

TITLE 40: COMMONWEALTH PORTS AUTHORITY

CHAPTER 40-30
REGULATIONS GOVERNING THE CONTROL OF PUBLIC FUNDS

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Chapter Authority: 2 CMC § 2122(j); Memorandum of the Department of Finance, "Delegation of Authority to Regulate Expenditure of Public Funds," (dated February 5, 2001), reprinted at 23 Com. Reg. 18083 (June 19, 2001).

Chapter History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

Commission Comment: For the history of the regulatory authority of the Commonwealth Ports Authority, see the general comment to chapter 40-10.

Part 001 - General Provisions

§ 40-30-001 Authority

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The regulations in this chapter are promulgated by the Commonwealth Ports Authority (CPA) pursuant to the delegation of authority given CPA by the Secretary of Finance under section 1100.14 of the CNMI Department of Finance Regulations for the Control of Public Funds, codified at NMIAC § 70-20.1-301. Section § 70-20.1-301 provides for the Department of Finance to delegate to autonomous agencies such as CPA, who handle their own financial and accounting matters, Finance's authority to regulate the expenditure of public funds. The Department of Finance has the authority to regulate and control the expenditure of public funds, pursuant to article X, section 8 of the NMI Constitution.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

§ 40-30-005 Purpose

(a) This chapter is intended to provide CPA with the regulatory and control mechanisms regarding the expenditure of public funds placed under the jurisdiction of the Commonwealth Ports Authority. They are also intended to eliminate as much as possible the duplication of financial and accounting measures regarding the control of expenditure of public funds under CPA since CPA handles its own financial and accounting matters, separate and apart from the Department of Finance. At the same time, the Department of Finance retains its overall constitutional responsibility regarding the control of Commonwealth public funds, including CPA funds.

(b) The basic mission of the Commonwealth Ports Authority, as established by Public Law 2-48 [2 CMC §§ 2101-2190], is to develop, manage and operate efficiently and effectively the public airports and seaports of the Commonwealth in order to improve and advance the economy of the Northern Mariana Islands and promote the welfare and well being of its people.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

§ 40-30-010 Definitions

(a) "Commonwealth Ports Authority" ("CPA"): means the government corporation established by Public Law 2-48 [2 CMC §§ 2101-2190], which agency manages and operates the public airports and seaports of the Commonwealth of the Northern Mariana Islands.

(b) "Commonwealth Government": means the local government of the Northern Mariana Islands established under the NMI Constitution.

(c) "Department of Finance" ("DOF"): means the CNMI Department of Finance.

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- (d) “Expenditure”: means the cost of goods delivered or services rendered, whether paid or unpaid, including current operation costs authorized by an appropriations act.
- (e) “CPA Employee”: A person employed by CPA, whether full-time or part-time.
- (f) “CPA Official”: Any member of the CPA Board, and any of its management officials.
- (g) “CPA Vehicle”: Any vehicle owned, leased or that is under the control of CPA.
- (h) “Official Representation”: Expenditures authorized by law to be incurred by the authorized CPA official for entertainment of off-island government guests, or for other expenses to promote goodwill or the public interest and which are permitted pursuant to this chapter.
- (i) “Official Representation and Justification Documentation Form” (“CPA-OR Form”): The form for submission of official representation expenditures with justification to support the expenditure.
- (j) “Official Justification For Reimbursement Documentation Form” (“CPA-OJ Form”): The CPA form for submission of official justification for reimbursement of expenditures.
- (k) “Person”: Any individual firm, corporation, company, joint venture, association, partnership, receiver, club, syndicate, cooperative association, or any other entity.
- (l) “Personal Expenditure”: An expenditure of public funds for an activity in which a CPA official or employee directly benefits.
- (m) “Political Expenditure”: An expenditure of public funds for an activity, not related to the official duties of the CPA official in which he or she directly or indirectly benefits through the enhancement of his or her public image.
- (n) “Procedure for Official Representation Delegation of Authority to Incur Expenses”: The procedure by which a CPA official designated under the definition of “Official Representation” subsection (h) above, may authorize in writing a CPA official or employee to incur expenses for official representation on his/her behalf as described in § 40-30-130.
- (o) “Public Purpose”: It means “public purpose” as defined by Public Law 11-84 and as amended by Public Law 12-2 [1 CMC § 121], and shall include, but not be limited to, any purpose that meets one or more of the following criteria:
- (1) The benefits are equally available to the entire community;
 - (2) The service or commodity supplied is one needed by a large number of the community pursuant to customs and traditions, as applicable;
 - (3) The enterprise bears directly and immediately upon the public welfare;

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(4) The needs to be met, by its nature, require a united effort under unified control and cannot be served well by separate individuals;

(5) Where benefits accrue to individuals, the community has an interest in having those individuals benefitted (for example, sports teams, school and school-related activities, recognition of individuals and organizations, funerals, or other recognized cultural or community events);

(6) The activity or service is in line with the historical development of the Commonwealth and with the general purpose of its constitution and laws;

(7) A special emergency exists, such as that brought about by war or public calamity, (for example, typhoons);

(8) The expenditure is reasonably related to the operation of government or its objective; in the promotion of the public health, safety, morals, general welfare, security, prosperity; and the contentment of a community of people or residents within the locality, (for example, fiestas and other community celebrations and expenses related, the hosting off-island visitors attending governmental events, meetings, conferences or state funeral expenses);

(9) Notwithstanding any other provision of Public Law 11-84, as amended, to the contrary, the expenditures authorized and regulated by legislative rules and expressly declared to be for a public purpose, unless proved by clear and convincing evidence that the expenditure in fact was for a personal or political activity;

(10) The expenditure promotes and furthers the mission, goals and objectives of CPA as set forth in Public Law 2-48 [2 CMC §§ 2101-2190]. Any determination by CPA as to whether an expenditure furthers the mission, goals and objectives of CPA shall be subject to review by the Secretary of Finance.

(p) “Secretary of Finance”: The Secretary of the CNMI Department of Finance.

(q) “CPA Board Chairman”: means the Chairperson of the CPA Board of Directors and who is the spending authority of CPA under the Planning and Budgeting Act.

(r) “CPA Executive Director”: means the Executive Director of the Commonwealth Ports Authority, and who is the chief executive officer of CPA.

(s) “Travel Authorization Form”: The travel authorization (“TA”) form is a form, which includes the travel itinerary, purpose of the travel, authorized funding, and supporting documentation.

(t) “Travel Voucher Form”: The travel voucher (“TV”) form is a CNMI government travel voucher claim form submitted to the CPA Executive Director after the completion of travel. The filing of the form is mandatory when funds for travel allowances, per diem, honorarium, or other expenses have been requested and approved.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

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Commission Comment: In subsection (g), the Commission inserted the word “that” to correct a manifest error. In subsection (o)(5), the Commission corrected the spelling of “benefitted.” In subsection (o)(9), the Commission changed the final period to a semi-colon to ensure consistent punctuation. The Commission also replaced periods with colons throughout this section to make the punctuation consistent. The Commission inserted quotation marks around terms defined.

Part 100 - Official Representation and Official Justification for Government Business

§ 40-30-101 CPA Policy for Official Representation Expenses Incurred for Entertainment and Promotions

(a) Documentation Required. Official representation and official justification for entertainment and promotional expenses and other governmental business must be completely documented and must at a minimum include

- (1) The name and position of the persons entertained,
- (2) The nature and purpose of the expense incurred and its direct relationship to CPA business,
- (3) A brief description of CPA matters discussed and
- (4) Original receipts and supporting documents must be attached.

(b) Examples of Personal or Political Expenditures That Are Not Allowable. Because all official representation expenditures and other governmental expenses must be for a public purpose, the following are examples of expenditures which are not consistent with the CNMI constitutional mandate that an expenditure of public funds be only for a public purpose; therefore, they will be routinely rejected if submitted for payment or reimbursement.

- (1) Personal items such as food or clothing, personal membership fees, and contributions in cash or donation of any tangible or intangible item or product to any person (other than those which meet the definition of “public purpose” in § 40-30-010(o)).
- (2) Personal travel expenditures of individuals for non-CPA purposes or for individual medical treatment, including but not limited to airline tickets, hotel accommodations, meals, gifts, and related expenses.
- (3) Non-CPA business related travel expenditures for individuals, who are not CPA employees or are not doing any work or providing any service to CPA, including but not limited to airline tickets, hotel accommodations, gifts, meals and related expenses.
- (4) Expenses for a private individual’s utility, including water, electricity, gas, telephone, and similar payments.
- (5) Expenses for sponsorship of CNMI sports teams.
- (6) Expenses for fund raising activities for private individuals.
- (7) Any expenditure associated with political campaign functions.

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

§ 40-30-105 Official Representation and Justification Documentation Forms

In order to document official representation and other governmental expenditures, CPA has adopted forms called the “official representation & justification documentation form (CPA-OR form)” and the “official justification for reimbursement documentation form (CPA-OJ form)” which set forth the minimum applicable requirements to adequately support payment or reimbursement of expenses for official representation and other expenses requiring justification. Those persons either charging or submitting claims for payment or reimbursement for official representation expenses and other items requiring justification must complete the applicable form and attach to it the copies of vendor receipts. All pertinent details concerning the basis for the expense incurred shall be documented and available for review by the Department of Finance and the Office of the Public Auditor. The CPA Executive Director may require additional information if necessary.

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

§ 40-30-110 Unallowable or Undocumented Official Representation and Other Expenditures

Unallowable or undocumented official representation and other expenditures will not be reimbursed or paid by CPA. In cases where payments for such unallowable or undocumented expenses have been made from CPA funds such as for travel or other advances, from imprest funds or other government funds, the responsible party who incurred the expense shall pay or reimburse the CPA for such expenditures. If not paid within thirty days, CPA may recover the same, after notice to the individual at issue, through either payroll deductions or any other means authorized by law.

Modified, 1 CMC § 3806(e).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

§ 40-30-115 CPA Official Representation and Official Justification Procedure for Processing

The CPA Executive Director shall review all vendor billings and receipts covering items of official representation, including any other items requiring justification prior to payment or reimbursement by CPA, such as expenses incurred for official entertainment, CPA celebrations, business meeting luncheons and meals, gifts, fiestas, funerals, school-related expenses or promotional activities. All supporting documentation shall be subject to verification for completeness. The person incurring such expenses is responsible for the preparation and submission of an “official representation and justification documentation form” (CPA-OR form) or an “official justification for reimbursement documentation form” (CPA-OJ form) which details all the pertinent information needed to justify either payment or reimbursement of the expense incurred. In addition, CPA’s

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expenditure authority must declare and certify that the expenditure incurred was for a public purpose. As expenses are incurred, the person incurring such expenses shall prepare one of these forms and attach to it all supporting documentation, prior to submission to the Executive Director for his review. The form shall be matched with the vendor statement and related invoices and shall be reviewed for completeness as to all pertinent details. If a submission is determined to be incomplete, the Executive Director shall send a memorandum to the individual affected, detailing the deficiencies and potential personal liability of the individual, if the incomplete form is not revised or corrected. The procedure shall be the same as in the case of a person submitting an expense report and claiming reimbursement of an expense for official representation or official justification.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

Commission Comment: The Commission changed “sent” to “send” to correct a manifest error.

§ 40-30-120 Procedure for Disallowance and Collection of Official Representation and Other Expenditures

When an official representation or other expenditure is unauthorized or has not been properly supported, the request for payment or reimbursement will be disallowed. In a case where the expenditure has been paid, the CPA official or employee who incurred the expense will be notified and required to promptly repay or reimburse the CPA. If payment or reimbursement has not been made within thirty days of notification of liability, a notice of payroll deduction will be sent indicating that CPA will deduct from the employee’s paycheck or apply any reimbursement otherwise due the CPA official or employee to the amount owing. If the official is not a CPA employee, CPA may pursue any legal means to recover the amount owing CPA by the CPA official or individual at issue.

Modified, 1 CMC § 3806(e).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

§ 40-30-125 Forms for Official Representation and Justification Documentation

The official representation and justification documentation form (CPA-OR form) and official justification for reimbursement documentation form (CPA-OJ form) shall be those prescribed by CPA, which forms shall be similar to those issued by the Department of Finance. The forms may be modified or amended from time to time by CPA. No substitute form will be accepted by CPA.

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

§ 40-30-130 Procedure for Delegation of Official Representation by Expenditure Authority

(a) A CPA official having expenditure authority under the definition of “Official Representation” in § 40-30-010(h) above may authorize in writing a CPA official or employee to incur expenses for official representation, on behalf of CPA, by providing written approval to the official or employee prior to the official or employee undertaking such official representation expense. The written approval shall specifically state the reason

- (1) Why the official or employee is being authorized to incur the official representation expense;
- (2) The names and positions of persons to be hosted; and
- (3) The date(s) of hosting.

(b) The written delegation allowing official representation expenses to be incurred shall be authorized on a case-by-case basis only, and the written approval from CPA’s expenditure authority shall be included as part of the supporting documentation for the expenses incurred. The delegation made and expenses incurred thereunder shall be reviewed by CPA on the same terms and conditions as if the form had been submitted directly by the authorized CPA expenditure authority.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

In subsection (a), the Commission corrected the cross-reference. The original regulations cited § 40-30-010(i).

Part 200 - Use of Personal Vehicle for Official Business

§ 40-30-201 Reimbursement Procedure for Use of Personal Vehicle for Official CPA Business

CPA shall reimburse one’s expenses for private vehicles used for official CPA business, using the standard mileage rate method. CPA generally will not reimburse an official or employee for vehicle expenses for government-owned vehicles or heavy equipment vehicles. The mileage reimbursement method excludes reimbursement for fuel, oil, fluids, repairs, labor, maintenance, car payments, rental or lease payments, depreciation, insurance, tires, license or similar fees, parking fees, moving or parking violations, car wash expenses, loan interest, taxes, or interest paid on vehicle.

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

Commission Comment: The Commission inserted a comma after the word “taxes” pursuant to 1 CMC § 3806(g).

§ 40-30-205 Standard Mileage Rate Method

The standard mileage rate is the mileage rate of compensation established by the Office of the Governor for each mile of government use of a private vehicle. The official or employee shall submit to the CPA Executive Director a request for reimbursement, approved by the appropriate CPA division head for mileage reimbursement for private vehicles used for government business, along with a copy of a properly filled out vehicle log record with an original signature for the period covering the reimbursement requested.

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

§ 40-30-210 Vehicle Log Records

Except for CPA emergency vehicles as determined by the Office of the Executive Director, all CPA vehicles shall be equipped with a continuous, vehicle trip log form at all times when in use by CPA officials or employees.

- (a) The government official or employee who requests reimbursement for government use of a private vehicle shall prepare and keep a vehicle log book which shall be maintained by the operator of the private vehicle used for CPA purposes and which shall provide basic trip information such as date, time, places of travel, purpose of travel, beginning and ending speedometer readings, total miles driven, the signature of the vehicle operator, and vehicle identification date.
- (b) A vehicle trip log form shall be placed in every non-emergency CPA vehicle and private vehicles used for CPA purposes and maintained by the vehicle operator.
- (c) The CPA official or employee shall certify on a monthly basis the accuracy of the log forms, sign the log sheets, and transmit a copy of the log when requesting reimbursement of expenses for private vehicles used for CPA purpose.
- (d) Failure to maintain these log records shall be grounds for denial of reimbursement of expenses for private vehicles used for CPA purposes.

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

Commission Comment: The Commission inserted a comma after the word “operator” in subsection (a) pursuant to 1 CMC § 3806(g).

Part 300 - Oversight by Department of Finance

§ 40-30-301 Oversight and Review by the Secretary of Finance of CPA Public Fund Expenditure Activity

The Secretary of Finance retains its overall authority with respect to the control of expenditure of public funds under CPA. The Secretary of Finance may require CPA to

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file a report in summary form on an annual basis or more frequently when requested, regarding the public fund expenditures of CPA during the year, or on a case-by-case basis, to ensure that the expenditure of public funds by CPA are being made in accordance with this chapter. The Secretary of Finance may require CPA to submit supporting documentation justifying the expenditures made, approved, or incurred by CPA, or any of its directors, officials, and employees.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).

Commission Comment: The Commission changed “fund” to “funds” in the first sentence to correct a manifest error. The Commission inserted a comma after the word “officials” pursuant to 1 CMC § 3806(g).

Part 400 - Miscellaneous Provisions

§ 40-30-401 Severability

If any provision of this chapter is held invalid by a court of competent jurisdiction, the validity of the remainder of the chapter shall not be affected thereby.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18080 (June 19, 2001); Proposed 23 Com. Reg. 17708 (Mar. 22, 2001).