



# Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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## MEMORANDUM

OPA Ethics Opinion 2025-03

Date: December 6, 2024

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

FROM: Joseph Przyuski, Legal Counsel

Signature:  Date: 12/6/2024

REVIEWED BY: Dora I. Deleon Guerrero, Temporary Public Auditor

Signature:  Date: 12/6/2024

**Subject: Government Ethics Code Advisory Opinion**

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The Office of the Public Auditor (“OPA”) received an inquiry from a Commonwealth Government agency requesting an opinion on whether the agency could procure necessary items from an employee’s private business.

OPA offered an advisory Ethics Opinion to the requesting individual under 1 CMC § 8561 (j), of the Commonwealth Government Ethics Code Act (“Ethics Code”). Under that authority, OPA may offer advisory opinions based upon real or hypothetical scenarios with respect to the Ethics Code. OPA has no jurisdiction to offer general legal opinions concerning other sections of the CNMI Code. Thus, any such opinion by OPA is confined to analyzing the inquiry under the Ethics Code only.

OPA is required to make ethics opinions available to the public, while redacting the identity of the requesting party and that of others involved under Section 8561 (j) of the Ethics Code. OPA offers the following summary opinion based on that mandate.

This opinion relies on the following assumed general facts: 1) the items to be procured are not readily available from other on-island sources and their acquisition serves a public purpose, 2) the procurement otherwise complies with the CNMI Procurement Regulations, NMIAC Chapter 70-30.3, and any applicable federal procurement rules, and 3) the employee who owns the business is not involved in the transaction in any manner.

One of the purposes of the Ethics Code is to ensure that decisions of public agencies and agents are free of perceived conflicts of interest, as well as actual conflicts of interest. Section 8532 (a) of the Ethics Code prohibits a public official or public employee from using his or her position for personal gain. It provides that “[a] public official or public employee shall not use or attempt to use the public position to obtain private financial gain, contract, employment, license, or other

personal or private advantage, direct or indirect, for the public official or public employee, for a relative, or for an entity in which the public official or employee has a present or potential economic interest.” Accordingly, the agency must ensure that the conflicted employee is removed entirely from any role in the decision-making process with respect to procuring anything from the affiliated private company to comply with 1 CMC § 8532 (a).

It is also important to note that public policies underlying the Ethics Code include developing public confidence in individuals holding public office, enhancing the dignity of public offices, and assuring the community that public officials are free of the influence of undisclosed private or business interests in their official acts. 1 CMC § 8052 (a). These policies can be undermined whenever there is an appearance of impropriety. Such inquiries will require individual analysis of the surrounding circumstances and appropriate discretion by the agency department heads.