

Office of the Public Auditor
Commonwealth of the Northern Mariana Islands

**Report on CNMI Agencies'
Implementation of
Audit Recommendations
As of December 31, 2014**



Michael Pai, Public Auditor

Executive Summary

Report on CNMI Agencies' Implementation of Audit Recommendations,

As of December 31, 2014

Report No. TR-14-02, July 15, 2015

Background

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

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.

The Coordinating Group has not met since 2000. However, OPA has been issuing follow-up letters, email messages, and/or contacting agencies with outstanding recommendations to request for information on corrective actions taken to implement OPA's audit recommendations. When requested, OPA staff meets with agency officials to discuss and clarify actions required to address OPA's audit recommendations. This report incorporates agency responses to OPA's follow-up emails or documents obtained by OPA on or before June 16, 2015. In accordance with statutory restrictions in the Auditing and Ethics Acts, the names of individuals are not disclosed in OPA's Audit Recommendation Tracking Report.

Classification of OPA Audit Recommendations

OPA recommendations are classified as either *open*, *resolved*, or *closed*. Open and resolved recommendations are included in OPA's Audit Recommendation Tracking Report.

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 OPA has withdrawn it. Also, OPA classifies open and resolved recommendations as *delinquent* if the recommendation has been outstanding for at least 180 days and OPA has not been informed by the concerned agency or department of any action being taken to close the recommendations.

Status of OPA Audit Recommendations

OPA tracked 40 audit recommendations during calendar year 2014. Of the 40 audit recommendations, one was closed and 39 remained either open or resolved. Of the 39 open or resolved recommendations, 38 were considered delinquent.

The table below presents the status of OPA's audit recommendations as of December 31, 2014.

Status of Audit Recommendations	2014
Total Recommendations Tracked	40
Less: Closed Recommendation(s)	(1)
Outstanding Recommendations (Open or Resolved)	39
Number of Delinquent Recommendations	38

Closed Recommendations

OPA closed one of the 40 audit recommendations tracked in 2014.

Delinquent Recommendations

The number of delinquent recommendations increased by eight (26%) from 30 in 2013 to 38 during calendar year 2014. Agencies with delinquent recommendations include the Office of the Attorney General (AGO), Commonwealth Ports Authority, Department of Finance (DOF), Department of Public Lands, Northern Mariana Islands Retirement Fund, and the Senate. The recommendations addressed to these agencies were classified as delinquent as OPA was not informed by these agencies within the last 180 days of any corrective action taken to implement OPA's recommendations.

Potential Recovery of \$2.6 Million Referred to the AGO & DOF

As of December 31, 2014, audit recommendations in seven audit reports were referred to the AGO for legal action to recover monies improperly expended. According to these seven audit reports, approximately \$2.6 million is potentially recoverable. The AGO did not provide OPA with updates on these referral cases during OPA's follow-up process, therefore, the amount potentially recoverable remains unchanged.

Potential Recovery of \$3.5 Million Depend on Agencies' Action

OPA identified potential recoveries of approximately \$3.5 million in eight audit reports addressed to various agencies. During its semi-annual follow-up process for the period covering July 1, 2014 through December 31, 2014, OPA did not receive updates from the AGO and DOF.

Of the \$4,726,434 identified as potentially recoverable, \$1,054,605 has been partially recovered and \$107,582 is no longer recoverable leaving a balance of \$3,564,247 still recoverable as of December 31, 2014.

Independent Auditor's Recommendations

OPA also includes in its Audit Recommendation Tracking Report a total of 117 recommendations from 11 recent audit reports issued by private CPA firms.



Office of the Public Auditor

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July 15, 2015

Interagency Audit Coordinating Advisory Group
Saipan, MP 96950

Re: Report on CNMI Agencies' Implementation of Audit Recommendations
as of December 31, 2014 (with agency responses up through June 16, 2015 incorporated)

Dear Interagency Audit Coordinating Advisory Group:

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 December 31, 2014. OPA tracked 40 audit recommendations during calendar year 2014.

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 December 31, 2014, there were 117 recommendations from 11 recent audit reports issued by private CPA firms.

Although the Coordinating Group members did not meet during in 2014, OPA again sent follow-up emails and/or called various government agencies with outstanding audit recommendations as of December 31, 2014. This report incorporates agency responses to follow-up emails/letters received or documents obtained by OPA on or before June 16, 2015. The number of delinquent recommendations increased by 26% as of December 31, 2014.

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

Sincerely,

Michael Pai, CPA
Public Auditor

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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.

The Coordinating Group has not met since 2000. However, OPA has been issuing follow-up letters semi-annually to agencies with outstanding recommendations to request information on actions taken to address its recommendations. OPA also calls and sends email messages to encourage agencies to respond to the follow-up letters. When requested, OPA staff meets with agency officials to discuss and clarify the actions required to address OPA's 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.

This report incorporates agency responses to follow-up letters/emails that OPA received or documents obtained by OPA on or before June 16, 2015. In accordance with statutory restrictions in the Auditing and Ethics Acts, the names of individuals 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. In addition, 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 CPA firms that 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 during calendar year 2014 totaled 40. Of the 40 audit recommendations, one was closed and 39 remained either open or resolved. Of the 39 open or resolved recommendations, 38 were considered delinquent.

The following table represents a comparative schedule of the status of all our audit recommendations for calendar years 2012, 2013, and 2014.

Status of Audit Recommendations	2012	2013	2014
Total Recommendations Tracked for the Year	34	33	40
Less: Closed Recommendation	(1)	(1)	(1)
Outstanding Recommendations, End of Year (Open or Resolved)	33	32	39
Number of Delinquent Recommendations	25	30	38

Closed Recommendations

One of the 40 audit recommendations which OPA tracked, one was closed during calendar year 2014.

Delinquent Recommendations

Delinquent recommendations increased by eight (26%) from 30 in 2013 to 38 during calendar year 2014.

Year	2012	2013	2014
1995	1	2	2
1996	1	1	1
1997	4	4	4
1998	2	2	2
1999	3	3	3
2000	3	6	6
2001	0	0	0
2002	1	1	1
2003	2	2	5
2005	8	9	7
2014	0	0	7
Total	25	30	38

Below is the aging of the 38 delinquent recommendations issued in years 1995 to 2014:

Agency to Act	1995	1996	1997	1998	1999	2000	2001	2002	2003	2005	2014	Total
1. Attorney General's Office			2		3	3		1	1			10
2. Commonwealth Ports Authority										1		1
3. Department of Finance	1	1	2	2					1	5	7	19
4. Department of Public Lands	1					2				1		4
5. Northern Mariana Islands Retirement Fund						1						1
6. Senate									3			3
Number of Delinquent Recommendations	2	1	4	2	3	6	0	1	5	7	7	38

Independent Auditor's Report

OPA has included in the tracking report 117 recommendations from 11 recent audit reports released by private CPA firms.

OPA would like to recognize the Commonwealth Development Authority (CDA), Marianas Public Land Trust (MPLT), and the Marianas Visitors Authority (MVA) for having no reportable audit finding in their Annual Financial and Compliance audit report for fiscal year ended September 30, 2014. These audits were conducted by private CPA firms. This is a noteworthy accomplishment for CDA, MPLT, and MVA. OPA appreciates the dedication and hard work carried out by these agencies in improving its operation and eliminating the repetition of prior year audit findings.

AGO & DOF Action Needed for Recovery of Approximately \$2,620,000

As of December 31, 2014, recommendations in seven audit reports were referred to the Office of the Attorney General (AGO) for legal action to recover monies improperly expended.

The following table presents a listing of AGO & DOF referral recommendations involving recovery of funds in which approximately \$2,610,270 is potentially recoverable.

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per AGO
1 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 will conduct further review and will provide OPA the results of its review.
2 AR-98-06 (12/14/98)	DOF - Funds misused by the former Secretary of Finance during fiscal years 1995 to 1997.	56,462	AGO provided OPA the results of its review on 2/8/12 and concluded that the Financial Litigation Unit (FLU) of the U.S. Attorney's Office for the Districts of Guam and the Northern Mariana Islands is actively collecting restitution from the former Secretary of Finance. The Attorney General recommends that the Commonwealth not duplicate the efforts of the FLU. The AG also stated that the filing and maintenance of a civil action at this time is not appropriate. Thus, the collection of approximately \$75,000 is reduced to \$56,461.98. OPA will re-direct this recommendation to DOF to monitor the collection of the \$56,461.98 restitution from the former Secretary of Finance until it is fully recovered.
3 AR-99-02	WRO - Recovery of the balance	2,200	AGO to follow-up with the Secretary

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per AGO
(3/29/99)	of a loan receivable made to a CNMI constituent by the former Washington Representative.		of Finance to see if payments have been made.
4 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.	739,346	AGO will conduct further review and will provide OPA the results of its review.
5 AR-99-04 (10-28-99)	CNMI - Overpayments of professional services contracts. Balance of overpayments totaling \$1,315,102 re-directed to AGO of which \$8,302 is immediately recoverable and \$1,306,800 is recoverable if adequately supported.	1,315,102	AGO will conduct further review and will provide OPA the results of its review.
6 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. A decision issued by the United States District Court, reduced the amount for restitution.	100,000	AGO will follow-up with the federal court regarding the payment of the restitution and will provide OPA with the results of their follow-up.
7 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 \$14,747.	392,178	AGO will conduct further review and will provide OPA the results of its review.
Total Amount Recoverable		<u>\$2,610,270</u>	

OPA Referrals to AGO for Legal Determinations

OPA also referred to the AGO recommendations in 2 audit reports requesting legal determinations as follows:

- *Audit of the Compensatory Time Claimed and Retirement Benefits Paid to Two Former Officials of the Commonwealth Ports Authority* [Report No. AR-00-03 issued on July 20, 2000] - On December 24, 2002, OPA referred recommendation 1 of this audit report to the AGO requesting for a determination on the 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. In addition, the AGO was requested to review OPA's opinion regarding granting six designated officials 14 annual leave hours per pay period.

Potential Recovery of \$3.5 Million Hinges on Agencies' Actions

Recommendations in 8 audit reports identified potential recoveries due to unpaid rentals of land leases, uncollected labor processing fees, overpayments in professional services contracts and retirement benefits, and improper expenditures of public funds.

During its semi-annual follow-up process for the period covering July 1, 2014 through December 31, 2014, OPA did not receive a response from the Attorney General's Office and the Department of Finance.

Of the \$4,726,434 identified as potentially recoverable, \$1,054,605 has been partially recovered and \$107,582 is no longer recoverable leaving a balance of \$3,564,247 still recoverable as of December 31, 2014 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	\$896,747 was recovered from seven quarry operators. Due to incomplete ledgers provided to OPA on 5/19/11, OPA was unable to ascertain total amount collected from Quarry Operator A and F as of May 2011.
2 AR-05-02 (6/6/05)	DOL - Audit of Controls Over the Nonresident Worker Application Process. Amount recoverable consists of uncollected fees of \$330,835 from Company A and \$181,575 from Company B.	512,410	The on-going investigation is nearly complete. The Secretary of Labor will keep OPA apprised of any new developments.
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. Overpayment from one former CPA official totaling \$69,816.17 was fully recovered by NMIRF. Therefore, recovery of \$126,730 is reduced to \$56,913.83.	126,730	Recoupment of one former CPA official's benefits will commence if and when re-employed by the government. For the other former CPA official, NMIRF has fully recovered \$69,816.17 in overpayment for the period covering March 2008 through February 2010. NMIRF has determined that it will not pursue any type of collection on the remaining overpayment of \$56,913.83 as the affected former CPA official is deceased and the six-year statute of limitation has ran.
4 AR-95-18 (10/10/95)	MPLA - Double payment of travel expenses and overpaid per diem allowances as of FY95 totaled \$115,862.33 as follows: Former Board Chairman, \$27,743.74 (principal plus interest); former Rota board member, \$71,289.14 (principal	174,308	

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per Agency																				
	<p>plus interest); and former Tinian board member \$16,829.45 (principal only).</p> <p>Amount recoverable from the former Tinian Board Member was reduced to \$11,657 pursuant to a court order thereby reducing the recoverable balance to \$110,689.88.</p> <p>As of 10/28/04, \$11,657 was fully recovered from the former Tinian Board Member.</p> <p>Amount recoverable from the former Board Chairman as of 4/11/11 is \$51,257.41 (principal plus interest)</p> <table border="0"> <tr> <td>Principal</td> <td>\$14,110.00</td> </tr> <tr> <td>Interest</td> <td><u>43,072.44</u></td> </tr> <tr> <td></td> <td>\$57,182.44</td> </tr> <tr> <td>Payments</td> <td><u>(5,925.00)</u></td> </tr> <tr> <td>Balance</td> <td><u>\$51,257.41</u></td> </tr> </table> <p>Amount recoverable from the former Rota Board member as of 6/24/11 is \$50,668.08 (principal plus interest);</p> <table border="0"> <tr> <td>Principal</td> <td>\$31,096.00</td> </tr> <tr> <td>Interest</td> <td><u>74,372.08</u></td> </tr> <tr> <td></td> <td>\$105,468.08</td> </tr> <tr> <td>Payments</td> <td><u>(54,800.00)</u></td> </tr> <tr> <td>Balance Due</td> <td><u>\$50,668.08</u></td> </tr> </table>	Principal	\$14,110.00	Interest	<u>43,072.44</u>		\$57,182.44	Payments	<u>(5,925.00)</u>	Balance	<u>\$51,257.41</u>	Principal	\$31,096.00	Interest	<u>74,372.08</u>		\$105,468.08	Payments	<u>(54,800.00)</u>	Balance Due	<u>\$50,668.08</u>		<p>Former Tinian Board Member: On 9/29/06, OPA was provided the former Tinian Board member's account ledger showing that the \$11,657 was fully paid as of 10/28/04.</p> <p>Former Board Chairman: \$5,925 of \$57,182.44 (P+I) was partially recovered as of 4/11/11;</p> <p>Former Rota Board Member: \$54,800 of \$105,468.08 (P+I) was partially recovered as of 6/24/11;</p> <p>At the recommendation of the AAG and concurrence of DPL, any and all outstanding balance owed by the former Rota board member has been discharged. Thus, DPL will no longer pursue any type of collection from the former Rota board member.</p>
Principal	\$14,110.00																						
Interest	<u>43,072.44</u>																						
	\$57,182.44																						
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Payments	<u>(54,800.00)</u>																						
Balance Due	<u>\$50,668.08</u>																						
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 \$14,000 leaving a balance of \$81,900 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	\$1,125 partially recovered from the former Secretary of Finance.																				
	On 2/22/01, the Federal Court ordered the Secretary of Finance to pay \$56,462 in restitution.																						

Report No. (Issue Date)	Particulars	Amount Recoverable	Status per Agency
7 AR-97-05 (3/20/97)	CNMI - Overpayment to contractors on four professional services contracts (Contract nos. C40276, C50083, C50132 & C50208) audited covering the period October 1, 1991 to July 20, 1995. Overpayments on C40276 totaling \$10,000 was fully recovered by OMB. Therefore, recovery of \$25,079 is reduced to \$15,079.	15,079	DOF is consulting with AGO as to the appropriate course of action(s) that can be taken considering lack of supporting documents and the statute of limitations on these claims.
8 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		\$4,726,434	
Less: Partial Recoveries		(1,054,605)	
Less: Unrecoverable		(107,582)	
Balance of Amount Recoverable as of 12/31/14		<u>\$3,564,247</u>	

Executive Branch Offices and Departments

Office of the Attorney General

Department of Finance

Department of Public Lands

Department of Public Safety

Office of the Attorney General

Report No. AR-97-06 issued April 23, 1997
Rota Health Center (RHC) Director's Claims Against the RHC

Date(s) of follow-up letter(s) sent : 6/23/97, 7/16/97, 2/2/98, 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 (Re-directed to 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), 2/15/05 (AGO) (DOF), 8/9/05 (AGO), 3/10/06, 9/26/06, 2/7/07, 9/4/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/8/15

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), 3/7/05 (DOF request for extension), 3/18/05 (DOF), 9/1/05 (AGO), 6/2/08 (meeting with AGO), 12/1/09 (meeting with AGO), 6/4/12 (AGO)

Recommendation 1 : *Original:* The Secretary of Finance should require the current Director of RHC to return the amount of \$4,282.02 taken from 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 - Delinquent

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 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.

In her letter response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case.

On 6/2/08, OPA met with the Attorney General. The Attorney General advised OPA that AGO Civil Division will review the file and decide whether this is an appropriate case to test never-ending statute of limitation for the sovereignty.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will conduct further review and will provide a letter documenting AGO's decision on the matter.

In his letter response dated 6/4/12, the Attorney General informed OPA that "AGO is currently reviewing the recommendation and will be preparing a legal memorandum as to the viability of the collection due to the statute of limitations, costs involved in litigation, and collectability (sic) of the former RHC director."

**Additional Information
or Action Required**

: AGO should inform OPA whether it will pursue legal action for recovery.

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 the Attorney General's Office

Status

: Resolved – Delinquent

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 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.

In her letter response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case.

On 6/2/08, OPA met with the Attorney General. The Attorney General advised OPA that AGO Civil Division will review the file and decide whether this is an appropriate case to test never-ending statute of limitation for the sovereignty.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will conduct further review and will provide a letter documenting AGO's decision on the matter.

In his letter response dated 6/4/12, the Attorney General informed OPA that "AGO is currently reviewing the recommendation and will be preparing a legal memorandum as to the viability of the collection due to the statute of limitations, costs involved in litigation, and collectability (sic) of the former RHC director."

Additional Information

or Action Required : AGO should inform OPA whether it will pursue legal action for recovery.

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 follow-up letter(s) sent : 11/29/99 (DOF), 7/11/00, 1/24/01, 8/22/01, 3/4/02, 8/9/02, 2/18/03, 8/4/03, 4/14/04, 9/28/04, 2/15/05, 8/8/05, 3/13/06, 4/28/06 (Re-directed to AGO), 9/26/06 (AGO), 2/7/07, 9/4/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 12/10/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/8/15

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), 3/7/05 (DOF request for extension), 3/18/05 (DOF),

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.

As Revised and Redirected to AGO: AGO should determine appropriate legal action to be taken to recover the \$2,200 reimbursement for the loan receivable from the former Resident Representative.

Agency to Act : Washington Representative's Office - Redirected to the Attorney General's Office

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.

In his letter dated 3/18/05, the Secretary of Finance stated that the Director of Finance and Accounting had issued a letter to the former Washington Representative on 2/7/03 requesting verification on the total amount already paid pursuant to the audit. DOF has not received a response from the former Washington Representative. DOF will be sending another letter concerning the outstanding balance. DOF will be updating OPA on the status of the outstanding balance upon receipt of a response to their latest letter.

In his letter response dated 4/18/06, the Secretary of Finance informed OPA that the current balance of the loan receivable is \$2,200. He stated that they have not received any additional payments from the former Washington Representative since their last update. The Secretary provided OPA with a copy of the last notice sent out

regarding this matter. On 4/28/06, OPA forwarded this to the AGO requesting that they pursue recovery of the remaining balance due from the former Washington Representative.

On 6/2/08, OPA met with the Attorney General. The Attorney General advised OPA that the AGO will follow-up with the Secretary of Finance to see if payments have been made.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will send a letter to the former Washington Representative concerning the outstanding balance. On 12/10/09, OPA provided AGO a copy of OPA's Audit Report AR-99-05, a copy of the promissory note for the \$2,500 loan, and copies of correspondences received pertaining to the former Washington Representative.

On 6/4/12, the Attorney General informed OPA that AGO have gathered some of the relevant documents, and will continue to collect from the original borrower. AGO will prepare a legal memorandum as to the viability of collection through litigation taking into account any issues with the statute of limitations and the amount to be collected.

**Additional Information
or Action Required:**

The AGO should inform OPA of their progress in their attempt to recover the remaining balance due from the former Washington Representative.

**Report No. AR-99-03 issued April 7, 1999
Audit of Consultant's Contract
Fiscal Year 1997**

Date(s) of follow-up letter(s) sent : 1/5/00 (AGO), 7/12/00, 1/17/01, 8/21/01, 8/12/02, 10/3/02, 2/14/03, 8/4/03, 10/27/03, 4/13/04, 9/21/04, 2/15/05, 8/9/05, 3/10/06, 9/26/06, 2/7/07, 9/4/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/8/15

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, 4/30/04, 10/25/04, 9/1/05, 6/2/08 (meeting with AGO), 12/1/09 (meeting with AGO), 6/4/12

Recommendation 1 : *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 – Delinquent

Agency Response

: In his 3/9/01 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.

In her letter response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case. The Attorney General further stated that a memo from an Acting Attorney General dated 3/23/05 indicated that DOF was contacted in January 2005 requesting documentation of payments made to the Gaming Commission and payments made to other entities. She also stated that the case is still pending as the DOF is still trying to locate the documents.

On 6/2/08 OPA met with the Attorney General. The Attorney General advised OPA that the AGO Civil Division will check to see if a civil case has been filed against the consultant to recover the overpayment and the three other individuals for breach of fiduciary trust.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will conduct further review and will provide a letter documenting AGO's decision on the matter.

On 6/4/12, the Attorney General informed OPA that AGO is currently investigating the results of the civil actions referenced above and any related collection efforts. AGO will advise OPA as to the most effective and efficient way to proceed.

**Additional Information
or Action Required**

: The AGO should inform OPA the results of its review.

**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 follow-up 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), 2/15/05 (DOF), 8/9/05 (Re-directed to AGO), 3/10/06, 9/26/06, 2/7/07, 9/4/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/8/15

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), 3/7/05 (DOF request for extension), 3/18/05 (DOF), 9/1/05 (AGO), 6/2/08 (meeting with AGO), 12/1/09 (meeting with AGO), 6/4/12 (AGO)

Recommendation 7 : *Original:* 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.

Of the \$87,096.02 which is immediately recoverable: \$61,794.07 has already been recovered (C50305, C60114 and C60142); \$6,000 will not be pursued (C60334); and \$11,000 has been redirected to the AGO leaving a balance of \$8,301.95 immediately recoverable [\$1,320.94 for C60196, \$2,426.25 for C70156, \$3,619.66 for C50388, and \$935 for C60355].

Of the \$1,400,955.91 recoverable unless adequately supported, \$94,156.41 was substantiated by invoices and receipts by the contractor for C60114 and C50305 leaving a balance of \$1,306,799.50 still recoverable unless adequately supported [\$1,199,316.56 for C50388 and 31075-OC; \$65,182.12 for C60323, C60373, C70091, C70179 and 300082-OC; and \$42,300.82 for C60196].

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

As Revised and Redirected to AGO: Determine appropriate legal action to be taken to recover the remaining \$8,301.95 that is immediately recoverable and the remaining \$1,306,799.50 that is recoverable unless adequately supported.

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

Status : Resolved – Delinquent

Agency Response : On 1/4/01, DOF provided OPA with copies of bills for collection dated 9/1/99 for the following contracts: 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 still to be provided).

In the 10/1/01 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.

On 3/18/05, the Secretary of Finance provided OPA a copy of the invoices and receipts to substantiate payments made for C60114 and C50305 totaling \$94,156.41. Therefore, of the \$1,400,955.91 that is recoverable unless adequately supported, \$1,306,799.50 from three contractors remains to be recovered. The Secretary of Finance is requesting that OPA refer the remaining \$8,301.95 that is immediately recoverable and the remaining \$1,306,799.50 that is recoverable unless adequately supported given the time lapse since the issuance of the bills for collections and letters requesting for supporting documents from the contractors with no response to date.

On 6/2/05, OPA referred this matter to the AGO for their review and legal action.

In her letter response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case.

On 6/2/08 OPA met with the Attorney General. The Attorney General to confirm an existing 99' accord and settlement he discovered in 2006. OPA will provide AGO a copy of the audit report.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will conduct further review and will provide a letter documenting AGO's decision on the matter.

In his response dated 6/4/12, the Attorney General stated that AGO is currently reviewing the recommendation and gathering information pertaining to all three of the contracts involved. The investigation will take some time as each contract will need to be handled individually.

**Additional Information
or Action Required**

: AGO should inform OPA of the results of legal actions taken to pursue collection of the remaining \$8,301.95 that is immediately recoverable and the remaining \$1,306,799.50 that is recoverable unless adequately supported.

**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 follow-up letter(s) sent : 7/3/00 (DPW), 7/12/00 (AGO), 7/13/00 (DOF), 1/17/01 (Re-directed to AGO), 8/21/01, 2/14/02, 8/12/02, 10/3/02, 2/14/03,

8/4/03, 4/13/04, 9/21/04, 2/15/05, 8/9/05, 3/10/06, 9/26/06, 2/7/07, 9/4/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/8/15

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, 10/25/04, 9/1/05, 6/2/08 (meeting with AGO), 12/1/09 (meeting with AGO), 6/4/12

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 – Delinquent

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 date 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.

In her letter response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case.

On 6/2/08, OPA met with the Attorney General. The Attorney General advised OPA that the AGO will review its internal file to confirm the request made to the US Attorney to enforce the federal court order of restitution.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will follow-up with the federal court regarding the payment of the restitution and will provide OPA with the results of their follow-up.

In his response dated 6/4/12, the Attorney General informed OPA that it has investigated the matter and the official response is in the final stages of review. In sum, the United States Attorneys' Office is actively collecting the outstanding judgment by selling the contractor's real properties. Thus, the Commonwealth should be substantially reimbursed for the misappropriated funds once the properties are sold.

**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.

**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 follow-up 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), 2/15/05 (AGO) (NMIRF), 8/9/05 (AGO), (NMIRF), 3/10/06 (AGO) (NMIRF), 9/26/06 (AGO), 2/7/07 (AGO), 9/4/07 (AGO), 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/8/15

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), 3/22/05 (NMIRF), 9/1/05 (AGO), 6/2/08 (meeting with AGO), 12/1/09 (meeting with AGO), 6/4/12

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 principles of fairness and equality as the CNMI Personnel Regulations, thereby eliminating authorization for FLSA-exempt (executive, administrative and professional) officials and employees to earn comp time, 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 the Attorney General's Office

Status : Resolved – 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 is 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 suggested 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 comp time. 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 Marianas 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.

In his response dated 9/15/03, the Acting Attorney General stated that this case has been assigned to an Assistant Attorney General for review. 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.

In her letter response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case.

In a meeting with the Attorney General on 6/2/08, OPA was advised that the AGO will conduct further review of the matter. OPA will provide AGO a copy of the audit report.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will conduct further review and will provide a letter documenting AGO’s decision on the matter.

In his response dated 6/4/12, the Attorney General informed OPA that AGO is in the process of assessing the legality of CPA’s annual leave policies and will provide OPA with a formal written opinion.

**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.

In his response dated 9/15/03, the Acting Attorney General stated that this case has been assigned to an Assistant Attorney General for review.

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.

In her letter response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case.

In a meeting with the Attorney General on 6/2/08, OPA was advised that the AGO will conduct further review of the matter. OPA will provide AGO a copy of the audit report.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will not pursue this issue and will provide a letter documenting AGO's decision on the matter.

In his response dated 6/4/12, the Attorney General informed OPA that AGO is in the process of assessing the legality of CPA's annual leave policies and will provide OPA with a formal written opinion.

Additional Information or Action Required : AGO should provide OPA the results of its review on the matter.

Report No. AR-02-02 issued September 11, 2002
Tinian Casino Gaming Control Commission
Audit of Travel Transactions
Fiscal Years 1996 - 2001

Date(s) of follow-up letter(s) sent : 3/5/02, 8/9/02, 2/18/03, 8/4/03, 4/13/04, 9/21/04 (Re-directed to AGO), 2/15/05, 8/9/05, 3/10/06, 9/26/06, 2/7/07, 9/4/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/8/15

Date(s) of response letter(s) received : 7/22/03, 6/17/04 (TCGCC), 10/25/04 (AGO), 9/1/05 (AGO), 6/2/08 (meeting with AGO), 12/1/09 (meeting with AGO), 6/12/12

Recommendation 1 : *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 - Redirected to the Attorney General's Office

Status : Open – Delinquent

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 those 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.

In her letter response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case.

On 6/2/08 OPA met with the Attorney General. The Attorney General advised OPA to re-direct this recommendation to the Tinian Mayor’s Office. Therefore, OPA will re-direct this referral to the Tinian Mayor’s Office for review and determination of appropriate actions to be taken to address this recommendation.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA not to re-direct this recommendation to the Tinian Mayor’s Office. AGO will conduct further review and will provide OPA a letter documenting AGO’s decision on the matter.

On 6/12/12, a status update via email from AGO was provided to OPA stating that the matter is currently being reviewed and a legal memorandum as to the feasibility of collection due to the statute of limitations, costs involved in litigation, and ability of the former employees, commissioners, and officials to pay any judgments obtained.

Additional Information

or Action Required : AGO should provide OPA the results of its review.

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 follow-up letter(s) sent : 8/4/03, 4/13/04, 9/21/04, 2/15/05, 8/9/05, 3/10/06, 9/26/06, 2/7/07, 9/4/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/8/15

Date(s) of response letter(s) received : 5/12/03, 9/15/03, 4/30/04, 10/25/04, 9/1/05, 6/2/08 (meeting with AGO), 12/1/09 (meeting with AGO), 6/4/12

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 – Delinquent
- 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 off-setting 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 further.

OPA Response: 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.

In her response dated 9/1/05, the Attorney General stated that there has been no change to the development of this case.

On 6/2/08, OPA met with the Attorney General. The Attorney General requests that OPA provide additional information pertaining to this recommendation for further

review. OPA will provide AGO with a copy of the audit report and the additional information requested.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will conduct an internal review and will provide OPA the results of its review.

In his response dated 6/4/12, the Attorney General informed OPA that AGO is investigating the reasons behind the higher per diem rate for the travelers involved. Reviewing and obtaining all relevant records may take some time. Once all documents are received, AGO will prepare a legal memorandum as to the viability of collecting the alleged overpayments if such payments are legally collectable.

**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. LT-95-06 issued November 1, 1995

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

Date(s) of follow-up letter(s) sent : 7/16/96, 11/29/96, 12/3/96, 2/2/98, 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, 2/15/05, 8/8/05, 3/9/06, 9/28/06, 2/6/07, 8/28/07, 3/20/08, 9/16/08, 8/12/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

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), 3/7/05 (DOF request for extension), 3/18/05, 3/31/06 (request for extension), 4/18/06

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.

In his 3/18/05 response, the Secretary of Finance informed OPA that DOF is currently reviewing the proposed amendments to the regulations. The Director of Procurement and Supply has asked for an additional 30 days to conduct further review with the assistance of the Attorney General's Office. The Secretary of Finance stated that they will have the amended regulations published in the April 2005 Commonwealth Register and have the amendments adopted in May 2005.

In his letter response dated 4/18/06, the Secretary of Finance informed OPA that the review of existing regulations has taken longer than expected. The Secretary of Finance was informed by the Director of Procurement and Supply that the amended regulations will be due by June 30, 2006 and published for adoption 60 days thereafter.

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

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

Date(s) of follow-up letter(s) sent : 3/28/96, 11/25/96, 2/2/98, 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, 2/15/05, 8/8/05, 3/9/06, 9/28/06, 2/6/07, 8/28/07, 3/20/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

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, 3/17/03 (DOF request for extension), 3/7/05 (DOF request for extension), 3/18/05, 3/31/06 (request for extension), 4/18/06

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.

On 3/18/05, the Secretary of Finance provided OPA a copy of the new CNMI Property Management Policies and Procedures dated 1/8/03 which states that capital inventories shall be conducted on an annual basis. Based on the new policies and procedures, the inventory results for 2004 is due on March 23, 2005. OPA was also provided a copy of the memorandum from the Secretary of Finance addressed to the Supply Representatives for Tinian and Rota dated 3/14/05 requesting for their office inventory listing of all CNMI government property assigned under each department and agency in their respective area no later than March 23, 2005. The Property Management Branch will schedule physical inventory verification once the listing has been received and compiled. DOF will be providing OPA with the inventory results once completed.

In his letter dated 4/18/06, the Secretary of Finance informed OPA that the Director of Procurement and Supply has issued notices to the Procurement Offices in Rota and Tinian to conduct an annual inventory of their fixed assets. The Secretary of Finance further stated that the physical inventory of all fixed assets on Tinian and

Rota are still ongoing and that DOF will provide OPA with the inventory results as soon as they are completed.

Additional Information

or Action Required : The P&S Director should provide OPA a copy of the inventory results and actions taken.

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 follow-up letter(s) sent : 7/9/97, 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, 2/15/05, 8/8/05, 3/9/06, 9/28/06, 2/6/07, 8/28/07, 3/20/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 11/9/00, 11/21/00 (meeting with Coordinating Group on DOF), 5/01, 10/1/01, 3/27/02 (DOF request for extension), 4/12/02, 3/17/03 (DOF request for extension), 3/7/05 (DOF request for extension), 3/18/05, 3/22/05, 3/29/06 (request for extension), 4/18/06, 6/2/08 (meeting with AGO)

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 former contractor which resulted in the former contractor agreeing to repay the Commonwealth \$96,100. The former 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 former contractor in this matter remains in compliance with the settlement promissory note and therefore AGO just needs to continue to monitor compliance.

In his letter dated 4/18/06, the Secretary of Finance informed OPA that total payments made on the promissory note as of 3/21/06 amounted to \$14,000 leaving a balance of \$81,900 still to be recovered. According to the summary schedule provided by DOF, the former contractor is 27 months behind with his payments as of 3/21/06.

In a meeting with the Attorney General on 6/2/08, OPA was advised that AGO will follow-up with DOF on the \$96,100 promissory note signed by the contractor.

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 former contractor which pay directly to the CNMI Treasury. DOF should also update AGO on the status of payments made by the former

contractor and his non-compliance with the promissory note. Accordingly, DOF should update OPA on the results of its communication with the AGO on this matter.

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- 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 10/1/01 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.

In his letter dated 3/18/05, the Secretary of Finance informed OPA that after their review of the files, DOF was unable to confirm whether bills were sent out to two contractors. DOF will gather all the required documents to include with the bills for collection and provide OPA a copy. DOF will also refer the matter to the AGO for collection.

In his response letter dated 4/18/06, the Secretary of Finance informed OPA that the Acting Director of Finance and Accounting is unable to provide copies of accounts payable vouchers (APV) that are needed as supporting documents when bills are sent out for collection. The Secretary further stated that since this was an OPA-initiated audit, the OPA should have copies of the payment vouchers in question, as they should have been part of the working files. In the meantime, they are consulting with the Office of the Attorney General as to the appropriate course of action(s) that can be taken considering the lack of supporting documents and the statute of limitation on these claims.

- Additional Information or Action Required** : DOF should provide OPA with the documents evidencing settlement of the \$7,559 (for Contract no. C50083). DOF should also provide OPA a copy of the bills for collection to recover the overpayment of \$1,020 (for Contract no. C50132) and \$6,500 (for Contract no. C50208). Finally, DOF should update OPA on the results of its communication with the AGO on the appropriate course of action(s) that can be taken on these claims.

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 follow-up letter(s) sent : 9/17/98 (DOF), 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, 2/15/05, 8/8/05, 3/9/06, 9/28/06, 2/6/07, 8/28/07, 3/20/08, 9/16/08, 8/12/09, 11/25/09,

5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 9/29/00 (DOF), 12/7/00 (meeting with Coordinating Group on DOF), 10/01/01 (DOF), 3/27/02 (DOF request for extension), 4/12/02 (DOF), 3/17/03 (DOF request for extension), 3/7/05 (DOF), 3/18/05, 3/31/06 (request for extension), 4/18/06

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 10/1/01 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.

In his 3/18/05 response, the Secretary of Finance informed OPA that DOF is currently reviewing the proposed amendments to the regulations. The Director of Procurement and Supply had requested for an additional 30 days to conduct further review with the assistance of the Attorney General's Office. The Secretary of Finance stated that they will have the amended regulations published in the April 2005 Commonwealth Register and have the amendments adopted in May 2005.

In his letter response dated 4/18/06, the Secretary of Finance informed OPA that the amended regulations will be completed by 6/30/06 and published for adoption 60 days thereafter.

Additional Information

or Action Required : DOF should provide OPA a copy of the revised Government Vehicle Regulations upon their adoption.

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 follow-up 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), 2/15/05 (DOF) (AGO), 8/8/05 (DOF), 8/9/05 (AGO), 3/9/06, 9/28/06, 2/6/07, 8/28/07, 3/20/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

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), 3/7/05 (DOF request for extension), 3/18/05 (DOF), 3/31/05 (DOF), 9/1/05 (AGO), 3/31/06 (request for extension), 4/18/06, 9/11/06 (AGO), 6/2/08 (meeting with AGO), 12/1/09 (meeting with AGO), 6/4/12 (AGO)

Recommendation 1 : *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

Status : Resolved – Delinquent

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.

In a response letter dated 3/18/05, the Secretary of Finance stated that the defendant has not made any payments towards his restitution obligation to the CNMI government to date. On 3/31/05, OPA was provided a copy of the letter received from the U.S. Attorney of the District of Guam to the Secretary of Finance informing him that the former Secretary of Finance's assigned U.S. Probation Officer will be setting a payment schedule to dispose of his restitution obligation after July 2005. The U.S. Attorney of the District of Guam will be notifying the Secretary of Finance once the payment plan is established.

In his response letter dated 4/18/06, the Secretary of Finance provided OPA with a copy of the letter from the US Attorney's District Office on Guam advising OPA of the payment plan the former secretary will be making to the government. OPA was also provided with a summary of all payments made by the former secretary owed to the government to date. The US Attorney's District Office has been notified that the former secretary has agreed to make monthly payments in the amount of \$100 effective 8/1/05. According to the payment summary provided by DOF, payments made by the former secretary totaled \$625.00 as of 3/21/06, thus leaving a balance outstanding of \$55,837.00. Additionally, the letter stated that a balance still remains towards the former secretary's imposed assessment fee and that any payments will first be applied to it until it is paid off.

In her response dated 9/11/06, the Assistant Attorney General informed OPA that the former Secretary of Finance has paid \$1,125 towards his restitution obligation as of August 2006. Therefore, a balance of \$55,336.98 is still recoverable from the former Secretary of Finance.

On 6/2/08, OPA met with the Attorney General. The Attorney General advised OPA that the AGO Civil Division will conduct a review on the status of the civil case against the former Secretary of Finance. OPA will provide AGO a copy of the audit report.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will conduct further review and will provide a letter documenting AGO's decision on the matter.

In his response dated 2/8/12, the Attorney General informed OPA that the collection of restitution from the former Secretary of Finance is actively being collected by the Financial Litigation Unit (FLU) of the U.S. Attorney's Office for the Districts of Guam and the Northern Mariana Islands. Further, the Attorney General recommends that the Commonwealth should not duplicate the efforts of the FLU and disagrees that the filing and maintenance of a civil action at this time is appropriate.

OPA's Response: AGO's response dated 2/8/12 is sufficient to close this recommendation under AGO. OPA will re-direct this recommendation to DOF to monitor the collection of the \$56,461.98 restitution from the former Secretary of Finance until it is fully recovered.

Additional Information

or Action Required : DOF should continue to update OPA on the collection of the \$56,461.98 restitution in the federal case until the entire amount is fully recovered.

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 follow-up letter(s) sent : 4/13/04 (Senate), 9/27/04, 2/15/05, 8/9/05, 9/22/05, 3/8/06, 2/7/07 (Re-directed to AGO), 9/4/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 5/12/04 (request for extension to respond), 10/13/04, 3/8/05 (telephone follow-up), 3/14/05, 8/17/05 (meeting with Senate Legal Counsel), 8/29/05, 6/2/08, 12/1/09 (meeting with AGO), 3/13/12 (AGO)

Recommendation 1 : *Original:* 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.

As Revised and Re-directed to the AGO: AGO should inform OPA of the results of its review and legal determination on whether the Senate should 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.

As Revised and Re-directed to the DOF: The DOF should promulgate regulations or amend its current regulation to require the Senate to document expenses from the subsistence allowance.

Agency to Act : Senate - Redirected to the DOF

Status : Open – Delinquent

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.

OPA is redirecting this recommendation to the Attorney General's Office for review as OPA and the Senate was unable to reach an agreement to address OPA's concern. Although OPA respects the Senate's position on this matter, OPA still disagrees that the Senate may impliedly grant itself the authority to create an allowance for expenses through its internal rules. As the potential for legal challenges to the constitutionality of the authority for the monthly allowance exists, OPA feels it is in the best interest to refer the legal issues identified to the Attorney General's Office for its legal review and determination.

On 6/2/08, OPA met with the Attorney General. The Attorney General requested for a copy of the audit report and prior communications between the Senate and OPA so that the AGO can conduct its review. AGO will issue an opinion on the legality of the issue.

On 12/1/09, OPA met with the Attorney General. The Attorney General advised OPA that AGO will conduct further review and will provide a letter documenting AGO's decision on the matter.

On 3/13/12, AGO provided OPA with its analysis and determination on the matter. The AGO stated that the allowance system contained in the Senate Rule 12 is the kind of allowance that courts have generally found to be reasonable. Similar allowances have been routinely paid for many years in the Commonwealth. The present allowance is also in place pursuant to statute. These conditions justify the payment of the subsistence allowance as provided by legislation incorporating the house rules. Further, the AGO stated that DOF has the responsibility to control expenditures to prevent the waste of public funds. If the amount of allowance claimed is unreasonable in relation to this purpose and appears to provide a personal benefit to the legislature, DOF does not have to pay the claim. DOF can require further justification or documentation before paying the claim. DOF regulations requiring documentation of expenses apply to the legislature, but the current regulations must be amended to apply more effectively to the current form of allowance. AGO's legal analysis on the matter is sufficient to close the recommendation under AGO and re-direct it to DOF.

Additional Information

or Action Required : The DOF should promulgate regulations or amend its current regulation to require the Senate to document expenses from the subsistence allowance.

Report No. AR-05-01 issued March 3, 2005
Audit of the Security of CNMI Government Funds
Deposited in Banks and Financial Institutions

Date(s) of follow-up letter(s) sent : 3/9/06, 9/28/06, 2/6/07, 8/28/07, 3/20/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 3/31/06 (request for extension), 4/18/06

- Recommendation 1** : The Secretary of Finance should adopt regulations to “interpret, execute and enforce” the Government Deposit Safety Act, including defining and clarifying what items constitute “obligations and securities backed by the CNMI government.”
- Agency to Act** : Department of Finance
- Status** : Resolved – Delinquent
- Agency Response** : In his letter response dated 4/18/06, the Secretary of Finance provided OPA with the proposed Rules and Regulations of the Department of Finance Government Deposit Safety Act. The Secretary noted that the regulation was not adopted and that they will review the regulations and will submit the update for publication and subsequent adoption in the CNMI register.
- Additional Information or Action Required** : DOF should inform OPA of actions taken to adopt regulations to “interpret, execute and enforce” the Government Deposit Safety Act, including defining and clarifying what items constitute “obligations and securities backed by the CNMI government.” DOF should also provide OPA with a copy of the regulations once they are adopted.

Report No. AR-05-03 issued August 12, 2005
Marianas Hawaii Liaison Office
Audit of the Marianas Liaison Office
From October 1, 1999 through December 31, 2002

- Date(s) of follow-up letter(s) sent : 3/9/06, 9/28/06, 2/6/07, 8/28/07, 3/20/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15
- Date(s) of response letter(s) received : 3/31/06 (request for extension), 4/3/06, 4/18/06

- Recommendation 13** : Establish policies and procedures requiring DOF staff to account and record expenditures and receivables related to advances for funeral service charges of medical referral patients.
- Agency to Act** : Department of Finance
- Status** : Resolved – Delinquent
- Agency Response** : DOF agreed with the intent of the recommendation but added that DPH and MHLO have the responsibility to insure transactions are properly entered. To address OPA’s concern, the Acting Director of Finance and Accounting was directed to assign a staff member to work with DPH and MHLO to assist them in setting up procedures to ensure proper coding of payment vouchers and cash receipts when entering them into the DOF financial management system. The Secretary of Finance directed this action as DPH and MHLO enter their own payment vouchers and cash receipts into the DOF financial management system and have the responsibility to insure initial transactions are properly entered and the proper accounting codes are used.

OPA Response - OPA agrees that DOF’s assistance to DPH and MHLO will help ensure the proper coding and accurate recording of payments and receipts related to funeral advances in the future. Since DOF has a better understanding of the system and the proper coding of payments and receipts, OPA believes that it will also be

helpful if DOF establish guidelines and procedures in the proper coding and recording of these payments and receipts which DPH and MHLO can follow.

In his letter dated 3/18/06, the Secretary of Finance stated that they have met with the Medical Referral Office Manager to discuss the recording of accounts receivables for funeral expenses, as well as other medical referral related expenses not covered by the CNMI government. The MRO Manager will renew the existing MOU with each of the responsible parties to ensure that the amount outstanding is accurate. Once this is completed, all the receivables will be entered into the financial management system. He further stated that the DOF will assist with any training needed to ensure the completion of this project.

The Secretary also proposes that all vendor payments relating to funeral expense advances to families come directly out of the Treasury Office on Saipan to ensure that receivable accounts are established correctly through the MRO.

**Additional Information
or Action Required**

: OPA reiterates the need for DOF to adopt written guidelines and procedures to ensure proper accounting and recording of funeral service advances. Written procedures will also help ensure that proper accounting and recording will continue when DOF or MHLO personnel change. The guidelines and procedures can be incorporated in a memorandum or directive from the DOF secretary to DOF and MHLO personnel. A copy of the circulated memorandum or directive should also be provided to OPA so this recommendation can be closed.

Recommendation 14

: Designate DOF staff to review: (a) the outstanding balance of receivable accounts (#12150 and #12151) and (b) disbursements and collections debited/credited to Professional Service expense account to establish an accurate outstanding receivable balance of each promisor.

Agency to Act

: Department of Finance

Status

: Resolved – Delinquent

Agency Response

: DOF agreed with the intent of the recommendation but added that DPH and MHLO have the responsibility to insure transactions are properly entered. To address OPA's concern, the Acting Director of Finance and Accounting was directed to assign a staff member to work with DPH and MHLO to assist them in setting up procedures to insure proper coding of payment vouchers and cash receipts when entering them into the DOF financial management system.

OPA Response - Although the benefit of what DOF intends to do will only be realized prospectively, OPA agrees that DOF's assistance to DPH and MHLO will help ensure the proper coding and accurate recording of payments and receipts related to funeral advances in the future. As DOF has a better understanding of the system and the proper coding of payments and receipts, OPA believes that it will also be helpful if DOF establish guidelines and procedures in the proper coding and recording of these payments and receipts which DPH and MHLO can follow. In his letter dated 4/18/06, the Secretary of Finance stated that as noted in Recommendation 13, DOF will assist the MRO in booking the accurate A/R amount for each responsible party. The Secretary also noted that the MRO must determine the accurate amount since the receivables were never included in either the CHC billing system or the DOF financial management system.

Additional Information or Action Required : As stated in recommendation 13, DOF should provide OPA a copy of the written guidelines and procedures adopted to ensure proper accounting and recording of funeral service advances. These guidelines and procedures should also identify the designated DOF and MHLO personnel responsible for reviewing the accuracy of accounts receivable balances, and for billing outstanding receivables.

Recommendation 16 : DOF should establish written guidelines and procedures for the use of check exchanges. Such guidelines should address: (a) the purpose of check exchanges, (b) circumstances when a check may be issued through check exchange before receiving DOF-Treasury or DOF-Payroll approval, and (c) whether personal checks should be accepted for a check exchange. As DOF requires pre-approval of all check exchange transactions, DOF should establish monitoring procedures to ensure that all check exchanges are collected and credited to the check exchange receivable account.

Agency to Act : Department of Finance

Status : Resolved – Delinquent

Agency Response : The Acting Director of Finance and Accounting was directed to prepare written guidelines for the use of the check exchange account and provide a copy to MHLO and assign a staff member to review the check exchange account periodically to ensure MHLO is following the guidelines.

In his letter dated 4/18/06, the Secretary of Finance informed OPA that they are currently in the process of drafting procedures and guidelines for the use of check exchange accounts. DOF will provide OPA a copy of the policy once completed.

Additional Information or Action Required : DOF should provide OPA a copy of the written guidelines for the use of the check exchange account for OPA’s review.

Recommendation 17 : DOF should issue a memorandum instructing staff to: make adjustments to the proper fund and receivable accounts. The Secretary of Finance should also instruct the staff assigned to record expenditure transactions concurrently with payment transactions to avoid double recording of disbursements. (The Secretary of Finance should ensure that Acct#1972 should be used for all expenditure transactions of medical referral operations, Acct#1041 should be used for operations of MHLO other than medical referral, and Receivable Acct#12160 should be used for disbursements and deposits of check exchange transactions).

Agency to Act : Department of Finance

Status : Resolved – Delinquent

Agency Response : DOF agreed with the intent of the recommendation but added that DPH and MHLO have the responsibility to insure transactions are properly entered. To address OPA’s concern, the Acting Director of Finance and Accounting was directed to assign a staff member to work with DPH and MHLO to assist them in setting up procedures to insure proper coding of payment vouchers and cash receipts when entering them into the DOF financial management system.

OPA Response - Although the benefit of what DOF intends to do will only be realized prospectively, OPA agrees that DOF’s assistance to DPH and MHLO will

help ensure the proper coding and accurate recording of payments and receipts related to funeral advances in the future. Proper coding and accurate recording will then eliminate the need for DOF to perform future bank reconciliation adjustments to correct expenditure accounts of MHLO Operations and Medical Referral Imprest Funds. DOF should provide OPA the name of the DOF official who will be responsible for assisting DPH and MHLO and the target date to complete the task as well as a copy of the written guidelines and procedures to be followed by DOF and MHLO.

In his response letter dated 4/18/06, the Secretary of Finance indicated that there are two imprest fund accounts for the MHLO, one for operational expenses and another for medical referral expenses. He stated that the MHLO has to post each transaction into the appropriate accounts and object class. He also noted that they have provided training on posting transactions to the financial management system to designated staff at the MHLO on two separate occasions.

The Secretary also proposes that all vendor payments relating to funeral expense advances to families come directly out of the Treasury Office on Saipan to ensure that receivable accounts are established correctly through the MRO.

**Additional Information
or Action Required**

: DOF should provide OPA the name of the DOF official who will be responsible for assisting DPH and MHLO and the target date to complete the task as well as a copy of the written guidelines and procedures to be followed by DOF and MHLO.

Report No. AR-14-01 issued September 29, 2014
Department of Finance, Division of Customs
Audit of the Division of Customs on
Assessment and Collection of Excise Taxes for Calendar Year 2013

Date(s) of follow-up letter(s) sent : 6/9/15

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

Recommendation A1 : *Original:* DOF, Division of Customs should provide training for Customs inspectors and officers regarding the changes in and the proper application of PL 17-64.

Agency to Act : Department of Finance, Division of Customs

Status : Resolved – Delinquent

Agency Response : In his 8/29/14 response, the Director of Customs informed OPA that Customs conducted training for all Customs officers, new and permanent employees in July 2013. On August 25, 2014, the 3rd cycle Customs Basic Training began which included all laws affecting the Division of Customs Service.

OPA Response – It appears that the Division of Customs is moving forward in implementing the recommendation. OPA reserves the right to review at a later date the status of the recommendation in order to determine if the finding should remain open or closed.

**Additional Information
or Action Required**

: DOF, Division of Customs should continue to update OPA on trainings provided to its inspectors and officers regarding the changes in and the proper application of PL 17-64. DOF, Division of Customs should provide OPA documents supporting (i.e.

training materials, attendance sheet, and/or certificates) the type of training provided to its staff.

- Recommendation A2** : *Original:* DOF, Division of Customs should:
- Consult with the Department of Commerce to determine the necessity of the broad range of import classifications with the goal of reducing the number of classifications. While abundant statistical data can be an import by-product if the assessment process, it should not detract from the main goal of the Division.
 - Provide follow-up training to staff regarding the Harmonized Tariff Schedule (HTS) codes and the assigned tax rates and in other areas to enhance and improve the Divisions operations.
 - Perform supervisory review of tax assessments for errors or inconsistencies.

Agency to Act : Department of Finance, Division of Customs

Status : Resolved – Delinquent

Agency Response : In his 8/29/14 response, the Director of Customs informed OPA that the Division has taken corrective actions to address Recommendation A2 (bullet point #3). Customs has assigned two additional personnel to the Compliance section to focus on accounts receivables and to conduct a post-audit on all excise tax assessments.

OPA Response – It appears that the Division of Customs is moving forward in implementing the recommendation. OPA reserves the right to review at a later date the status of the recommendation in order to determine if the finding should remain open or closed.

Additional Information or Action Required : DOF, Division of Customs should inform OPA of the results of its consultation with the Department of Commerce and the HTS training for its staff.

Recommendation A3 : *Original:* DOF, Division of Customs should strictly adhere to its policy of holding future cargo until outstanding balances are satisfied. If cargo is released without the full payment of outstanding taxes or without the approval of a payment plan, adequate documentation and approval by the Director should be maintained in the files.

Further, OPA’s review of existing Laws indicated no formal procedures or time tables were given to the Division to ultimately resale these held items in order to collect past due amounts. OPA recommends that the Division seek a legal opinion on this matter to determine if a change in the law is required or if such; can be incorporated through revised regulations.

Agency to Act : Department of Finance, Division of Customs

Status : Resolved – Delinquent

Agency Response : In his 8/29/14 response, the Director of Customs informed OPA that the Division has taken corrective actions to address this recommendation. The Division will not release cargos to an importer/business with outstanding accounts and an installment payment plan shall be the approved by the Director.

OPA Response – It appears that the Division of Customs is moving forward in implementing the recommendation. OPA reserves the right to review at a later date the status of the recommendation in order to determine if the finding should remain open or closed.

**Additional Information
or Action Required**

: DOF, Division of Customs should provide OPA documentation showing communication with the AG or in-house counsel to address if a change in law or regulation is required to initiate a sale or auction of cargo that have been held by Customs due to nonpayment of excise taxes.

Recommendation A4

: *Original:* DOF, Division of Customs should require consolidators to provide additional information prior to the release of the cargo to the consolidators warehouse. Such documentation should include but not limited to invoices provided by the individual consignees with a detailed description, quantity, and value of the goods being imported. Consolidated shipments should not be released until all invoices have been presented to and assessed by the Division.

Agency to Act

: Department of Finance, Division of Customs

Status

: Open – Delinquent

Agency Response

: *OPA Response:* The Director of Customs did not address this recommendation in his August 29, 2014 response.

**Additional Information
or Action Required**

: DOF, Division of Customs should provide OPA a response to this recommendation.

Recommendation A5

: *Original:* DOF, Division of Customs prioritizes inspections on importers based on certain criteria's, however OPA recommends that a method of random inspections be developed which would include all major importers over the course of each year. It is very difficult to determine if a particular importer is high risk or not, without some form of inspection to determine compliance.

Agency to Act

: Department of Finance, Division of Customs

Status

: Resolved – Delinquent

Agency Response

: In his 8/29/14 response, the Director of Customs informed OPA that it has implemented a procedure that is used by Customs globally and that random inspection is being practiced on passenger clearance.

OPA Response: OPA reserves the right to review at a later date the status of the recommendation in order to determine if the finding should remain open or closed.

**Additional Information
or Action Required**

: OPA stands by its recommendation that DOF, Division of Customs should develop a method to randomly select cargo for inspection. OPA understands that the agency inspects—not all, but at random—the cargo of high-risk importers, however, the discovery of other violators may not be known if additional procedures are not developed.

Recommendation B1 : *Original:* OPA recommends that the requirement to collect the tax on bonded goods at the time of withdrawal be clearly stated in the Division’s policies and procedures manual.

Agency to Act : Department of Finance, Division of Customs

Status : Open – Delinquent

Agency Response : *OPA Response:* The Director of Customs did not address this recommendation in his August 29, 2014 response.

Additional Information or Action Required : DOF, Division of Customs should provide OPA a copy of the Divisions revised policies and procedures manual that clearly states the requirement to collect taxes on bonded goods at the time of withdrawal.

Recommendation B2 : *Original:* OPA recommends that written procedures be developed to immediately pursue importers with outstanding receivable balances that are greater than 30 days past due. OPA also recommends that receivables greater than 90 days be forwarded to the Division of Revenue and Taxation, Collection Branch in accordance with §70-10.1-150 of the Customs Service Regulations.

Agency to Act : Department of Finance, Division of Customs

Status : Resolved – Delinquent

Agency Response : In his 8/29/14 response, the Director of Customs informed OPA that it is in the process of amending §70-10.1-150 of its regulations to enable the Division to collect its own receivables that are greater than 90 days.

OPA Response: It appears that the Division of Customs is moving forward in implementing the recommendation. OPA reserves the right to review at a later date the status of the recommendation in order to determine if the finding should remain open or closed.

Additional Information or Action Required : DOF, Division of Customs should provide OPA a copy of the Divisions approved written procedures to collect from importers with outstanding receivable balances that are past due for more than 30 days. In addition, the Division should also provide a copy if it’s approved amended regulations that addresses the collection of receivables that are greater than 90 days.

Department of Public Lands

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

Date(s) of follow-up letter(s) sent : 9/18/98 (DLNR), 11/23/99, 1/26/99, 7/6/00 (DPL), 1/24/01 (DLNR), 8/23/01 (OPL), 8/12/02 (MPLA), 2/14/03, 8/4/03, 4/23/04, 9/21/04, 2/15/05, 8/9/05, 3/13/06, 9/29/06, 2/6/07, 8/28/07, 3/17/08, 8/25/08, 8/12/09, 11/25/09, 5/12/10, 5/17/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 10/21/99 (DPL), 10/31/00 (meeting with Coordinating Group on DLNR), 2/8/01 (DPL), 2/22/01, 8/30/01 (OPL), 9/28/01, 3/6/02 (MPLA), 8/19/02, 3/10/03, 6/7/04, 4/3/06 (request for extension), 4/11/06, 9/29/06, 5/19/11, 6/26/13

Recommendation 6 : The Secretary of DPL 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 (formerly 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 7/21/05, the MPLA Commissioner provided OPA with a copy of the 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 statuses of accounts based on the above documents provided by the former MPLA Commissioner are as follows:

Former Chairman of the Board - The account balance through 6/30/05 is \$25,393.86. The MPLA Commissioner stated that since the account is overdue, it would be forwarded to their Legal Counsel for further action.

Former Rota Board Member - The account balance through 6/30/05 is \$52,942.06. The MPLA Commissioner also stated that MPLA is attempting to have a lien put on the former Rota board member's property, and that if no property is pledged; MPLA will bring his account to their Legal Counsel for further action.

Former Tinian Board Member - Based on the stipulation to judgment and order in the civil case against the former Tinian Board member, a settlement agreement was entered for the Tinian Board member to pay the sum of \$11,657 in monthly installments of \$250 beginning January 15, 2000. On 9/29/06, OPA was provided a copy of the former Tinian Board member's account ledger showing that the Court Order in the amount of \$11,657 was fully paid as of October 28, 2004. Based on the account ledger provided to OPA, the part of the recommendation pertaining to the former Tinian Board member is considered closed.

On 4/11/06, DPL provided OPA with the updated subsidiary ledgers pertaining to the accounts listed above. Due to discrepancies found between the balances of these ledgers to the ledgers provided to OPA on July 21, 2005, OPA was unable to accurately ascertain the exact amount still to be recovered from the former Chairman of the Board and former Rota Board member. OPA will be contacting DPL to reconcile the balances. Aside from the account ledgers provided to OPA, DPL stated that the accounts of the former Board Chairman and former Rota Board Member are seriously delinquent. Their accounts will be forwarded to their in-house Legal Counsel for legal action and to obtain some collateral.

On 5/19/11, the DPL Secretary provided OPA with the status and recommendation on how the outstanding balances from the former Rota Board member and the former Board Chairman will be or are being addressed. Copies of the subsidiary ledgers for monitoring payments from the two former officials were also provided.

The statuses of accounts based on the above documents provided by DPL Secretary are as follows:

Former Rota Board Member - The DPL Secretary stated that "As of June 30, 2006, outstanding receivable was \$52,942.06 which includes original principle (sic) of \$25,673.09 plus cumulative interest of \$27,926.71." The Secretary also stated that the former board member has been performing well in remitting \$400 monthly as scheduled, and had already made a total payment of \$53,600. In the Secretary's opinion, the former board member has paid more than enough and he (Secretary) is recommending that the case be closed.

Former Chairman of the Board - The outstanding account of the former Chairman as of 4/11/11 is \$51,257.41 including interest. The DPL Secretary stated that the former Chairman has not made any payment since May 2004. On April 5, 2011, the DPL Secretary sent a memorandum, to the DPL Legal Counsel to pursue legal action and secure adequate collateral from the former Board Chairman.

OPA's Response: The subsidiary ledger as of 6/24/11 showed that the former Rota Board Member still owes \$50,668.08 computed as follows:

Principal from 1/5/96	\$31,096.00
Interest from 1997 to 2011 (15 yrs. @ 12%)	74,372.08
	<u>105,468.08</u>
Less: Total Payments	(54,800.00)
Balance	<u><u>\$50,668.08</u></u>

The former Rota board member had been paying irregularly and at a smaller monthly installment (\$200) during the earlier years (1997 to 2003). And even when the monthly installment was increased to \$400 in 2004, the total maximum payment of \$4,800/year compounded annually and since 2004 the amount has been about \$5,200 with about a hundred dollars increase every year. At the \$400/month rate, the balance of the account will never be paid off and will just continue to increase.

OPA merely wants to clarify the issues with the case of the former Rota board member. OPA recognizes the merit of closing the account by emphasizing that over \$54,000 has already been paid for the original principal of \$31,096. However, charging 12% interest annually is normal business practice and the accumulation of the unpaid balance has been the result of untimely payments. The DPL Secretary should seek legal advice on how to close the issue and DPL should adequately document the future action to settle the account.

On 6/26/13, DPL provided OPA a copy of a memorandum from an Assistant Attorney General (AAG) to DPL addressing the outstanding balance of the former Rota board member. The AAG recommended that DPL discharge the outstanding balance owed by the former Rota Board Member considering that the outstanding principle has been repaid with approximately an additional 56% of interest being paid. Thus, DPL has discharged any and all outstanding balance owed by the former Rota board member. Based on the memorandum from the AAG and DPL's concurrence in discharging the outstanding balance owed by the former Rota board member, the part of the recommendation pertaining to the former Rota board member is considered closed.

For the part pertaining to the former Chairman of the Board, DPL did not provide any update to OPA.

**Additional Information/
Action Required**

: DPL should continue providing OPA with the updated account ledger for the former Chairman of the Board as well as an update on possible legal proceedings to be taken against the former Chairman of Board.

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

Date(s) of follow-up letter(s) sent : 9/18/98 (DLNR), 11/23/99, 1/26/99, 7/6/00 (DPL), 1/24/01 (DLNR), 8/23/01 (OPL), 8/12/02 (MPLA), 2/14/03, 8/4/03, 4/23/04 (BMPLA), 9/21/04, 2/15/05, 8/9/05, 3/13/06 (DPL), 9/29/06, 2/6/07, 8/28/07, 3/17/08, 8/25/08, 8/12/09, 11/25/09, 5/12/10, 5/17/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 10/21/99 (DPL), 10/31/00 (meeting with Coordinating Group on DLNR), 2/8/01 (DPL), 2/22/01, 8/30/01 (OPL), 9/28/01, 3/6/02 (MPLA), 8/19/02, 3/10/03, 6/8/04, 4/11/06, 5/19/11, 6/25/13

Recommendation 2 : The DPL Secretary should 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 Attorney General's office for legal action.

- Agency to Act** : Department of Public Lands (formerly addressed to the Board of Marianas Public Lands Authority)
- Status** : Resolved – Delinquent
- Agency Response** : After billings were sent to eight quarry operators to 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. Four additional Quarry Operators accounts were also considered fully recovered and closed based on OPA’s 8/12/04 review of their subsidiary ledgers showing account balances through 5/31/04. These Quarry Operators are: Quarry Operator C of which amount recoverable of \$5,384.25 has been fully recovered, Quarry Operator D of which amount recoverable of \$424,083.85 has been fully recovered, Quarry Operator E of which amount recoverable of \$379,486.51 has been fully recovered, and Quarry Operator G of which amount recoverable of \$27,585.74 has been fully recovered. (OPA’s review of the subsidiary ledgers for these four Quarry Operators showed that their account balances included additional rentals and interest which may have increased their receivable, however, OPA applied total payments and adjustments through 5/31/04 to their 1995 balance per OPA’s FY2000 audit). For the remaining two Quarry Operators (Quarry Operators A and F), DPL should continue to pursue collection of \$2,906,410.01 in underpaid lease rentals and interest.

On 4/11/06, the DPL Chief Financial Officer provided OPA with a copy of the subsidiary ledgers showing the account balances for the remaining two quarry operators through 4/10/06 as follows.

Quarry Operator A - Amount recoverable per FY2000 audit is \$2,753,839.88 as of FY1995. Based on DPL records, additional rentals and interest of \$1,826,829.25 increased the receivable to \$4,580,669.13 as of April 2006. Within 2001 to 2005, only \$4,987.50 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 \$2,748,852. According to the DPL Chief Financial Officer, the account of Quarry Operator A will be forwarded to their in-house Legal Counsel to pursue legal action and obtain some collateral.

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.

In his 4/11/06 update, the DPL Chief Financial Officer provided OPA incomplete subsidiary ledgers for Quarry Operator F. Therefore, OPA is unable to ascertain total amount collected as of April 2006. Total amount to be recovered of \$98,140.88; therefore, remains unchanged from the previous audit tracking report. The DPL Chief Financial Officer informed OPA, however, that there has been no movement in Quarry Operator F’s account. DPL will be forwarding this account to their in-house Legal Counsel to pursue legal action and obtain some collateral.

On 5/19/11, the DPL Secretary provided OPA with the subsidiary ledgers for Quarry Operator A and F but the information was incomplete. OPA was unable to ascertain total amount collected as of May 2011; therefore, the total recoverable amount remains unchanged from the previous audit tracking report. In his letter dated 5/19/11, the DPL Secretary informed OPA that a meeting has been arranged with

Quarry Operator F to discuss and resolve OPA's findings and will forward the results of the meeting to OPA. The Secretary also stated that no payment was received by Quarry Operator A since the last audit therefore the account will be forwarded to DPL's Legal Counsel to pursue legal action and obtain some collateral.

On 6/25/13, DPL informed OPA that they are still working on addressing this recommendation and will advise OPA of its status once their report is completed.

**Additional Information
or Action Required**

: DPL 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 to show total payments made by these two Quarry Operators for the under-payments mentioned in the report. The Secretary should also inform OPA about the resolution concluded in the meeting with Quarry Operator F and about the results of the Legal Counsels action for Quarry Operator A.

Recommendation 5

: The DPL Secretary should send letters to lessees 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

: Department of Public Lands (formerly addressed to the 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 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.

In his letter dated 4/11/06 DPL Chief Financial Officer stated that in part, this recommendation is connected to recommendation 2 regarding Quarry Operator F.

He further stated that he was going to schedule a meeting with Quarry Operator F to discuss the recognition of royalty revenue, and that he would update OPA with the results of the meeting.

In his letter dated 5/19/11, the DPL Secretary stated that DPL is now drafting a comprehensive Regulation and Procedures, in compliance with Public Law 15-2, to address the misconceptions/misinterpretations of computing lease/permit rentals, royalty, interests, and/or gross receipts rent, as well as making sure that rate increases on the anniversary dates of lease agreements are properly implemented.

On 6/25/13, DPL informed OPA that they are still working on addressing this recommendation and will advise OPA of its status once their report is completed.

**Additional Information
or Action Required**

: Upon completion, DPL should provide OPA a copy of its finalized and adopted comprehensive Regulation and Procedures that will address the computation of lease/permit rentals, royalty, interest, and gross receipts. DPL should also provide OPA with any documents evidencing the communication or dissemination of the adopted Regulations and Procedures to all lessees, especially with the remaining Quarry Operator F.

**Report No. AR-05-01 issued March 3, 2005
Audit of the Security of CNMI Government Funds
Deposited in Banks and Financial Institutions**

Date(s) of follow-up letter(s) sent : 3/13/06, 9/29/06, 2/6/07, 8/28/07, 3/17/08, 8/25/08, 8/12/09,
11/25/09, 5/12/10, 5/17/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11,
5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 4/11/06, 5/19/11, 6/25/13

Recommendation 6 : The Department of Public Lands should adopt policies and procedures, and/or regulations to address the issue of the security of public funds.

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

Status : Resolved – Delinquent

Agency Response : In his response dated 4/11/06, the DPL Chief Financial Officer informed OPA that through the enactment of Public Law 15-2, all funds of the Department of Public Lands except the frozen funds at Bank of Saipan have been deposited into an FDIC insured institution. He further stated that the funds that are at Bank of Saipan are under a depository agreement and that the agreement reveals the collateralization of the funds.

In its 5/19/11 response DPL only stated that “Through the enactment of Public Law 15-2, all funds of the Department of Public Lands, except the frozen funds at the Bank of Saipan, have been deposited into FDIC insured banks licensed in the CNMI.”

OPA Response: OPA wants to clarify this issue with the new management of DPL. Depositing funds in FDIC insured banks does not guarantee the security of public funds as intended in the Government Deposit Safety Act (PL 4-33 amended by PL 9-

13) because FDIC only covers up to \$100,000 of the deposit. The Government Deposit Safety Act states the following:

§ 7803. Deposit Safety Requirements. All funds in the commonwealth treasury may be deposited by the Secretary of Finance to the credit of the CNMI government in any bank ... provided that the bank in which the money is deposited shall furnish and pledge security with bank assets valued at all times at 110% of these funds. Bank assets shall be in the form of United States Treasury bonds and United States Government Agency securities having readily ascertainable market value. United States Government Agency securities are to securities bearing the full faith and credit of the United States Government. Security shall not be required for that portion of any deposit that is insured under any law of the United States.

§ 7807. Provisions of Depository Contracts. Any acceptance by a depository of government funds shall constitute an acceptance of the provisions of Section 7803 and those provisions shall be deemed a part of and incorporated into the contract of deposit without necessity for specific mention thereof. The Secretary shall file with the Public Auditor a copy of formal written contracts of deposit which may be entered into.

Compliance with Public Law 15-2, thereof, does not address the security required by the Government Deposit Safety Act. Funds in FDIC insured banks, if over \$100,000 should still be covered by a pledge of security issued by the bank.

On 6/25/13, DPL informed OPA that they are still working on addressing this recommendation and will advise OPA of its status once their report is completed.

**Additional Information
or Action Required**

: The Department of Public Lands should write policies to ensure that all deposits would be fully collateralized by all depository banks. Subsequently, DPL should provide OPA with documentation that DPL Funds are fully secured in accordance with the Government Deposit Safety Act.

Department of Public Safety

Report No. AR-05-04 issued September 21, 2005
Audit of the Department of Public Safety's
Evidence Controls through June 2004

Date(s) of follow-up letter(s) sent : 3/7/06, 9/25/06, 2/7/07, 3/27/08, 9/16/08, 8/12/09, 11/25/09,
5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12,
6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 3/30/06, 11/8/06, 8/1/07, 12/30/14 (OPA)

- Recommendation 1** : The DPS should develop and implement a plan of action to address evidence presently in DPS custody. OPA encourages DPS to consult, as appropriate or necessary, with agencies such as the AGO, FBI, US Attorney's Office, Office of the Public Defender, CNMI Judiciary, and CNMI Bar Association. This plan of action should include, at a minimum, the following:
- a) Conducting a physical inventory to determine the actual quantity, classification and condition of evidence;
 - b) Reconciliation of the physical inventory list with existing COCs or other evidence listings;
 - c) Segregation of items to be disposed, disposal of evidence in accordance with laws and regulations, and proper documentation of all disposals;
 - d) Implementation of an evidence tracking system; and
 - e) Evaluation of the condition of the existing evidence storage facility and equipment and the implementation of necessary controls and improvements.

Agency to Act : Department of Public Safety

Status : Resolved – Active

Agency Response : In his letter response to OPA's draft audit report dated 9/6/05, the Deputy Commissioner informed OPA that he agrees with most of the findings of the audit conducted and is aware of the issues that need immediate attention and correction for deficiencies. Accordingly, he has instructed one of the Sergeants to begin assessing the following: bars on windows; bar door to main entrance; bars to cover gap; assess bio-hazard chemicals in refrigerator; procure additional refrigerator; restart master list; labeling shelves; one location for COC; and procure air condition for CST (purchase requisition enroute).

On 1/12/06, OPA staff performed a walkthrough of the new evidence storage facility as requested by DPS. During the walkthrough, OPA staff identified surrounding areas to have been renovated as follows: evidence receiving areas for submission of evidence; 17 separate rooms to house the different types of evidence; key-pad entry for all doors; air-conditioning in every room; back-up generator of up to 24 hours; and security camera system located around perimeter and inner rooms/halls, with records kept for three months. OPA was also informed that new refrigerators for

biohazard materials have been ordered and a six-foot perimeter fence will be installed around the facility. Based on OPA's observation of the new evidence storage facility, recommendation 1 (e) is now considered closed.

OPA was also informed by DPS during the walkthrough of the new evidence storage facility that DPS is in the process of creating a task force to develop an evidence tracking system. Two personnel from the Guam Police Department's evidence storage facility are scheduled to assist DPS in developing its tracking system and transferring the evidence temporarily stored in two containers into the newly renovated facility. Plans for an additional facility that will be used to store general items of evidence are also being considered. Based on the information provided, OPA considers recommendation 1 (a through d) resolved.

In his letter dated 3/30/06, the CIB Commander stated that due to the organizational restructuring of the CIB, the ongoing project at the evidence room has been delayed. However, he stated that the evidence custodian with the assistance of the Crime Scene Investigators are currently conducting a physical inventory and creating a data base for all evidence materials with respect to items a through d of this recommendation. In addition, he stated that they are also coordinating with the Attorney General's Office to decide what to do with all evidence materials that are no longer needed.

The CIB Commander also informed OPA that their plan to bring in two personnel from the Guam Police Department (GPD) to assist DPS with the creation of an evidence tracking system has been put on hold and most likely will not materialize. This was a result of a recent discovery by GPD that they too are experiencing problems with respect to their handling of evidence. The CIB Commander also informed OPA of a \$48,000 grant which was recently awarded to them under the Justice Assistance Grant for Crime Scene Investigation (CSI) Enhancement Project. He further stated that this money will be used to purchase programs and equipment to aid them in the tracking of evidence.

The response letter from the Sergeant/Evidence Custodial Unit Supervisor dated 11/8/06 did not separately address this recommendation.

OPA Response: There was no follow-up reply to what DPS stated as its course of action in 3/30/06. As for the inventory of items gathered prior to 2006 the process still has not been completed. Thus, DPS has still to inform us about the target completion date.

In his letter dated 8/1/07, the CSI/ECU Supervisor informed OPA that the physical inventory, sorting, identifying, and tagging of evidence and/or properties is still in progress. Segregation of evidence for disposal is done by documenting evidence or property to be disposed on the Evidence List for Disposal Authorization form, which is then forwarded to the Attorney General's Office, Criminal Section for review and authorization to dispose evidence or property.

The CSI/ECU Supervisor also stated that an evidence log book has been implemented to document and register all evidence submitted into the evidence/property facility. He further stated that the present condition of the evidence facility does not affect any operation being performed. ECU is consistently receiving, storing, and releasing evidence or property with no difficulties.

OPA Response: During OPA's audit of DPS, documentations evidencing implementation of the recommended actions outlined in recommendation 1 (a, b, c,

and e) has been resolved. In addition, OPA was informed during an interview with a DPS personnel that an inventory tracking system was purchased several years ago, but was never implemented due to funding constraints. However, DPS has now renewed its contract with a vendor and is in the process of implementing the inventory tracking system to improve accountability over evidence inventory. OPA will continue to follow-up on recommendation 1 (d) until completed.

**Additional Information
or Action Required**

: DPS should continue to update OPA on the status of implementation of the recommended actions outlined in recommendation 1 (d) until completed. Once the recommended actions have been implemented or completed, DPS should provide OPA documentation evidencing implementation to formally close the recommendation.

Recommendation 2

: Adopt and implement amendments to DPS policies and procedures regarding the receipt, storage and management of evidence. When developing these policies and procedures, OPA encourages DPS to refer to (1) established industry standards, such as those created by the CALEA or the IAPE, and (2) policies and procedures of established law enforcement agencies, such as the HPD. These policies and procedures should be in writing, be applicable department-wide, and, at a minimum, address the following:

- a) Deadline for submission of evidence;
- b) Temporary storage of evidence;
- c) Required documentation for the collection, transfer and storage of evidence;
- d) Classification, segregation, security, and disposal of evidence;
- e) Structural measures and management controls over the evidence storage facility;
- f) Duties and responsibilities of the Evidence Custodian and any alternate(s);
- g) Prohibition of incompatible duties for evidence room personnel; and
- h) Periodic inspections, inventory, and reports.

Agency to Act

: Department of Public Safety

Status

: Closed

Agency Response

: In his letter response to OPA's draft audit report dated 9/6/05, the Deputy Commissioner informed OPA that he agrees with most of the findings of the audit conducted and is aware of the issues that need immediate attention and correction for deficiencies.

On 1/12/06, OPA staff performed a walkthrough of the new evidence storage facility as requested by DPS. During the walkthrough, OPA was informed that DPS is in the process of creating a task force to develop a Standard Operating Procedures (SOP) manual over evidence controls and that a government attorney will be assigned to take part on the development of the SOP.

In his letter dated 3/30/06, the CIB Commander stated their legal counsel was in the process of reviewing the Honolulu Police Department's evidence policy to use as a model for DPS when he was transferred unexpectedly. The Commander stated that he will be working with their new legal counsel on this matter. He further stated that the Commissioner has indicated his desire to incorporate some items from the military evidence policy to DPS's policy.

The response letter from the Sergeant/Evidence Custodial Unit Supervisor dated 11/8/06 did not separately address this recommendation.

OPA Response: The Evidence Custodial Unit Supervisor stated what they are doing at present but there is not mention of a comprehensive written manual.

In his letter dated 8/1/07, the CSI/ECU Supervisor stated that ECU does not have a deadline for evidence submission and that each departmental employee in possession of evidence should be responsible for its safekeeping until submitted into the evidence facility. The supervisor also stated that the ECU does not deal with Temporary Storage of evidence. Required documentation for the collection, transfer, and storage of evidence is documented on the Evidence/Property Custody Receipt form. A copy of the form was provided to OPA.

With regards to the classification and segregation of evidence/property, the Supervisor informed OPA of its evidence classification type and a diagram of the facility indicating the segregation of evidence. In addition, ECU's facility is now equipped with an electronic security system. An Electromagnetic locking mechanism was installed on the doors of the facility, from the main entrance to all evidence/property storage. OPA was also informed of the duties and responsibilities of the evidence custodian and any alternates. However, he stated that there is no prohibition of incompatible duties for evidence room personnel and that the supervisor should be able to determine if other tasks assigned to evidence personnel conflicts or interrupts with the operation of the evidence facility. ECU is consistent in receiving and releasing evidence and that their only obstacle as far as evidence is the sorting and documentation of evidence that were submitted dating back to the 1980's.

OPA Response: During OPA's on-going audit of DPS, documentations evidencing implementation of the recommended actions outlined in recommendation 2 (a-h) have been resolved. OPA now considers this recommendation closed.



Autonomous Agencies

Commonwealth Ports Authority

Northern Mariana Islands Retirement Fund

Commonwealth Ports Authority

Report No. AR-05-01 issued March 3, 2005
Audit of the Security of CNMI Government Funds
Deposited in Banks and Financial Institutions

Date(s) of follow-up letter(s) sent : 3/7/06, 9/25/06, 2/14/07, 8/23/07, 12/6/07 (Deloitte re: CPA response), 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/23/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 9/6/07 (Request for extension), 10/4/07 (Request for extension), 10/29/07, 4/7/08 (Request for extension), 4/17/08

Recommendation 4 : The Commonwealth Ports Authority should adopt policies and procedures, and/or regulations to address the issue of the security of public funds.

Agency to Act : Commonwealth Ports Authority

Status : Open – Delinquent

Agency Response : In his letter dated 10/29/07, the acting Executive Director informed OPA that all of CPA's funds and investment accounts are in FDIC banks.

OPA Response: OPA recognizes the written response provided by the CPA acting Executive Director which provides a narrative of what actions have been done. However, the response still fails to provide written and duly adopted policies and/or procedures to address the issue of the security of public funds.

On 4/17/08, the CPA Acting Director resubmitted his 10/29/07 response which still fails to provide written and duly adopted policies and/or procedures to address the issue of the security of public funds.

Additional Information or Action Required : The CPA should provide OPA with a copy of the policies and procedures, and/or regulations to address the issue of the security of public funds.

Northern Mariana Islands Retirement Fund

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 follow-up 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), 2/15/05 (AGO) (NMIRF), 8/9/05 (AGO) (NMIRF), 3/10/06 (NMIRF) (AGO), 10/17/06 (NMIRF), 2/7/07, 8/27/07, 3/17/08, 9/16/08, 8/12/09, 11/25/09, 5/12/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

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), 3/22/05 (NMIRF), 9/1/05 (AGO), 8/14/06 (NMIRF), 1/4/08 (NMIRF), 8/31/09 (NMIRF), 7/15/11, 12/7/11, 6/1/12, 12/26/12, 6/18/13, 12/20/13

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.

On 3/22/05, the NMIRF Administrator stated that at the 3/10/05 Board of Trustees meeting, the Board agreed to revisit the issue of recovering overpayments at its next regular meeting. The Administrator also stated that the Fund does not currently have a full-time legal counsel.

On 8/14/06, the then NMIRF Administrator stated that the recalculation of pension benefits is ongoing, yet is subject to certain due process applications of the Administrative Procedure Act prior to recoupment.

In her response letter dated 7/15/11, the NMIRF Acting Administrator informed OPA that the NMIRF has commenced the process of determining which beneficiaries have been overpaid and computing the overpayment amounts. Thereafter, NMIRF will initiate efforts to collect on such overpayments through the Administrative process.

In his response letter dated 12/1/11, the NMIRF Administrator informed OPA that the audit of the overtime/compensatory time is still ongoing. NMIRF will advise OPA of the results of their review once completed.

On 6/1/12, the acting NMIRF Administrator informed OPA that its' internal auditors have completed the first phase of reviewing the files of the top 120 overtime/compensatory time recipients. As of May 8, 2012, the Fund has written to the affected retirees advising them that the Fund will adjust their pension benefits effective the June 15, 2012 pay period. The affected individuals were afforded the opportunity to appeal the Administrators decision of collecting the computed overpayment of benefits receive by June 8, 2012. The Administrator will assign an Administrative Hearing Officer to hear all requests for appeal received by NMIRF. Further, the Fund's internal auditors have commenced the second phase of the audit with another 60 member files under review. The Fund's internal auditors will continue the overtime/compensatory time audit in phases until completed or by December 31, 2012.

In her response letter dated 12/26/12, the NMIRF Acting Administrator informed OPA that its internal auditor has completed Phase I and II of the overtime/compensatory time group audit consisting of 180 files. As of September 2012, a total of 134 adverse action letters were issued to affected retirees advising them of overpayments made to them and the NMIRF's intention to recoup such overpayments. The affected individuals were afforded the opportunity to appeal, and have appealed, the Administrator's adverse decision. As of 12/26/12, NMIRF is in the process of executing a service agreement with an attorney to serve as an Administrative Hearing Officer to hear all appeals received on NMIRF's proposed adverse action. Furthermore, NMIRF's internal auditors will continue auditing the overtime/compensatory time retiree files until completed.

On 6/18/13, the NMIRF Acting Administrator informed OPA that it recently contracted an attorney to serve as the Administrative Hearing Officer to hear the appeals. NMIRF anticipates the administrative appeal process to commence shortly. NMIRF further noted that because the Administrative Hearing Officer's decision will determine the collectability of overpayments, NMIRF's internal auditors have temporarily suspended any further recomputations pending the outcome of the appeals.

The NMIRF Administrator responded in a letter dated 12/20/13 stating that its Fund's internal auditors have completed Phase I and II of the overtime/compensatory time group audit consisting of a total of 180 filers. As of December 2013, a total of 180 adverse action letters were issued to affected retirees advising them of overpayments made to them and the Fund's intention to recoup such overpayments. The affected individuals were afforded the opportunity to appeal, and have appealed, the Administrator's adverse decision. The Fund has contracted an attorney to serve as the Administrative Hearing Officer to hear the appeals. However, the administrative appeal process is on hold pending the transition of the Fund to the Settlement Fund.

**Additional Information
or Action Required**

: NMIRF should continue to inform OPA on the progress of the appeal process pending the hold.

| The Senate

The 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 follow-up letter(s) sent : 4/13/04, 9/27/04, 2/15/05, 8/9/05, 9/22/05, 3/8/06, 2/7/07, 8/23/07, 3/20/08, 8/12/09, 11/25/09, 5/12/10, 5/17/10, 10/14/10, 5/17/11, 10/24/11, 12/6/11, 5/16/12, 12/13/12, 6/14/13, 12/5/13, 5/7/14, 12/16/14, 6/5/15

Date(s) of response letter(s) received : 5/12/04 (request for extension to respond), 10/13/04, 3/8/05 (telephone follow-up), 3/14/05, 8/17/05 (meeting with Senate Legal Counsel), 8/29/05, 9/11/08, 12/30/14 (OPA)

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 – Delinquent

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.

In a telephone follow-up conversation with a Senate Legal Counsel, OPA was informed that the Senate's position on this matter remains the same. Therefore, this recommendation will remain *Open - Active* until such time that the Senate reconsiders its position and addresses OPA's recommendation.

On 8/17/05, OPA met with the Senate Legal Counsel to discuss OPA's audit recommendations. The Senate Legal Counsel informed OPA that the Senate's

position on this matter is essentially the same. However, OPA expressed its concern that a better system of accountability should be established. On 8/29/05, the Senate President reiterated to OPA that the Senate’s position on this matter still remains the same and that no further legislation is necessary at this time. However, after discussing the matter with the Senate Legal Counsel and the concerns expressed by OPA staff during the 8/17/05 meeting, the Senate President agreed that a better system of accountability should be established. The Senate President therefore requested OPA’s assistance in establishing an accounting system for the monthly Senatorial allowance or stipend that balances ease of use and proper accountability and is mutually acceptable to both the Senate and OPA.

In OPA’s response to the Senate President dated 9/22/05, OPA stated that in developing a system for the Senate’s use, OPA consulted with representatives of the Hawaii Legislature, the Hawaii State Auditor, the Virgin Islands Inspector General, and the American Samoa Territorial Auditor because of the similarities in the multi-island geographic composition of the state or territory and the level of sophistication of accounting systems. OPA provided the Senate President with a copy of the Hawaii House Administrative and Financial Manual for the Hawaii House of Representatives, Twenty Second State Legislature as reference in developing an accounting system for the monthly allowances paid to CNMI Senators. In its letter, OPA cited various requirements, restrictions, and forms which must be completed governing the Hawaii Legislature’s annual allowance. For the CNMI Senator’s stipend, OPA proposed a simple one page form which would simply list the date and amount of the monthly disbursement and then account for its usage. Since the Senators are currently being required to provide the Senate President with their monthly receipts; this system incorporates that method and makes it easily reviewable. This form will also allow the Senators to undertake an analysis to determine reasonable travel costs to ensure that the amounts set for allowances are appropriate for the expenses incurred.

In his response dated 9/11/08, the Senate President informed OPA that he has instructed the Senior Legal Counsel to write an opinion regarding the subsistence allowance. OPA acknowledges that and has instructed the Legal Counsel to meet with OPA Legal Counsel to discuss a final resolution.

OPA Response: OPA has continuously sent followed-up letters/emails to the Senate since 2009. To date OPA has not received any update from the Senate, as such, OPA now considers this recommendation delinquent.

Additional Information or Action Required

: The Senate should inform OPA whether or not it will adopt the proposed form for accounting the monthly Senatorial allowance.

Recommendation 3

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

Agency to Act

: Senate

Status

: Open – Delinquent

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.

In a telephone follow-up conversation with a Senate Legal Counsel, OPA was informed that the Senate's position on this matter remains the same. Therefore, this recommendation will remain *Open - Active* until such time that the Senate reconsiders its position and addresses OPA's recommendation.

On 8/17/05, OPA met with the Senate Legal Counsel to discuss OPA's audit recommendations. The Senate Legal Counsel informed OPA that the Senate's position on this matter is essentially the same. However, OPA expressed its concern that a better system of accountability should be established. On 8/29/05, the Senate President reiterated to OPA that the Senate's position on this matter still remains the same and that no further legislation is necessary at this time. However, after discussing the matter with the Senate Legal Counsel and the concerns expressed by OPA staff during the 8/17/05 meeting, the Senate President agreed that a better system of accountability should be established. The Senate President therefore requested OPA's assistance in establishing an accounting system for the monthly Senatorial allowance or stipend that balances ease of use and proper accountability and is mutually acceptable to both the Senate and OPA.

In OPA's response to the Senate President dated 9/22/05, OPA stated that in developing a system for the Senate's use, OPA consulted with representatives of the Hawaii Legislature, the Hawaii State Auditor, the Virgin Islands Inspector General, and the American Samoa Territorial Auditor because of the similarities in the multi-island geographic composition of the state or territory and the level of sophistication of accounting systems. OPA provided the Senate President with a copy of the Hawaii House Administrative and Financial Manual for the Hawaii House of Representatives, Twenty Second State Legislature as reference in developing an accounting system for the monthly allowances paid to CNMI Senators. In its letter, OPA cited various requirements, restrictions, and forms which must be completed governing the Hawaii Legislature's annual allowance. For the CNMI Senator's stipend, OPA proposed a simple one page form which would simply list the date and amount of the monthly disbursement and then account for its usage. Since the Senators are currently being required to provide the Senate President with their monthly receipts, this system incorporates that method and makes it easily reviewable.

In his response dated 9/11/08, the Senate President informed OPA that he has instructed the Senior Legal Counsel to write an opinion regarding the subsistence allowance and has instructed the Legal Counsel to meet with OPA Legal Counsel to discuss a final resolution.

OPA Response: OPA has continuously sent followed-up letters/emails to the Senate since 2009. To date OPA has not received any update from the Senate, as such, OPA now considers this recommendation delinquent.

**Additional Information
or Action Required**

: The Senate should inform OPA whether or not it will adopt the proposed form for accounting the monthly Senatorial allowance.

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

Agency to Act : Senate

Status : Open – Delinquent

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.

In a telephone follow-up conversation with a Senate Legal Counsel, OPA was informed that the Senate’s position on this matter remains the same. Therefore, this recommendation will remain *Open - Active* until such time that the Senate reconsiders its position and addresses OPA’s recommendation.

In his response dated 9/11/08, the Senate President informed OPA that he has instructed the Senior Legal Counsel to write an opinion regarding the subsistence allowance and has instructed the Legal Counsel to meet with OPA Legal Counsel to discuss a final resolution.

OPA Response: OPA has continuously sent followed-up letters/emails to the Senate since 2009. To date OPA has not received any update from the Senate, as such, OPA now considers this recommendation delinquent.

**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.

Independent Auditor's Recommendations

CNMI

Commonwealth Government Employees' Credit Union

Commonwealth Ports Authority

Commonwealth Utilities Corporation

Department of Public Lands (formerly MPLA)

Northern Marianas College

Northern Marianas Housing Corporation

Northern Mariana Islands Retirement Fund

Public School System

Independent Auditor's Recommendations

The Office of the Public Auditor is not responsible for tracking the implementation of recommendations issued by private CPA firms; 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 recommendation resolved.

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

Please visit the OPA website at www.opacnmi.com to view the Independent Auditors' reports on agencies' recommendations.

- CNMI (2014)
 - BECQ (*see finding nos. 020-032, 038-040*)
 - DCCA (*see finding nos. 041-045*)
 - DOF (*see finding nos. 001-016, 052-053*)
 - DPW (*see finding no. 037*)
 - GOV-CIP (*see finding nos. 033-036, 051*)
 - Medicaid (*see finding nos. 046-050*)
 - NAP (*see finding no. 017-019*)
- Commonwealth Government Employees' Credit Union (2011)
- Commonwealth HealthCare Corporation (2013)
- Commonwealth Ports Authority (2014)
- Commonwealth Ports Authority – Passenger Facility Charge Program (2006)
- Commonwealth Utilities Corporation (2014)
- Department of Public Lands (2014)
- Northern Marianas College (2014)
- Northern Marianas Housing Corporation (2014)
- Northern Mariana Islands Retirement Fund (2013)
- Public School System (2014)

Appendix A – Acronyms Used

AAG	Assistant Attorney General
AAL	Actuarial Accrued Liability
ADP	Automated Data Processing
AGIU	Attorney General’s Investigative Unit
AGO	Office of the Attorney General
APV	Accounts Payable Voucher
AR	Audit Report
AREERA	Agricultural Research, Extension and Education Reform Act
ARRA	American Recovery and Reinvestment Act
ASCC	American Samoa Community College
AWOL	Absent Without Leave
BECQ	Bureau of Environmental and Coastal Quality
BMS	Boarder Management System
BOR	Board of Regents
BOT	Board of Trustees
BU	Business Unit
CALEA	Commission on Accreditation for Law Enforcement Agencies, Incorporated
CDA	Commonwealth Development Authority
CDBG	Community Development Block Grant
CDRSR	Cashier Deposit Reconciliation Summary Report
CFDA	Catalog of Federal Domestic Assistance
CGECU	Commonwealth Government Employees Credit Union
CHCC	Commonwealth HealthCare Corporation
CI Fund	Confidential Informant Fund
CIB	Criminal Investigations Bureau
CIG	Compact Impact Grant
CIP	Capital Improvement Projects
CMC	Commonwealth Code
CMIAA	Cash Management Improvement Act Agreement
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
CO	Change Orders
COC	Chain of Custody
CPA	Certified Public Accountant
CPA	Commonwealth Ports Authority
CSC	Civil Service Commission
CSI	Crime Scene Investigation
CST	Crime Scene Technician
CUC	Commonwealth Utilities Corporation
DCCA	Department of Community and Cultural Affairs
DCP	Defined Contribution Retirement Plan

DEQ	Division of Environmental Quality
DLNR	Department of Land & Natural Resources
DOF	Department of Finance
DOI	Department of the Interior
DOLI	Department of Labor and Immigration
DPH	Department of Public Health
DPL	Department of Public Lands
DPS	Department of Public Safety
DPW	Department of Public Works
DRT	Division of Revenue & Taxation
EAC	Estimated Acquisition Cost
ECU	Evidence Custodial Unit
EDMS	Electronic Document Management System
EDP	Electronic Data Processing
EEO	Equal Employment Opportunity
EITF	Emerging Issues Task Force
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FAR	Federal Acquisition Regulations
FASB	Financial Accounting Standards Board
FASS-PH	Financial Assessment Sub-System
FBI	Federal Bureau of Investigations
FDIC	Federal Deposit Insurance Corporation
FEMA	Federal Emergency Management Agency
FLSA	Fair Labor Standards Act
FLU	Financial Litigation Unit
FMR	Fair Market Rent
FMS	Financial Management System
FNS	Food & Nutrition Services
FTE	Full Time Employment
FY	Fiscal Year
GASB	Government Accounting Standards Board
GHI	Government Health Insurance
GHLITF	Group Health and Life Insurance Trust Fund
GL	General Ledger
GM	General Manager
GOV	Office of the Governor
GPA	General Power of Attorney
GPD	Guam Police Department
HAP	Housing Assistance Payments
HPD	Honolulu Police Department
HQS	Housing Quality Standards
HRO	Human Resources Officer
HRPP	Human Resources Policies and Procedures
HRR&R	Human Resources Rules and Regulations

HUD	U.S. Department of Housing and Urban Development
IT	Information Technology
ITB	Invitation to Bid
JE	Journal Entry
LT	Letter Report
MAP	Medical Assistance Program
MCD	Mortgage Credit Division
MHLO	Marianas Hawaii Liaison Office
MOU	Memorandum of Understanding
MPLA	Marianas Public Lands Authority
MPLC	Marianas Public Land Corporation
MPLT	Marianas Public Land Trust
MRO	Marianas Referral Office
NAP	Nutrition Assistance Program
NASPO	National Association of State Purchasing Officials
NEG	National Emergency Grant
NIMO	Northern Islands Mayor's Office
NMC	Northern Marianas College
NMHC	Northern Marianas Housing Corporation
NMIAC	Northern Mariana Islands Administrative Code
NMIRF	Northern Mariana Islands Retirement Fund
NSA	Nutrition Services Administration
OCAF	Operating Cost Adjustment Factor
OIA	Office of Insular Affairs
OMB	Office of Management and Budget
OPA	Office of the Public Auditor
OPL	Office of Public Lands
OVAE	Office of Vocational Adult Education
PAF	Personnel Action Form
P.L.	Public Law
P&S	Procurement & Supply
PAO	Public Assistance Office
PFC	Passenger Facility Charge
PHA	Public Housing Agency
PIEI	Pacific Islands Education Initiative
PO	Purchase Order
PPE	Pay Period Ended
PPR	Procurement & Personnel Regulations
PR	Purchase Requisition
PSS	Public School System
PSSPR	Public School System Procurement Regulation
PSSRR	Personnel Service System Rules and Regulations
PV	Payment Voucher
RFP	Request for Proposals
RHC	Rota Health Center

RMO	Rota Mayor's Office
RRU	Retail and Redemption Unit
SCHIP	State Children's Health Insurance Program
SF	Standard Form
SEFA	Schedule of Expenditures of Federal Awards
SNAP	Supplemental Nutrition Assistance Program
SOP	Standard Operating Procedures
SPA	Special Power of Attorney
SSN	Social Security Number
STAR	System for Time and Attendance Reporting
TA	Travel Authorization
TB	Technical Bulletin
TCGCC	Tinian Casino Gaming Control Commission
TIQ	Tinian
TRIO	Educational Opportunity for Low-Income and Disabled Americans
TSD	Department of Public Works, Transfer Station Division
TSR	Tobacco Settlement Resources
TV	Travel Voucher
US	United States
USDA	United States Department of Agriculture
VENA	Value Enhanced Nutrition Assessment
WASC	Western Association for Schools and Colleges
WCC	Workers' Compensation Commission
WIA	Workforce Investment Agency
WIC	Women, Infant, & Children
WRO	Washington Representative's Office
WTF	Water Task Force

