



# Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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## MEMORANDUM

DATE: July 31, 2015

FOR PUBLIC RELEASE PURSUANT TO 1 CMC § 8561(j)

FROM: Ashley Kost, Legal Counsel  
CNMI Office of the Public Auditor

Signature: *Ashley Kost* Date: 9/8/15

REVIEWED BY: Michael Pai, Public Auditor  
CNMI Office of the Public Auditor

Signature: *Michael Pai* Date: 9/8/15

### Subject: Government Ethics Code Advisory Opinion 2015-02

On June 4, 2015, the CNMI Office of the Public Auditor (“OPA”) received a request for an advisory opinion as to whether a particular set of facts would constitute a violation of the CNMI Government Ethics Code Act of 1992 (“the Ethics Act”). OPA is empowered to offer advisory opinions by statute,<sup>1</sup> however it is not authorized to offer general opinions regarding the potential illegality of certain actions under other sections of the CNMI Code. Therefore, this opinion will be confined to whether or not the particular facts as presented in the aforementioned request would constitute a violation of the Ethics Code.

The situation presented involves an agency of a the Taiwanese government inviting representatives from the CNMI and Guam for a legislative delegation trip to their country in order to receive “the latest information about the political and economic development” in Taiwan and “to find out if there are any opportunities of cooperation in agriculture, animal husbandary, aquaculture and gardeninghorticulture.”<sup>2</sup> The agency would be providing travel expenses including flights and accommodation for the trip. The CNMI legislature does not directly regulate or do business with this specific foreign government agency.

The CNMI Government Ethics Code contains a provision for reasonable hosting that would allow for “travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official Commonwealth business, if furnished by the sponsor of such public event.”<sup>3</sup> In this

<sup>1</sup> 1 CMC § 8561(j)

<sup>2</sup> sic

<sup>3</sup> 1 CMC § 8551(e)(4)

situation, the purpose of the legislative delegation is to foster a relationship between the CNMI and a foreign government, in this case Taiwan. Representatives on the legislative delegation would be appearing on behalf of the CNMI for official Commonwealth business. An agency of the Taiwanese government is sponsoring the trip and would be paying for travel expenses connected to the trip. These expenses would constitute reasonable hosting under the Government Ethics Code.

While the situation presented here is similar to that which resulted in a previous ethics opinion issued by OPA dated June 3, 2015, a significant factual distinction leads to a different conclusion here. Specifically here, the members of the CNMI Legislature invited to attend this trip are not in a position to regulate the entity that is providing the travel and lodging expenses. Instead of a local company providing these expenses, a foreign government is providing them. This distinction eliminates the potential public perception of a "quid pro quo" situation that exists when a company subject to regulation by the CNMI Legislature provides such travel and lodging expenses.

However, the CNMI Government Ethics Code states that "[n]o person shall give or offer to give to any public official...and none of them shall accept, anything of value, including, but not limited to, a gift, favor or promise of future employment, based upon any explicit or implicit mutual understanding that the votes, official actions, decisions or judgments of any official...concerning the business of the Commonwealth would be influenced thereby." The representatives should be mindful of this provision and be sure not to let this trip influence their judgment on any future decisions they may need to make in their official capacity.

In conclusion, it is the opinion of OPA that the stated expenses related to this legislative delegation would constitute reasonable hosting allowable under the CNMI Government Ethics Code as long as the representative do not let this trip influence their judgement on any future decisions.