

# TITLE 70: DEPARTMENT OF FINANCE

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## CHAPTER 70-20 FINANCE AND ACCOUNTING DIVISION

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### SUBCHAPTER 70-20.1 REGULATIONS FOR THE CONTROL OF PUBLIC FUNDS

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Subchapter Authority: CNMI Const. art X, § 8; 1 CMC § 121; 1 CMC §§ 2553 and 2557.

Subchapter History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

Commission Comment: N.M.I. Const. art X § 8 provides that the Department of Finance shall control and regulate the expenditure of public funds and promulgate regulations requiring public officials to document that public funds are expended for public purposes. PL 11-84 (effective July 21, 1999), the “Public Purpose Definition Act of 1998,” codified as amended at 1 CMC § 121, defines the term “public purpose” pursuant to N.M.I. Const. art X § 8.

1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553 authorizes the Department to, among other things, collect, control and disburse funds of the Commonwealth. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557.

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On July 22, 1985, the Department of Finance proposed “Government Deposit Regulations.” See 7 Com. Reg. 3831 (July 22, 1985). A notice of adoption was never published.

### **Part 001 - General Provisions**

#### **§ 70-20.1-001 Authority**

The authority for the promulgation and issuance of the Control of Public Funds, codified in this subchapter, is by virtue of article X, section 8 of the Commonwealth of the Northern Mariana Islands Constitution and 1 CMC §§ 2553 and 2557.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

#### **§ 70-20.1-005 Purpose**

The purpose of the regulations in this subchapter is to establish policies and procedures and to provide uniform standards for the control of public funds as mandated under article X, section 8 of the Northern Mariana Island Constitution.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

#### **§ 70-20.1-010 Definitions**

(a) “Commonwealth” or “CNMI”. The Commonwealth of the Northern Mariana Islands, which lie within the area north of the 14 degrees north latitude, south of 21degrees north latitude, west of 150 degrees east longitude and east of 144 degrees longitude, as extended by the Marine Sovereignty Act (commencing at § 1101 of title 2 of the Commonwealth Code).

(b) “Department”. The Department of Finance of the Government of the Commonwealth of the Northern Mariana Islands.

(c) “Director”. The Director of Finance and Accounting of the Department of Finance or his designee.

(d) “Division”. The Division of Finance and Accounting of the Department of Finance.

(e) “Expenditure”. For purposes of the regulations in this subchapter, expenditure means the cost of goods delivered or services rendered, whether paid or unpaid, including current operation costs authorized by an appropriations act.

(f) “Finance”. The Department of Finance of the CNMI.

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- (g) “Finance and Accounting”. The Division of Finance and Accounting of the CNMI.
- (h) “Government Employee”. An individual who is an employee of the Commonwealth government, whether part-time or full-time.
- (i) “Government Official”. Any person holding any elected office of the Commonwealth; a mayor or municipal council member; a department head, activity head and their deputies; judges of the Commonwealth judiciary; any CNMI government official with expenditure authority who is authorized by law to administer, obligate, or expend funds; or any appointed, non-employee member of the Commonwealth government, including members of the boards, commissions, and task forces.
- (j) “Government Vehicle”. All motor vehicles:
- (1) As defined in the CNMI Vehicle Code, 9 CMC § 1102(w);
  - (2) Owned or leased by the CNMI government; and
  - (3) Vehicles purchased or leased from federal funds where the CNMI government is the grantee.
- (k) “Individual”. Unless otherwise provided, a natural person, an estate (including a bankruptcy estate established under the United States Code), a trust, or a fiduciary acting for a natural person, trust, or estate.
- (l) “Official Representation”. Expenditures authorized by an appropriation act to be incurred by the authorized government 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 the regulations in this subchapter.
- (m) “Official Representation and Justification Documentation Form” (“DOF-OR Form”). The Department of Finance form for submission of official representation expenditures with justification to support the expenditure.
- (n) “Official Justification for Reimbursement Documentation Form” (“DOF-OJ Form”). The Department of Finance form for submission of official justification for reimbursement of expenditures.
- (o) “Person”. Any individual, firm, corporation, company, joint venture, association, partnership, receiver, club, syndicate, cooperative association, or any other entity.
- (p) “Personal Expenditure”. An expenditure of public funds for an activity in which a government official directly benefits.
- (q) “Political Expenditure”. An expenditure of public funds for an activity, not related to the official duties of the government official, in which he or she directly or indirectly benefits through the enhancement of his or her public image.

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(r) “Procedure for Official Representation Delegation of Authority to Incur Expenses”. The procedure in which elected officials designated under the definition in subsection (l) “official representation” may authorize other CNMI government employees to incur expenses for official representation on their behalf as described in § 70-20.1-130 of this subchapter.

(s) “Public Purpose”.

(1) The term, “public purpose,” means “public purpose” as defined under Public Law 11-84 and as amended by Public Law 12-2, and shall include, but not be limited to, any purpose which meets one or more of the following criteria:

(i) The benefits are equally available to the entire community;

(ii) The service or commodity supplied is one needed by a large number of the community pursuant to customs and traditions as applicable;

(iii) The enterprise bears directly and immediately upon the public welfare;

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

(v) 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);

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

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

(viii) 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, expenses related to or hosting off-island visitors attending governmental events, meetings, conferences, or state funeral expenses);

(ix) Notwithstanding any other provision of this act or other law to the contrary, expenditures authorized and regulated by legislative rules are 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.

(2) To determine whether a specific appropriation or expenditure is for a public purpose the foremost test shall be whether it confers a direct benefit to a culturally or traditionally significant part of the community as opposed to an incidental or secondary benefit and whether the community has an interest in having the individual or individuals benefitted. Tradition and custom as well as the particular facts and circumstances of each case shall be taken into consideration when determining whether a public purpose is being served by a specific appropriation or expenditure. Each and every governmental, agency, departmental, commission, board, authority and public corporation official or employee with expenditure authority shall be governed by this test.

(t) “Secretary”. The Secretary of the Department of Finance of the government of the Commonwealth of the Northern Mariana Islands.

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

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

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

Commission Comment: The original paragraphs of subsection (s) were not designated. The Commission designated subsections (s)(1) and (s)(2). The Commission inserted quotation marks around terms defined.

## **Part 100 - Official Representation Expenses**

### **§ 70-20.1-101 Department of Finance 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 persons entertained,
- (2) Nature and purpose of the expense and its direct relationship to CNMI government business,
- (3) Description of matters discussed and
- (4) Original receipts and supporting documents.

(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 Constitution 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 § 70-20.1-010(s)).
- (2) Travel expenditures of individuals for medical treatment, including but not limited to airline tickets, hotel accommodations, meals, gifts, and related expenses.
- (3) Travel expenditures for individuals, who are not government employees, including but not limited to airline tickets, hotel accommodations, gifts, meals and related expenses.
- (4) Expenses for private individual’s utility: water, electricity, gas, telephone, and similar payments.

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- (5) Expenses for sponsorship of CNMI sports teams.
- (6) Expenses for fund raising activities for private individuals.
- (7) Any expenditures associated with political campaign functions.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

Commission Comment: Subsection (b)(1), originally referenced § 70-20.1-010(r). The Commission corrected the cross-reference so that it cites the definition of “public purpose” in § 70-20.1-010(s).

### **§ 70-20.1-105 Official Representation and Justification Documentation Forms**

In order to help document official representation and other governmental expenditures, the CNMI government has devised forms called the “official representation & justification documentation form (DOF-OR form)” and the “official justification for reimbursement documentation form (DOF-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 of official representation and other items requiring justification must complete the applicable form and attach it to their copies of vendor receipts. In this way all pertinent details concerning the basis for the expense will be documented and available for review by any examining authority. DOF may require additional information if necessary.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

### **§ 70-20.1-110 Unallowable or Undocumented Official Representation and Other Expenditures**

Unallowable or undocumented official representation and other expenditures will not be reimbursed or paid by the CNMI government. In cases where payments for such unallowable or undocumented expenses have been made from CNMI government funds such as travel or other advances, imprest funds or other government funds, the responsible party who incurred the expense will pay or reimburse the CNMI government for these expenditures. If not paid in a timely manner, such costs may be recovered, after notice, through payroll deductions, or other means authorized by law.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

### **§ 70-20.1-115 Department of Finance Official Representation and Official Justification Procedures for Processing**

The staff of Finance and Accounting will review vendor billings and receipts covering items of official representation, and other items requiring a justification prior to payment or reimbursement by the CNMI government for items such as entertainment, celebrations, business luncheons, meals, gifts, fiestas, funerals, school-related expenses, sports teams, or promotional activities. All documentation is 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” (DOF-OR form) or an “official justification for reimbursement documentation form” (DOF-OJ form) which details all the pertinent information to justify either payment or reimbursement of the expense. In addition, the expenditure authority must declare and certify that the expenditure was incurred for a public purpose. As such expenses are incurred, the person incurring such expenses must prepare one of these forms and attach it to all supporting documentation and submit it to the Division of Finance and Accounting. This form is matched to the vendor statement and related invoices and reviewed for completeness as to all pertinent details. If it is determined to be incomplete, the Director of Finance and Accounting is advised and the person submitting the form will be sent a memorandum detailing the deficiencies and potential personal liability if the incomplete form is not revised or not corrected. If the form is complete, it is attached to the vendor statement/invoice as additional supporting documentation of the expense. The procedure is the same 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).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

#### **§ 70-20.1-120 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 the case where the expenditure has been paid, the government official or employee who incurred the expense will be notified and required to promptly repay or reimburse the CNMI government. If payment or reimbursement has not been made within thirty days of notification of liability, notice of payroll deduction will be sent indicating that deduction will occur from any paycheck and/or other reimbursement due to the government official or employee until the obligation is repaid in full. If still unpaid, then payroll deduction will begin on the next pay period.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

#### **§ 70-20.1-125 Forms for Official Representation and Justification Documentation**

The official representation and justification documentation form (DOF-OR form) and official justification for reimbursement documentation form (DOF-OJ form) are as

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proscribed and from time to time may be modified or amended by the Secretary of Finance. No substitute form will be accepted.

Modified, 1 CMC § 3806(f).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

### **§ 70-20.1-130 Procedure for Official Representation Delegation**

Elected officials or other public officials designated under the definition in § 70-20.1-010(l), “official representation” may authorize other CNMI government employees to incur expenses for official representation on behalf of the elected official or other public officials with expenditure authority under official representation by providing written approval to the employees prior to the employee undertaking such representation with such written approval specifically stating the reason that the employee will incur the official representation expense, the names and positions of persons to be entertained and date(s) of entertainment. The delegations to incur official representation expenses should be authorized on a case by case basis and the written approvals included as part of the supporting documentation for the expense. The delegation will be reviewed and accepted or rejected by the Office of the Secretary of Finance on the same terms and conditions as if the form had been submitted directly by the elected official or other public official.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

## **Part 200 - Department of Finance Policies and Procedures for Use of Personal Vehicle for Government Business**

### **§ 70-20.1-201 Reimbursement Procedure for Use of Personal Vehicle for Government Business**

The Department of Finance will reimburse expenses for private vehicles used for government business under the standard mileage rate method. The Department generally does not reimburse vehicle expenses for government-owned vehicles or heavy equipment vehicles. This method does not include 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 other interest paid on the vehicle.

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

### **§ 70-20.1-205 Standard Mileage Rate Method**

The standard mileage rate is the rate established by the Office of the Governor for each mile of government use. The government official or employee shall submit to Finance and Accounting a request approved by the appropriate department or activity 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.

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

**§ 70-20.1-210 Vehicle Log Records**

Except for vehicles assigned to and used by official government guests; emergency vehicles used by the Department of Public Safety, Civil Defense, Commonwealth Utilities Corporation, Department of Public Health or Commonwealth Ports Authority; and other authorized law enforcement officers, all vehicles shall be equipped with continuous vehicle trip log forms at all times when in use by government 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 government use 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 data.

(b) These log forms shall be placed in every government vehicle and private vehicle used for government use and maintained by the vehicle operator.

(c) Monthly, the government official or employee shall account for the accuracy of the log forms, sign the log sheets, and transmit a copy of the log when requesting reimbursement of expenses of private vehicles used for government use.

(d) Failure to maintain these records will be grounds for refusal for reimbursement of expenses for private vehicles used for government use.

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

**Part 300 - Miscellaneous Provisions**

**§ 70-20.1-301 Delegation**

The Department of Finance may delegate, in writing, its authority to enforce the regulatory and control mechanisms regarding public fund expenditures to autonomous agencies whose enabling legislation authorizes them to handle their own financial and accounting matters, provided that the proposed regulations must closely mirror the Department of Finance's Regulations for the Control of Public Funds, codified in this subchapter. The proposed regulations for the control of public funds must be previously reviewed and approved by the Secretary of Finance.

Modified, 1 CMC § 3806(d), (f).

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History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

### **§ 70-20.1-305 Severability**

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

Modified, 1 CMC § 3806(d).

History: Adopted 22 Com. Reg. 17489 (Sept. 20, 2000); Proposed 22 Com. Reg. 17072 (Mar. 20, 2000).

**SUBCHAPTER 70-20.2  
GOVERNMENT DEPOSIT SAFETY ACT RULES AND  
REGULATIONS**

Subchapter Authority: 1 CMC § 7725.

Subchapter History: Proposed 27 Com. Reg. 24724 (Aug. 22, 2005);\* Proposed 27 Com. Reg. 24591 (June 20, 2005).\*

\*As of December 2005, a notice of adoption had not been published.

Commission Comment: 1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553 authorizes the Department to, among other things, collect, control and disburse funds of the Commonwealth. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557.

The “Government Deposit Safety Act of 1984,” PL 4-33 (effective Mar. 20, 1985) is codified as amended at 1 CMC §§ 7721-7728. The Act governs the deposit of public funds in the Commonwealth. 1 CMC § 7725 allows the Director of Finance (now the Secretary) to issue regulations to interpret, execute and enforce the provisions of the act.

[Reserved for future adoption of the Government Deposit Safety Act Rules and Regulations.]

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### SUBCHAPTER 70-20.3 TRAVEL EXPENSE REGULATIONS

Subchapter Authority: 1 CMC § 2557.

Subchapter History: Emergency and Proposed 27 Com. Reg. 25293 (Dec. 30, 2005) (effective for 120 days from Dec. 20, 2005).\*

\*As of December 2005, a notice of permanent adoption had not been published.

Commission Comment: 1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553 authorizes the Department to, among other things, collect, control and disburse funds of the Commonwealth. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557.

[Reserved for future adoption of the Travel Expense Regulations.]