated 3/20/03, the Chairman for the CUC Board of Directors informed OPA that CUC has reverted to paying the subsistence allowance as recommended in the OPA audit report but that the present CUC Board of Directors has sanctioned the overpayments of the concerned Board members for the difference between the per diem they received and the subsistence allowance authorized and has provided justification for its decision, particularly in the case of the current board member who resides in Rota. On 4/21/03, OPA issued a letter to the Chairman of the CUC Board of Directors informing him that the position taken by the Board of Directors causes OPA concern for two reasons. First, it is inconsistent. To collect refunds for the overpayment from two individuals, but to excuse the others is inequitable. In addition, to state that CUC has reverted to paying the subsistence amount, indicating recognition that it is the authorized amount, but allowing individuals to retain the excess received over the subsistence amount is contradictory. Second, the letter provided by the Chairman of the CUC Board of Directors does not reflect the legal authority for an after the fact sanctioning of what the text of his letter and actions against the former employee and board member appear to recognize to be an improper act. OPA informed the Chairman of the CUC Board of Directors that without clearer legal authority or additional information to support their decision to sanction the overpayments, the recommendation will remain open.

On 7/7/03, OPA received a response from the CUC Board of Director's former Legal Counsel informing OPA that the Board has determined that they will (1) immediately reimburse the individuals who have paid the difference between the subsistence allowance and the per diem rate, (2) waive any further payment of outstanding sums, as noted in the audit recommendation, (3) insure that only payment of the subsistence amount is paid, and (4) present any anticipated change in policy as to sums paid with respect to inter-island travel to OPA for review and comment prior to final action. According to the Board's former Legal Counsel, the timing for denial of the payment, or requirement for reimbursement under an audit has passed, therefore, CUC will reimburse those who previously made payment and waive any additional payments from others.

On 8/5/03, OPA issued a letter to the Chairman of the CUC Board of Directors informing him that the time for collection has not passed and that the overpayments must be repaid by the individuals that received the monies as "such payments were improper", which is undisputed, as set forth by CUC in its response. As such, there is no legal basis presented by CUC to justify the waiver of payment by those individuals that have not repaid the funds. In addition, there is no legal basis to justify the reimbursement to those individuals that have repaid CUC for the erroneous payment. OPA believes that action for collection of the overpayments would be in the public interest and would be made against those having possibly breached their fiduciary duties by receiving and not repaying the funds. OPA is also concerned that the reimbursement for the funds received in repayment and the waiver of the funds due for the overpayment by the other individuals, absent a legal basis to do so, may present a new breach of duty based on unjustified sanctioning of such actions. OPA, therefore, cannot consider this matter closed and must refer this matter to the Office of the Attorney General for review at this time.

On 11/10/03, OPA forwarded to the Deputy Attorney General documents relating to the overpayments and questionable payment for further review and determination as to whether amounts in question should be recovered.

In his 4/30/04 response, the Deputy Attorney General stated that this case has been assigned to an Assistant Attorney General for evaluation and collection if appropriate.

**Additional Information
or Action Required :**

The AGO should inform OPA whether recovery for the erroneous per diem payments and questionable payment below which have not been repaid will be pursued and what actions will be taken.

(1) TA's with erroneous per diem payments for Board Member 1, Board Member 3, and Board Member 4 totaling \$2,730.

(2) Questionable payment for one day per diem for TA no. 00-238 amounting to \$243.

**Report No. AR-02-01 issued August 27, 2002
Commonwealth Utilities Corporation
Audit of Small Purchases
from October 1999 through March 2001**

Date(s) of followup letter(s) sent : 2/14/03, 9/2/03, 4/13/04, 9/27/04

Date(s) of response letter(s) received : 10/17/03, 10/29/04

Recommendation I : The CUC Board should amend CUC's Procurement Regulations to include:

1. a clear definition of artificial division of purchases or split purchases;
2. the procurement method to be followed in special circumstances, such as for urgently needed goods or services;
3. An exception to the required 3 quotations when the number of available suppliers is very limited.

Agency to Act : Commonwealth Utilities Corporation

Status : Resolved - Active

Agency Response : On 10/17/03, the CUC Executive Director provided OPA with the following proposed policies, forms, and amendments to the CUC Procurement Regulations which are now with the CUC Board for their review, adoption, and promulgation.

Split Purchases - CUC has proposed amendments to the CUC Procurement Regulations regarding split purchases which provided clear definition of split purchases and guidance for determining the existence of such type of procurement.

Emergency Procurement - CUC has proposed amendments to the CUC Procurement Regulations regarding emergency procurement which specifies conditions for use, procedures, documentation, and authorizations required for such type of procurement.

Sole Source Procurement - CUC has designed a Sole Source Justification Form to document the procurement method when CUC cannot obtain three quotations because of special circumstances.

On 10/29/04, the CUC Executive Director informed OPA that the CUC Board has adopted the Proposed Amendments to the Procurement Rules and Regulations addressing split purchases, emergency procurement, and sole source procurement on 10/7/04 and is in the process of promulgating the said amendments.

**Additional Information
or Action Required** :

CUC should provide OPA with an official copy of the amendments to its Procurement Rules and Regulations addressing split purchases, emergency procurement, and sole source procurement promulgated as regulations.

Recommendation 2 : The CUC Board should adopt policies and procedures for small purchases that:

1. provided adequate guidance to CUC employees on determining split purchases or artificially divided purchases;
2. define the coverage of emergency procurement under the after-the-fact procurement method specified in the CUC Comptroller's memorandum dated October 24, 2001;
3. provide procedures for identifying and documenting actual or potential conflicts of interest, including procedures for ensuring that conflicted employees recuse themselves from participating in the procurement process.

Agency to Act : Commonwealth Utilities Corporation

Status : Resolved - Active

Agency Response : On 10/17/03, the CUC Executive Director provided OPA with the following proposed policies, forms, and amendments to the CUC Procurement Regulations which are now with the CUC Board for their review, adoption, and promulgation.

Split Purchases - CUC has proposed amendments to the CUC Procurement Regulations regarding split purchases which provided clear definition of split purchases and guidance for determining the existence of such type of procurement.

After-the-Fact Purchase Orders - CUC has drafted a proposed policy on after-the-fact purchase orders viewing it as a serious matter and with the ultimate goal of eliminating

it. Only in emergency situations may the corporation ratify after-the-fact purchases as commitments which are governed by applicable emergency procurement regulations.

Conflict of Interest - In a memorandum dated 10/17/03, the CUC Executive Director instructed the CUC Procurement Manager to advise all employees involved in the procurement process to observe CUC's policy on conflict of interest. CUC has proposed a Disclosure Statement Form which will require all concerned to disclose any substantial interest that employees or their relative have in any CUC procurement matter. The CUC Procurement Manager was also instructed to coordinate with OPA to provide annual Government Ethics training for its staff.

On 10/29/04, the CUC Executive Director informed OPA that the CUC Board has adopted the Proposed Amendments to the Procurement Rules and Regulations addressing split purchases, after-the-fact purchase orders, and Disclosure Statement Form and is in the process of promulgating the said rules and regulations.

**Additional Information
or Action Required** :

CUC should provide OPA with a copy of the official amendments to its Procurement Rules and Regulations addressing split purchases, after the fact purchase orders, and disclosure statement form promulgated as regulations.

**Report No. AR-03-01 issued January 15, 2003
Commonwealth Utilities Corporation
Audit of Personnel Hiring
from October 1, 1999 through July 15, 2001**

Date(s) of followup letter(s) sent : 9/2/03, 4/13/04, 9/27/04

Date(s) of response letter(s) received : 2/21/03, 10/17/03, 10/29/04

Recommendation I : Continue the effort to develop and adopt comprehensive personnel rules and regulations. If it determines that limited term appointments are necessary for CUC operation, it should define its practice in the proposed personnel regulations.

Agency to Act : Commonwealth Utilities Corporation

Status : Resolved - Active

Agency Response : In her response dated 10/17/03, the CUC Executive Director stated that the Board's Personnel Committee is pursuing the revision of their existing Personnel Rules and Regulations to be presented to the Board for approval and for promulgation as CUC Regulations. OPA was provided a copy of the Executive Director's letter to the Board dated 10/2/03 requesting action on this matter.

On 10/29/04, the CUC Executive Director informed OPA that the CUC Board has adopted the proposed CUC Human Resources Rules and Regulations on 10/7/04 and is in the process of promulgating the said rules and regulations.

**Additional Information
or Action Required** :

CUC should provide OPA with the official copy of the Human Resources Rules and Regulations promulgated as regulations.

- Recommendation 2** : Continue the effort to develop and adopt CUC's own Classification and Compensation Schedule and transmit it to the Legislature for review or adopt the salary scale applicable to autonomous agencies to ensure that its employees are fairly compensated.
- Agency to Act** : Commonwealth Utilities Corporation
- Status** : Closed
- Agency Response** : On 10/29/04, OPA was provided a copy of the adopted CUC Classification and Compensation Manual. Based on the manual provided, this recommendation is now considered closed.
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Report No. AR-03-02 issued January 22, 2003
Commonwealth Utilities Corporation
Audit of Premium Pay, Overtime, and Salary Increases
from October 1, 1999 through September 30, 2001

Date(s) of followup letter(s) sent : 9/2/03, 4/13/04, 9/27/04

Date(s) of response letter(s) received : 2/21/03, 10/17/03, 10/29/04

- Recommendation 1** : Develop and adopt Personnel Rules and Regulations to cover promotion and salary increase justifications, and the various forms of premium pay it plans to use, as well as to conform to the requirements of the Fair Labor Standards Act concerning computation of overtime.
- Agency to Act** : Commonwealth Utilities Corporation
- Status** : Resolved - Active
- Agency Response** : In her response dated 2/21/03, the CUC Executive Director informed OPA that the CUC Board of Directors adopted an interim manual for Human Resources Policies and Procedures (HRPP) on 12/27/02. Upon completion of its review from staff and management, the Board will adopt the manual in a final form and present it to the AGO for review and promulgation in the Commonwealth Register as a regulation. CUC is preparing to issue a solicitation for a firm to create new classification and compensation plans for reclassification for the Corporation. The HRPP will address the issues of promotion and provide for a competitive promotional process. The compensation plan will provide for step increases in salaries for employees. The HRPP requires strict compliance with the Fair Labor Standards Act and it is CUC's intention that, with the concurrence of the consulting firm doing the compensation plan, CUC will eliminate premium pay and incorporate all aspects of any individual position which would impact compensation into the base salary. Based on the information provided, this recommendation is considered resolved until such time that the manual for HRPP is promulgated as regulations.

In her response dated 10/17/0, the CUC Executive Director stated that the Board's Personnel Committee is pursuing the revision of their existing Personnel Rules and Regulations to be presented to the Board for approval and for promulgation as CUC Regulations.

On 10/29/04, the CUC Executive Director informed OPA that the CUC Board has adopted the proposed Human Resources Rules and Regulations on 10/7/04 and is in the process of promulgating the said rules and regulations.

**Additional Information
or Action Required**

: CUC should provide OPA with the official copy of the Human Resources Rules and Regulations promulgated as regulations.

Recommendation 8 : Require that all future salary increases are properly justified.

Agency to Act : Commonwealth Utilities Corporation

Status : Closed

Agency Response : In her response dated 2/21/03, the CUC Executive Director informed OPA that this recommendation can not be fully addressed until the implementation of a final manual compensation and classification schedule. Based on the interim manual, it is CUC's intention that all future salary increases will be justified by the overall salary planning a documented system for promotion. OPA was provided a directive from the Executive Director to Division Managers and Section Supervisors dated 2/19/03 requiring that any request for salary increase or "adjustments" be justified at the time of initiation and submitted for approval to the Executive Director and the Budget Office prior to any actions being taken by Human Resources to implement such a change. The Executive Director further stated that CUC will carefully scrutinize any such requests and intends, absent compelling reasons, to defer any requests until such compensation plan is adopted.

In her response dated 10/17/03, the CUC Executive Director stated that the private contractor they hired to prepare their classification and compensation schedule is expected to submit its final draft of their work by November 2003.

On 10/29/04, OPA was provided a copy of the adopted CUC Classification and Compensation Manual. Based on the manual provided, this recommendation is now considered closed.

Marianas Public Lands Authority

Report No. AR-95-18 issued October 10, 1995
Division of Public Lands (DPL)
(Currently Marianas Public Lands Authority)
Audit of Credit Card and Related Travel Transactions

Date(s) of followup letter(s) sent : Verbal follow-ups made through the telephone, 11/29/96, 12/3/96, 2/20/97 (AGO), 11/20/97, 9/17/98 (AGO), 3/3/98 (AGO), 9/18/98 (DLNR), 11/23/99 (DLNR), 1/26/99, 1/5/00 (AGO), 7/6/00 ((DPL), 7/12/00 (AGO), 1/17/01 (AGO), 1/24/01 (DLNR), 8/21/01 (AGO), 8/23/01 (OPL), 8/12/02 (MPLA) (AGO), 10/3/02 (AGO), 2/14/03 (AGO) (MPLA), 8/4/03 (MPLA) (AGO), 10/27/03 (AGO), 4/13/04 (AGO), 4/23/04 (MPLA), 9/21/04 (AGO) (MPLA)

Date(s) of response letter(s) received : 11/14/95, 6/27/96, 4/4/97 (AGO), 9/11/97, 4/20/08 (AGO), 3/17/99, 10/21/99 (DPL), 10/31/00 (meeting with Coordinating Group on DLNR), 11/7/00 (meeting with Coordinating Group on AGO), 2/8/01 (DPL), 2/22/01 (DPL), 3/9/01 (AGO), 8/30/01 (OPL), 9/28/01 (OPL), 2/12/02 (meeting with AGO), 3/6/02 (MPLA), 8/19/02 (MPLA), 3/10/03 (MPLA), 9/15/03 (AGO), 10/31/03 (AGO), 4/30/04 (AGO), 6/7/04 (MPLA)

Recommendation I : *Original:* -The Secretary of DLNR should require the cardholders to reimburse the Marianas Public Land Corporation (MPLC) for all the unallowable and unsupported credit card charges, unless they can specifically relate the charges to MPLC official business and present supporting documents. If necessary, the Secretary of DLNR and the Director of DPL should seek the assistance of the Attorney General to recover the personal, unallowable, and unsupported credit card charges from the cardholders.

As Revised and Redirected to the Attorney General's Office: The Attorney General should take appropriate action to recover the personal, unallowable, and unsupported credit card charges from the cardholders.

Agency to Act : Attorney General's Office

Status : Resolved - Delinquent

Agency Response : OPA was informed that the former Board Chairman and Rota Board member both signed promissory notes requiring monthly payments to MPLA, the former Tinian Board entered into a settlement agreement with monthly installments to be made to MPLA beginning January 2000, and a trial court's judgement was ordered on 7/9/01 in the civil case against the former Comptroller which found the former Comptroller not liable on any of the allegations in the complaint filed against him. Therefore, the portion of the recommendation pertaining to the former Board Chairman, former Rota Board member, former Tinian Board member, and former Comptroller is considered closed. Monitoring of collections for the former Board Chairman, former Rota Board Member and former Tinian Board Member is addressed in Recommendation 6.

With regards to the former Executive Director, a settlement agreement was entered in which he agreed to pay back in excess of \$54,000. The payment was made by release of retirement benefits that were owed to him, and by transferring private property to the CNMI government and waiving a potential land claim.

Additional Information or Action Required : The AGO should provide documents on conveyance of property for debt settlement of the former Executive Director to completely close this recommendation.

Recommendation 2 : *Original:* The Secretary of DLNR should recover from the cardholders the amount of \$45,698.

As Revised and Redirected to the Attorney General's Office: The Attorney General's Office should take appropriate action to recover the amount of \$45,698 from the cardholders.

Agency to Act : Attorney General's Office

Status : Resolved - Delinquent

Agency Response : OPA was informed that the former Board Chairman and Rota Board member both signed promissory notes requiring monthly payments to MPLA, the former Tinian Board entered into a settlement agreement with monthly installments to be made to MPLA beginning January 2000, and a trial court's judgement was ordered on 7/9/01 in the civil case against the former Comptroller which found the former Comptroller not liable on any of the allegations in the complaint filed against him. Therefore, the portion of the recommendation pertaining to the former Board Chairman, former Rota Board member, former Tinian Board member, and former Comptroller is considered closed. Monitoring of collections for the former Board Chairman, former Rota Board Member and former Tinian Board Member is addressed in Recommendation 6.

With regards to the former Executive Director, a settlement agreement was entered in which he agreed to pay back in excess of \$54,000. The payment was made by release of retirement benefits that were owed to him, and by transferring private property to the CNMI government and waiving a potential land claim.

Additional Information or Action Required : The AGO should provide documents on conveyance of property for debt settlement of the former Executive Director to completely close this recommendation.

Recommendation 4 : *Original:* The Secretary of DLNR should review and evaluate whether charges for official representation expenses were properly chargeable to MPLC, and recover improper charges from the former Executive Director.

Agency to Act : Attorney General's Office

Status : Resolved - Delinquent

Agency Response : OPA was informed that the former Board Chairman and Rota Board member both signed promissory notes requiring monthly payments to MPLA, the former Tinian Board entered into a settlement agreement with monthly installments to be made to MPLA beginning January 2000, and a trial court's judgement was ordered on 7/9/01 in the civil case against the former Comptroller which found the former Comptroller not liable on any of the allegations in the complaint filed against him. Therefore, the portion of the recommendation pertaining to the former Board Chairman, former Rota Board member, former Tinian Board member, and former Comptroller is considered closed. Monitoring of collections for the former Board Chairman, former Rota Board Member and former Tinian Board Member is addressed in Recommendation 6.

With regards to the former Executive Director, a settlement agreement was entered in which he agreed to pay back in excess of \$54,000. The payment was made by release of retirement benefits that were owed to him, and by transferring private property to the CNMI government and waiving a potential land claim.

Additional Information

or Action Required : The AGO should provide documents on conveyance of property for debt settlement of the former Executive Director to completely close this recommendation.

Recommendation 6 : The Secretary of DLNR should instruct the current Comptroller to determine the correct balance of the travel advance account, and forward advances not reimbursed to DOF for collection. The remaining travel advance balances of cardholders/travelers still working for the Government should be recovered through salary deduction. For employees/officials who no longer work for the Government, the assistance of the Attorney General should be sought to collect the outstanding balances.

Agency to Act : Department of Public Lands (currently Marianas Public Lands Authority)

Status : Resolved - Delinquent

Agency Response : On 3/4/04, a member of the 14th CNMI Legislature requested OPA to review documents relating to the status of the outstanding account balance of the former Rota board member. During the review, OPA discovered that some of the documents provided by the member of the 14th Legislature regarding the account balance of the former Rota Board member were not previously submitted by MPLA during OPA's periodic audit recommendation follow-up requests. OPA also discovered that the schedule of payments submitted did not incorporate interest computation.

On 6/7/04, the MPLA Comptroller provided OPA with a copy of the promissory note executed with the former Rota Board Member on 1/5/96, copies of memorandums from the Comptroller to the MPLA Commissioner regarding the status of accounts for the former Chairman of the Board, former Rota Board Member and former Tinian Board Member as well as copies of subsidiary ledgers maintained to record payments received from these former board members. The subsidiary ledgers provided incorporated interest computations on the outstanding balances for the former Board Chairman and former Rota Board member.

The status of accounts based on the above documents provided by the Comptroller is as follows:

Former Chairman of the Board - In a memorandum from the Comptroller to the Commissioner dated 6/7/04, the Comptroller stated that the account balance of the former Chairman of the Board through 2/5/04 is \$21,918.71 including interest (12% Simple Interest). The payment terms of the promissory note have not been consistently complied with. Thus, the Comptroller will be forwarding the account of the former Chairman of the Board to MPLA's Legal Counsel for legal action.

Former Rota Board Member - In a memorandum from the Comptroller to the Commissioner dated 6/14/04, the Comptroller stated that the former Rota Board Member has an outstanding balance of \$50,889.14 as of 3/26/04 which includes \$19,793.14 (net cumulative interest after application of payments) and \$31,096 in principal. MPLA management is working with the former Rota Board Member in the resolution of the board action for which the former Rota Board Member is required to pledge his personal property for collateral and explore the possibility of revising the current payment plan. If the former Rota Board Member continues to fall behind in his account upon the resolution of the board action, MPLA will immediately seek for legal action.

Former Tinian Board Member - In a memorandum from the Comptroller to the Commissioner dated 5/24/04, the Comptroller stated that the former Tinian Board Member has not been complying with the conditions of the Stipulation to Judgement and Order. MPLA had notified the former Tinian Board Member on 3/6/03 that he has been in default with his agreement since October 2002 after which he started making usual monthly payments of \$250 six months later. However, MPLA has not been receiving payments from the former Tinian Board Member since March 2004. The Comptroller stated that the MPLA Legal Counsel will bring legal action against the former Tinian Board member. Based on a copy of the subsidiary ledger maintained to monitor payments made by the former Tinian Board member also provided to OPA, the account balance for the former Tinian Board member as of 6/7/04 is \$6,579.45. This reflects a beginning balance of \$16,829.45 less payments made through 3/23/04 totaling \$10,250. The stipulation to judgment and order in the civil case against the former Tinian Board member, however, showed that the former Tinian Board member entered into a settlement agreement to pay the sum of \$11,657 in monthly installments of \$250 beginning 1/15/00. If \$11,657 is the actual amount he needs to pay, then the account balance for the former Tinian Board member is \$1,407 (\$11,657 less total payments of \$10,250) and not \$6,579.45.

**Additional Information
or Action Required :**

MPLA should continue to provide OPA with the status of collections for the three former board members and an update on possible legal proceedings to be taken against the former Board Chairman and the former Tinian Board Member. Also, MPLA should inform OPA of the results of the resolution of board action for which the former Rota Board member is required to pledge his personal property for collateral and a copy of the payment plan if revised. Finally, MPLA should determine the correct amount due from the former Tinian Board member and inform OPA of its determination and provide OPA a copy of the subsidiary ledger showing restatement of balance if made.

Report No. AR-96-05 issued March 21, 1996

Division of Public Lands

(Currently Marianas Public Lands Authority)

Audit of the Saipan Fishing Center and the Lease of the Garapan Fishing Base

Date(s) of followup letter(s) sent : 12/4/96, 11/20/97, 3/3/98 (AGO), 9/17/98, 11/23/99, 1/26/99, 1/5/00 (AGO), 7/12/00 (AGO), 1/17/01 (AGO), 8/21/01 (AGO), 8/12/02 (AGO), 10/3/02 (AGO), 2/14/03 (AGO), 8/4/03 (AGO), 4/13/04 (AGO), 9/21/04 (AGO)

Date(s) of response letter(s) received : 4/4/97 (AGO), 9/11/97, 3/10/98, 4/20/98 (AGO), 1/20/00 (AGO), 11/7/00 (meeting with Coordinating Group on AGO), 3/9/01 (AGO), 2/12/02 (meeting with AGO), 9/15/03 (AGO), 4/30/04 (AGO)

Recommendation I : *Original:* - The Secretary of DLNR should terminate Corporation A's lease of the Garapan Fishing base and instruct the DPL Legal Counsel to: (a) initiate legal proceedings to collect rentals due from Corporation A and Restaurant A, (b) recover from the former President of Corporation B all payments collected from Corporation C for the unauthorized subleasing of the Saipan Fishing Center building, as well as any rentals collected from the operators of Restaurant B, and (c) notify Restaurant A to pay rentals directly to DPL on a month-to-month basis.

As Revised and Redirected to the Attorney General's Office: The Attorney General's Office should: (a) initiate legal proceedings to collect rentals due from Corporation A

and Restaurant A, (b) recover from the former President of Corporation B all payments collected from Corporation C for the unauthorized subleasing of the Saipan Fishing Center building, as well as any rentals collected from the operators of Restaurant B, and (c) notify Restaurant A to pay rentals directly to DPL on a month-to-month basis.

Agency to Act : Attorney General's Office

Status : Resolved - Delinquent

Agency Response : On March 10, 1998, the Attorney General's Office provided OPA documents showing collection of the \$338,910.63 representing rentals due from Corporation A. However, the Attorney General's Office is still considering whether to bring action against Restaurant A and against the former President of Corporation B. In view of this, OPA closed only the portion of the recommendation pertaining to Corporation A.

In his 3/9/01 response, the Acting Attorney General stated that liability in this case is clear, as the purchasing corporation signed a "promise to pay" reasonable value for use of public lands. Prospects for recovery need to be fully explored to determine if the case truly has merit.

In a meeting on 2/12/02, this recommendation was included in the list provided by OPA to AGO pertaining to outstanding matters requiring specific actions to be taken by AGO.

In his response dated 9/15/03, the Acting Attorney General stated that a settlement agreement was reached in September 1997 and that the AGO will forward a copy of the settlement agreement to OPA upon written request. On 11/7/03, OPA issued a written request to the AGO requesting a copy of the settlement agreement. On 11/12/03, OPA received a copy of the settlement agreement from the AGO. Upon further review, OPA determined that the settlement agreement pertained to rentals due from Corporation A which was already considered closed by OPA.

In his response dated 4/30/04, the Deputy Attorney General stated that AGO and OPA met on this matter on 10/19/99 and that OPA agreed to do "follow-up" investigation and provide a memorandum to AGO. Upon further review, it was determined that additional investigative work will not result in any changes to the findings and conclusions stated in our report. Accordingly, OPA will leave it to the discretion of the AGO to determine what course of action will be appropriate to address our recommendation. On 8/16/04, OPA provide AGO with a copy of the audit report on this matter for review and action.

**Additional Information
or Action Required** :

To address the other portions of the recommendation, AGO should provide OPA with results of their review and actions to be taken against Restaurant A and against the former President of Corporation B.

Report No. AR-00-04 issued November 22, 2000
Division of Public Lands
(Currently Marianas Public Lands Authority)
Audit of Collection of Rentals on Land Lease with Quarries
For Six Lease Years from 1990 to 1995

Date(s) of followup letter(s) sent : Verbal follow-ups made through the telephone, 11/29/96, 12/3/96, 2/20/97 (AGO), 11/20/97, 9/17/98 (AGO), 3/3/98 (AGO), 9/18/98 (DLNR), 11/23/99 (DLNR), 1/26/99, 1/5/00 (AGO), 7/6/00 ((DPL), 7/12/00 (AGO), 1/17/01 (AGO), 1/24/01 (DLNR), 8/21/01 (AGO), 8/23/01 (OPL), 8/12/02 (MPLA) (AGO), 10/3/02 (AGO), 2/14/03 (AGO) (MPLA), 8/4/03 (MPLA) (AGO), 10/27/03 (AGO), 4/23/04 (BMPLA), 9/21/04 (BMPLA)

Date(s) of response letter(s) received : 11/14/95, 6/27/96, 4/4/97 (AGO), 9/11/97, 4/20/08 (AGO), 3/17/99, 10/21/99 (DPL), 10/31/00 (meeting with Coordinating Group on DLNR), 11/7/00 (meeting with Coordinating Group on AGO), 2/8/01 (DPL), 2/22/01 (DPL), 3/9/01 (AGO), 8/30/01 (OPL), 9/28/01 (OPL), 2/12/02 (meeting with AGO), 3/6/02 (MPLA), 8/19/02 (MPLA), 3/10/03 (MPLA), 9/15/03 (AGO), 10/31/03 (AGO), 6/8/04 (MPLA)

Recommendation 2 : The Board of Public Lands (BPL) should require the DPL Director to take steps to collect the \$4.69 million in underpayment of rentals (including interest) on land leases with 8 quarries, and refer those lessees who refuse to pay to the AGO for legal action.

Agency to Act : Board of Public Lands (currently Board of Marianas Public Lands Authority)

Status : Resolved - Delinquent

Agency Response : After billings were sent to eight quarry operators collect \$4,690,707.81 in underpaid rentals, Quarry Operator H paid \$789.87 as full payment while \$946,967.58 owed by Quarry Operator B was written off due to bankruptcy. Therefore, DPL will pursue collection of underpaid lease rentals and interest of \$3,742,950.36 from the remaining six quarry operators.

On 8/12/04, OPA obtained the subsidiary ledgers showing the account balances for the remaining six quarry operators through 5/31/04 as follows.

Quarry Operator A - Amount recoverable per FY2000 audit is \$2,753,839.88 as of FY1995. Based on MPLA records, additional rentals and interest of \$2,323,511.64 increased the receivable to \$5,145,369.40 as of May 2004. Within 2001 to 2003, only \$1,100 was paid by Quarry Operator A. Thus, if payments were applied against the old balance, the amount still to be recovered from the 1995 balance is still \$2,752,739.88. According to the MPLA Comptroller, legal action against Quarry Operator A is in the hands of their Legal Counsel. He further stated that recognition of revenue and late fees has stopped since 2003. MPLA will be updating OPA on the status of this account.

Quarry Operator C - Amount recoverable per FY2000 audit is \$5,384.25 as of FY1995. Based on MPLA records, additional rentals and interest of \$546,644.03 increased the receivable to \$552,028.28 as of May 2004. On 3/7/02, MPLA offset its \$5,350 contract obligations due to Quarry Operator C as partial settlement towards its outstanding obligations. Also, payments totaling \$1,500 were made by Quarry Operator C on 8/6/02, 9/3/02, and 10/4/02. Thus, if the offset and payments made were applied against the

1995 balance, the amount recoverable as of FY2000 has been fully recovered. Therefore, the portion of the recommendation pertaining to Quarry Operator C is now considered closed.

Quarry Operator D - Amount recoverable per FY2000 audit is \$424,083.85 as of FY1995. Based on MPLA records, additional rentals and interest of \$1,065,486.33 increased the receivable to \$1,489,570.18 as of May 2004. Payments and adjustments totaled \$791,564.28. Thus, if the payments and adjustments made were applied against the 1995 balance, the amount recoverable as of FY2000 has been fully recovered. Therefore, the portion of the recommendation pertaining to Quarry Operator D is now considered closed.

Quarry Operator E - Amount recoverable per FY2000 audit is \$379,486.51 as of FY1995. Based on MPLA records, payments and adjustments through April 2004 totaled \$701,013.40. Thus, if the payments and adjustments made were applied against the 1995 balance, the amount recoverable as of FY2000 has been fully recovered. Therefore, the portion of the recommendation pertaining to Quarry Operator E is now considered closed.

Quarry Operator F - Amount recoverable per FY2000 audit is \$152,570.13 as of FY1995. Based on MPLA records, additional rentals and interest of \$708,407.31 increased the receivable to \$860,977.44 as of May 2004. Payments and adjustments as of 5/31/04 totaled \$54,429.25. Thus, if payments and adjustments were applied against the 1995 balance, the amount still to be recovered is \$98,140.88. According to the MPLA Comptroller, dealings with Quarry Operator F is currently being handled by the Chief of Compliance and Comptroller. He further stated that MPLA stopped the recognition of fees and revenues since 2003. A meeting will be set up with the owners to settle the account. The Comptroller stated that MPLA will be updating OPA on the results of the meeting.

Quarry Operator G - Amount recoverable per FY2000 audit is \$27,585.74 as of FY1995. Based on MPLA records, payments and adjustments as of May 2004 totaled \$164,712.09. Thus, if payments and adjustments were applied against the 1995 balance, the amount recoverable as of FY2000 has been fully recovered. Therefore, the portion of the recommendation pertaining to Quarry Operator G is now considered closed.

**Additional Information
or Action Required :**

OPA is only monitoring recovery of amounts collectible from the six Quarry Operators pertaining to the period of the audit, which is six lease years 1990 through 1995. MPLA should continue to update OPA on the status of accounts for Quarry Operators A and F and provide subsidiary ledgers to support account balances and total payments made for these two Quarry Operators. Also, MPLA should inform OPA on the results of their meeting with Quarry Operator F.

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- Recommendation 3 :** The Board of Public Lands should require the DPL Director to review the effect of the additional revenues identified in this audit on each affected year's operation in order to determine if there will be surplus funds due to the Marianas Public Land Trust (MPLT).
- Agency to Act :** Board of Public Lands (currently Board of Marianas Public Lands Authority)
- Status :** Open - Delinquent
- Agency Response :** The response expressed concurrence with the recommendation and stated that DPL is currently reviewing the effect of the foregoing unrealized revenues for each affected year's operation to determine whether there are surplus funds due to MPLT.

In a 1/4/02 response from MPLA, the Commissioner (formerly Executive Director) stated that they will be providing OPA updates on the "open" recommendations as they materialize.

In her response letter dated 8/19/02, the Commissioner stated that MPLA has yet to finalize assessment of the additional revenues pending requests and negotiations with lessees/permittees which require thorough review.

The response submitted by the Commissioner of MPLA dated 3/10/03 did not address this recommendation.

In his response dated 6/8/04, the MPLA Comptroller informed OPA of the three types of reasonable expenses for which the function of MPLA is governed by the CNMI Constitution and CNMI statutes which are management expenses, homestead expenses, and comprehensive land use plan expenses. He further stated that the use of public land lease revenues shall be used solely for the projects specifically related to homestead development such as constructing roads, water lines, sewer, etc which is consistent with the Commonwealth Constitution. MPLA has revised the reporting section of the net assets of the Statement of Net Assets to read "Net Assets Restricted for Homestead Development Projects" which have been validly approved by MPLA board and obligated for expenditure on Homestead Projects in accordance with the CNMI Constitution. Therefore, such project is ear-marked and committed along with a 5-year plan. MPLA will finance the 5-year plan using any surplus available at the end of the year. The MPLA Comptroller also stated in his response that OPA had previously issued a letter to MPLT on 10/20/98 concluding that no net revenue transfers have been made by DPL from FYs 1992 to 1994 due to excess expenditures incurred over revenues realized from the cost of operations.

Additional Information or Action Required

MPLA should provide OPA a definite response whether the additional revenues for the period of the audit were retained and used in accordance with legal provisions.

Recommendation 5

The Board of Public Lands should require the DPL Director to send letters to lessees (Quarry Operators E, F, H, and G) who misinterpreted certain provisions of the lease agreements/permits and incorrectly computed required rentals, clarifying for them the proper interpretation of material subject to royalty or gross receipts rent, and the common errors noted such as not implementing rate increases on the anniversary dates of lease agreements.

Agency to Act

Board of Public Lands (currently Board of Marianas Public Lands Authority)

Status

Resolved - Delinquent

Agency Response

OPA was provided with a 9/15/00 letter sent by DPL to quarry operator E evidencing communication as to the audit evidencing communication as to the audit finding on its quarry operations. Another quarry operator, quarry operator H, fully paid its amount due to DPL, so there is no need to send it a letter. We consider the part of the recommendation pertaining to quarry operators E and H closed.

On 12/18/01, OPA was provided with a 3/13/01 letter sent by MPLA to quarry operator G clarifying the proper interpretation of material subject to royalty or gross receipts rent, and the common errors noted such as not implementing rate increases on the anniversary dates of lease agreements. Based on the response provided, we consider the part of the recommendation pertaining to quarry operator G closed.

In her response letter dated 8/19/02, the Commissioner informed OPA that MPLA has not yet sent a letter to Quarry Operator F pending an investigation of the permittee's land exchange claim.

The response submitted by the Commissioner of MPLA dated 3/10/03 did not address this recommendation.

In his response dated 6/8/04, the MPLA Comptroller stated that although Quarry Operator F was involved in a land exchange during the time, MPLA should have notified the lessee about the results of the OPA audit which uncovered revenues of \$115,210.11. The Comptroller provided OPA with a copy of the memorandum he had addressed to the Commissioner requesting him to send a letter notifying Quarry Operator F to this effect.

**Additional Information
or Action Required :**

Provide OPA copies of documents evidencing communication with the remaining lessee, *i.e.* Quarry Operator F.

Northern Marianas College

Report No. AR-03-03 issued on February 19, 2003
Northern Marianas College
Evaluation of the Facts and Circumstances Surrounding
the Termination of Employees

Date(s) of followup letter(s) sent : 8/1/03, 4/28/04, 9/27/04

Date(s) of response letter(s) received : 4/1/03, 8/5/03, 6/7/04

Recommendation 2 : The Board Chairman reiterate to Board members the need to thoroughly review policy level actions involving: (a) organizational structure in light of NMC goals and objectives as required by Board policy 1000, and (b) the establishment of faculties or staff as required by Board policy 1009.

Agency to Act : Northern Marianas College

Status : Open - Delinquent

Agency Response : In his 8/5/03 response, the NMC President stated that the Board has already initiated review and the entire Board is in the process of updating all policies, section at a time, using a model set of policies recommended by their WASC consultant adapted to the needs of the Commonwealth. OPA was provided a copy of the first section of revised policies which were approved by the Board in its regular June meeting. OPA was not informed, however, on how the Board has reviewed policy level actions involving organizational structure and the establishment of faculties or staff.

In his 6/7/04 response, the NMC Director of Finance and Procurement stated that the Office of the President is currently researching the actions taken by the former NMC President to address this recommendation and will provide OPA with the relevant information upon completion of its research.

Additional Information or Action Required : Document for the record how the Board has reviewed policy level actions involving (a) organizational structure, and (b) the establishment of faculties or staff.

Recommendation 3 : The Board Chairman and the President strongly consider strengthening processes in place for obtaining broader employee involvement in NMC decisions by implementing a policy to address it and thus comply with WASC accreditation standards.

Agency to Act : Northern Marianas College

Status : Resolved - Delinquent

Agency Response : In his response dated 8/5/03, the NMC President stated that Governance is a matter for the WASC accreditation process. Their recent actions will be reviewed during their next self-study and WASC visitation. NMC has also implemented a new approach to governance over the last academic year by establishing a College Governance Assembly and three subordinate councils. The Board has not yet reviewed and updated its current policy on Governance.

In his 6/7/04 response, the NMC Director of Finance and Procurement stated that the Office of the President is currently researching the actions taken by the former NMC President to address this recommendation and will provide OPA with the relevant information upon completion of its research.

Additional Information

or Action Required : Provide OPA with a copy of the updated policy on Governance addressing employee involvement in NMC decisions upon its adoption.

Recommendation 4 : The President (a) document his reorganization with objectives, time-lines, and fiscal impact; (b) identify positions affected; (c) provide a mechanism to assess whether the results have met the redesigned organization's objectives; and (d) identify legal and human resource issues such as compliance with applicable laws, policy, and accreditation standards.

Agency to Act : Northern Marianas College

Status : Resolved - Delinquent

Agency Response : In his response dated 8/5/03, the NMC President stated that these issues will be dealt with through the accreditation process in a timely and appropriate fashion during their upcoming self-study and accreditation visit.

In his 6/7/04 response, the NMC Director of Finance and Procurement stated that the Office of the President is currently researching the actions taken by the former NMC President to address this recommendation and will provide OPA with the relevant information upon completion of its research.

Additional Information

or Action Required : Provide the Board with documentation that shows: (a) reorganization objectives, time-lines, and fiscal impact; (b) positions affected; (c) a mechanism to assess whether the results have met the redesigned organization's objectives; and (d) legal and human resource issues such as compliance with applicable laws, policy, and accreditation standards.

Recommendation 5 : The Board Chairman review with the Board of Regents its policy on reductions-in-force (RIF), and clarify when RIF procedures should apply.

Agency to Act : Northern Marianas College

Status : Resolved - Delinquent

Agency Response : In his response dated 8/5/03, the NMC President stated that the Board has already initiated review and the entire Board is in the process of updating all policies, section at a time, using a model set of policies recommended to them by their WASC consultant adapted to the needs of the Commonwealth. NMC will forward more policies as they are adopted.

In his 6/7/04 response, the NMC Director of Finance and Procurement stated that the Office of the President is currently researching the actions taken by the former NMC President to address this recommendation and will provide OPA with the relevant information upon completion of its research.

Additional Information

or Action Required : Provide OPA with a copy of the updated policy on reductions-in-force (RIF) which should clarify when RIF procedures should apply.

Recommendation 6 : The President inquire with the Western Association for Schools and Colleges (WASC) as to whether or not the Administration Procedures Act should apply to NMC; if WASC determines that they should apply, the President should ensure that NMC policies are published as regulations as required by the Administrative Procedures Act; if WASC determines they do not apply, the President should bring this matter to the Board to propose legislation which would exclude NMC from the Act.

Agency to Act : Northern Marianas College

Status : Resolved - Delinquent

Agency Response : In the NMC Board of Regent's response prior to issuance of the final audit report, the Board agreed that NMC should follow the Administrative Procedures Act on future actions. In his 8/5/03 response, the NMC President stated that the Board initially approved the first section of revised policies at its regular June meeting. These policies have been reviewed by the Chamorro/Carolinian Language Policy Commission as the initial step in the Administrative Procedures Act and will soon be published. OPA was provided a copy of the first section of revised policies that have already been adopted. NMC will forward more policies as they are adopted.

In his 6/7/04 response, the NMC Director of Finance and Procurement stated that the Office of the President is currently researching the actions taken by the former NMC President to address this recommendation and will provide OPA with the relevant information upon completion of its research.

Additional Information or Action Required : NMC should provide OPA with a copy of the revised policies published as regulations in the Commonwealth Register.

Recommendation 7 : The President seek legal determination as to whether four recent reassignments were made in accordance with Board policy and, if not, take appropriate action to rectify the situation.

Agency to Act : Northern Marianas College

Status : Resolved - Delinquent

Agency Response : On 8/5/03, OPA was provided a copy of the legal decision rendered by its attorney dated 5/22/03 as to whether four assignments were made in accordance with Board policy. NMC's attorney ruled that two of the four reassignments violated NMC policy because they were not announced. NMC's attorney also recommended that the Board meet with the President to arrive at a resolution of this violation.

In his 6/7/04 response, the NMC Director of Finance and Procurement stated that the Office of the President is currently researching the actions taken by the former NMC President to address this recommendation and will provide OPA with the relevant information upon completion of its research.

Additional Information or Action Required : NMC should inform OPA of appropriate actions taken to rectify the situation.

Recommendation 10 : The President and the Board consult with its legal counsel to determine the effect of the Civil Service Commission's decision on NMC employment status.

Agency to Act : Northern Marianas College

Status : Open - Delinquent
Agency Response : In his response dated 8/5/03, the NMC President stated that the Civil Service issue is still pending in the court.

In his 6/7/04 response, the Director of Finance and Procurement stated that the Office of the President is currently researching the actions taken by the former NMC President to address this recommendation and will provide OPA with the relevant information upon completion of its research.

Additional Information or Action Required : NMC should provide OPA with the results of the courts decision in reference to the Civil Service issue pending in court.

Northern Mariana Islands Retirement Fund

Report No. LT-01-04 issued August 8, 2001

**Northern Mariana Islands Retirement Fund Audit of Travel Outside the CNMI
from October 1996 Through March 2000**

Date(s) of followup letter(s) sent : 3/5/02, 8/9/02, 2/18/03, 8/4/03, 4/16/04, 9/28/04

Date(s) of response letter(s) received : 7/22/03

Recommendation 2 : The Fund Administrator should consistently enforce sanctions or other remedies for travel violations. Travelers with unliquidated advances should be denied additional travel advances; payroll deductions should be immediately implemented for travelers who fail to submit the required travel documents on time; and board members, especially those who are not government employees, should be required to immediately repay outstanding travel advances.

Agency to Act : Northern Mariana Islands Retirement Fund

Status : Resolved - Delinquent

Agency Response : NMIRF agreed with the recommendation and stated that erroneous and unnecessary travel reimbursements must be collected. The BOT will work with the Administrator towards identifying the travel violations and collecting from the travelers who owe the Fund.

On 7/22/03, the NMIRF Administrator provided OPA with a copy of the memorandum directed to the Fund Comptroller reminding him to strictly enforce the NMIRF Travel Policy that no further travel shall be authorized or permitted for a traveler who has failed to submit the proper vouchers from prior travel, until the vouchers are received and approved by the Administrator, and all outstanding travel advances cleared. He also authorized the Comptroller to deduct from payroll any amounts due from travelers and require Board of Trustees who are not part of the government payroll to immediately repay the advances when a completed travel voucher is submitted. OPA was not informed, however, of the expected date of when the scheduled overpayments will be collected.

Additional Information or Action Required : NMIRF is requested to provide the expected date when the scheduled overpayments will be collected.

Recommendation 3 : The Fund Administrator should disallow the practice of using corporate credit cards for payment of hotel and car rentals. Corporate credit cards should be used to guarantee hotel and car reservations only, when and if required by vendors. In addition, a strict credit card policy should be adopted to limit the use of corporate credit cards.

Agency to Act : Northern Mariana Islands Retirement Fund

Status : Resolved - Delinquent

Agency Response : In his response dated 7/22/03, the NMIRF Administrator stated that NMIRF has a standing policy that "no individual traveler" (staff or Board of Trustees) shall be issued corporate credit cards. The Fund corporate credit card is used only to guarantee hotel

and car reservations and for procuring supplies off-island, with appropriate measures taken for authorize personnel to place emergency order. OPA was not provided, however, with the written policy restricting the use of corporate credit card.

Additional Information

or Action Required : NMIRF should provide OPA a copy of the written policies and procedures restricting the use of the corporate

Report No. LT-01-05 issued August 15, 2001

Audit of Billings for a Professional Services Contract

During the Period October 1, 1996 Through February 29, 2000

Date(s) of followup letter(s) sent : 1/7/02, 3/5/02, 8/9/02, 9/6/02, 2/18/03, 8/4/03, 4/16/04, 9/28/04

Date(s) of response letter(s) received : 3/13/02, 7/22/03

Recommendation I : The Fund Administrator should instruct the Accounting Manager to:

Formally notify the contractor of the overpayment disclosed by our audit, and make arrangements to recover the overpayment

Agency to Act : Northern Mariana Islands Retirement Fund

Status : Resolved - Delinquent

Agency Response : NMIRF officials advised OPA that NMIRF had paid the contractor \$9,697.45 on July 17, 2001 for what it considered its final payments, after making adjustments for billing errors that OPA had identified during the audit. On January 7, 2002, however, OPA determined that the contractor was still overpaid by NMIRF in the amount of \$2,268.24 which consists of (1) double billing of \$991.65; (2) overstatements of \$893.22; and (3) error charges of \$383.37. OPA advised NMIRF to collect the overpayment from the contractor unless documents can be provided to explain the reasons for the overpayments enumerated.

In his response dated 7/22/03, the NMIRF Administrator stated that they will be bringing this matter to the Board of Trustees for resolution and provide an update to OPA accordingly.

Additional Information

or Action Required : NMIRF should inform OPA of the results of their discussion with the Board of Trustees regarding the overpayments made to the contractor.

Public School System

Report No. AR-00-05 issued December 14, 2000
Audit of Marianas High School Food Court
Covering School Year 1998-1999

Date(s) of followup letter(s) sent : 1/15/01 (PSS), 1/19/01 (DOF), 8/20/01 (PSS), 3/11/02 (PSS),
 8/12/02 (PSS), 2/18/03 (PSS), 8/1/03 (PSS), 4/28/04 (PSS),
 9/21/04 (PSS)

Date(s) of response letter(s) received : 2/16/01 (PSS request for extension until 3/5/01), 2/16/01 (DOF),
 5/24/02 (PSS), 8/20/03 (PSS), 5/18/04 (PSS), 10/6/04 (PSS)

Recommendation 4 : The Commissioner of Education issue a memorandum instructing the MHS Principal to stop using the proceeds from the sale of reduced-price meals to pay for non-Food Court expenses. These collections should be used only to pay obligations of the Food Court.

Agency to Act : Public School System

Status : Closed

Agency Response : As requested, the Commissioner of Education provided OPA on 10/6/04 with documentation, *i.e.* copies of receipts, deposit slips and ledger showing how food court collections are being recorded. OPA was also provided a list of specific goods and services that are authorized to be paid out of food court collections which are to be authorized by the FNS Administrator, approved by the Commissioner of Education and Associate Commissioner for Administrative Services and certified and approved for payment by the Director of Finance.

Tinian Casino Gaming Control Commission

Report No. AR-99-03 issued April 7, 1999

Audit of Consultant's Contract

Fiscal Year 1997

Date(s) of followup letter(s) sent : 1/5/00 (AGO), 7/12/00 (AGO), 1/17/01 (AGO), 8/21/01 (AGO), 8/12/02 (AGO), 10/3/02 (AGO), 2/14/03 (AGO), 8/4/03 (AGO), 10/27/03 (AGO), 4/13/04 (AGO), 9/21/04 (AGO)

Date(s) of response letter(s) received : 4/9/99 (TMO), 1/20/00 (AGO), 11/7/00 (meeting with Coordinating Group on AGO), 3/9/01 (AGO), 12/31/01, 2/12/02 (meeting with AGO), 9/15/03 (AGO), 10/31/03 (AGO), 4/30/04 (AGO), 10/25/04 (AGO)

Recommendation I : *Original* - The Mayor of Tinian and Aguiguan should request the Attorney General to institute an action to declare the Consulting Service Agreement between TCGCC and the consultant null and void, and to recover all amounts paid by TCGCC to the consultant and the consultant's son.

As Redirected to AGO - Institute legal action to declare the Consulting Service Agreement between TCGCC and the consultant null and void, and to recover all amounts paid by TCGCC to the consultant and the consultant's son.

Agency to Act : Attorney General's Office

Status : Resolved - Active

Agency Response : In his 3/9/0 response, the Acting Attorney General informed OPA that there is an ongoing investigation related to the facts and circumstances of this matter.

On December 31, 2001, civil action was filed against the consultant to recover overpayment of \$543,375 on grounds of unjust enrichment, conversion, fraud and breach of fiduciary duty. Civil action was also filed against three other individuals to recover \$195,971 for breach of fiduciary trust. Recoverable amounts totaled \$739,346.

In a meeting on 2/12/02, this recommendation was included in the list provided by OPA to AGO pertaining to outstanding matters requiring specific actions to be taken by AGO.

In his response dated 9/15/03, the Acting Attorney General stated that a search of their files reveal that there are no records of this case in the AGO. On 10/27/03, OPA provided AGO with a copy of the audit report on this case referral.

On 4/30/04, the Deputy Attorney General informed OPA that a request for Declaratory and Injunctive relief is currently pending in the CNMI Superior Court.

In his response dated 10/25/04, the Acting Attorney General informed OPA that the AGO is researching legal issues that have arisen in the pending suit and will follow-up on this matter with TCGCC's legal counsel.

Additional Information or Action Required : The AGO should inform OPA of the result of its follow-up with TCGCC's legal counsel and any changes in any pending civil actions.

Report No. AR-02-02 issued September II, 2002
Tinian Casino Gaming Control Commission
Audit of Travel Transactions
Fiscal Years 1996 - 2001

Date(s) of followup letter(s) sent : 3/5/02, 8/9/02, 2/18/03, 8/4/03, 4/13/04, 9/21/04 (AGO)

Date(s) of response letter(s) received : 7/22/03, 6/17/04, 10/25/04 (AGO)

Recommendation I : *Original* - Recover advances totaling \$406,925 (Appendix A) from the commissioners, officials, and employees unless convincing evidence is submitted showing otherwise. If the commissioners, officials, and employees refuse to repay the funds, the Chairman should request the Attorney General's Office to take legal action against the commissioners, officials, and employees to recover the amount of advances outstanding.

As re-directed to the AGO - Institute legal action against the commissioners, officials, and employees to recover the amount of advances outstanding.

Agency to Act : Tinian Casino Gaming Control Commission re-directed to the Attorney General's Office

Status : Open - Active

Agency Response : The table on page 4 of the report presents five types of exceptions noted and the potentially recoverable amount. The following information or actions are required for each exception in order to consider the recommendation closed:

1. No travel voucher submitted - \$107,414 - the Tinian Casino Gaming Control Commission (TCGCC) should present travel vouchers and documents to support claimed expenses. Otherwise, it should collect the advances and present evidence of collection from the traveler such as official receipts or, if applicable, evidence of payroll deduction.
2. Insufficient supporting documentation - \$247,278 - TCGCC should present valid documents to support claimed expenses. Otherwise, it should collect the advances and present evidence of collection from the traveler such as official receipts or, if applicable, evidence of payroll deduction.

After the exit briefing conducted on August 14, 2002, certain travelers provided copies of documents evidencing that official trips were performed. Although these documents had not been timely submitted, most of them adequately documented claimed expenses and would reduce exception no. 2 by \$14,672.

3. Unallowable discretionary fund expenses - \$15,829 - TCGCC should present evidence of collection from the traveler such as official receipts or, if applicable, evidence of payroll deduction.

Two travelers concurred that they should pay TCGCC for personal expenses cited by OPA.

4. Improper CNMI advances - \$26,808 - TCGCC should present evidence of collection from the traveler such as official receipts or, if applicable, evidence of payroll deduction.
5. Excessive Per diem - \$9,596 - TCGCC should present proof of collection from the traveler such as official receipts or, if applicable, evidence of payroll deduction.

On August 16, 2002, a traveler provided OPA a copy of official receipt for payment of \$75 excess per diem.

In his response dated 6/17/04, the Chief Legal Counsel for TCGCC stated that TCGCC had contacted certain commissioners, officials and employees about the allegations in the audit report and was unable to settle their accounts consistent with the requirements of the recommendation. However, they have followed the recommendation made by OPA and has referred this matter to the AGO for "appropriate action". Although no specific referral letter was issued to the AGO, one of the Assistant Attorney General acknowledged his familiarity with the conclusions of the report and the request by TCGCC that the AGO take "appropriate action" to recover the funds identified in this recommendation. The Assistant Attorney General advised the Chief Legal Counsel that the AGO will review the report and determine what "appropriate action" will be taken against the commissioners, officials and employees identified in the report.

In his response dated 10/25/04, the Acting Attorney General stated that the AGO is currently researching standing issues related to the collection of the debt.

**Additional Information
or Action Required :**

The AGO should inform OPA the results of its research and whether it will pursue this case.

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Senate

Report No. AR-03-05 issued August 6, 2003
CNMI Senate, Thirteenth Legislature
Monthly Subsistence Allowance Provided to Members
of the Senate Covering the Period Ending June 30, 2002

Date(s) of followup letter(s) sent : 4/13/04, 9/27/04

Date(s) of response letter(s) received : 5/12/04 (request for extension to respond), 10/13/04

Recommendation 1 : Introduce legislation to grant it authority for the subsistence allowance, to set the amount of the allowance, and to certify it as a public purpose.

Agency to Act : Senate

Status : Open - Active

Agency Response : The Senate stated that the subsistence allowance need not be in the form of a law. Instead the Senate asserts that it has implied statutory authority to establish the subsistence allowance for its members by Senate rule because 1 CMC §121(i) states that "expenditures authorized and regulated by legislative rules are expressly declared to be for a public purpose...".

In his response dated 10/13/04, the Senate President informed OPA that after reviewing the controlling legal authorities and after extensive deliberation and discussion, the Senate feels that a comprehensive Constitutional and statutory system currently exists to adequately govern the allowance given to members of the Senate and that no further legislation is necessary at this time.

OPA Response - OPA did extensive legal research which formed the basis for the recommendation. OPA believes the CNMI Constitution clearly addresses these issues. OPA disagrees that the Senate may impliedly grant itself the authority to create an allowance for expenses through its internal rules. Therefore, until such time as the allowances that have been created by the Senate rules are discontinued, OPA must reiterate that the potential for legal challenges to the constitutionality of the authority for the monthly allowance exists. OPA urges the Senate to reconsider its position and to establish and justify the amount of its subsistence allowance through legislation.

Additional Information or Action Required : The Senate should introduce legislation to authorize monthly subsistence allowance and any changes in its amount, and to certify it as a public purpose.

Recommendation 2 : Undertake an analysis of reasonable travel costs to ensure that the amount set for allowance is appropriate given expenses incurred.

Agency to Act : Senate

Status : Open - Active

Agency Response : The Senate said it will replace the existing subsistence allowance system with a new revolving reimbursement system that would use uniform per diem rates to reimburse Senators for expenses incurred in the exercise of their constitutional duties. It would also conduct an analysis of travel expenses to ensure that the new per diem rate was reasonable.

In his response dated 10/13/04, the Senate President informed OPA that after reviewing the controlling legal authorities and after extensive deliberation and discussion, the Senate feels that a comprehensive Constitutional and statutory system currently exists to adequately govern the allowance given to members of the Senate and that no further legislation is necessary at this time.

OPA Response - OPA did extensive legal research which formed the basis for the recommendation. OPA believes the CNMI Constitution clearly addresses these issues. OPA disagrees that the Senate may impliedly grant itself the authority to create an allowance for expenses through its internal rules. Therefore, until such time as the allowances that have been created by the Senate rules are discontinued, OPA must reiterate that the potential for legal challenges to the constitutionality of the authority for the monthly allowance exists. OPA urges the Senate to reconsider its position and pursue the analysis to determine the reasonable amount of members' travel allowance.

Additional Information or Action Required : The Senate should provide OPA with the Senate's analysis of what it considers reasonable travel costs to ensure that the amount set for allowance is appropriate given expenses incurred.

Recommendation 3 : Document travel activity to enable the Senate to more accurately estimate an appropriate monthly allowance.

Agency to Act : Senate

Status : Open - Active

Agency Response : The Senate agreed to provide OPA with a written analysis of what it considers as reasonable travel to support changing the amount set for the monthly subsistence allowance.

In his response dated 10/13/04, the Senate President informed OPA that after reviewing the controlling legal authorities and after extensive deliberation and discussion, the Senate feels that a comprehensive Constitutional and statutory system currently exists to adequately govern the allowance given to members of the Senate and that no further legislation is necessary at this time.

OPA Response - OPA did extensive legal research which formed the basis for the recommendation. OPA believes the CNMI Constitution clearly addresses these issues. OPA disagrees that the Senate may impliedly grant itself the authority to create an allowance for expenses through its internal rules. Therefore, until such time as the allowances that have been created by the Senate rules are discontinued, OPA must reiterate that the potential for legal challenges to the constitutionality of the authority for the monthly allowance exists. OPA urges the Senate to reconsider its position and pursue the analysis to determine the reasonable amount of its subsistence allowance.

Additional Information or Action Required : The Senate should provide OPA with an analysis of what it considers as reasonable travel to support changing the amount set for the monthly subsistence allowance.

Recommendation 4 : Require that travelers document trip activities to ensure compliance with applicable regulations and the law, a practice which would support Senate efforts to determine a reasonable monthly allowance amount.

Agency to Act : Senate

Status : Resolved - Active

Agency Response : The Senate stated it would adopt policies to ensure compliance with established public purpose requirements. Also, any disbursements of funds from the new revolving account would be predicated on the provision of sufficient documentation of expenditures.

In his response dated 10/13/04, the Senate President stated that the Senate will require that each member submit their travel documents, to the Senate President's Office on a monthly basis, in the form of a ticket, boarding pass, and/or sworn declaration of travel if other supporting documents cannot be obtained due to loss.

OPA Response - OPA understands that the travel documentation required to be submitted to the Senate President's Office would pertain to travel performed within the CNMI which is covered by the monthly subsistence allowance. This would support Senate efforts to determine a reasonable monthly allowance amount.

Additional Information or Action Required : Provide OPA with a copy of the memorandum to the members of the Senate setting forth procedures for documenting official travel performed within the CNMI to be submitted to the Senate President's Office.

Recommendation 5 : Amend legislation and/or travel policy to prevent senators from being reimbursed for other concurrent travel.

Agency to Act : Senate

Status : Open - Active

Agency Response : The Senate stated it would take action so that members do not receive "double compensation" for travel costs.

In his response dated 10/13/04, the Senate President informed OPA that after reviewing the controlling legal authorities and after extensive deliberation and discussion, the Senate feels that a comprehensive Constitutional and statutory system currently exists to adequately govern the allowance given to members of the Senate and that no further legislation is necessary at this time.

OPA Response - OPA did extensive legal research which formed the basis for the recommendation. OPA believes the CNMI Constitution clearly addresses these issues. OPA disagrees that the Senate may impliedly grant itself the authority to create an allowance for expenses through its internal rules. Therefore, until such time as the allowances that have been created by the Senate rules are discontinued, OPA must reiterate that the potential for legal challenges to the constitutionality of the authority for the monthly allowance exists. OPA urges the Senate to reconsider its position and amend legislation and/or travel policy to prevent Senators from being reimbursed for other concurrent travel.

Additional Information or Action Required : The Senate should amend language in legislation and/or travel policy requiring senators to adjust their vouchers or allowances so as not to obtain reimbursement for other concurrent travel.

Washington Representative's Office

Washington Representative's Office

Report No. AR-99-02 issued March 29, 1999
Verification of Expenses and Review of Selected Administrative Practices
of the Washington Representative's Office
Fiscal Years 1995 and 1996

Date(s) of followup letter(s) sent : 11/29/99, 7/11/00, 1/24/01, 8/22/01, 3/4/02, 8/9/02, 2/18/03 (DOF), 8/4/03 (DOF), 4/14/04 (DOF), 9/28/04 (DOF)

Date(s) of response letter(s) received : 10/6/99, 9/25/01, 3/20/02, 8/12/02, 8/21/02, 3/17/03 (DOF request for extension)

Recommendation 15 : *Original:* The Washington Representative should continue his efforts to collect the outstanding loans until such time as he is assured that any further collection efforts would be futile. At that time, the loan documentation should be turned over to the Department of Finance in Saipan for further action. If the obligations are collected, the amount should be returned to the CNMI General Fund.

As Revised and Redirected to DOF: DOF should determine the current status of the loan receivable from the former Resident Representative.

Agency to Act : Washington Representative's Office - Redirected to Department of Finance

Status : Resolved - Delinquent

Agency Response : In the 9/25/01 response from WRO, it was stated that the \$1,080 loan was fully paid. OPA was provided copies of the official cash receipt and a check for \$50.25 evidencing final payment representing the balance on the employee loan of \$1,080. This portion of the recommendation pertaining to the \$1,080 employee loan is considered closed.

For the \$2,500 loan, the former Resident Representative has entered into an agreement with DOF to make monthly payments in the amount of \$100. The Resident Representative has made three payments totaling \$300 leaving a balance still collectible of \$2,200. OPA was provided copies of the official receipts and checks evidencing payments made of \$300 and a copy of the promissory note for the \$2,500 loan.

In his 3/20/02 response, the current Resident Representative sought the advice of OPA on how to go about collecting the loan made by the former Resident Representative.

In his 8/12/02 response, the Resident Representative suggested that OPA redirect the recommendation to DOF as his office is not involved in the repayment of the loan. On 8/28/02, OPA issued a letter to the Secretary of Finance requesting the current status of the loan receivable.

Additional Information or Action Required : DOF should inform OPA of the current status of the loan receivable from the former Resident Representative.

Independent Auditor's Report on Internal Control and Compliance

CNMI

Commonwealth Development Authority
Commonwealth Government Employees' Credit Union
Commonwealth Ports Authority
Commonwealth Utilities Corporation
Marianas Public Lands Authority
Northern Marianas College
Public School System

This section of the report presents recommendations from Single Audit reports and other types of audit reports issued by private Certified Public Accountant (CPA) firms. The Office of the Public Auditor is not responsible for tracking the implementation of these recommendations, however, they are included in our audit tracking report for information purposes. Because OPA is responsible for overseeing all audits of the CNMI government, follow-up procedures are also conducted for these recommendations to determine what actions have been taken by the individual agencies to implement the recommendations issued by private CPA firms. A copy of the agencies' responses is subsequently provided to the Independent Auditor who conducted the audit to determine whether the agencies' responses are sufficient to consider the recommendations resolved.

Based on the classification followed by private CPA firms, a recommendation is described as either *resolved* or *unresolved*.

Status of Prior Year Audit Findings:

In the "Single Audit" report of the CNMI for FY2002, a summary schedule showing the status of prior year audit findings for FY2001 were reported. Of the 29 audit recommendations issued in FY2001, 11 were resolved and 18 were still unresolved and repeated as audit findings in the FY2002 Single Audit report of the CNMI. Details of the FY2001 prior year audit findings can be obtained upon request from OPA.

**Annual Financial & Compliance Audit
in Accordance with OMB-A-I33
Fiscal Year Ended September 30, 2002
Conducted By: Deloitte Touche Tohmatsu**

Date(s) of followup letter(s) sent : 9/28/04 (DOF) (DPH) (GOV) (Medicaid) (NAP) (OMB), 10/22/04 (Deloitte Touche re: Medicaid response)

Date(s) of response letter(s) received : 10/14/04 (Medicaid)

Recommendation 1 : *External Financial Reporting* - We recommend that the CNMI conform with GASB Statement No. 14 by obtaining audited financial statements of the above entity for inclusion within the CNMI's financial statements.

**Agency to Act/
Contact Person(s)** : Department of Finance - Secretary of Finance
Office of the Public Auditor - Public Auditor

**Current/Prior
Year Status** : Unresolved - Outstanding since FY 1998 Single Audit

**Agency Response/
Corrective Action Plan** : CNMI component units are required to have audits performed on an annual basis. The Office of the Public Auditor has been working with the CNMI's autonomous agencies to bring their annual audits current. It should be noted that four agencies were included in this finding in 2001 while only one is included in 2002. A draft audit was completed for the CUC but their board did not approve the audit in time for inclusion in the CNMI Single Audit.

Proposed Completion Date : FY2003

Recommendation 2 : *Receivables* - We recommend that the CNMI's Department of Finance review all outstanding receivables from federal agencies for propriety and collectibility. All valid receivables should be submitted to the various federal agencies for collection. All other balances should be written off in the General Fund.

**Agency to Act/
Contact Person(s)** : Department of Finance - Acting Director of Finance & Accounting

**Current/Prior
Year Status** : Unresolved - Outstanding since FY 1997 Single Audit

**Agency Response/
Corrective Action Plan** : We are in the process of reviewing grant receivable balances on our books and adjusting balances that are not valid. Our analysis indicates that the old grant receivables are mainly the result of grant receipts not being posted to the proper grant year resulting in one year's grant receivable being overstated and the next year understated. We feel the total net adjustment to receivables will be minimal.

Proposed Completion Date : FY2003

Recommendation 3 : *Receivables* - We recommend that CHC implement procedures to ensure that all billings are processed on a timely basis, and that standard procedures be implemented to follow-up on aged accounts. Accounts determined to be uncollectible should be written off.

**Agency to Act/
Contact Person(s)** : Department of Public Health - Technical/Financial Analyst

**Current/Prior
Year Status** : Unresolved - Outstanding since FY1995 Single Audit

**Agency Response/
Corrective Action Plan** : DPH agrees with the findings but has made major progress in the past years in correcting the problems. Implementing policies and procedures, as recommended by the auditors, will help but will not resolve the backlog in the processing of bills or decrease the huge outstanding receivable. The cause of the problem is a combination of inefficiency of the present computer billing system, inadequate FTE's in the Billing and Collection Office, non-payment of bills by the Government Health Insurance (GHI) program and inclusion of Medicaid expenditures beyond the annual cap as receivables. Medicaid expenditures above the annual cap represent over one third of the total receivable and GHI represents fifty percent of the remaining outstanding receivable. Improving the computer billing system and resolving the huge outstanding balance with GHI is included as a major task in the CNMI wide Financial Management Improvement Plan. A new faster, larger capacity computer system has been installed and data migration/conversion completed. CHC is now in the process of installing software upgrades for accounts receivable, third party billing, laboratory and pharmacy. CHC has formed a Revenue Enhancement Committee to review all aspects of the collection and billing process, fee schedules and other revenue enhancement matters. They are also in the process of developing an RFP for an integrated hospital management system.

No completion date can be projected at this time.

Recommendation 4 : *Inventories* - We recommend that CHC establish policies and procedures to ensure timely reconciliation of physical inventory counts with the general ledger.

**Agency to Act/
Contact Person(s)** : Department of Public Health - Technical/Financial Analyst

**Current/Prior
Year Status** : Unresolved - Outstanding since FY1994 Single Audit

**Agency Response
Corrective Action Plan** : The Department of Public Health will furnish the Department of Finance with a copy of the FY2003 actual inventory results along with a covering memo requesting DOF to book the ending balances.

Proposed Completion Date : FY2003

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- Recommendation 5** : *Advances* - We recommend that the CNMI's Department of Finance ensure that a detailed subsidiary ledger properly supports advances to vendors.
- Agency to Act/
Contact Person(s)** : Department of Finance - Acting Director of Finance & Accounting, and Director of Procurement and Supply
- Current/Prior
Year Status** : Unresolved - Outstanding since FY2001 Single Audit
- Agency Response/
Corrective Action Plan** : This finding is related to finding 2002-7. We are currently reconciling the advance to vendors and received not vouchered accounts and making adjustments. Even though the expense is posted during the receiving function, it appears that the debit advance amount is not being closed for prepaid items, leaving an offsetting credit open in the received not vouchered account. We are reviewing FMS procurement receiving procedures to determine if modifications need to be made to handle receipt of prepaid items. Reconciliation procedures will be developed to reconcile the advance to vendors and received not vouchered account balances.

Proposed Completion Date : FY2004

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- Recommendation 6** : *Advances* - We recommend that the CNMI's Department of Finance review all advances outstanding for more than one year, evaluate their collectibility, and write off any amounts deemed uncollectible. In addition, we recommend that the CNMI's Department of Finance consider payroll deductions as a way of collecting long outstanding advances and that policies and procedures be implemented and enforced requiring the timely liquidation of all travel advances.
- Agency to Act/
Contact Person(s)** : Department of Finance - Acting Director of Finance & Accounting
- Current/Prior
Year Status** : Unresolved - Outstanding since FY1987 Single Audit
- Agency Response/
Corrective Action Plan** : We have implemented automated sub ledgers by traveler for our travel advance accounts. This was completed in FY99. Advance and voucher filing procedures are now being enforced so that new advances are not issued if there are pending outstanding advances. Payroll deductions are being made if vouchers are not filed in a timely manner. We are reviewing and clearing old balances. Outstanding advances were reduced by \$500,000 during FY99, \$200,000 in FY2000, \$777,000 in FY2001 and an additional drop of \$350,000 in FY2002. Approximately 50% of the total balance outstanding is reserved against fund balance on the balance sheet.

Proposed Completion Date : Adjustments to be completed in FY2003.

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- Recommendation 7** : *Other Liabilities and Accruals* - We recommend that the CNMI's Department of Finance establish policies and procedures to ensure adequate recording of liabilities for goods received by the CNMI's Division of Procurement and Supply.
- Agency to Act/
Contact Person(s)** : Department of Finance - Acting Director of Finance & Accounting, and Director of Procurement and Supply

Current/Prior Year Status	:	Unresolved - Outstanding since FY1999 Single Audit
Agency Response/ Corrective Action Plan	:	This is related to finding 2002-5. We are reviewing FMS procurement receiving procedures to determine if modifications need to be made to handle receipt of prepaid items. It appears that the debit advance amount may not be closed for prepaid items leaving an offsetting credit open in the received not vouchered account. We are reviewing and adjusting balances where needed. Reconciliation procedures will be developed to reconcile received not vouchered balances on a monthly basis.
		Proposed Completion Date : FY2004
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Recommendation 8	:	Fund Balance - We recommend that all ongoing construction projects be monitored and documented by the CNMI's Department of Finance, and that a quarterly report be prepared for the Secretary of Finance.
Agency to Act/ Contact Person(s)	:	Department of Finance - SOF Office of Financial Manager
Current/Prior Year Status	:	Unresolved - Outstanding since FY1997 Single Audit
Agency Response/ Corrective Action Plan	:	The FY97 conversion of remaining appropriation balances for local CIP projects was incorrectly done. We have completed researching the correct remaining balances and have included these balances in our quarterly reporting for FY2002. All FMS corrections should be completed in FY2003.
		Proposed Completion Date : FY2003
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Recommendation 9	:	CNMI Local Noncompliance - We recommend that the CNMI's Department of Finance ensure that sufficient documentation is obtained and periodically updated to demonstrate compliance with Public Law No. 12-61 requirements.
Agency to Act/ Contact Person(s)	:	Department of Finance - CNMI Treasurer
Current/Prior Year Status	:	Unresolved - Outstanding since FY1996 Single Audit
Agency Response/ Corrective Action Plan	:	We are currently working with our banks to simplify collateralization agreements. The current practice of requiring a listing of specific securities requires constant updating of the listings as securities mature or are bought and sold. The State of Hawaii uses a three party agreement between the state, its banks and the bank's depository bank for Federal Reserve clearings that guarantees the amount of securities necessary to collateralize the state's deposits are reserved. We feel this arrangement will conform to the public law and simplify the collateral arrangements for both the bank and the CNMI Government.
		Proposed Completion Date : FY2004
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- Recommendation 10** : *CNMI Local Noncompliance* - We recommend that the CNMI's Department of Finance only authorize expenditures to be incurred in the fiscal year that can be reasonably determined and within budget allotments.
- Agency to Act/
Contact Person(s)** : Department of Finance - Secretary of Finance
Office of Management & Budget - Special Assistant for Management & Budget
- Current/Prior
Year Status** : Unresolved - Outstanding since FY2000 Single Audit
- Agency Response/
Corrective Action Plan** : Public Law 11-41 appropriated \$242,516,000 in expenditures and transfers so this was the actual legal spending limit. In addition, separate appropriations for bond debt service totaled \$5,872,881. Total budgetary expenditures and transfers for FY2002 were \$212,037,919 plus the \$5,872,881 for bond debt service. Final budget allotments aside from debt service totaled \$209,249,539. Total expenditures were within the final budget amount except for utility expense and prior year/audit adjustments which totaled a combined deficit of \$3,807,614.

We also noted several areas where expenditures would be reduced based on our records. The auditors included total internal service fund expenditures of \$453,673 in the General Fund to conform with GASB 34 but did not adjust for the offsetting reimbursements of \$429,377. The offset would have reduced General Fund expenditures by that amount. In addition, we noted differences in encumbrance amounts between our records and those reported by the auditors. This is apparently the result of the auditors calculating the encumbered balances differently than our financial management system does. While the net difference of \$345,980 is less than the auditors calculation it is not a material amount overall, it does affect individual accounts such as the Mayor's Office where our records show expenditures within budget but the audit report shows over expenditure.

Unfortunately the 9/11 terrorist attacks devastated the tourism industry and reduced orders in the garment, resulting in millions of dollars in lost revenue for the fiscal year with little time to adjust expenditures. The ultimate revenue loss ended up greater than originally anticipated. Combined with the change in administrations four months into the fiscal year it was difficult to adjust expenditures as quickly as the decline in revenue resulting in a deficit for the year.

Proposed Completion Date : FY2002

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- Recommendation 11** : *Eligibility* - We recommend that management establish procedures for timely communication of amended program requirements with the pertinent divisions. [U.S. Department of Agriculture/Nutrition Assistance Program/CFDA #10.551]
- Agency to Act/
Contact Person(s)** : Nutrition Assistance Program - CU Supervisor
- Current/Prior
Year Status** : Unresolved
- Agency Response/
Corrective Action Plan** : Special report is being printed on a monthly basis for the Eligibility Worker to be reminded on the expiration of the work registration referrals. This procedure helps eliminate the over due date of the work registrations. In the report it indicates the individual's name, referral and register date. Also it specifies the due date of the referral. Hope this procedure helps to reduce the discrepancies in the work registration requirements.

Proposed Completion Date : NAP is in compliance with established eligibility criteria.

Recommendation 12 : *Procurement and Suspension and Debarment* - We recommend that the CNMI comply with the requirements of the Common Rule and the CNMI-PR regarding competitive bidding. [U.S. Department of Agriculture/Nutrition Assistance Program/CFDA #10.551]

**Agency to Act/
Contact Person(s)** : Nutrition Assistance Program - Administrative Officer, and Accountant

**Current/Prior
Year Status** : Unresolved - Outstanding since FY2001 Single Audit

**Agency Response/
Corrective Action Plan** : NAP agrees with the finding. The office lease was competitively bid for the period beginning October 1, 2003. The computer software/hardware lease will be competitively bid when the current lease expires in June 2004.

It should be noted that CNMI Procurement Directors have approved the extensions of both leases based on extensive justifications by NAP over the years. In addition, the Federal funding agency did not object to the continued leases since they met all program requirements.

Proposed Completion Date : FY2004

Recommendation 13 : *Allowable Costs/Cost Principles* - We recommend that control procedures be clearly defined and communicated over verification of services charged to the CNMI Medicaid Program. In June 2003, the CNMI Medicaid Office implemented procedures for verification of rates charged by service providers. [Medical Assistance Program/CFDA #93.778]

**Agency to Act/
Contact Person(s)** : Medicaid - Accountant III

**Current/Prior
Year Status** : Unresolved

**Agency Response/
Corrective Action Plan** : While our Operational Plan states off-island providers will be reimbursed at the local Medicaid rate, we did not have access to the Hawaii Medicaid rates for FY2002 until June 2003. We are currently auditing all Hawaii claims for FY2002 and 2003 to insure proper rates were applied. Over \$200,000 in overpayments has been recovered so far.

Proposed Completion Date : FY2003

Recommendation 14 : *Allowable Costs/Cost Principles* - We recommend that all costs charged to the CNMI Medicaid Program be reviewed and approved by the Program Director prior to submission to Finance. [Medical Assistance Program/CFDA #93.778]

**Agency to Act/
Contact Person(s)** : Medicaid - Accountant III

**Current/Prior
Year Status** : Unresolved

**Agency Response/
Corrective Action Plan** : This appears to be an isolated occurrence. We do not agree it is a control weakness or that there is a lack of established procedures. We will continue to strive to insure established procedures are followed in every instance.

Proposed Completion Date : Ongoing

Recommendation 15 : *Allowable Costs/Cost Principles* - We recommend that procedures be established to ensure cash advances are disbursed within a timely manner. [Medical Assistance Program/CFDA #93.778]

**Agency to Act/
Contact Person(s)** : Department of Finance - Secretary of Finance

**Current/Prior
Year Status** : Unresolved

**Agency Response/
Corrective Action Plan** : In this specific case the drawdown does not appear related to the check cited. The \$532,734 drawdown received on 8/5/02 was not an advance as the finding states but reimbursed CNMI for the 6/30/02 receivable for grant H2778B. The two vouchers paid on check #213755 were charged to the local Medicaid account (1951) and local medical referral account (1972).

Proposed Completion Date : CNMI is in compliance.

Recommendation 16 : *Eligibility* - We recommend that procedures be established to provide for independent review of information posted to the eligible participant list. The person performing the review should be independent of the data entry process. Specifically, it is recommended that a sample of posted information be traced to the original manual documents on a periodic basis. These tests, if performed, should be documented. We further recommend that controls be implemented to restrict access to the database to authorized personnel. [Medical Assistance Program/CFDA #93.778]

**Agency to Act/
Contact Person(s)** : Medicaid - Accountant III

**Current/Prior
Year Status** : Unresolved

**Agency Response/
Corrective Action Plan** : We agree with the audit finding. Our computer technician is working to restrict access to the database to only authorized personnel. Updates to the database are made by eligibility workers and the administrative clerk reviews or test checks the information posted to the database.

Proposed Completion Date : Completed

Recommendation 17 : *Eligibility* - We recommend that the application forms (both regular and SSI) be amended to include the above provision. [Medical Assistance Program/CFDA #93.778]

**Agency to Act/
Contact Person(s)** : Medicaid - Accountant III

Current/Prior Year Status	:	Unresolved
Agency Response/ Corrective Action Plan	:	The application form has been revised to incorporate this provision. Applicants have always been advised verbally, during the initial interview by our eligibility workers, that any changes must be reported to the Medicaid Office. Proposed Completion Date : FY2003
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Recommendation 18	:	<i>Equipment and Real Property Management</i> - We recommend that the CNMI perform an inventory of its fixed assets and ensure compliance with applicable federal property rules and regulations. [Nutrition Assistance Program/CFDA #10.551]
Agency to Act/ Contact Person(s)	:	Department of Finance - Acting Director of Finance & Accounting, and Director of Procurement and Supply
Current/Prior Year Status	:	Unresolved - Outstanding since FY1987 Single Audit
Agency Response/ Corrective Action Plan	:	Implementation of the new Fixed Asset module began during FY98 and is continuing. New assets added since that time are being recorded in the system. Existing assets must be inventoried and manually entered into the system. We were awarded a grant through U.S. Department of the Interior to assist in the implementation and worked with a consultant to develop capitalization policies and fully implement the Fixed Asset module. A new CNMI Property and Procurement Procedures manual was issued in January 2003. Inventories of each department are to be completed during 2003 and results entered into the Fixed Asset module. Capital assets have been recorded in CNMI financial statements for FY2002 for the first time. Proposed Completion Date : Ongoing
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Recommendation 19	:	<i>Procurement and Suspension and Debarment</i> - We recommend that the CNMI ensure that contracts funded by federal grants specify compliance with all applicable federal laws. [Technical Assistance Grants, DOI and Capital Improvement Projects/CFDA #15.875]
Agency to Act/ Contact Person(s)	:	Department of Finance - Director of Procurement and Supply
Current/Prior Year Status	:	Unresolved - Outstanding since FY2000 Single Audit
Agency Response/ Corrective Action Plan	:	Due to an oversight, the Clean Air Act was not included in the list of Federal laws to be complied with on the standard construction contract although it was included on other types of contracts. This omission has been corrected and all contracts now reference compliance with the Clean Air Act. Proposed Completion Date : FY2003
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- Recommendation 20** : **Reporting** - We recommend that the CNMI's Department of Finance implement procedures that ensure required federal financial reports are filed in a timely manner. [Technical Assistance Grants, DOI and Capital Improvement Projects/CFDA #15.875]
- Agency to Act/
Contact Person(s)** : Department of Finance - Accountant III
Office of the Governor - CIP Coordinator
- Current/Prior
Year Status** : Unresolved - Outstanding since FY2000 Single Audit
- Agency Response/
Corrective Action Plan** : Late submission of reports occurred because the CIP Administrator is also the Governor's Authorized Representative for declared disasters. The additional duties resulted in CIP reports being delayed. Verbal extensions were received over the phone from DOI. An additional FTE has been requested for the CIP administrator's office.
- The SF 269/270 reports are only required at the completion of each project. The format of the quarterly reports submitted is acceptable to DOI as more than one project is being reported under each grant.
- Proposed Completion Date : Ongoing; CNMI is in compliance with DOI reporting requirements.
-
- Recommendation 21** : **Reporting** - We recommend that the CIP Status Report be reviewed on a regular basis to ensure updated information is reflected before submission to the grantor and that all transactions are properly supported. [Technical Assistance Grants, DOI and Capital Improvement Projects/CFDA #15.875]
- Agency to Act/
Contact Person(s)** : Office of the Governor - CIP Coordinator
- Current/Prior
Year Status** : Unresolved - Outstanding since FY2000 Single Audit
- Agency Response/
Corrective Action Plan** : Differences occurred due to entries made after report prepared but back dated in the FMS and misposting of drawdowns to the wrong account. Correcting entries will be made where needed. In most cases, the differences correct themselves on a cumulative basis.
- Proposed Completion Date : FY2003
-
- Recommendation 22** : **Reporting** - We recommend that the CNMI ensure all reporting deadlines are met, in accordance with the Manual of Operations Section IX. [Nutrition Assistance Program/CFDA #10.551]
- Agency to Act/
Contact Person(s)** : Nutrition Assistance Program - MEU Supervisor
- Current/Prior
Year Status** : Unresolved - Outstanding since FY2001 Single Audit
- Agency Response/
Corrective Action Plan** : NAP agrees with the finding. As noted in the finding cause, inadequate manpower, high turnover and a significant increase in the number of NAP participants were the

factors resulting in reporting deadlines being missed and an increase in the error rate. We don't consider the 1% error rate increase to be significant. The funding agency provided for two additional staff but high turnover resulted in continued under staffing during the fiscal year. Full staffing was not achieved until August 2002.

Proposed Completion Date : FY2003

Recommendation 23 : *Reporting* - We recommend that the CNMI establish policies and procedures to ensure all reporting requirements are met. [Nutrition Assistance Program/CFDA #10.551]

**Agency to Act/
Contact Person(s)** : Department of Finance - Acting Director of Finance & Accounting
Nutrition Assistance Program - IAU Supervisor

**Current/Prior
Year Status** : Unresolved - Outstanding since FY2001 Single Audit

**Agency Response/
Corrective Action Plan** : We will make every effort to insure required reports are submitted in a timely manner.

Proposed Completion Date : FY2003

Recommendation 24 : *Reporting* - We recommend that the CNMI ensure required Financial Status Reports are in agreement with the CNMI accounting records. [Nutrition Assistance Program/CFDA #10.551]

**Agency to Act/
Contact Person(s)** : Department of Finance - Acting Director of Finance & Accounting

**Current/Prior
Year Status** : Unresolved

**Agency Response/
Corrective Action Plan** : Amounts shown as per SF-269 agree to our accounting records as of 12/31/02, the end of the liquidation period. We are uncertain where the amounts reported by the auditors as per CNMI accounting records were derived.

Proposed Completion Date : FY2003

Recommendation 25 : *Reporting* - We recommend that steps be taken to ensure timely preparation and submission of federal financial reports. We further recommend that an audit trail be prepared for the CHC billings to allow review and tests of these documents. [Medical Assistance Program/CFDA #93.778]

**Agency to Act/
Contact Person(s)** : Medicaid - Accountant III
Department of Finance - Acting Director of Finance & Accounting

**Current/Prior
Year Status** : Unresolved

**Agency Response/
Corrective Action Plan** : We will make every effort to insure required reports are submitted in a timely manner.

The differences noted between the PMS-272 and CMS-64 reports fall into two categories. The amounts noted as "late adjustments by Finance Office" were submitted to Finance by the Medicaid Office more than 30 days after the grant period ended (after CMS-64 report prepared by Medicaid Office was due). They were entered and included on PMS-272 report by Finance. The amounts noted as "CHC billings not recorded by Finance" are amounts never submitted to Finance as they are beyond the reimbursement cap set by Medicaid. We are uncertain why these amounts are being reported since they will never be reimbursed and cannot be reported as program expenses.

Proposed Completion Date : FY2003

Recommendation 26 : *Special Tests and Provisions* - We recommend that the CNMI ensure that NAP Authorized Retailers are in compliance with all eligibility requirements. If certain requirements may not be met, the grantor agency should be consulted. [Nutrition Assistance Program/CFDA #10.551]

**Agency to Act/
Contact Person(s)** : Nutrition Assistance Program - R&R Officer

**Current/Prior
Year Status** : Unresolved - Outstanding since FY2001 Single Audit

**Agency Response/
Corrective Action Plan** : The current Manual of Operations allows the 10% local food products rule to be waived at NAP's discretion for good causes. Rota and Tinian retailers have a difficult time selling local fish and produce as most families are engaged in fishing and farming and buy few of these products from the stores. In addition, the requirement may be waived if there are no other authorized NAP retailers in close proximity to a significant population of clients. See Section X.A.2.a.iii of the Manual of Operations.

NAP agrees with the finding on lack of compliance visits. There are only two FTE's assigned to the Unit and the significant increase in redeemed coupons and participants after the economic downturn related to 9/11 required their time on coupon verification and other critical tasks. The R&R Unit expects to be caught up with reporting requirements by June 2004.

Proposed Completion Date : FY2004

Commonwealth Development Authority

Status of Prior Year Audit Findings:

In the Annual Financial & Compliance Audit of CDA for FY2003, a summary schedule showing the status of prior year audit findings for FY2002 were reported. Of the 4 audit recommendations issued in FY2002, 2 were resolved and 2 were still unresolved and repeated as audit findings in the FY2003 audit of CDA. Details of the FY2002 prior year audit findings can be obtained upon request from OPA.

Annual Financial & Compliance Audit in Accordance with OMB-A-I33 Fiscal Year Ended September 30, 2003 Conducted By: Deloitte Touche Tohmatsu

Date(s) of followup letter(s) sent : 4/14/04, 9/27/04, 10/21/04 (Deloitte Touche Tohmatsu re: CDA response)

Date(s) of response letter(s) received : 4/5/04, 4/16/04, 5/11/04, 9/13/04, 10/12/04

Recommendation 1 : *Cash Receipts* - Management should define clear internal control policies, which regulate custody and recording of assets.

Agency to Act : Northern Marianas Housing Corporation

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : Daily collections are now being processed by a different cash receipt system, which is linked with the general ledger. This system prevents manual alterations to the receipt numbering process, and provides a summary of day's receipt. Postings to loan accounts are required to reconcile to the summary. A monthly statement is now being circulated to borrowers, which serves as a reminder notice for payment and provides the borrower opportunity to reconcile their accounts with NMHC.

Recommendation 2 : *Cash Disbursement* - A review of the check initialization run (a preliminary printout of checks to be printed) be performed by independent, knowledgeable personnel (specifically, the Housing Manager) whose scan of the printout can detect possible unauthorized payments on the list.

Agency to Act : Northern Marianas Housing Corporation

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : Action was taken to avoid risk of potential errors on the Housing Choice Voucher disbursement of checks. Prior to printing of checks, the amount from the initialization was reviewed and checked against the Housing Choice Voucher and Utility Reimbursement payment list for the month to ensure no overpayment or cash

disbursement is made. The Manager, Program & Housing Division, will be responsible to verify initial check prior to disbursement.

Recommendation 3	:	Receivables - Follow-up procedures on past due loans should be adhered to. Evaluations should also be performed on these loans and a corrective plan be developed and documented. Future results may be compared against this plan and actions taken by management as deemed necessary. Legal action should be considered for those loans which are considered unlikely to be serviceable by the borrower.
Agency to Act	:	Commonwealth Development Authority
Current/Prior Year Status	:	Unresolved - Outstanding since FY1994 Single Audit
Agency Response/ Corrective Action Plan	:	With the new Loan Manager on board, the Loan Department of CDA has a plan of action to contact all delinquent clients and arrange a Workout on their loans. With these Workouts, they will eventually decrease the delinquency rate. Emphasis was also made to increase collection. Furthermore, emphasis was made in following protocols of legal proceedings. CDA will adhere to its Rules and Regulations and follow-up procedures on past due loans.

Recommendation 4	:	Reporting - Management should ensure proper reporting of expenditures on SF-272's to HUD [Community Development Block Grant, CFDA #14.225].
Agency to Act	:	Northern Marianas Housing Corporation
Current/Prior Year Status	:	Unresolved - Outstanding since FY2002 Single Audit
Agency Response/ Corrective Action Plan	:	Any reporting to HUD on SF-272s may be only a cut-off difference. Drawdowns made on the Integrated Disbursement & Information System (IDIS) is tied to the SF-272 reports by HUD, Honolulu. We double check the drawdowns compared from the drawdowns report and this would tied up with disbursement made when we received funds from IDIS. We are very aware of the rules and regulations and in compliance of SF-272s for proper expenditure reporting on the cash transactions.

Commonwealth Government Employees Credit Union

Annual Financial & Compliance Audit

in Accordance with OMB-A-133

Fiscal Year Ended December 31, 1997

Conducted By: Burger & Comer, P.C.

Date(s) of followup letter(s) sent : 7/12/00, 1/22/01, 8/23/01, 3/5/02, 8/9/02, 2/12/03, 8/4/03, 4/13/04, 9/27/04

Date(s) of response letter(s) received : 4/2/01 (follow-up telephone conversation)

Recommendation 1 : *Reconciliation of General Ledger to Subsidiary Ledgers* - CGECU should ensure that the general ledger balances for loans and deposits are reconciled with the subsidiary ledgers on periodic basis.

Agency to Act : Commonwealth Government Employees Credit Union

Current/Prior Year Status : Unresolved - Outstanding Since FY1995 Single Audit

Agency Response/ Corrective Action Plan : The Credit Union will replace the software with a more advanced one that will produce accurate daily, monthly and yearly reports. With these type of reports, subsidiary ledgers can easily be balanced with the general ledger.

Recommendation 2 : *Accrued Interest Receivable* - CGECU should reconcile the general ledger with the subsidiary ledger on a monthly basis after all audit adjustments for FY1997 are posted.

Agency to Act : Commonwealth Government Employees Credit Union

Current/Prior Year Status : Unresolved - Outstanding Since FY1995 Single Audit

Agency Response/ Corrective Action Plan : With the new software, CGECU will be able to printout accrued interest receivable on loans with payments not sufficient to cover interest accrued through the end of the month. The general ledger balance will be reconciled with the loan trial balances on a monthly basis.

Recommendation 3 : *Accounting for Loan Fees and Loan Origination Costs* - CGECU should follow the guidance in FASB Statement No. 91, and should amortize deferred loan fees into income as an adjustment of interest income.

Agency to Act : Commonwealth Government Employees Credit Union

Current/Prior Year Status : Unresolved

Agency Response/

Corrective Action Plan : With the help from an accounting firm staff, CGECU has complied with Financial Accounting Standard Board (FASB) Statement No. 91 for the year 1998 and will continue to comply with this statement.

Commonwealth Ports Authority

Status of Prior Year Audit Finding:

In the Annual Financial & Compliance Audit of CPA for FY2003, a summary schedule showing the status of the prior year audit finding for FY2002 was reported. A recommendation issued in FY2002 remained unresolved and was repeated as an audit finding in the FY2003 audit of CPA. Details of the FY2002 prior year audit finding can be obtained upon request from OPA.

Annual Financial & Compliance Audit in Accordance with OMB Circular A-133

Fiscal Year Ended September 30, 2003

Conducted By: Deloitte Touche Tohmatsu

Date(s) of followup letter(s) sent : 4/14/04, 9/27/04, 12/6/04 (Deloitte Touche Tohmatsu re: CPA response)

Date(s) of response letter(s) received : 11/3/04

Recommendation I : **Revenue Bonds Payable** - All revenue generating sources should be reviewed to ensure amounts collected will be sufficient to meet the requirements of Section 6.11 of the Airport Bond Indenture Agreement.

Agency to Act : Commonwealth Ports Authority

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 Single Audit

Agency Response/ Corrective Action Plan : In accordance with bond covenant provisions, the Commonwealth Ports Authority contracted the services of a nationally recognized Independent Financial Consultant to review all revenue collection measures and submit an Airport Rate Study report outlining recommendations necessary for CPA to comply with the revenue requirements mandated by the airport's bond indenture.

The Commonwealth Ports Authority initiated preparations in November 2003 to seek FAA approval to implement Passenger Facility Charges (PFC) to provide an adequate and dedicated funding source for debt service and matching funds needed for the FAA-funded capital improvement project.

Revenues from passenger facility charges could raise \$2 million annually and will be a major source of additional revenues needed to comply with the revenue requirements stipulated by the bond covenants.

The meeting with the air carriers to review CPA's PFC application is scheduled for February 24, 2004 with the submission of the PFC application package to the FAA by April 2004. Upon receipt of FAA approval, collection of PFC charges could commence by first quarter of FY2005.

The Independent Financial Consultant is handling the PFC application documentation and processing through the FAA.

Commonwealth Utilities Corporation

Status of Prior Year Audit Findings:

In the Annual Financial & Compliance Audit of CUC for FY1999, a summary schedule showing the status of prior year audit findings for FY1998 were reported. Of the 24 audit recommendations issued in FY1998, 9 were resolved and 15 were still unresolved and repeated as audit findings in the FY1999 audit of CUC. Details of the FY1998 prior year audit findings can be obtained upon request from OPA.

Annual Financial & Compliance Audit in Accordance with OMB-A-I33

Fiscal Year Ended September 30, 1999

Conducted By: Deloitte Touche Tohmatsu

Date(s) of followup letter(s) sent : 9/27/04

Date(s) of response letter(s) received :

Recommendation 1 : *Revenue/Receipts* - We recommend that CUC execute formal agreements with all landowners for the use of land on which CUC has assets.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1996 Single Audit

Agency Response/ Corrective Action Plan : CUC agrees with the finding. CUC has forwarded all easement disputes on file to outside counsel for immediate resolution. All but two disputes (involving eight accounts) forwarded to counsel have either been resolved or is pending resolution. The unresolved dispute account holders are requesting administrative hearing to resolve their dispute. CUC has advertised for an administration hearing officer and will adhere to the customers' rights to an administrative hearing.

To prevent the occurrence of future easement claims, CUC requires all new connections to be accompanied with dedication of easement by the applicant or owners of the land. For its own in house projects, CUC has hired an easement specialist to ensure that CUC projects do not encroach private property. For those projects requiring the use of private property, CUC shall formally seek an agreement with the affected parties prior to using such properties.

Recommendation 2 : *Revenue/Receipts* - We recommend that CUC implement policies and procedures to ensure the timely follow-up and collection of balances due. We also recommend that billings be accurately processed.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1994 Single Audit

Agency Response/

Corrective Action Plan : CUC partially agrees to the finding. While there are a few accounts that CUC is unable to explain the lack of adherence to the disconnection policy, most of the accounts are in fact accounts with long standing disputes or accounts that were in the process for adjustment.

CUC currently requires monthly reviews of accounts with disputes. A monthly status report of unresolved disputes is provided to the Director and Comptroller to ensure timely resolution. The Comptroller has been tasked to monitor and ensure that disputes are resolved in a timely manner and that accounts requiring collection action is initiated.

To ensure adherence to the disconnection and reconnection policies, Credit & Collection (C&C) is tasked to properly document the reasons for noncompliance (i.e. billing, easement disputes). Documentation will require that C&C implement filing procedures to record such disputes. Customer service shall be required to properly document customer dispute and forward copies of disputes to C&C.

Recommendation 3 : *Revenue/Receipts* - We recommend that CUC ensure that established internal control procedures are strictly adhered to.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : CUC agrees with the finding. A memorandum prepared by the Treasurer dated June 30, 2000 was sent to all cashiers and supervisors reminding them that daily cashier reports should be signed. Cashiers and their supervisors have duly acknowledged the receipt of the memorandum. To ensure compliance with the memorandum, CUC's Treasurer has been instructed to review cashier reports daily to ensure strict compliance to internal control procedures. Cashiers and supervisors not adhering to procedures will be duly warned and reprimanded (if necessary).

Recommendation 4 : *Purchases/Disbursements* - We recommend that management ensure strict adherence to procurement policies and procedures.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1998 Single Audit

Agency Response/ Corrective Action Plan : CUC agrees with the finding. A majority of the violations occurred as a result of urgently required service or goods that required an immediate action of CUC. CUC, at times, is unable to obtain the necessary approval as goods or services are required outside normal working business hours.

CUC has strengthened its adherence to strictly complying with procurement procedures. In recognition of its responsibility to provide service to the public even outside normal business working hours, CUC has opened accounts with vendors who provide essential services to CUC, thus ensuring that expenditures are properly approved. These open accounts are to be used only under urgent CUC operation needs and are monitored weekly to ensure that vendors do not exceed the approved purchase orders.

In addition, CUC will advise all its vendors that no goods or services are to be delivered or received without a properly approved purchase order. Vendors providing goods or services without purchase order will take the risk associated to such acts, CUC will not take responsibility.

Recommendation 5 : *Payroll* - We recommend that all non-emergency overtime be pre-approved and be appropriately documented.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1996 Single Audit

Agency Response/ Corrective Action Plan : CUC agrees with this finding. Pre-approved overtime is required to be approved by the Director or his designee not supervisors.

All managers have been reminded to comply with the overtime policy and procedures. The memorandum states that the Director will strictly enforce this policy and will not hesitate to take necessary administrative actions to ensure compliance (i.e. reprimands and demotions).

Recommendation 6 : *External Financial Reporting* - We recommend that CUC implement a system whereby a receivable/payable account records all cash received from the grantor agency and records all related expenditures. The account should be reconciled on a monthly basis to the Schedule of Expenditures of Federal Awards. Additionally, we recommend that expenditures of the Schedule of Expenditures of Federal Awards be reconciled to contributed capital accounts on a timely basis.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1990 Single Audit

Agency Response/ Corrective Action Plan : CUC agrees with this finding. CUC has prepared procedures for Recording of Grants, Payment Processing, Accounting for Grants, Monthly Reconciliation Procedures, and Completed Projects Funded by Grants to address this audit finding. (For detailed procedures, please refer to CUC's annual and financial compliance audit report for fiscal year ended September 30, 1999).

Recommendation 7 : *External Financial Reporting* - We recommend that a reconciliation procedure be implemented between the records of the Federal Programs Coordinator and the Comptroller's office on a quarterly basis to ensure completeness of recording of projects in the general ledger.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1997 Single Audit

Agency Response/ Corrective Action Plan : CUC agrees with this finding. CUC has prepared procedures for Recording of Grants, Payment Processing, Accounting for Grants, Monthly Reconciliation

Procedures, and Completed Projects Funded by Grants to address this audit finding. (For detailed procedures, please refer to CUC's annual and financial compliance audit report for fiscal year ended September 30, 1999).

Recommendation 8	:	Receivables - We recommend that CUC reconcile the balance due from the CNMI with appropriate CNMI officials and record any necessary adjustments.
Agency to Act	:	Commonwealth Utilities Corporation
Current/Prior Year Status	:	Unresolved - Outstanding since FY1995 Single Audit
Agency Response/ Corrective Action Plan	:	CUC agrees with the finding. CUC will initiate discussion with CNMI Department of Finance to reconcile the outstanding receivable. When completed, the general ledger and chief accountant will prepare the appropriate adjustment. The adjustment will be subject to review and approval by the Assistant Comptroller or Comptroller.

Recommendation 9	:	Receivables - We recommend that all long outstanding balances included in these accounts as of September 30, 1999 be reviewed and expensed where necessary. We also recommend that these accounts be reviewed on a monthly basis.
Agency to Act	:	Commonwealth Utilities Corporation
Current/Prior Year Status	:	Unresolved - Outstanding since FY1993 Single Audit
Agency Response/ Corrective Action Plan	:	CUC agrees with the finding. On a monthly basis, CUC will review the status of employee travel and other advances and will initiate collection action on advances that are not timely liquidated or travels that have outstanding balances. To ensure that expenses are timely recorded, CUC will enforce its payroll deduction policies for travel authorizations that are not liquidated. In addition, accounting will require the Human Resources section to obtain clearance from the accounting section prior to the processing of their resignation action and immediately inform accounting of personnel who are resigning so as to allow accounting to require immediate payroll deduction for all outstanding balances.

Recommendation 10	:	Receivables - We recommend that CUC establish policies and procedures to ensure other receivables are adequately monitored and reconciled on a timely basis.
Agency to Act	:	Commonwealth Utilities Corporation
Current/Prior Year Status	:	Unresolved
Agency Response/ Corrective Action Plan	:	CUC agrees with the finding. To correct this finding, CUC is requiring that Accounts Payable section record and reclassify the purchases as the original invoices and the receiving report are received. In addition to this procedure, CUC will review monthly its prepayment purchases to monitor and ensure that the purchases are timely received and recorded.

Recommendation 11	:	<i>Inventory</i> - We recommend that final inventory listings reflect the quantities of items counted at balance sheet date.
Agency to Act	:	Commonwealth Utilities Corporation
Current/Prior Year Status	:	Unresolved - Outstanding since FY1994 Single Audit
Agency Response/ Corrective Action Plan	:	CUC agrees with the finding. CUC has recently hired a fixed asset/inventory accountant to implement procedures to ensure that physical counts match the final inventory listing and the withdrawal of inventory is properly recorded. In addition to the procedures to be implemented, semi-annually and annually CUC will reconcile counts against the final inventory listing to ensure proper recording of the physical counts.

Recommendation 12	:	<i>Utility Plant</i> - We recommend that proper construction work-in-progress records be maintained.
Agency to Act	:	Commonwealth Utilities Corporation
Current/Prior Year Status	:	Unresolved - Outstanding since FY1988 Single Audit
Agency Response/ Corrective Action Plan	:	CUC agrees with the finding. CUC has been properly capitalizing labor and material charges to its internal construction projects but has been unable to timely close completed projects. Again, CUC has hired a fixed asset accountant who has been tasked to address its timeliness issue. CUC anticipates to address the backlog files issue either by seeking professional service assistant or internally or combination thereof.

Recommendation 13	:	<i>Utility Plant</i> - We recommend that CUC perform a physical inventory of all fixed assets on hand, agree the count with its records and make necessary adjustments. Additionally, we recommend that CUC implement a system of tagging fixed assets and perform periodic counts to ensure existence.
Agency to Act	:	Commonwealth Utilities Corporation
Current/Prior Year Status	:	Unresolved - Outstanding since FY1998 Single Audit
Agency Response/ Corrective Action Plan	:	CUC partially agrees with the finding. Although we have not taken a physical inventory of fixed assets, we have a registration system in place to keep track of all our fixed assets purchases. Acquired fixed assets are processed through our accounts payable system and are initially lodged to a fixed asset clearing account for review by our chief accountant. The clearing account is analyzed weekly and the corresponding item is assigned a property tag number and its applicable useful life. The property is then recorded in the proper account code in the fixed assets register. Monthly, the fixed asset register total is reconciled with the corresponding general ledger balance. Completed CIP's are likewise recorded in the fixed assets register monthly.

CUC is currently backlogged in closing work orders of system improvements and new customer installations. However, work order costs are initially recorded as Construction Work in Progress (CWIP). The delayed closing has caused the understatement of fixed assets and thereby affecting our financial statement.

To address CUC's lack of inventory of fixed assets and timeliness of closing work orders, CUC has announced and selected a fixed assets/inventory accountant to conduct a complete count of fixed assets and to close complete work orders. CUC plans to seek proposals from qualified firms to assist in the inventory and valuation of its fixed assets. CUC expects to complete both the inventory and close all work orders by Fiscal Year 2002.

Recommendation 14 : *Utility Plant* - We recommend that the fixed asset register be reconciled to the general ledger on a monthly basis.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1997 Single Audit

Agency Response/ Corrective Action Plan : CUC partially agrees with the finding. Since February 1999, the Comptroller's office, accounting section, reconciled the utility plant general ledger balances to the detailed fixed asset register. The reported condition was due primarily to the auditors' adjustment, which has subsequently been recorded.

Recommendation 15 : *Utility Plant* - We recommend that CUC implement a policy with respect to required insurance coverage levels.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1989 Single Audit

Agency Response/ Corrective Action Plan : CUC agrees with the finding. CUC currently has a fixed asset schedule that requires review and confirmation. CUC is in the process of hiring a fixed asset/inventory accountant to review and confirm this listing. Upon completion of the review, CUC will solicit insurance coverage for its fixed assets. The recommendation to insure CUC construction projects has been forwarded to the Procurement manager to prepare to incorporate into its procurement requirements. This change of policy will be presented to the board for adoption.

Recommendation 16 : *Payables* - We recommend that CUC review its system of record keeping and establish policies and procedures to ensure that utility service applications are appropriately maintained.

Agency to Act : Commonwealth Utilities Corporation

Current/Prior Year Status : Unresolved - Outstanding since FY1998 Single Audit

Agency Response/

Corrective Action Plan	:	CUC partially agrees with this finding. CUC was able to locate the documents that were not made available to the auditor for review. The Chief of Administration and the Comptroller has been tasked to undertake a review of the record keeping system of CUC. Upon completing their review, they are to make recommendations needed to ensure that all CUC official documents are readily available to management and auditors.
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Recommendation 17	:	Payables - We recommend implementation of appropriate policies and procedures to ensure recording of all liabilities in the appropriate fiscal year.
Agency to Act	:	Commonwealth Utilities Corporation
Current/Prior Year Status	:	Unresolved - Outstanding since FY1998 Single Audit
Agency Response/ Corrective Action Plan	:	CUC agrees with the finding. The policies and procedures to record payable are in place. However, without a proper procurement system, these procedures are prone to untimely recognition of expenses. Most of the findings relate to CUC's untimely recording of CWIP projects that have not been closed. CUC is revisiting its procedures in closing CWIP projects to ensure that it records its expenses (i.e. depreciation) in the proper fiscal period.

Recommendation 18	:	Debt - We recommend that CUC establish this account to ensure compliance with debt requirements.
Agency to Act	:	Commonwealth Utilities Corporation
Current/Prior Year Status	:	Unresolved
Agency Response/ Corrective Action Plan	:	CUC agrees with the finding. CUC recognized that it is bound by the contract terms and has properly set aside \$400,000 in a time certificate deposit. CUC intends to seek a revision of the security terms with the contractor. This finding should be resolved before the end of fiscal year 2002.

Marianas Public Lands Authority

Status of Prior Year Audit Findings:

In the Annual Financial & Compliance Audit of MPLA for FY2002, 3 recommendations issued in FY2001 remained unresolved and repeated as audit findings in the FY2002 audit of MPLA and 2 were resolved. Details of the FY2001 prior year audit findings can be obtained upon request from OPA.

Annual Financial & Compliance Audit Fiscal Year Ended September 30, 2002 Conducted By: Deloitte Touche Tohmatsu

Date(s) of followup letter(s) sent : 9/21/04

Date(s) of response letter(s) received :

Recommendation 1 : *Fund Balance* - MPLA should record transactions in the proper period.

Agency to Act : Marianas Public Lands Authority

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 Audit

Agency Response/ Corrective Action Plan : MPLA agreed with this finding. Controls and procedures have been implemented in the accounting system to detect and prevent any unrecorded liability at the end of the fiscal year.

Recommendation 2 : *Receivables* - MPLA should review receivable balances and forward overdue accounts to legal counsel for collection in a timely manner, and consider a policy of not accruing late fees on terminated or non-moving account balances for external reporting purposes while continue doing so, if deemed necessary, for internal reporting purposes.

Agency to Act : Marianas Public Lands Authority

Current/Prior Year Status : Unresolved - Outstanding Since FY1998 Single Audit of the CNMI and FY2000 Audit of MPLA

Agency Response/ Corrective Action Plan : MPLA agreed with this finding. Controls and procedures have been implemented in the accounting system to minimize the level of outstanding accounts receivable.

Recommendation 3 : *Local Noncompliance* - MPLA should obtain a legal counsel opinion on the disposition of landing fees on passengers who disembark on Managaha Island.

Agency to Act : Marianas Public Lands Authority

Current/Prior

Year Status : Unresolved - Outstanding Since FY2000 Single Audit of the CNMI and FY2001 Audit of MPLA

**Agency Response/
Corrective Action Plan** : MPLA agreed with this finding. As soon as MPLA determines the nature of the disposition of funds, the issue of ownership to the funds would immediately clear this audit finding.

Northern Marianas College

Status of Prior Year Audit Findings:

In the Annual Financial & Compliance Audit of NMC for FY2003, a summary schedule showing the status of prior year audit findings for FY2002 were reported. Of the 19 audit recommendations issued in FY2002, 8 were resolved and 11 were still unresolved and repeated as audit findings in the FY2003 audit of NMC. Details of the FY2002 prior year audit findings can be obtained upon request from OPA.

Annual Financial & Compliance Audit in Accordance with OMB-A-I33 Fiscal Year Ended September 30, 2003 Conducted By : Deloitte Touche Tohmatsu

Date(s) of followup letter(s) sent : 4/28/04, 9/27/04

Date(s) of response letter(s) received : 6/7/04

Recommendation 1 : *Fixed Assets* - NMC should adhere to established policies and procedures relative to capitalization of fixed assets. Further, we recommend that periodic physical inventories of fixed assets be performed and the general ledger balances be updated.

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 & FY2002 Single Audits

**Agency Response/
Corrective Action Plan** : We concur with the finding that a physical inventory of fixed assets be performed and reconciled to the schedule of fixed assets. The Procurement and Property Management Office initiated a physical inventory count of assets at the end of fiscal year 2001 but it was not completed due to the lack of sufficient staff in that office. The scheduled of fixed assets is currently prepared using a spreadsheet program, which requires manual compilation, computation, and posting of asset purchases and depreciation to the general ledger. The College is researching the purchase and use of a fixed asset module and a property management module to its fund accounting software system. The two modules would enable NMC to track all assets of the institution, including the computation and posting of depreciation expense to the general ledger and the updating of the assets based on physical inventory counts on a regular basis. Due to financial constraints, this system will not be implemented until fiscal year 2005. However, a manual physical inventory of all College fixed assets is currently underway and an updated listing will be available for the financial year ending September 30, 2004.

Recommendation 2 : *Receivables* - NMC should implement procedures requiring periodic review of all receivable balances for validity and collectibility. This review process should also address the adequacy of related allowances for doubtful accounts.

Agency to Act : Northern Marianas College

Current/Prior

Year Status	:	Unresolved - Outstanding Since FY2001 & FY2002 Single Audits
Agency Response/ Corrective Action Plan	:	We concur with the finding. The College plans to review the accounts receivable subsidiary ledger on a regular basis to assess the validity and collectibility of receivables as well as the adequacy of the allowance for doubtful accounts. Reviewing receivables on a monthly basis is not possible at this time due to delays in processing student charges and payments as a result of limitations of the computerized accounts receivable system. In fiscal year 2004 NMC will be implementing its PowerCampus admissions and registration system, which includes a student billing/cash receipts/accounts receivable module. The PowerCampus software will greatly facilitate timely processing of student charges and payments to enable monthly review of accounts receivable.
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Recommendation 3	:	<i>Journal Vouchers</i> - NMC should establish policies and procedures requiring journal entries to be reviewed and approved for entry by someone other than the preparer and that this review be evidenced by the reviewer's signature.
Agency to Act	:	Northern Marianas College
Current/Prior Year Status	:	Unresolved - Outstanding Since FY2001 & FY2002 Single Audits
Agency Response/ Corrective Action Plan	:	We concur with the finding and recommendation that journal entries be reviewed and approved. The lack of a review process in FY2003 was the result of a lack of adequate staff in the Finance Office. As noted in the finding in FY2003, each Finance Office staff makes journal entries to the accounting system in his or her respective areas of responsibility on a daily basis (e.g., accounts payable, accounts receivable, payroll, etc.). In fiscal year 2004 the College hired a new Director of Finance and Procurement who now reviews all journal entries prior to such being posted. As such this finding is considered resolved in fiscal year 2004.
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Recommendation 4	:	<i>Expenditures</i> - NMC should adhere to established policies and procedures and record expenditures when the College takes ownership of the goods or services.
Agency to Act	:	Northern Marianas College
Current/Prior Year Status	:	Unresolved
Agency Response/ Corrective Action Plan	:	We concur with the finding. At the end of financial year 2003, several last minute purchase orders were processed as prepaid and the expenditures recorded based on the information on the purchase orders instead of the actual invoices although the related checks were not issued until fiscal year 2004. This was primarily a timing issue and the result of a lack of adequate planning by various departments of the College. All such expenditures have been reversed and accounting staff informed that no future transactions of this nature are to be processed.
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Recommendation 5	:	<i>Inventory - Book Store</i> - NMC should adhere to established policies and procedures requiring monthly reconciliation of all general ledger balances against subsidiary details. We recommend that the College retain all invoices to substantiate inventory costs.

Agency to Act	:	Northern Marianas College
Current/Prior Year Status	:	Unresolved
Agency Response/ Corrective Action Plan	:	We concur with the finding and recommendation that the accounts receivable and accounts payable subsidiary ledgers should agree to the general ledger. In FY2004 all accounting of Book Store transactions has been transferred to the Finance Office and subsidiary ledgers will be reviewed on a monthly basis to ensure that such reconcile to general ledger balances. Further a new filing system has been implemented at the Book Store to ensure that all invoices are filed with corresponding check payments and cash receipts and sales invoices are also filed on a daily basis. These procedures should ensure that accounting documentation is complete and a proper audit trail is maintained going forward.
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Recommendation 6	:	<i>Accounts Payable - Book Store</i> - NMC should establish policies and procedures to record liabilities when ownership of goods and services occurs and to maintain proper records.
Agency to Act	:	Northern Marianas College
Current/Prior Year Status	:	Unresolved
Agency Response/ Corrective Action Plan	:	We concur with the finding and recommendation. In FY2004 a thorough review of invoices received subsequent to year-end was not performed to ensure that all liabilities were accounted for in the proper fiscal period. Further a new filing system has been implemented at the Book Store to ensure all invoices are filed with corresponding check payments and cash receipts and sales invoices are filed on a daily basis. These procedures should ensure that accounting documentation is complete and a proper audit trail is maintained going forward and also facilitate proper cut off of transactions.
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Recommendation 7	:	<i>Sales - Book Store</i> - NMC should retain all documents to substantiate all general ledger balances.
Agency to Act	:	Northern Marianas College
Current/Prior Year Status	:	Unresolved
Agency Response/ Corrective Action Plan	:	We concur with the finding and the recommendation. In FY2004 all accounting of Book Store transactions has been transferred to the Finance Office. A new filing system has been implemented at the Book Store to ensure all invoices are filed with corresponding check payments and cash receipts and sales invoices are filed on a daily basis. These procedures should ensure that accounting documentation is complete and a proper audit trail is maintained and going forward.
Recommendation 8	:	<i>Payroll</i> - NMC should adhere to established policies and procedures requiring employee personnel files to be current and complete. Further, we recommend that a

review process be established to ensure that withholdings are being properly computed.

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 & FY2002 Single Audits

Agency Response/ Corrective Action Plan : We concur with the finding. To ensure that all employees are provided with the W-4 forms upon their hiring at the College, the Human Resources Office includes W-4 forms in an information packet provided to new employees. Adjunct faculty are provided the W-4 forms by the instructional departments that they are teaching courses for. W-4 forms are maintained in employees' payroll files in the Finance Office. However, if new employees, part-time and full-time, do not turn in their W-4 forms to the payroll section in the Finance Office, the payroll accountant will use a default set-up of single with zero allowances in order to process a payroll check for such employees each pay period. The payroll accountant has been instructed to not process the payroll for employees who have not submitted a W-4 form. NMC implemented a new payroll software system in fiscal year 2003. The annual maintenance agreement with the software manufacturer includes the regular update of all tax tables by the company. This will ensure that employee tax deductions are computed using the most current tax rates.

Recommendation 9 : *Allowable Costs / Cost Principles* -NMC should ensure that only allowable indirect costs be charged to federal programs. [U.S. Department of Education / TRIO - Upward Bound / CFDA # 84.047, U.S. Department of Education / TRIO - Student Support Services / CFDA # 84.042, U.S. Department of Education / TRIO - Talent Search / CFDA # 84.044]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 & FY2002 Single Audits

Agency Response/ Corrective Action Plan : We concur with the finding that NMC did not obtain specific approval from the grantor agency on the rate to be charged for indirect costs to the federal grant agency, it charged the maximum allowed, which was 8%. Historically NMC operated under the assumption that as an agency of the CNMI government its indirect cost rate is the same as the one approved for the CNMI as a whole. We have since learned that the College is not included in the CNMI wide indirect cost rate. The College has contacted the Office of the Indirect cost Coordinator of the US Department of Interior (DOI), our cognizant audit agency, and begun the indirect cost rate negotiation process. In January 2004, the College's Director of Financial and Administrative Services met with the Indirect Cost Coordinator for DOI and as a result of that meeting and subsequent communications, we have received assurances that an indirect cost rate for financial year 2004 and retroactively for FY2001-2003 can be established and our approach for calculating such was verbally approved. However, we were informed that this process could take up to six months. We are confident however our indirect costs rates for fiscal year 2001-2003 and 2004 will be approved and in place by the end of financial year 2004.

Recommendation 10 : *Allowable Costs / Cost Principles* - NMC should ensure that only allowable indirect costs be charged to federal programs. [U.S. Department of Education / Adult Basic Education / CFDA # 84.002]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2002 Single Audit

Agency Response/ Corrective Action Plan : We concur with the finding that NMC did not obtain specific approval from the grantor agency on the rate to be charged for indirect costs to the federal grant. Although NMC has not negotiated and received approval for an indirect cost rate with the grant agency, it charged the maximum allowed, which was 8%. Historically, NMC operated under the assumption that as an agency of the CNMI government its indirect cost rate is the same as the one approved for the CNMI as a whole. We have since learned that the college is not included in the CNMI wide indirect cost rate. The College has contacted the Office of the Indirect Cost Coordinator of the US Department of Interior (DOI), our cognizant audit agency, and begun the indirect cost rate negotiation process. In January 2004, the College's Director of Financial and Administrative Services met with the Indirect Cost Coordinator for DOI and as a result of that meeting and subsequent communications, we have received assurances that an indirect cost rate for financial year 2004 and retroactively for FY2001-2003 can be established and our approach for calculating such was verbally approved. However, we were informed that this process could take up to six months. We are confident however our indirect costs rates for fiscal year 2001-2003 and 2004 will be approved and in place by the end of financial year 2004.

Recommendation 11 : *Allowable Costs / Cost Principles* - NMC should ensure that only allowable indirect costs be charged to federal programs. [U.S. Department of Education / Higher Education Institutional Aid - Strengthening Institutions / CFDA # 84.031]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : We concur with the finding that NMC did not obtain specific approval from the grantor agency on the rate to be charged for indirect costs to the federal grant. Although NMC has not negotiated and received approval for an indirect cost rate with the grant agency, it charged the maximum allowed, which was 8%. Historically NMC operated under the assumption that as an agency of the CNMI government its indirect cost rate is the same as the one approved for the CNMI as a whole. We have since learned that the College is not included in the CNMI wide indirect cost rate negotiation process. In January 2004, the College's Director of Financial and Administrative Services met with the Indirect Cost Coordinator for DOI and as a result of that meeting and subsequent communications, we have received assurances that an indirect cost rate for financial year 2004 and retroactively for FY2001-2003 can be established and our approach for calculating such was verbally approved. However, we were informed that his process could take up to six months. We are confident however our indirect costs rates for fiscal year 2001-2003 and 2004 will be approved and in place by the end of financial year 2004.

Recommendation 12 : *Allowable Costs / Cost Principles* - NMC should review the allocation percentage calculation and ensure that its match share of grant funds is accurate. Further, specific approval of the allocation percentage calculation should be obtained. [U.S.

Department of Agriculture / Cooperative State Research and Extension Service -
Smith Lever Act / CFDA # 10.500]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 & FY2002 Single Audits

Agency Response/ Corrective Action Plan : We agree with the finding. The College requested and received a waiver for the matching portion it represented to USDA CSREES as being unmet for financial year 2003. However, the amount requested and approved for waiver was less than the actual shortfall for the Smith Lever Act by \$20,135, the amount questioned. We have receive communications from USDA CSREES that they are willing to consider a waiver for the additional amount and will be working with them to clear such.

Recommendation 13 : *Allowable Costs / Cost Principles* - NMC should comply with OMB Circular A-21 and retain supporting documents to determine if costs are necessary and reasonable for proper and efficient performance and administration of federal grants. [U.S. Department of Education / TRIO - Talent Search / CFDA # 84.044]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : We concur with the finding that supporting documents were not immediately available for review by the auditors. The program staff is currently working on obtaining these documents from the traveler. If we are able to obtain the documents, we will submit such to the grantor agency and attempt to resolve the questioned cost through direct negotiations with grantor agency personnel.

Recommendation 14 : *Procurement and Suspension and Debarment* - NMC should adhere to established policies and procedures to ensure compliance with federal procurement standards. [U.S. Department of Education / Higher Education Institutional Aid - Strengthening Institutions / CFDA # 84.031]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : We agree with the auditors' conclusion that a detailed justification for the sole sourcing of this purchase is not available. However, the College has historically purchased all lab equipment from this vendor as no one on the island carries such equipment. In the future, we will ensure that a more detailed justification for all federal sole source purchases is provided. The College adhered to its internal sole source procurement standards and we will attempt to resolve the questioned cost with the grantor agency.

Recommendation 15 : *Procurement, Suspension and Debarment* - NMC should adhere to established policies and procedures to ensure compliance with federal procurement standards.

[U.S. Department of Agriculture / Cooperative State Research and Extension - Smith Lever Act / CFDA # 10.500]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : We agree with the auditors' conclusion that a detailed justification for the sole sourcing of this purchase is not available. We will work with the program staff to obtain further justification for this contract and attempt to resolve the questioned cost with the grantor agency.

Recommendation 16 : *Period of Availability of Federal Funds* - NMC should take steps to document the validity of the carried forward balances and obtain approval of the carry forward from the federal grantor agency. [Cooperative Research and Extension Programs / Smith - Lever / CFDA # 10.500]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 & FY2002 Single Audits

Agency Response/ Corrective Action Plan : We concur with the finding that the carryover amount for the Smith-Lever fund may not be accurate. NMC has met with USDA officials and has requested copies of prior financial years reports submitted by the College for these grants. On receipt of these reports, the College will review the grant award, cash draw downs, and expenditures of the fund from the first year of the grant up to the current year to recompute the carryover amount and obtain concurrence as to the accuracy of such from the grantor agency.

Recommendation 17 : *Cash Management* : NMC should establish policies and procedures to ensure compliance with cash management requirements concerning refunds of credit balances. [Federal Pell Grant Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant / CFDA #s 84.063, 84.033 and 84.007]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 & FY2002 Single Audits

Agency Response/ Corrective Action Plan : We concur with the finding. The Finance Office normally credits a student's account for the amount of Title IV funds used to cover his or her tuition, fees, and other authorized charges upon receipt of such information from the Financial Aid office. Student accounts are immediately credited to ensure that their accounts are up to date to avoid any problems they may have with future registration for courses at the College. After students' accounts have been credited, funds were to be drawn down under the Title IV grant. A portion of such funds were to be used to refund students for the amount that their Title IV funds exceeded their tuition, fees, and other authorized charges. However, during fiscal year 2001, the drawdowns were made at a date much later than the date students' accounts were credited. This was

attributed to internal delays in processing the draw down requests caused by the lack of sufficient staff handling student accounts receivable and accounts payable. Accordingly, the delay in the draw down of funds resulted in the delay in processing of student refunds. Obviously, the College cannot issue refund checks to students if the funds have not been drawn down. This situation continued into fiscal years 2002 and 2003. The College is working on improving its Title IV drawdown and student refund procedures to ensure that it complies with federal regulations.

Recommendation 18 : *Matching Level of Effort, and/or Earmarking* : NMC should establish policies and procedures to ensure compliance with grantor requirements or obtain waiver from the Secretary. [SFA - Federal Work-Study Program / CFDA # 84.033]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : We concur with the finding. As noted in the finding, due to lack of transportation on students' part and preference of students' to work on campus none were employed in community service activities. The College will continue to work with our students to comply with this provision of the grant.

Recommendation 19 : *Subrecipient Monitoring* : NMC should establish policies and procedures to ensure compliance with subrecipient monitoring requirements. [TRIO - Upward Bound / CFDA # 84.047A]

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 & FY2002 Single Audits

Agency Response/ Corrective Action Plan : We concur with the finding. The College has communicated with the President of American Samoa Community College for a copy of its audit report for the relevant period. A copy of the response is provided and such indicates that the audit is currently underway and expected to be completed in this fiscal year. Such will be obtained as soon as it is completed.

Recommendation 20 : *Equipment and Real Property Management - All Federal Programs* : NMC should establish policies and procedures to ensure compliance with federal property management standards.

Agency to Act : Northern Marianas College

Current/Prior Year Status : Unresolved - Outstanding Since FY2001 & FY2002 Single Audits

Agency Response/ Corrective Action Plan : We concur with the finding. The Procurement and Property Management Office (PPMO) is responsible for maintaining property records and for performing a

physical inventory count each year. The property records are maintained in a database but such information is incomplete. Furthermore, the office lacks sufficient staff to adequately perform a complete physical inventory count. The College is currently exploring the purchase of a software program to track its fixed assets and is compatible with the College's current fund accounting software. Due to financial constraints the software will not be purchased until financial 2005. However a physical inventory of College assets is currently underway and expected to be completed by the end of financial year 2004.

Public School System

Status of Prior Year Audit Findings:

In the Annual Financial & Compliance Audit of PSS for FY2003, a summary schedule showing the status of prior year audit findings for FYs1998 through 2002 were reported as presented below. (Details of the prior year audit findings can be obtained upon request from OPA).

FY2002 - Of the 22 audit recommendations issued, 13 were resolved and 9 were still unresolved. Of the 9 recommendations unresolved, 4 were repeated as audit findings in the FY2003 audit of PSS.

FY2001 - Of the 25 audit recommendations issued, 15 were resolved and 10 were still unresolved. Of the 10 recommendations unresolved, 4 were repeated as audit findings in the FY2003 audit of PSS.

FY2000 - Of the 25 audit recommendations issued, 18 were resolved and 7 were still unresolved. Of the 7 recommendations unresolved, 5 were repeated as audit findings in the FY2003 audit of PSS.

FY1999 - Of the 35 audit recommendations issued, 32 were resolved and 3 were still unresolved. Of the 3 recommendations unresolved, 1 was repeated as an audit finding in the FY2003 audit of PSS.

FY1998 - Of the 42 audit recommendations issued, 36 were resolved and 6 were still unresolved. Of the 6 recommendations unresolved, 1 was repeated as an audit finding in the FY2003 audit of PSS.

Annual Financial and Compliance Audit in Accordance with OMB-A-133 Fiscal Years Ended September 30, 2003 and 2002 Conducted By J. Scott Magliari & Company

Date(s) of followup letter(s) sent : 9/21/04, 10/15/04 (Magliari re: PSS response)

Date(s) of response letter(s) received : 10/6/04

Recommendation I	:	<i>Special Tests & Provisions</i> - PSS should develop an internal control system that would specify the detailed procedures in carrying out the programs under this grant. Also, an individual assigned to take charge of the monitoring that will ensure that the purposes and objectives of this grant are met. [Consolidated Grants to Insular Areas/CFDA No. 84.922A]
Agency to Act	:	Public School System
Current/Prior Year Status	:	Unresolved - Outstanding since FY2000 Single Audit
Agency Response/ Corrective Action Plan	:	PSS concurs. PSS have recently hired a Federal Monitoring Officer whose services will be dedicated in evaluating the effectiveness of the different programs and ensuring their adherence to the procedures prescribed by the Secretary of Education. An employment contract will be provided for review to validate the corrective action taken. The Federal Monitoring Officer will begin employment with PSS on May 3, 2004.

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- Recommendation 2** : *Special Tests & Provisions* - PSS should adopt a system that will ensure compliance with the grant terms and conditions. [Consolidated Grants to Insular Areas/CFDA No. 84.922A]
- Agency to Act** : Public School System
- Current/Prior Year Status** : Unresolved - Outstanding since FY2001 Single Audit
- Agency Response/ Corrective Action Plan** : PSS concurs. Accurate inventory of materials sent to the private schools in prior years was non-existent given the difficulty of employing a full-time trained Federal Monitoring Officer. With the employment of the Monitoring Officer, this non-compliance will be rectified with a rigorous system that will document, monitor and evaluate the activities of the grantee agencies.
-
- Recommendation 3** : *Special Tests & Provisions* - PSS should develop an effective internal control system that would assist them in meeting the goals and objectives of the program grants as required by the Federal grant. [Special Education Program/CFDA No. 84.027]
- Agency to Act** : Public School System
- Current/Prior Year Status** : Unresolved
- Agency Response/ Corrective Action Plan** : PSS concurs. A CSPD Coordinator was recently hired to implement the activities and objectives of the Comprehensive System of Personnel Development for the Special Education Program. The CSPD Coordinator submitted a detailed report of CSPD activities to the auditor on March 5, 2004. Not listed in the report is the recruitment of an off-island Special Education School Counselor, and on-island Special Education Teacher.
-
- Recommendation 4** : *Special Tests & Provisions* - The Special Education Program should update and make the necessary changes on documenting its plans and programs identified in the State Plan. [Special Education Program/CFDA No. 84.027]
- Agency to Act** : Public School System
- Current/Prior Year Status** : Unresolved - Outstanding since FY2000 Single Audit
- Agency Response/ Corrective Action Plan** : PSS agrees with the finding. The FY2004 Eligibility Document (State Plan) will be updated to correct and resolve this finding. In addition, PSS already drafted and signed a Memorandum of Agreement with the Division of Youth Services.
-
- Recommendation 5** : *Special Tests & Provisions* - PSS should ensure that the MOA be properly endorsed by all related parties to make it official. Thus, each eligible recipient will then be receiving the necessary services they are entitled to. [Headstart Program/CFDA No. 93.600]

Agency to Act : Public School System

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : The MOA is currently with the Northern Marianas College for signature. PSS has already followed up and asserts that the MOA will be signed by the related parties to speed up the implementation of the comprehensive health program as required by the Headstart program.

Recommendation 6 : *Special Tests & Provisions* - PSS should ensure that all Headstart centers be properly inspected to ensure that the centers are in compliance with the local and federal requirements. [Headstart Program/CFDA No. 93.600]

Agency to Act : Public School System

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : PSS agrees with the finding. The Fire Division of the Department of Public Safety conducted a follow-up fire safety inspection of the nine Headstart centers in Saipan on March 15th and 16th of 2004. The Tinian Headstart was previously inspected on last October 15, 2003.

Recommendation 7 : *Special Tests & Provisions* -PSS should ensure that all Headstart facilities meet the fire safety standard requirements of the Department of Public Safety to avoid any potential accident. [Headstart Program/CFDA No. 93.600]

Agency to Act : Public School System

Current/Prior Year Status : Unresolved

Agency Response/ Corrective Action Plan : Based on the follow-up fire safety inspection conducted by the Fire Division of the Department of Public Safety, an approved disposition in accordance with the Uniform Fire Code was granted to the nine Headstart centers in Saipan per reports dated March 15th and 15th of 2004. For the Tinian Headstart Center, a fire safety certification was issued on October 15, 2003 stating that the center has met the fire safety requirements as set forth by Public Law 1-8.

Recommendation 8 : *Special Tests & Provisions* -PSS should take an immediate corrective action for the cited violations and ensure that all Headstart facilities meet the standard requirements of the Bureau of Health and that they comply with the Federal regulations. [Headstart Program/CFDA No. 93.600]

Agency to Act : Public School System

Current/Prior Year Status : Unresolved

Agency Response/

Corrective Action Plan : A contract for preventive maintenance and repair work of all the Saipan Headstart facilities was awarded to System International Construction under purchase order numbers 28995 OL and 29434 OL. The scope of work addresses the deficiencies and violations cited by the Division of Public Health and Department of Public Safety. All Headstart Centers are now staffed with qualified coordinators who are tasked with overseeing the daily operation of the centers and ensuring total compliance with the local and federal requirements.

APPENDIX A**Acronyms Used**

AGIU	Attorney General's Investigative Unit
AGO	Office of the Attorney General
AR	Audit Report
BMPLA	Board of Marianas Public Lands Authority
BOE	Board of Education
BOELEC	Board of Election
BOT	Board of Trustees
BPL	Board of Public Lands
C&C	Credit & Collection
CDA	Commonwealth Development Authority
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
CGECU	Commonwealth Government Employees Credit Union
CHC	Commonwealth Health Center
CI Fund	Confidential Informant Fund
CIP	Capital Improvement Projects
CMC	Commonwealth Code
CMS-64	Quarterly Statement of Expenditures for the Medical Assistance Program
CNMI	Commonwealth of the Northern Mariana Islands
CNMI-PR	Commonwealth of the Northern Mariana Islands Procurement Regulations
CPA	Certified Public Accountant
CPA	Commonwealth Ports Authority
CSC	Civil Service Commission
CSPD	Comprehensive System of Personnel Development
CU	Certification Unit
CUC	Commonwealth Utilities Corporation
CWIP	Construction Work in Progress
DCCA	Department of Community and Cultural Affairs
DCD	Development Corporation Division
DFW	Division of Fish and Wildlife
DLI	Department of Labor and Immigration
DLNR	Department of Lands & Natural Resources
DOC	Department of Commerce
DOF	Department of Finance
DOI	Department of the Interior
DOL	Department of Labor
DOLI	Department of Labor and Immigration
DPH	Department of Public Health
DPL	Division of Public Lands
DPS	Department of Public Safety

DPW	Department of Public Works
EMO	Emergency Management Office
FAA	Federal Aviation Administration
FASB	Financial Accounting Standards Board
FLSA	Fair Labor Standards Act
FMS	Financial Management System
FNS	Food and Nutrition Service
FTE	Full Time Employment
FY	Fiscal Year
GASB	Government Accounting Standards Board
GHI	Government Health Insurance
GOV	Office of the Governor
HOUSEREP	House of Representatives
HRPP	Human Resources Policies and Procedures
HUD	U.S. Department of Housing and Urban Development
IAU	Issuance & Accountability Unit
IDIS	Integrated Disbursement & Information System
LEGBUREAU	Legislative Bureau
LIBCOUNCIL	Library Council
LT	Letter Report
MEU	Management Evaluation Unit
MHS	Marianas High School
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MPLA	Marianas Public Lands Authority
MPLC	Marianas Public Land Corporation
MPLT	Marianas Public Land Trust
MVA	Marianas Visitors Authority
MVB	Marianas Visitors Bureau
NAP	Nutrition Assistance Program
NIMO	Northern Islands Mayor's Office
NMC	Northern Marianas College
NMHC	Northern Marianas Housing Corporation
NMIRF	Northern Mariana Islands Retirement Fund
OMB	Office of Management and Budget
OPA	Office of the Public Auditor
OPL	Office of Public Lands
OPM	Office of Personnel Management
P&S	Procurement & Supply
PDO	Public Defender's Office
PFC	Passenger Facility Charges
PIEI	Pacific Islands Education Initiative
PMS-272	Report of Federal Cash Transactions
PPMO	Procurement and Property Management Office
PSS	Public School System
R&R	Retailer & Redemption

RIF	Reductions-in-force
RFP	Request for Proposals
RHC	Rota Health Center
RMC	Rota Municipal Council
RMO	Rota Mayor's Office
SAA	Special Assistant for Administration
SF	Standard Form
SFA	Student Financial Aid
SMC	Saipan Municipal Council
SMO	Saipan Mayor's Office
SOF	Secretary of Finance
SPMC	Supreme Court
SPRC	Superior Court
SSI	Supplemental Security Income
TA	Travel Authorization
TCGCC	Tinian Casino Gaming Control Commission
TMC	Tinian Municipal Council
TMO	Tinian Mayor's Office
TRIO	Educational Opportunity for Low-Income and Disabled Americans
TV	Travel Voucher
US	United States
USDA CSREES	U.S. Department of Agriculture, Cooperative State Research and Extension Service
W-4	Employee's Withholding Allowance Certificate
WASC	Western Association for Schools and Colleges
WRO	Washington Representative's Office

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